TITLE 165: OKLAHOMA CORPORATION COMMISSION

CHAPTER 35. ELECTRIC UTILITY RULES

Emergency Rules Effective 10-2-2019

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CHAPTER 35. ELECTRIC UTILITIES

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Appendix A. To Verifiers of Utility Consumers Having Life-threatening Conditions

[**Authority:** Okla. Const. Art. IX, § 18]

[**Source:** Codified 12-31-91; Amended at 21 Ok Reg 2091, eff 7-1-04; Amended at 22 Ok Reg 704, eff 7-1-05; Amended at 23 Ok Reg 1666, eff 7-1-06, Amended at 24 Ok Reg 1827, eff 7-1-07, Amended at 25 Ok Reg 1566, eff. 7-1-08, Amended at 26 Ok Reg 1850, eff. 6-25-09, Amended at 29 Ok Reg 1541, eff. 7-12-2012; Amended at 31 Ok Reg 1030, effective 9-12-2014; Added at 33 Ok Reg 645, eff 8-25-16; Emerg eff 12-7-2018]

SUBCHAPTER 1. GENERAL PROVISIONS

Section

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165:35-1-2. Definitions

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

"Affiliate" means any person, entity, or business section, or division that directly or through one or more intermediaries controls, is controlled by, or is under common control with the entity in question. Control includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct the management or policies of a person or entity. Control may be exercised through management, ownership of voting securities or other right to vote, by contract or otherwise. A voting interest or ownership of five percent (5%) or more creates a presumption of control.

"ANSI" means the American National Standards Institute.

"Capacity" means the quantity of electric power produced by a generating facility at a point in time, as measured in kilowatts or megawatts.

"Commission" means the Oklahoma Corporation Commission.

"Company submeter" means a kWh measuring device provided by the utility located on line beyond the point of delivery of electrical service providing service to another consumer. Usage from these meters are deducted from the meter at point of delivery.

"Competitive bidder" means any entity that submits a competitive bid in response to a request.

"Competitive bidding process" means a process to solicit offers to provide fuel supplies, electric generation service, fuel transportation services, and other goods or services related to a utility's provision of electric service to end users.

"Complaint" means an expression of dissatisfaction regarding the utility's billings, service procedures, or employee conduct which requests or requires some remedial or corrective action be taken by the utility. Complaints may be made by the consumer or other interested party. A complaint may be made orally, electronically or in writing, but must be made or received at the utility's offices.

"Conduit" means any structure, or section thereof, containing one or more ducts, manholes, or handholes, used for any telephone, cable television, electrical, or communications conductors or cables, owned or controlled, in whole or in part, by one or more public, telecommunications, or consumer-owned utilities.

"Consumer rate class" means a division of rates as provided by a utility's tariff for pricing electric service.

"Consumer sector" means a major division of consumers, i.e., residential, commercial, or industrial.

"Consumer submeter" means a kWh measuring device provided by the customer and located on line beyond the point of delivery of electrical service.

"Consumer" means any person, member of a cooperative, firm, corporation, municipality or agency, other political subdivision of the United States, or the State of Oklahoma receiving electric service of any nature from a utility. Any reference to a "customer" or "end-user" or "ratepayer" contained in a tariff, or in this Chapter, shall be deemed to mean a "consumer," unless the context clearly indicates otherwise.

"Corporate Support Services" or **"Shared Services"** means human resources, procurement services, information technology, regulatory services, administrative services, real estate services, legal services, accounting, environmental services, research and development, internal audit, community relations, corporate communications, financial services, financial planning and management support services shared between or among a utility, its parent holding company or an affiliated entity and such other services authorized by the Commission on a case-by-case basis.

"CSD" means the Consumer Services Division of the Oklahoma Corporation Commission.

"Delinquent" means a payment not received on or before the due date as posted on a utility's bill.

"Disconnection" means electric service has been discontinued by consumer request or by the utility.

"Economy energy" means electric energy that is purchased during the course of the day to take advantage of the opportunity to purchase power from unexpected surpluses on or available to the grid more cheaply than producing it oneself or purchasing power under existing contracts.

"Electric consuming facility" means anything that utilizes electric energy from a central station source.

"Electric energy" means the quantity of electric power that is generated over a specific interval of time, measured in kilowatt-hours or megawatt-hours.

"Electronic notification" means any automated communication received by e-mail, phone, text message or fax.

"Electric plant" means facilities and equipment owned or operated by a utility, including but not limited to generating stations, substations, transformers, towers, poles, conductors, transportation equipment, conduits, meters, motors, real estate, buildings, and dams.

"Electric service" means the supply of electricity, including generation, transmission, distribution and ancillary services (e.g. spinning and supplemental reserves) for ultimate consumption.

"Electricity" means electric power and energy produced, transmitted, distributed, or furnished by a utility.

"Energy" means a quantity of electricity produced over a given time, as measured in kilowatt-hours.

"FERC" means the Federal Energy Regulatory Commission.

"Filed" means to present a document and have it accepted by the Court Clerk of the Oklahoma Corporation Commission.

"Fuel procurement plan" means a plan that (1) establishes the parameters of a fuel supply portfolio for a utility and (2) strikes an appropriate balance between fuel costs and the related risks to which consumers are exposed (e.g., fuel cost increases and supply disruptions) over the term of the resource plan.

"Fuel supplies" means the coal, oil, natural gas and other fuels that generation facilities consume to produce electricity and the transportation and transmission services used to deliver those fuels.

"Generation facility" means a machine or machines capable of producing capacity, energy or other electricity products.

"Generation service" means the production of energy, capacity and other electricity products to meet customer demands for electricity.

"Generation supplier" means an entity capable of providing generation service.

"Independent power producer" means any generation supplier that is not a utility or an affiliate thereof.

"Integrated resource plan" means a utility's plan as further defined and established in Commission rules found at OAC 165:35-37 to ensure that sufficient supply- and demand-side resources are available to meet its obligation to serve and to achieve public policy objectives, including those prescribed by law, rule, or Commission order.

"Interested party" means any individual or entity with appropriate authority to act on behalf of a particular consumer or group of consumers, or any other party involved in, or affected by, the provision of electric generation service.

"kW" means kilowatts, and **"kWh"** means kilowatt-hours.

"Legal holiday" means any day declared by law or proclamation of the Governor of Oklahoma to be a legal holiday or a day on which the United States Parcel Service does not deliver mail.

"Load" means the amount of electric power delivered or required at any specific point or points on an electric transmission and distribution system.

"Local forecast" means a statement of what the weather is predicted to be, that is issued by the National Weather Service for a specific county, city, and/or zip-code area.

"Long-term" means longer than one year.

"Major event" means a catastrophic event that exceeds the design limits of the electric power system, such as an extreme storm, tornado or earthquake, wherein there is a significant loss of service.

"Meter" means any device or devices used to measure or register electric power and energy.

"Meter shop" means a shop used for the inspection, testing, and repair of meters.

"Municipality" means an incorporated city or town in Oklahoma.

"MW" means megawatts, and **"MWh"** means megawatt-hours.

"NEC" means the National Electrical Code issued by the National Fire Protection Association.

"NWS" means the National Weather Service.

"Owner" means a public utility, telecommunications utility, or consumer-owned utility that owns or controls poles, ducts, conduits, rights-of-way, manholes, handholes, or other similar facilities.

"Planned interruption" means electric service has been suspended by the utility.

"Planning period" means the ten (10) year period that begins on the date that the utility files its integrated resource plan with the Commission.

"Pole" means any pole that carries distribution lines, telecommunications lines, and that is owned or controlled by a public utility, telecommunications company, or consumer-owned utility.

"Pole occupant" means any licensee or other entity that constructs, operates, or maintains attachments on poles or within conduits.

"Premises" means any piece of land or real estate, or any building or other structure or portion thereof, or any facility where electric service is furnished to a consumer.

"Prudence review" means a comprehensive review that examines as fair, just, and reasonable, a utility's practices, policies, and decisions regarding an investment or expense at the time the investment was made or expense was incurred; including direct or indirect maximization of its positive impacts and mitigation of adverse impact upon its ratepayers, consideration of its ultimate used and useful nature.

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

"Purchased-power procurement plan" means a plan that establishes the parameters of a purchased-power portfolio for a utility that meets the utility's planning objectives and strikes an appropriate balance between power supply costs and the related risks to which consumers are exposed (e.g., purchased-power cost increases and power supply disruptions) over the term of the resource plan.

"Records" means documentation maintained by the utility either in electronic or paper form.

"Residence" means any dwelling unit containing kitchen appliances, permanent sewer, or septic facilities and water service. A weekend cabin and a mobile home are residences when used as such. An individual room in a hotel or motel is not a residence.

"Resources" means supply-side generating facilities including life extension and repowering projects for such facilities (and the output thereof), and non-supply side programs, including energy efficiency programs and demand response programs.

"RFP" means "request for proposal," the document that publicly opens a competitive bidding process by describing the utility's needs and seeking bids to fulfill those needs.

"Risk management plan" means a systematic method utilized by a utility to, among other things:

(A) Identify risks inherent in procuring and obtaining a supply portfolio;

(B) Establish the means by which the utility plans to address and balance or hedge the identified risks related to cost, price volatility and reliability; and

(C) Address the fuel, purchased-power and utility supply costs implicit in the utility's supply portfolio, and also energy efficiency and demand response programs as a potential hedge against risk.

"RUS" means the Rural Utilities Service.

"Special contract" means a written agreement between a utility and a consumer providing for furnishing electric service on terms different from those prescribed in approved tariffs.

"Stakeholder" means an interested party, as defined above.

"Statistical sampling" means a method for drawing elements from a population such that all possible elements in the population have a known and specified probability of being drawn and such that the set of chosen elements has approximately the same distribution of characteristics as the population from which it was drawn.

"Subdivision" means any land, wherever located, whether improved or unimproved, contiguous or not, which is divided into lots or proposed to be divided for the purpose of disposition pursuant to a common promotional scheme or plan of advertising for disposition.

"Submit" means to present a document to the Director of the Public Utility Division.

"Subsidize" means to furnish financial support by the utility to the affiliate.

"Support equipment" means guy wires, anchors, anchor rods, and other accessories of the pole owner used to support the structural integrity of the pole.

"Tariff" includes every rate schedule, or provision thereof, and all terms, conditions, rules, and regulations for furnishing electric service.

"Unplanned or emergency interruption" means service has been suspended due to circumstances beyond the control of the utility.

"Utility" means any person, firm, partnership, or corporation furnishing electric service to the public in Oklahoma and subject to the regulatory jurisdiction of the Commission.

[**Source:** Amended at 10 Ok Reg 3561, eff 7-12-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 21 Ok Reg 2086, eff 7-1-04; Amended at 23 Ok Reg 1666, eff 7-1-06, Amended at 25 Ok Reg 1568, eff 7-1-08, Amended at 26 Ok Reg 1850, eff 6-25-09; Amended at 35 Ok Reg 1030, eff 9-12-2014; Amended at 36 Ok Reg 621, eff 7-25-19]

165:35-1-3. Application of rules

(a) This Chapter shall apply to the operations of any electric utility operating within the State of Oklahoma under the jurisdiction of the Commission.

(b) This Chapter is intended to define good business practice under normal conditions to ensure adequate service and prevent unfair charges to the public, and to protect the utilities from unreasonable demands.

(c) In any case where a controversy arises in connection with the interpretation of any provisions of this Chapter or the applicability thereof, the Commission will make such orders as it may deem appropriate upon application of any interested party and after notice and hearing.

(d) A utility may decline initial service to a consumer until service may be rendered in compliance with this Chapter and applicable municipal ordinances and regulations.

(e) A utility may prescribe rules and regulations for furnishing service not inconsistent with this Chapter. No such rules shall be valid until filed with and approved by the Commission. A utility may refuse or discontinue service for noncompliance with its service rules only in cases where its approved rules specifically so provide.

(f) Whenever compliance with any provision or requirement of this Chapter would be unduly burdensome, or cause an unreasonable hardship or an excessive expense, or result in an unusual difficulty, or for other good cause shown the Commission may, upon application of the utility or the consumer and after notice and hearing, suspend or excuse compliance therewith or make such other requirements as it shall deem appropriate. For good cause shown, the Commission may grant temporary relief pending the hearing. If, after the effective date of this Chapter, a utility seeks an exception or variance from this Chapter in its tariffs or terms and conditions of service, such exception or variance shall be clearly shown on such tariffs or terms and conditions of service, sufficient to plainly bring to the Commission's attention to the exact nature of the said exception or variance. Any exception or variance not so marked or identified in such tariff or terms and conditions of service shall be superseded by this Chapter to the extent that said exception or variance is in conflict therewith. Upon approval by the Commission, the variance should indicate the number of the authoritative Commission order.

(g) The adoption of this Chapter shall in no way preclude the Commission from altering or amending this Chapter in whole or in part after notice and hearing, or from allowing or requiring additional or different service, equipment, facility, or standards than prescribed by this Chapter, either upon complaint or application or upon its own motion. Nothing provided in this Chapter shall relieve any utility from any duty prescribed by the laws of the State of Oklahoma.

(h) A utility shall not be required to take any action to ensure that a consumer follows or takes any action in compliance with any Commission rule or regulation concerning submetering activities, and no utility shall in any way be deemed to be responsible for any failure by a consumer or third party to follow or take actions in compliance with such Commission rules and regulations.
(i) The utility shall be subject to a fine per day per occurrence for any violation of this Chapter. The fine shall be determined pursuant to 17 O.S. § 1, after notice and hearing.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 623, eff 7-25-19]

165:35-1-4. Location and retention of records
(a) **Record retention.** Unless otherwise specified herein, all records required by this Chapter shall be preserved by the utility in the form and for a period of time not less than that specified by applicable rules of FERC or the RUS; or in absence thereof, for two (2) years.
(b) **Record location.** All records required by this Chapter shall be made available for review in Oklahoma at the office or offices of the utility and shall be open for examination by the Commission or its representatives; provided that if the general office of the utility is located outside of Oklahoma, the records may be kept at the general office. Each utility shall maintain records in such detail that the cost of property located and business done in the State of Oklahoma, including cost of fuel for generation purposes, can be accurately and readily ascertained, and the utility shall make available any such records for examination by the Commission or its authorized representative. Each utility shall notify the Commission as to the location of the office or offices at which the various classes of records are kept and shall file with the Commission such reports as the Commission may from time to time require.
(c) **Submetering records.** In the event of the use of company submetering, all submetering records shall be retained for a period of two (2) years and shall be available for inspection by the Commission, the affected consumer and/or duly interested party at a location accessible to the consumer affected by submeters.
(d) **Contact persons.** Each utility shall notify in writing, the PUD Director within thirty (30) days of a change in the company-designated contacts for PUD and CSD issues.

(1) The update shall include the name(s), physical street address(es), electronic mail addresses and telephone number(s) of the designated individual(s), and shall be furnished applicable to each operating district, town or any segment of the utility so that PUD will be able to reach the responsible person at any time. If this information is unavailable, the utility may seek a waiver from the PUD Director by making the request in writing.
(2) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:

(A) Providing customer service;
(B) Repair and maintenance;
(C) Answering complaints;
(D) Authorizing and/or furnishing refunds to customers;
(E) Tariff issues;
(F) Regulatory matters;
(G) PUD Fee Assessment (and Fee Assessment Payments, if different);
(H) Primary emergency;

(I) After hours emergency;
(J) Annual reporting;
(K) Attorney for regulatory matters;
(L) Community liaison; and
(M) Engineering operations, meter tests and repairs.

(e) **Other information.** Each utility shall promptly furnish such other information as PUD or the Commission may request, unless otherwise ordered by the Commission.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 624, eff 7-25-19]

165:35-1-5. Sale or disposal of jurisdictional facilities by utility

(a) Except upon order of the Commission made upon application, notice and hearing, no utility shall discontinue or abandon any segment of its jurisdictional distribution system or sell, transfer, or dispose to another any portion of its jurisdictional plant or property then constituting an integrated operating system, or major fractional part thereof, unless the following criteria are satisfied:

(1) The Commission shall determine the functional division of utility property. If the function of the property intended to be sold by a utility will remain a utility function after the sale as determined by the Commission, the Commission retains jurisdiction;

(2) Unless otherwise ordered by the Commission, after notice and hearing, no property shall be sold which may have a detrimental impact on rates or service levels of customers, shippers or producers;

(3) This Section shall not apply to discontinuance of service pursuant to OAC 165:35-21, nor to routine retirement or replacement of plant or equipment; and

(4) Any portion of a utility's plant or operating system which has previously been included in the rate base of such utility will remain as part of such utility's jurisdictional plant or operating system, unless otherwise ordered by the Commission

(b) When filing an application for the sale or transfer of ownership of a portion of its jurisdictional plant or operating system, the seller/transferor shall provide to the buyer or transferee all documents, from the previous two (2) calendar years, required by the Commission to be maintained, and customer deposit records required to be maintained pursuant to OAC 165:35-19-1.

(c) The buyer/transferee shall be required to maintain the records set forth in this Section for a period of two (2) years from the time of the date of the sale or transfer.

(d) Prior to approval of the sale or transfer, the seller/transferor shall be required to have all annual reports, monthly fuel filings and monthly reports current.

(e) The application for sale or transfer shall indicate whether the utility has any outstanding fines from the Commission, whether the utility has any outstanding Public Utility fee assessment, or whether the utility has any outstanding deficiencies which have been identified by PUD or CSD.

(f) This Subchapter shall not prohibit sale or exchange of individual items of equipment not affecting the service or area of service.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 21 Ok Reg 2091, eff 7-1-04; Amended at 36 Ok Reg 624, eff 7-25-19]

165:35-1-6. Submission of distribution system mapping [REVOKED]

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Revoked at 36 Ok Reg 625, eff 7-25-19]

SUBCHAPTER 3. [RESERVED]

SUBCHAPTER 5. RATE, TARIFF, MAP SUBMISSION REQUIREMENTS, AND SUBMISSION OF SYSTEM MAPPING

165:35-5-1. Filing of rate schedules, contracts, agreements, and rules
165:35-5-2. Filing of maps
165:35-5-3. Streamlined approval process
165:35-5-4. Applications for streamlined approval
165:35-5-5. Response to application for streamlined approval and subsequent pleading
165:35-5-6. Streamlined approval - notice and intervention
165:35-5-7. Effect of streamlined approval on subsequent proceedings

165:35-5-1. Filing of rate schedules, contracts, agreements, and rules

(a) It shall be unlawful for a utility to furnish, charge for, or receive payment for electric service, except strictly in accordance with a tariff, special contract, or rate schedule approved by and on file with the Commission.

(b) No jurisdictional tariff or rate schedule shall be instituted, added, deleted, changed, closed, or discontinued except pursuant to order of the Commission upon application, and after such notice and hearing as may be ordered by the Commission.

(c) Annual tariff submissions submitted for review and approval by the PUD Director, pursuant to prior Commission order, may be accepted or rejected. If there is a dispute and resolution is not accomplished, the tariff shall be subject to refund as of the date of notice of filing of a cause before the Commission to resolve the dispute.

(d) A special contract or agreement other than a filed tariff under which electric service is furnished to a consumer shall be deemed a tariff for the purpose for which approved and for purposes of this Chapter. No special contract for electric service shall become effective until it has been filed with and approved by order of the Commission, after notice and hearing when directed by the Commission.

(e) The utility shall maintain the following in each business office or furnish to a member of the public on request:

(1) A copy of every tariff and rate schedule under which electric service is being furnished to consumers within the area serviced by that business office.

(2) A copy of the approved rules and regulations of the utility which govern the furnishing of electric service.

(3) A copy of this Chapter and all amendments thereto.

(f) An agency for collection of utility bills, not operated by utility employees, shall not be deemed a local office for purposes of this Section.

(g) A utility shall submit to PUD a copy of the following:

(1) Every franchise, contract, irrevocable permit, or similar agreement between a utility and a municipality.

(2) Each contract for the wholesale purchase of power or energy.
(3) Every electric power exchange agreement.
(4) Each rate schedule and contract approved by the FERC or the RUS applicable to purchases or sales of power and energy by the utility in Oklahoma.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, eff 9-12-2014; Amended at 36 Ok Reg 625, eff 7-25-19]

165:35-5-2. Map Submission Requirements and Submission of System Mapping

(a) Each utility shall provide upon request within ten (10) business days to the Commission suitable, detailed maps, a size and media as agreed by the utility and the PUD Director, of its general system and shall maintain suitable, detailed maps of its entire system, which shall be made available to the Commission on request. The general system maps may be provided by sections or counties where necessary to meet the size requirements. Such maps shall be brought up to date annually, not later than ninety (90) days after the end of the utility's fiscal year. Electronic submission is preferred; however, all forms of submission will be accepted.
(b) No later than one (1) year after the effective date of this rule, each utility having a distribution system within the State of Oklahoma shall endeavor to provide the locations of the distribution lines within the utility's service territory, including all lines extending more than one mile outside of the utility's service territory, to the PUD Director using geographic information system data or standards as prescribed by the PUD Director. Electronic submission is preferred; however, all forms of submission will be accepted.
(c) For purposes of this subsection, transmission facilities shall be excluded from mapping submissions. Transmission facility maps shall be retained at the utility, and shall be made available onsite upon request by PUD, subject to other regulatory requirements.
(d) The Commission finds, pursuant to Article IX, Section 18 of the Oklahoma Constitution, and 51 O.S. § 24A.22, that all general system maps that are not otherwise publicly available are hereby classified as confidential. All documents and information considered to be confidential must be clearly marked as such. All information classified as confidential shall be used by PUD, an ALJ, any party to filed cause pending before the Commission, and the Commission solely in connection with the review and disposition of all matters relating to this Section. PUD, the ALJ, the Commission and all other parties that receive or review information deemed confidential herein shall keep all such information confidential.

[**Source:** Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 625, eff 7-25-19]

165:35-5-3. Streamlined approval process

(a) A streamlined approval process shall be available for Commission review of minor changes to the utility's Commission-approved tariffs for optional or non-basic services, for new optional or non-basic services, and/or minor terms and conditions of service.
(b) The streamlined approval process will not be available for a general rate change pursuant to OAC 165:70-1-2.
(c) The projected impact on annual revenues caused by the requested tariff change, when combined with the actual revenues received from other tariff changes obtained under this

streamlined approval process within the previous twelve months, shall not exceed one percent of the utility's jurisdictional annual gross operating revenue.

[**Source:** Added at 13 Ok Reg 2433, eff 7-1-96]

165:35-5-4. Applications for streamlined approval

(a) The utility seeking approval of an application under the streamlined process shall file an application with the Commission's Court Clerk stating the name of the applicant, the specific change or changes requested, and the anticipated annual revenue effect.

(b) When the utility files an application for approval under the streamlined process, it shall submit to PUD a complete streamlined application package which conforms to the requirements set forth in this Subchapter. The streamlined application package shall contain a statement by the applicant that the package is in compliance with the filing requirements for streamlined application packages.

(c) Streamlined application packages shall contain at a minimum the following:

(1) Evidence that the application meets the requirements contained at OAC 165:35-5-3.

(2) Annual impact of such change or new service on the utility's customers, in aggregate and on a per customer basis for each customer class.

(3) Documentation and schedules that quantify the annual revenue change anticipated, and the cost of providing the new service, when applicable.

(4) Evidence that the change or new service is not unjustly discriminatory.

(5) Evidence that good cause exists for the approval of the change or new service.

(6) A list of all Commission orders applicable to the applicant issued within the twelve month period prior to filing pursuant to this streamlined procedure.

(7) The amount per month of both projected and actual revenues or reductions derived from the applications approved relating to the orders identified within the filing package within the twelve month period prior to filing.

(8) A statement containing the utility's jurisdictional gross operating revenues for the twelve month period immediately preceding the filing.

[**Source:** Added at 13 Ok Reg 2433, eff 7-1-96; Amended at 36 Ok Reg 626, eff 7-25-19]

165:35-5-5. Response to application for streamlined approval and subsequent pleading

(a) The tariff and/or terms and conditions of service will be effective pursuant to Commission order. If an objection to the streamlined application is filed within thirty (30) calendar days of the original filing, the Commission may set the matter for hearing and shall issue an order approving, denying or modifying the application within sixty (60) calendar days of the date the application was filed, unless otherwise ordered by the Commission.

(b) If an objection is not filed, the Commission shall issue an order approving, denying or modifying the application within forty-five (45) calendar days of the date the application was filed, unless otherwise ordered by the Commission.

(c) Applicant shall respond to data requests for additional data or information within five (5) business days of receiving the request.

[**Source:** Added at 13 Ok Reg 2433, eff 7-1-96; Amended at 35 Ok Reg 1030, eff 9-12-14; Amended at 36 Ok Reg 626, eff 7-25-19]

165:35-5-6. Streamlined approval - notice and intervention

(a) The applicant shall provide notice of the application for streamlined approval, which shall include notice to the Office of the Attorney General of the State of Oklahoma.

(b) If the application proposes a service or tariff that alters the current rate or offers a new rate for customers, the applicant shall provide notice of the application by publication for two (2) weeks. The first publication shall be no later than fifteen (15) calendar days after the Commission approves the notice. Publication shall be in a newspaper of general circulation published in each county in which are located utility customers affected thereby, unless the Commission orders otherwise.

[**Source:** Added at 13 Ok Reg 2433, eff 7-1-96; Amended at 36 Ok Reg 626, eff 7-25-19]

165:35-5-7. Effect of streamlined approval on subsequent proceedings

Any addition, deletion, or amendment to a tariff or term and condition of service, obtained through the streamlined process shall not preclude an examination of the impact of the change upon the utility's revenue requirement or operations in subsequent proceedings.

[**Source:** Added at 13 Ok Reg 2433, eff 7-1-96]

SUBCHAPTER 7. PROMOTIONAL POLICIES AND PRACTICES

Section

165:35-7-1. Provisions governing promotional policies and practices
165:35-7-2. Promotional practices prohibited [REVOKED]
165:35-7-3. Promotional practices permitted [REVOKED]
165:35-7-4. Advertising expenditures prohibited [REVOKED]
165:35-7-5. Advertising expenditures permitted [REVOKED]
165:35-7-6. Contributions [REVOKED]
165:35-7-7. Filing of promotional practices
165:35-7-8. Exceptions; prior conditions and rules [REVOKED]

165:35-7-1. Provisions governing promotional policies and practices

The promotional policies and practices of each utility shall be governed by 17 O.S. Supp. (1981) 180.1 *et seq*., and future amendments or supplements thereto.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99]

165:35-7-2. Promotional practices prohibited [REVOKED]

[**Source**: Revoked at 16 Ok Reg 2237, eff 7-1-99]

165:35-7-3. Promotional practices permitted [REVOKED]

[**Source**: Revoked at 16 Ok Reg 2237, eff 7-1-99]

165:35-7-4. Advertising expenditures prohibited [REVOKED]

[**Source**: Revoked at 16 Ok Reg 2237, eff 7-1-99]

165:35-7-5. Advertising expenditures permitted [REVOKED]

[**Source**: Revoked at 16 Ok Reg 2237, eff 7-1-99]

165:35-7-6. Contributions [REVOKED]

[**Source**: Revoked at 16 Ok Reg 2237, eff 7-1-99]

165:35-7-7. Submission of promotional practices

The utility shall submit, an annual submission of current promotional practices by May 1, and as programs are updated, to PUD. The report shall include a list and description of all promotional practices and activities. Although submission by the utility shall not assume approval by PUD, it will allow PUD and the utility to review and dialogue as to the appropriateness of the promotional practices, whether or not the expenses should be recovered through rates, and ensure that the promotional practices are provided on a nondiscriminatory basis.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 627, eff 7-25-19]

165:35-7-8. Exceptions; prior conditions and rules [REVOKED]

[**Source**: Revoked at 16 Ok Reg 2237, eff 7-1-99]

SUBCHAPTER 9. EXTENT OF SERVICE

Section
165:35-9-1. Extent of service

165:35-9-1. Extent of service

(a) **Point of delivery.** The point of delivery of electrical service shall be the point at which the electrical supply system of the utility connects to the wiring system of the consumer.

(b) **Service at primary distribution voltage.** When the consumer accepts service at primary distribution voltage, the delivery point shall be at or near the property line or point of transformation.

(c) **Service at secondary voltage.**

(1) For overhead construction, the point of delivery is that point where the utility's overhead service drop connects to the consumer's service entrance conductors.

(2) For underground construction, the point of delivery is that point where the utility's service lateral connects to the consumer's service entrance conductors.

(d) **Installation and maintenance responsibility.**

(1) A utility shall furnish and install all transformation and/or conductors of proper voltage and adequate capacity and be responsible for maintenance of all electrical wiring and equipment up to the point of delivery for every bona fide applicant for service who has complied with this Chapter and the provisions of the utility's terms and conditions of service as approved by the Commission. Unless specifically designated in their terms and conditions to the contrary, a utility shall provide its standard size connectors and connect the consumer's service entrance conductors at the point of delivery.

(2) All standard metering equipment stocked by the utility shall be furnished and maintained by the utility. Meters shall be furnished, installed, and maintained by the utility. All meter bases, enclosures, and other associated equipment furnished by the utility shall be maintained by the utility and remain its property. Required installation of this equipment by the consumer shall be in compliance with this subsection. A consumer may locate submetering equipment beyond the point of delivery of electrical service and such equipment shall conform to the NEC.

(3) Subject to OAC 165:35-17-3, all electrical wiring and equipment including meter bases, enclosures, and other associated equipment furnished by the utility, except for the meter furnished by the utility, installed on the consumer's side of the point of delivery shall be at the consumer's expense and shall be installed and maintained by the consumer in accordance with the NEC. In the event of conflict between the NEC and an applicable municipal code, the latter shall prevail. The utility has no duty to conduct inspections of electric wiring and equipment except for such wiring and equipment which is installed, owned, or controlled by the utility.

(e) **Metering equipment at a point other than the point of delivery.** A utility may locate metering equipment at a point other than the point of delivery of electrical service. In such cases where the metering equipment is located on the consumer's side of the point of delivery, the utility may establish requirements for conductors and equipment to provide proper operation, accessibility and security.

(f) **Proper location of the point of delivery.** Either before, or during construction of the consumer's facility, the utility shall, upon request, and, without charge, advise the consumer as to the proper location of the point of delivery. Whenever the consumer and the utility are unable to agree upon the point of delivery and equipment to be installed, the utility shall advise the consumer

of the Commission's regulatory ability to resolve the dispute. The Commission, upon application of either, shall make a determination as to the appropriate location.

(g) **Permanent discontinuance of delivery of electric service.** When the utility permanently discontinues delivery of electric service to any consumer's premises, the utility shall have the right at any reasonable time thereafter, to enter upon the premises and remove its meter and any other property the utility has located there.

[**Source:** Amended at 11 Ok Reg 3745, eff 7-11-94; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, eff 9-12-2014; Amended at 36 Ok Reg 627, eff 7-25-19]

SUBCHAPTER 11. ALLOCATION OF TERRITORIES/CONSUMERS; CHANGES IN SERVICE/SUPPLIER

Section

165:35-11-1. Allocating territories and/or consumers between utilities
163:35-11-2. Change of service
165:35-11-3. Changing retail suppliers in incorporated areas [REVOKED]

165:35-11-1. Allocating territories and/or consumers between utilities

An agreement between utilities for the purpose of allocating territories or consumers shall be valid only if it is entered into by the utilities and approved by the Commission in accordance with the following provisions which provide "*Notwithstanding the effectuation of certified territories established by or pursuant to this act, and the exclusive right to service within such territory, a retail electric supplier may contract with another retail electric supplier for the purpose of allocating territories and consumer between such retail electric suppliers and designating which territories and consumers are to be served by which of said retail electric suppliers. Notwithstanding any other provisions of law, a contract between retail electric suppliers as herein provided when approved by the Commission shall be valid and enforceable. The Commission shall approve such contract if it finds that the contract will promote the purposes of (Section 158.23 of this title) and will provide adequate and reasonable service to all areas and consumers affected thereby.*" [17 O.S. 1981, Section 158.26]

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 36 Ok Reg 627, eff 7-25-19]

165:35-11-2.[1] Change of service

If a change in service to a consumer is required for the convenience or benefit of the utility, the utility shall pay such part of the cost associated with electric change out as determined by mutual agreement or by the Commission in absence of such agreement.

[**Source:** Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, eff 9-12-2014]

[1]**Editor's Note:** In the initial codification of this agency's rules (12-31-91), this Section was misnumbered as 163:35-11-2. Upon discovery of this error, the number was changed to 165:35-11-2.

165:35-11-3. Changing retail suppliers in incorporated areas [REVOKED]

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 10 Ok Reg 3561, eff 7-12-93; Amended at 14 Ok Reg 2558, eff 7-1-97; Amended at 16 Ok Reg 2237, eff 7-1-99]

165:35-11-4. New large load equal to or greater than 1,000 kW notice

Any retail electric supplier, not excluded by 17 O.S. § 158.28 of the Retail Electric Supplier Certified Territory Act, that intends to provide retail electric service to a new electric-consuming facility within the certified territory of another retail electric service provider shall notify that incumbent retail electric service provider and PUD, either in writing or by electronic mail, after a bid has been selected, and no less than three (3) business days prior to implementation of service. This notice shall provide information including but not limited to the following:

(1) A description of the anticipated location of the new electric-consuming facility, and the identification of the certified territory retail electric service provider.

(2) A general description of the size of the load to be added.

(3) Identification of the tariff, on file with PUD, under which the retail electric supplier intends to serve the electric-consuming facility.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 10 Ok Reg 3561, eff 7-12-93; Amended at 14 Ok Reg 2558, eff 7-1-97; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 628, eff 7-25-19]

SUBCHAPTER 13. DISPOSITION OF ELECTRIC ENERGY

Section

165:35-13-1. Resale of electricity
165:35-13-2. Resale of power or energy
165:35-13-3. Rented single, residence units
165:35-13-4. Point(s) of delivery
165:35-13-5. Meter service measurement
165:35-13-6. Records and reports of measurement of input and output
165:35-13-7. Multiple residence units

165:35-13-1. Resale of electricity

(a) Except as set forth in subsection (b) below, no utility shall knowingly furnish electricity under a retail tariff for purposes of resale, except pursuant to a tariff or special contract approved by and on file with the Commission.

(b) If it comes to the attention of the utility that any consumer is reselling electricity, it shall notify the PUD Director of the name and address of any consumer reselling electricity. Unless otherwise directed, the utility may continue to provide electric service pending review by the PUD Director.

(c) Sales of charging services from an electric vehicle charging station, not owned by a regulated utility, for the purpose of fueling an electric vehicle, including the ability to sell on a kWh basis, shall not be considered resale of retail electricity, and such sales from the electric vehicle charging station shall not be subject to rate regulation by the Commission. Utility service to an electric vehicle charging station shall be provided subject to the utility's terms and conditions.

[**Source**: Amended at 22 Ok Reg 1800, eff 7-1-05; Amended at 35 Ok Reg 1030, eff 9-12-14; Amended at 36 Ok Reg 628, eff 7-25-19]

165:35-13-2. Resale of power or energy

No utility shall knowingly sell power or energy to any consumer for resale under Commission jurisdiction pursuant to a tariff providing for resale unless the Commission has been advised fifteen (15) calendar days prior to commencement of deliveries. No such sale shall be made unless the purchaser from the utility has tariffs on file with and approved by the Commission, rate schedules, rules, and regulations covering such resale, or is exempt by law from such requirements.

[**Source**: Amended at 22 Ok Reg 1800, eff 7-1-05; Amended at 35 Ok Reg 1030, eff 9-12-14; Amended at 36 Ok Reg 628, eff 7-25-19]

165:35-13-3. Rented single, residence units

Where four (4) or fewer rooms within a residence are rented to the public for residence purposes only, by one owning or occupying the residence and where a single meter is installed, a single application of the residential rate shall apply to the entire service.

165:35-13-4. Point(s) of delivery

In serving a consumer, regardless of classification, the utility shall regard each point of delivery as a separate consumer or contract and shall separately meter and charge accordingly, and shall not combine meter readings for the purpose of giving the consumer a lower rate unless the approved tariffs of the utility provide otherwise. More than one point of delivery to a single consumer at one premise or location will be permitted when the physical or electrical characteristics of the facilities served require more than one point of delivery according to good engineering and operating practices, in which case total usage at multiple points of delivery shall be combined for billing purposes.

165:35-13-5. Meter service measurement

All electric service rendered by a utility shall be on the basis of meter measurement, except for installations where the load is constant and the consumption may be readily computed, or as provided for in its filed rate schedules, or as otherwise authorized by the Commission.

165:35-13-6. Records and reports of measurement of input and output

(a) Each utility shall keep a record of the input and output of its system in kilowatt-hours per month.

(b) The totals of input and output measurements shall be reported each month to PUD on its Forms E.D. and E.T., "Comparative Monthly Report of Revenues and Expenses." A copy of RUS Form 7 may be filed in lieu thereof.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 628, eff 7-25-19]

165:35-13-7. Multiple residence units

(a) The basic statewide standard for service to multiple residences, apartment complexes, or similar residential units shall be individual metering, one (1) meter per residence with billing under the applicable residential rate schedule.

(b) Exceptions to the standard for service to multiple residences set forth in (a) of this Section may be granted by the Commission with respect to new and future multiple residence units. A utility or the owner of such a multiple residence unit may submit an application seeking authorization to furnish service at one or more points of delivery. The Commission shall grant such authority if it determines that providing service in the manner requested will encourage:

(1) Conservation of energy.

(2) The efficient use of facilities and resources by the utility providing such service.

(3) Equitable rates to the consumers of such service.

(c) Except as provided in this Chapter, no consumer shall separately meter and separately bill another consumer for electricity. A landlord or innkeeper may include the cost of electricity in rent.

(d) Multiple residences, apartment complexes, or similar residential units being served under and with a single or multiple meters and at a commercial rate schedule may be continued without block billing or, at the option of the consumer, may revert to and have service by individual meters at the applicable residential rate.

(e) As an alternative to (a), (b), (c), and (d) of this Section, residences, apartment complexes, or similar residential units and multicommercial unit complexes may be or may continue to be served with a single utility meter and consumer submeter system, if such measuring of electrical service is deemed to:

(1) Encourage conservation of energy.

(2) Contribute to the efficient use of facilities and resources of electric utilities.

(3) Results in equitable rates to the electrical consumers affected by such meters.

(f) Application for utilization of such electric utility meters and consumer submeters referred to in (e) of this Section may be made by a letter jointly submitted by both the affected utility and consumer of electric service to the PUD Director, requesting administrative approval by the Commission. In the event the PUD Director shall deny such a joint letter application or in the event such a joint letter application is not presented, either the affected utility or the consumer shall have the right to file a formal application with notice for hearing before the Commission seeking such approval. The applicable rate for such service shall be the applicable utility commercial rate without block billing or similar type billing.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 628, eff 7-25-19]

SUBCHAPTER 15. METER REQUIREMENTS

PART 1. INSTALLATION, READING, AND RECORDS

Section
165:35-15-1. Meters
165:35-15-2. Meter reading, meter reading records, cards, and charts

PART 3. METER LOCATION, TESTING, AND OPERATION

Section
165:35-15-10. Location of meters
165:35-15-11. Meter testing facilities and equipment
165:35-15-12. Accuracy requirements for service watt-hour meters
165:35-15-13. Accuracy requirements for demand meters
165:35-15-14. Place and methods for testing metering equipment
165:35-15-15. Installation tests
165:35-15-16. Schedule for testing watt-hour meters
165:35-15-17. Schedule for testing demand meters
165:35-15-18. Prepayment meters
165:35-15-19. Meter records and reports
165:35-15-20. Meter testing on request of consumer
165:35-15-21. Referee meter tests by Commission [REVOKED]
165:35-15-22. Adjustment of bills for meter error

PART 1. INSTALLATION, READING, AND RECORDS

165:35-15-1. Meters

(a) Except as provided in OAC 165:35-13-5, each utility shall provide and install at its own expense and shall continue to own, maintain, and operate proper and sufficient equipment for the accurate measurement of electricity delivered to each consumer.
(b) Where additional meters are furnished by the utility for the convenience of the consumer, a charge for such meters may be made in accordance with a tariff filed with and approved by the Commission.
(c) No meter shall be installed which is known to be defective, or to have incorrect constants or which has not been tested and adjusted, if necessary, in accordance with this Chapter. The meter shall be consistent with the electric requirements of the consumer.

[**Source:** Amended at 35 Ok Reg 1030, eff 9-12-2014]

165:35-15-2. Meter reading, meter reading records, cards, and charts

(a) **Meter reading records.** The meter reading records shall show:
  (1) Consumer's name, address, and rate schedule symbol.
  (2) Identifying number or description of the meter.
  (3) Meter readings and dates thereof.

(4) If the reading has been estimated.
(5) Any applicable multiplier or constant.

(b) **Meter charts.** All charts taken from recording meters shall be marked with the date of record, the meter number, consumer's name and location, and the chart multiplier.

(c) **Meter constants or multipliers.** Each service meter shall clearly indicate the reading from which the charge is made to the consumer. In any case where the dial reading of a meter must be multiplied by a constant to obtain the units consumed, the proper constant to be applied shall be clearly marked on the face or dial of the meter.

(d) **Meter reading information.** Each service meter shall be read by the utility, or a utility may by its rules prescribe a procedure for reading of meters by consumers.

(1) **Meters read by the utility.** For each utility that regularly reads its own meters, each service meter shall be read at monthly intervals at least ten (10) times a year, weather permitting, on approximately the same day of each meter reading period. The utility may, if specified and approved in its tariffs, delegate the reading of the meter to the consumer; however, the reading must be verified by the utility every six (6) months. Whenever it is not possible, with reasonable diligence, to read a meter for a billing period, the utility may submit an estimated bill based upon previous usage and other available information, the amount of such estimated bill to be adjusted as necessary when the next actual meter reading is obtained. No more than two (2) consecutive estimated bills shall be rendered without the utility reading the meter. If it is necessary for the utility to estimate more than two (2) bills per year due to the actions of the consumer regarding meter accessibility, and where the inaccessibility is beyond the control of the utility, it will be permissible for the utility to submit an estimated bill based on consumer reading or past service records. The amount of such estimated bill will be adjusted as necessary when the next actual reading is obtained.

(2) **Meters read by the consumer.** For each utility whose normal procedure is to have its consumers regularly read their own meters, the procedure for meter reading by the consumer shall provide for meter reading at approximately monthly intervals or annually, if an annual rate applies. The utility shall verify such readings not less than once every six (6) months. When the consumer fails to furnish meter readings, the utility may submit an estimated bill based on the consumer's previous usage and other available information, the amount of such estimated bill to be adjusted, as necessary, when the next actual reading is obtained. No more than two (2) consecutive estimated bills shall be rendered without the utility reading the meter. When by reason of a consumer's failure to furnish meter reading, the utility reads the meter, it may charge the service fee for reading the meter prescribed in its approved tariffs.

(3) **Access to meters and other property.** The utility shall at all reasonable times have access to meters, service connections, and other property owned by it on a consumer's premises. Refusal on the part of the consumer to provide reasonable access for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility, after at least ten (10) calendar days written notice. In the event the consumer is a tenant, the utility should attempt to notify the property owner of the access violation and pending disconnection of service. Service will be reconnected after a method of permanent access on the meter reading date is agreed upon by the customer consumer and utility. If the consumer and/or property owner does not correct unsafe conditions or obstructions, including aggressive animals, the utility may relocate the meter to a safe and accessible location at the expense of the consumer and/or property owner. The utility shall provide its employees with a means of identification to claim the right of access.

(4) **Special meter reading request.** Whenever a special meter reading is required following a request by a consumer, the utility shall not make a charge for the special meter reading, whether or not its applicable tariff authorizes a charge for a special meter reading, unless the consumer has requested and received special meter reading within the previous twelve (12) month period.

(e) **Consumer submeter record information.** Consumer submeter records shall contain the information set forth in (a) and (c) of this Section and such meters shall be read within three (3) business days of the applicable utility meter being read by the utility.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 22 Ok Reg 1800, eff 7-1-05; Amended at 35 Ok Reg 1030, eff 9-12-14; Amended at 36 Ok Reg 629, eff 7-25-19]

PART 3. METER LOCATION, TESTING, AND OPERATION

165:35-15-10. Location of meters

(a) **Outdoor meters.**

(1) Where a meter is installed outdoors, it shall be placed on the exterior of a building or on a support or pole in a location readily accessible to authorized utility representatives for meter reading, testing and maintenance; and shall not be subject to severe vibration, dust, vapors or corrosive liquids. The meter shall be the temperature compensating type.

(2) A meter shall not be placed in a location where it may be accidentally damaged or at a location on a building where it will cause inconvenience, either to the consumer or the utility's representative.

(3) An outdoor meter, except for unusual circumstances, shall not be more than five and one-half feet (5½') or less than two and one-half (2½') feet above ground level, measured from the center of the meter cover.

(b) **Indoor meters.**

(1) No residential meter shall be installed inside a residence after the effective date of this Chapter unless agreed upon by the utility and the consumer.

(2) Where a meter is installed indoors, it shall be located where it will be readily accessible to authorized utility representatives for meter reading, testing, and maintenance and shall not be subject to severe vibration or excessive dampness.

(3) A meter shall not be located in a hazardous location nor in a location where accessibility is difficult. A meter shall not be placed in any location where the visits of the meter reader will cause inconvenience either to the consumer or the utility.

(4) An indoor meter shall not be more than five and one-half feet (5½') or less than two and one-half (2½') feet above floor level, measured from the center of the meter cover.

(c) **Relocation of meters.** A utility may, at its option and at its expense, relocate any meter, except that in case of a relocation which is made necessary due to inaccessibility or hazardous location caused by the consumer, dangerous conditions, including aggressive animals, or to prevent a recurrence of discovered tampering or unauthorized diversion of service, the utility may, at the consumer's expense, relocate the meter loop and service entrance facilities to a location agreeable to the utility and consumer; and if no location can be agreed upon, the Commission will designate the location upon request by either party.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 35 Ok Reg 1030, eff 9-12-2014]

165:35-15-11. Meter testing facilities and equipment

(a) **General.** Each utility furnishing metered electric service shall own or arrange for equipment and facilities and follow test procedures necessary for testing its meters to limits of accuracy specified in this Chapter. The equipment facilities and procedures shall be available for inspection by PUD or its authorized representative. A utility may contract for testing of its meters by another utility or by a non-utility concern performing meter testing service.

(b) **Test standards.**

(1) Each utility furnishing metered electric service shall provide for and have available portable indicating electrical testing instruments or watt-hour meters of suitable range and type for testing service watt-hour meters, demand meters, switchboard instruments, recording voltmeters, and other electrical instruments.

(2) For testing the accuracy of portable watt-hour meters, commonly called "rotating standards", and other portable instruments used for testing service meters, each utility shall provide for and have available as reference or check standards suitable indicating electrical instruments, watt-hour meters, watt meters, or any or all of them, hereinafter called reference standards. Service type of watt-hour meters may be used as a check standard, but if so, such watt-hour meters shall be permanently mounted in a meter testing facility and shall be used for no purpose other than for checking working rotating standards.

(c) **Reference standards.** Reference standards shall be submitted at least once each year to the National Bureau of Standards or to a laboratory approved by the Commission for the purpose of test, adjustment, and certification. Utilities maintaining standardizing laboratories will be permitted to make their own test and certifications of reference standards, provided the instruments and methods in use are acceptable to the Commission.

(d) **Portable test standards.** All working rotating standards (portable watt-hour meters) shall be compared with the reference standards at least once every three (3) months, and solid-state watt-hour standards every six (6) months, during the time such working standards are being regularly used. Each rotating standard (portable watt-hour meter) shall at all times be accompanied by a calibrating card, giving the date when it was last calibrated and adjusted. Records of calibration shall be kept on file in the office of the utility, for the life of the instrument.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 35 Ok Reg 1030, eff 9-12-14; Amended at 36 Ok Reg 630, eff 7-25-19]

165:35-15-12. Accuracy requirements for service watt-hour meters

(a) **General.** No meter shall be placed in service, or allowed to remain in service, which has an incorrect register multiplier, watt-hour constant, gear ratio, or dial train; or which is mechanically or electrically defective, incorrectly connected, installed, or applied; or which registers outside the limits specified in (c) of this Section. All tolerances in this Chapter are to be interpreted as maximum permissible variations from conditions of zero error. No meter or associated device shall be adjusted to be in error, even within the tolerances permitted by this Chapter.

(b) **Test loads.** For self-contained meters, the heavy load test current shall be approximately one hundred percent (100%) of the meter test amperes (TA), and the light load test current shall be approximately ten percent (10%) of the meter test amperes (TA). For meters used with current transformers, the current at heavy load shall be approximately one hundred percent (100%) of either the meter test amperes (TA) or the secondary rating of the current transformer, and at light load approximately ten percent (10%) of that rating.

(c) **Accuracy limits.**

(1) **Acceptable performance.** The performance of a watt-hour meter is considered to be acceptable when the average percentage registration is not more than one hundred and two percent (102%), nor less than ninety-eight percent (98%), calculated in accordance with one of the methods described in (d) of this Section.

(2) **Adjustment limits.** When the test of a watt-hour meter indicates that the error in registration exceeds one percent (1%) at either light load or heavy load at unity power factor, or exceeds two percent (2%) at heavy load at approximately 0.5 power factor lag, the percentage registration of the meter shall be adjusted to within these limits of error, as closely as practicable to the condition of zero error. Where instrument transformers are used in conjunction with the meter, these limits apply to the meter equipment as a whole. All meters which are tested shall be left without creep.

(3) **Creeping.** No watt-hour meter which creeps shall be placed in service or allowed to remain in service. A meter creeps if, with load wires removed and with test voltage applied to the voltage circuits, the rotor moves continuously. For the practical recognition of creep in a meter in service, it is considered to creep when, with all load wires disconnected, the rotor makes one (1) revolution in ten (10) minutes or less.

(d) **Percentage registration.**

(1) **Method 1.** Weighted average percentage registration is the weighted average of the percentage registration at light load (LL) and at heavy load (HL) registration a weight of four (4). By this method: Weighted Average Percentage Registration = (LL + 4HL) □ 5.

(2) **Method 2.** Average percentage registration is the average of the percentage registration at light load (LL) and at heavy load (HL). By this method: Average Percentage Registration = (LL + HL) □ 2.

(e) **Compliance with ANSI.** The consumer who utilizes a consumer submeter or consumer submeters shall not place in service such meters unless said consumer submeters comply with the current version of ANSI C12 Standard, or equivalent ANSI standard as later amended.

[**Source**: Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99]

165:35-15-13. Accuracy requirements for demand meters

(a) **Acceptable performance.** The performance of a demand meter or register shall be acceptable when the error in registration does not exceed four percent (4%) in terms of full scale value when tested at any point between twenty-five percent (25%) and one hundred percent (100%) of full scale value.

(b) **Adjustment limits.**

(1) When a demand meter or register indicates that the error in registration exceeds + four percent (4%) in terms of full scale value, the demand meter or register shall be adjusted to within + two percent (2%) full scale value.

(2) The timing element when used to keep a record of time of day at which the demand occurs, shall be adjusted to a condition of as near zero error as practicable when it is found to be in error by more than + 0.25 percent.

165:35-15-14. Place and methods for testing metering equipment

(a) **Testing in place.** Tests on watt-hour and demand meters in service may be made either on the consumer's premises or in an approved meter testing facility.

(b) **Instrument transformers.**

(1) **Preinstallation tests.** Prior to installation, all new instrument transformers shall be tested for voltage withstand, ratio correction factor, and phase angle in an approved laboratory, meter shop, or by the manufacturer.

(2) **Transformers removed from service.** All instrument transformers removed from service, unless damaged, shall be tested for ratio correction factor and phase angle prior to reinstallation.

(3) **In-service tests.** When metering installations are tested on periodic schedules, the instrument transformers associated with the installation shall be inspected for correctness of connections and evidence of any damage. Current transformers shall be tested with a suitable variable burden device to determine if the windings of the secondary circuit have developed an open circuit, short circuit, or unwanted grounds. When the primary voltage is known, potential transformers may be tested by measuring the secondary voltage to reveal defects in the transformers or secondary circuit which affects its accuracy.

165:35-15-15. Installation tests

(a) **New meters.** New meters shall be inspected and tested in a meter testing facility, or by the manufacturer, either on a one hundred percent (100%) basis or on a statistical sampling basis acceptable to the Commission, and appropriate action shall be taken by the utility to assure that the meters conform to the accuracy requirements outlined in this Chapter.

(b) **Meters installed with instrument transformers.** Meters installed with instrument transformers shall be tested on a one hundred percent (100%) basis and adjusted to conform to the accuracy requirement outlined in this Chapter prior to installation. In addition, a complete inspection shall be made of the wiring after installation to assure proper connections for metering.

(c) **Separate test of meters and transformers.** The watt-hour meters may be tested independently of instrument transformers, provided the transformer ratios and phase angles have been determined and are taken into account in the calibration of the meters. The transformer errors may be neglected in the calibration of the meters if instrument transformers are used that conform to the 0.3 accuracy class limits of the ANSI requirements with the actual secondary burden.

165:35-15-16. Schedule for testing watt-hour meters

(a) **Selective testing of alternating current watt-hour meters.** Meters shall be tested in accordance with the provisions of this Section, except that any utility may, upon written request to the Commission, be authorized by the Commission to utilize a selective testing program for alternating current watt-hour meters.

(b) **Periodic schedule for testing alternating current watt-hour meters with surge-proof magnets and without demand registers or pulse initiators (in lieu of selective testing program).** The word "year" in the periodic test schedule stated below means calendar year. The periods stated are required test intervals.

(1) Meters used with instrument transformers:

(A) Polyphase meters - at least once in 16 years.

(B) Single phase meters - at least once in 16 years.

(2) Self-contained single phase meters - at least once in 16 years.

(3) Self-contained single phase meters and three-wire network meters - at least once in 16 years.

(c) **Varhour meters.** Varhour meters shall be tested in accordance with the schedule for the associated watt-hour meters.

(d) **Other meters.** Meters without surge-proof magnets and without demand registers or pulse initiators - at least once in 8 years.

(e) **Adoption of utility testing schedule.** In lieu of the schedule prescribed by this Section, the utility may adopt its own testing schedule when approved by order of the Commission.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93]

165:35-15-17. Schedule for testing demand meters

The following schedule is required for testing demand meters:

(1) Block interval demand-registers-equipped watt-hour meters.

(A) Meters with surge-proof magnets - 12 years.

(B) Meters without surge-proof magnets - 8 years.

(2) Block interval graphic watt-hour demand meters - 2 years.

(3) Lagged demand meters - 8 years.

(4) Pulse recorders and pulse-operated demand meters in combination with pulse-initiator-equipped watt-hour meters - 2 years. If a comparison is made between the meter registration and the recorder registration each billing period, and the recorder registration agrees within one percent (1%) of that registered by the associated meter, the schedule for pulse recorders and pulse-operated demand meters should be as indicated in (A) and (B) of this paragraph. If recorder meter registration checks do not agree within one percent (1%), the demand metering equipment should be tested.

(A) Meters with surge-proof magnets - 16 years.

(B) Meters without surge-proof magnets - 8 years.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93]

165:35-15-18. Prepayment meters

No utility shall use prepayment meters geared or set as to produce a rate or amount higher than would be paid if a standard type meter was used, except pursuant to a special rate schedule for the particular class of service which has been filed with and approved by the Commission.

165:35-15-19. Meter records and reports

(a) **General.** Current records shall be kept, systematically arranged, of the identification number of each watt-hour meter and the location of the meter.

(b) **Selective test date.** Any utility authorized to utilize a selective testing program for alternating current watt-hour meters may retain the test date of the groups of lots of the meter selected for test, in lieu of the records required in (c) of this Section.

(c) **Test records.** Each utility shall keep the most recent test record of any installed meter for the period installed and for six (6) months after the meter is removed from service. Each record shall contain:

(1) Sufficient information to identify the meter.
(2) The date of the test.
(3) Reading of the meter.
(4) Results of the test.

165:35-15-20. Meter testing on request of consumer

(a) Upon receipt at an office of a utility of a written request of a consumer, the utility shall, within twenty (20) calendar days, test the accuracy of the meter through which the consumer is being served.

(b) No charge shall be made for a meter test requested by the consumer, unless the meter is found to test within limits of accuracy prescribed by this Chapter, in which case the utility may make the charge prescribed in its approved tariffs.

(c) A consumer may make written request to be present when the utility conducts the test on his/her meter and have an expert or other representative present at the time; in which case, the utility shall conduct the test in the presence of the consumer or the consumer's representative, but during regular working hours of the utility.

(d) A written report stating the name of the consumer requesting the test, the date of the request, the location of the premise where the meter has been installed, the type, make, size, and serial number of the meter, the date of removal, the date tested, and the result of the test shall be supplied to such consumer within ten (10) business days after the completion of the test.

(e) Each party affected by a consumer submeter may make demand of the consumer to test the consumer submeter, and the testing requirements and the time for such testing shall be as set forth in (a) through (d) of this Section.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 36 Ok Reg 630, eff 7-25-19]

165:35-15-21. Referee meter tests by Commission [REVOKED]

[**Source:** Revoked at 22 Ok Reg 1801, eff 7-1-05

165:35-15-22. Adjustment of bills

(a) **Fast meters.** Whenever any meter tested by PUD or the utility is found to have an average error of more than two percent (2%) fast (or in favor of the utility), the utility shall refund to the consumer the overcharge based upon the last test, but not to exceed six (6) months, unless it can be established that the error was due to some cause, the date of which can be fixed with reasonable

certainty, or the error was due to meter tampering or theft, in which case the overcharge shall be computed from that date.
(b) **Slow meters.** Whenever a meter tested by PUD or the utility is found to have an average error of more than two percent (2%) slow (or in favor of the consumer), the utility shall charge for the electricity consumed, but not included, in bills previously rendered, based upon the corrected meter reading, for a period equal to one-half (1/2) of the time elapsed since the last previous test, but not to exceed six (6) months, unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay the corrected amount, in installment payments, over the same period of time in which the incorrect billing took place, but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.
(c) **Nonregistering meters.** If a meter is found not to register or to register intermittently for any period, the utility may charge for an estimated amount of electricity used, which shall be calculated by averaging the amounts registered over corresponding periods in previous years, or in the absence of such information, over similar periods of known accurate measurement preceding or subsequent thereto. The estimated billing shall not exceed six (6) months, unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay the estimated billing amount, in installment payments, over six (6) months, unless otherwise agreed to by the utility and consumer.
(d) **Incorrect register, connection of the meter, or multiplier on meters.** If a meter is found to have an incorrect register, connection, multiplier, or constant, the error shall be corrected. Where the error is adverse to the consumer, the utility shall refund the excess charged for the amount of electricity incorrectly metered for the period of time the meter was used in billing the consumer. Where the error is adverse to the utility, the utility shall charge the consumer the undercharge for the amount of electricity incorrectly metered for the period of time, not to exceed six (6) months, the meter was used in billing the consumer, unless it can be established that the error was due to meter tampering or theft. The utility shall allow the consumer to pay any unbilled amount over the same period of time in which the undercharge took place, but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.
(e) **Compliance.** This Section shall not apply to routine testing and replacement of meters.
(f) **Conformity.** Consumer submeters shall conform to the adjustments set forth in subsections (a) through (e) of this Section.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, eff 9-12-14; Amended at 36 Ok Reg 630, eff 7-25-19]

SUBCHAPTER 17. FREQUENCY, VOLTAGE, AND EQUIPMENT SERVICING REQUIREMENTS

Section
165:35-17-1. Standard frequency
165:35-17-2. Voltage limits
165:35-17-3. Servicing utilization control equipment

165:35-17-1. Standard frequency

The standard frequency for alternating current distribution systems shall be 60 hertz.

165:35-17-2. Voltage limits

(a) **Secondary voltages.** The voltage at the utility's point of delivery, as installed for each consumer, shall be maintained within the limits specified in (1) through (4) of this subsection. If a utility adopts any standard voltage not included in the table in (4) of this subsection, it shall advise the Commission that the Commission may establish appropriate voltage limits. Where three-phase service is provided, the utility shall exercise reasonable care to assure that the phase voltages are balanced. The preferred and tolerable voltage ranges conform to the current version of ANSI Standard C84.1, or equivalent ANSI standard as later amended.

(1) **Preferred secondary voltages.** The secondary voltage described above shall normally be maintained within the preferred range specified in the table in (4) of this subsection.

(2) **Tolerable secondary voltage.** The secondary voltage described above will be permitted in the tolerable range specified in the table in (4) of this subsection under abnormal conditions if it is limited in frequency of occurrence and duration, providing that measures are initiated within a reasonable period of time to bring the voltage within the preferred range.

(3) **Emergency secondary voltages.** Voltages outside the limits specified in (4) of this subsection may infrequently occur due to:

(A) Addition of significant loads without proper notice to the utility.
(B) Adverse action of the elements.
(C) Failure of principal supply line or equipment necessitating use of alternate routes.
(D) Temporary separation of part of the system from the main system.
(E) Causes beyond the control of the utility.

(4) **Table.**

	PREFERRED VOLTAGE RANGE		**TOLERABLE VOLTAGE RANGE**	
NORMAL VOLTAGE	**MINIMUM**	**MAXIMUM**	**MINIMUM**	**MAXIMUM**
120	114	126	110	127
208Y/120	197Y/114	218Y/126	191Y/110	220Y/127
240/120	228/114	252/126	220/110	254/127
208	197	218	191	220
416Y/240	395Y/228	436Y/252	381Y/220	440Y/254
480/240	456/228	504/252	40/220	508/254
460Y/265	437Y/252	483Y/279	422Y/244	487Y/281
480Y/277	456Y/263	504/Y291	440Y/254	508Y/293
440	418	462	403	466
480	456	504	440	508
832Y/480	790Y/456	873Y/504	762Y/440	880Y/508
600	570	630	550	655

(b) **Primary voltages.** The following limits shall apply where the utility supplies service at primary voltage.

(1) **Industrial consumers.** For services rendered principally for industrial or power purposes, the voltage shall not exceed ten percent (10%) above or ten percent (10%) below the nominal voltage of the low side of the transformer.

(2) **Special contract extension.** The limitations in (1) of this subsection do not apply to special contracts in which the consumer specifically agrees to accept service with a different voltage regulation.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-17-3. Servicing utilization control equipment

Each utility shall service and maintain any equipment it installs, owns, and uses on consumer's premises and shall correctly set and keep in proper adjustment any thermostats, clocks, relays, time switches, or other devices which control the consumer's service.

SUBCHAPTER 19. CONSUMER DATA, DEPOSITS, AND BILLING

PART 1. CONSUMER RECORDS, INFORMATION, AND INTERRUPTIONS OF SERVICE

Section
165:35-19-1. Consumer records
165:35-19-1.1. Consumer electric usage data
165:35-19-2. Consumer information
165:35-19-3. Interruptions of service
165:35-19-4. Restoration of service

PART 3. DEPOSITS

Section
165:35-19-10. Deposits and interest
165:35-19-11. Interest on deposits required by cooperative

PART 5. BILLING

Section
165:35-19-30. Information on bills
165:35-19-31. Average monthly payment plan (AMPP)
165:35-19-32. Penalty or charge for late payment of bills and dishonored negotiable instruments

PART 7. APPLICATION FOR SERVICE AND TAMPERING OF EQUIPMENT

Section
165:35-19-40. Failure to make application for electric service
165:35-19-41. Tampering with measuring equipment or other property

PART 1. CONSUMER RECORDS, INFORMATION, AND INTERRUPTIONS OF SERVICE

165:35-19-1. Consumer records

(a) The utility shall maintain such records of each consumer as may be necessary to reflect compliance with the Commission's rules, which shall be retained for the period prescribed in OAC 165:35-1-3.

(b) Records referred to in subsection (a) of this Section, where applicable, shall show, but not be limited to:

(1) KWH meter readings per billing period.
(2) KWH consumption per billing period.
(3) KW meter readings per billing period.
(4) KW measured demand per billing period.
(5) KW billing demand per billing period.
(6) Total amount of bill per billing period.
(7) Dates and amounts of payments by consumers.
(8) Adjustments of bills.
(9) In service performance meter and/or equipment test.
(10) Complaints by name and account number in accordance with OAC 165:35-23-2(a) that such records be maintained in a matrix format with the type (or category) of complaint listed across the top and the consumer's name or account number listed down the left hand side. However, if the account number only is utilized, a cross reference with the consumer's name must also be readily available.

(c) Consumers that utilize consumer submeters shall keep the following records pertaining to the parties affected by submetering:

(1) KWH meter readings per billing period.
(2) KWH consumption per billing period.
(3) Total amount of bill per billing period.
(4) Dates and amount of payments by parties.
(5) On request of a party affected by the submetering, consumer shall furnish a clear and concise statement of the actual consumption of electric energy for said party for each billing period during the prior year.

[**Source:** Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-19-1.1. Consumer electric usage data

The standards for consumer electric usage data shall be governed by the Electric Usage Data Protection Act codified at 17 O.S. § 710.1 *et seq*., and future amendments or supplements thereto.

[**Source:** Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-19-2. Consumer information

(a) Each utility shall:

(1) Maintain maps, plans, or records of its transmission and distribution systems, with such other information as may be necessary to enable the utility to advise prospective consumers and others entitled to the information as to the facilities available for serving in any locality.

(2) Transmit to each of its consumers no less frequently than once each year:

(A) A clear and concise summary of the existing rate schedules applicable to each of the major classes of its consumers for which there is a separate rate.

(B) An identification of any classes whose rates are not summarized.

(3) Upon request of a consumer, but not more frequently than once each calendar year, provide a clear and concise statement of such consumer's actual consumption of electric energy for each billing period during the prior year.

(4) Assist the consumer or prospective consumer in selecting the most economical rate schedule.

(5) Provide information to each new consumer at the time of application or by enclosure with the first month's bill or by separate mailing, or by electronic notification to customers who make an affirmative election to receive electronic notification of such information, prior to the first month's bill as to the correct method of reading watt hour meters.

(b) Where economically feasible, each electric utility shall provide an office, agent, or authorized pay site in or convenient to each municipality serviced by it where the consumer may pay bills, which office, agency, or authorized pay site, shall be open for business during reasonable business hours at least five days per week, holidays excepted. Whenever service prescribed in this subsection is not furnished for economic reasons, the Commission may, upon application and after notice and hearing, prescribe the service to be furnished and conditions thereof.

(c) The utility shall provide, in each telephone directory covering any area it serves, a telephone listing of the number by which the utility can be notified at any time during a twenty-four (24) hour day of any utility service deficiency or emergency, or the information may be published in a regular newsletter or publication furnished to its subscribers. In addition, the telephone number shall be published on the homepage of a utility sponsored website, if applicable.

(d) The utility shall advise its residential consumers through its consumer mailing or by electronic notification to customers who make an affirmative election to receive electronic notification of such information, no less than once a year, of the Commission rules regarding the following:

(1) Disconnection information which states the rights listed in the "Disconnect Notice," as outlined in OAC 165:35-21-20 *et seq*.

(2) Commission-approved deferred payment plans;

(3) Twenty (20) day government and/or private financial aid assistance deferral;

(4) Life Threatening Certificate and consumer responsibilities;

(5) Elderly or Consumers with disabilities can request their account to be flagged by the utility so that CSD can intervene on their behalf, when requested by the consumer, in the event of a disconnection of service notice and extend the disconnection date by up to five (5) business days;

(6) Average Monthly payment plans;

(7) The address and telephone number of the Commission's CSD;

(8) The limitations for disconnection, including days or periods of time when service shall not be disconnected as outlined in OAC 165:35-21-10(c); and

(9) The availability of a list of agencies providing assistance to consumers for their utility bills as outlined by OAC 165:35-21-3.

(e) The utility shall provide the location of pay agents upon the consumer's request.

(f) The utilities are strongly encouraged to have bilingual customer service personnel available to assist non-English speaking consumers regarding disconnection and related matters.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 19 Ok Reg 1969, eff 7-1-2002; Amended at 22 Ok Reg 1801, eff 7-1-05; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 631, eff 7-25-19]

165:35-19-3. Interruptions of service

(a) Whenever service is interrupted other than under emergency conditions, the interruption shall be made at a time which will cause least reasonable inconvenience to consumers, and where feasible, installations affected (such as hospitals, police, fire, schools, and other public buildings affected with interest of public health and safety) will be notified in advance.

(b) Each utility shall keep a record of any condition resulting in an interruption of service affecting its entire system or major division thereof, including the time, duration, and cause of any such interruption, and such record shall be available to the Commission or its representative upon request.

(c) A utility may cause emergency interruption of service without notice when required by failure of equipment, unexpected and prolonged increase in load, fire, storm, strike, or other cause beyond its control. Each utility shall establish and train employees in emergency procedures designed to prevent or shorten service interruption where conditions require. The utility may, in good faith, select the areas or consumers whose service is interrupted as emergency conditions require.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 19 Ok Reg 1970, eff 7-1-2002]

165:35-19-4. Restoration of service

This Section establishes general parameters to ensure timely communication to the Commission, of the utility's implementation of its restoration of service plan, following an unplanned service interruption. Each electric utility shall have a written restoration of service policy/plan, which shall include a telecommunication plan to be followed during unplanned or emergency interruptions, with a current copy on file with the CSD Director. No later than September 30 of each year, this policy shall be reviewed by the utility at least annually, and updated as deemed necessary and appropriate. A statement detailing all changes from the previous edition shall be filed with the Commission and included at the front of the policy on file. Each electric utility shall provide and keep current, the phone number of any 24-hour emergency operations center or a list with a minimum of two individuals having 24-hour contact numbers, by September 30 of each year, to the CSD_Director. The following items are guidelines to be addressed in the policy:

(1) Assessment of the extent of the service interruption and what resources (equipment, materials, and labor) will be required to restore service. The utility should also attempt to determine the number of consumers affected and the geographic extent of the service interruption.

(2) Determination as to whether or not the service restoration can be accomplished by use of in-house personnel only, or if contractors (personnel obtained from other utilities or third-party entities) will be required. The objective is to have service restored as soon as possible.

(3) Identification of priorities for service restoration, based upon emergency needs and upon ease of restoration for the greatest number of consumers for the least expenditure of money, time, and effort. Priority shall be given to any life-threatening situations known or discovered during restoration of service.
(4) Once electricity to installations affected with the interest of public health and safety has been restored (such as hospitals, fire and police departments and 911 centers), service shall be restored to schools as quickly as feasible, during such time of the year that school is in session.
(5) Attempted notification of high-priority consumers or major electric consuming facilities that are affected by the service outage, when possible. Radio and/or television should be utilized to notify larger numbers of consumers as to the type of service outage, extent of the service outage, and the expected time to restore service. Other means of notification may also be utilized, so long as the result is mass notification on an efficient, effective, and timely basis.
(6) Commission notification through the CSD Director and the Commission's Emergency Liaison to implement the process outlined in paragraphs A through C below. The Commission notification process to the designated CSD individual(s) and the Commission's Emergency Liaison may be accomplished by one or more of the following methods: business telephone and/or e-mail address during the business hours of 8:00 a.m. through 4:30 p.m. Monday through Friday, or emergency cellular telephone number after normal business hours, weekends and holidays. The notification shall consist of the following:

(A) An initial contact to notify Staff of outages, which involve a major utility substation or facility; or which may cause a high degree of public interest or concern; or which have a duration of 4 hours or more and involve 1% or fifty (50) consumers or more, whichever is greater, of the utility's meter count.
(B) Intermediate contact to provide status reports, as deemed necessary by the utility, or as may be requested by Commission and CSD Staff.
(C) A conclusory contact detailing the results and completion of the restoration of service plan implementation.

[**Source**: Added at 12 Ok Reg 2113, eff 7-1-95; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 19 Ok Reg 1970, eff 7-1-2002; Amended at 22 Ok Reg 1802, eff 7-1-05; Amended at 23 Ok Reg 1674, eff 7-1-2006; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 632, eff 7-25-19]

PART 3. DEPOSITS

165:35-19-10. Deposits and interest

(a) Each utility shall prepare and submit a plan containing criteria for deposits to the Commission for approval. The plan shall include criteria for residential and nonresidential consumers with residential being defined in each utility's tariff.

(1) The residential plan shall conform to all subsections of this Section.
(2) The nonresidential plan shall conform to all subsections of this Section except (b), (c), (e), and (l).

(b) No utility shall require a deposit of a residential consumer who has received the same or similar type and classification of service for twelve (12) consecutive months and service was not terminated for nonpayment nor was payment late more than twice nor was a check for payment

dishonored. The twelve (12) month service period shall have been within eighteen (18) months prior to the application of new service. The utility plan may establish other relevant criteria which will qualify the consumer for nonpayment of a deposit.

(c) No utility shall require a deposit of more than one-sixth (1/6) the estimated annual bill. The utility may allow smaller deposits to be made, in conformance with relevant, objective criteria written in the utility's plan. The utility plan may allow consumers to pay deposits in installments.

(d) A utility may require an advance deposit as a condition of service for consumers other than those addressed in (b) and non-residential consumers.

(e) A residential consumer may be required to post a deposit as a condition of continued service if undisputed charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twelve (12) billing periods or if the consumer has had service disconnected during the last twelve (12) months pursuant to OAC 165:35-21-2 or has presented a check subsequently dishonored.

(f) A non-residential consumer may be required to post a deposit as a condition of continued service if undisputed charges have become delinquent, with delinquent meaning a payment not received on or before the due date as posted on the bill, in two (2) out of the last twenty-four (24) billing periods or if the consumer has had service disconnected during the last twenty-four (24) months pursuant to OAC 165:35-11-11 or has presented a check subsequently dishonored.

(g) Interest on cash deposits shall be paid by the utility at no less than the rate calculated as follows:

(1) For all consumer deposits returned within one (1) year or less, the interest rate shall be established on January 1 of each year to equal the average of the weekly percent annual yields of one (1) year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point.

(2) For all consumer deposits held by the utility for more than one (1) year, the interest rate shall be established on January 1 of each year to equal the average of the weekly percent annual yields of 10 year U.S. Treasury Securities for September, October, and November of the preceding year. The interest rate shall be rounded to the nearest basis point. The utility may pay the average of the one (1) year Treasury Security, as referenced in (g)(1) of this Section, for the first year the deposit is held.

(3) Provided, however that after the interest rates are initially established pursuant to this subsection, the interest rate shall not change unless the application of the formula in (g)(1) and/or (2) results in a change in interest rate(s) that is/are greater than fifty (50) basis points.

(4) The PUD Director shall calculate the interest rate(s) as pursuant to (g)(1) and (2) of this Section, and shall post notice on the Commission's website by December 15 of each year, pursuant to subsection (g), otherwise the current interest rate(s) will remain in effect.

(h) If refund of deposit is made within thirty (30) days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than thirty (30) days, payment of interest shall be made retroactive to the date of deposit. No interest shall accrue on a deposit after discontinuance of service.

(i) The deposit shall cease to draw interest on the date it is returned or credited to the consumer's account.

(j) The utility plan shall provide the date of payment of interest and whether the interest shall be paid by negotiable instrument, or by credit against current billing, or by issuance of a bank card.

(k) Each consumer posting deposit shall receive a nonassignable receipt in writing at the time of making the deposit, or within ten (10) days thereafter, or such deposit shall appear as a notation on the consumer's next bill. When a consumer pays a deposit as a portion of an electric service

bill, payment of the bill shall serve as a receipt of the deposit. If the deposit is not paid by the due date, the amount of the deposit will become a part of the past due amount owed and monies paid shall be applied to the oldest past due amount. The utility plan shall provide reasonable means whereby a depositor who applies for the return of his/her deposit, or any deposit to which he/she is entitled, but who is unable to produce the original receipt may not be deprived of his/her deposit or balance.

(l) The utility shall automatically refund the deposit for residential service, with accrued interest, after twelve (12) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twelve (12) month period. Payment of a charge shall be deemed satisfactory if received on or prior to the date the bill is due. Payment of a charge shall be deemed not satisfactory if made by a check subsequently dishonored.

(m)The utility shall automatically refund non-residential service deposits of less than $20,000, with accrued interest, after twenty-four (24) months' satisfactory payment of undisputed charges and where payment was not late more than twice; provided, however, that service has not been disconnected within the twenty-four (24) month period. Non-residential consumers, who meet the above-referenced eligibility criteria, must have a minimum of five (5) years continuous service at the service location with the utility before a deposit will be refunded.

(n) The utility plan shall provide for the review of all deposits for residential service at least annually and deposits for non-residential service at least once every twenty-four (24) months and shall provide whether refunds will be paid by negotiable instrument, upon request of the consumer, provided the consumer's bill is not delinquent, or by credit against current billing.

(o) The amount of the deposit, with accrued interest, shall be applied to any unpaid charges at the time of a discontinuance of service. The balance, if any, shall be returned to the consumer within thirty (30) days following the settlement of the consumer's account, either in person or by mailing it to the consumer's last known address.

(p) The utility shall provide payment of accrued interest for all consumers annually by negotiable instrument, or by credit against current billing, or by issuance of a bank card.

(q) The utility may withhold refund or return of the deposit, pending the resolution of a dispute with respect to charges secured by the deposit.

(r) The utility shall keep records to show:

(1) The name, account number, and address of each depositor.

(2) The amount of the deposit and date received.

(3) Each transaction concerning the deposit.

(s) Such records shall be retained for two (2) years after the deposit and/or interest is refunded or applied.

(t) Upon the sale or transfer of any public utility or operating units thereof, the seller shall file, with the application of transfer, a verified list of all consumers from whom a deposit is being held, the date such deposit was made, the amount thereof, and the unpaid interest thereon. The information provided shall be treated as confidential and shall not be available for public inspection unless ordered by the Commission after notice and hearing.

(u) Deposits shall not include membership fees in cooperatives.

(v) The deposit made by the consumer with the utility at the time of application for electricity shall not constitute an advance payment to cover service bills, but for all purposes it is to be considered as security for the payment of monthly bills or other proper charges.

[**Source:** Amended at 10 Ok Reg 2639, eff 6-25-93; Amended at 11 Ok Reg 3745, eff 7-11-94; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 22 Ok Reg 1803, eff 7-1-05; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 632, eff 7-25-19]

165:35-19-11. Interest on deposits required by cooperative

A utility having provision in its bylaws for assignment of margins to members or consumers shall be required to pay interest on security deposits deposited after the effective date of this Chapter in compliance with OAC 165:35-19-10. [Order No. 326194, issued May 23, 88]

[**Source:** Amended at 35 Ok Reg 1030, effective 9-12-14]

PART 5. BILLING

165:35-19-30. Information on bills

The utility shall bill each consumer as promptly as possible following the reading of his/her meter. The bill shall show:

(1) The reading of the meter at the end of the period for which the bill is rendered.

(2) The date on which the meter was read, or the end of the billing period.

(3) The number and kind of units used for billing.

(4) The total amount due for electricity used.

(5) Items of tax separately billed, pursuant to OAC 165:35-27-2.

(6) The date by which the consumer must pay the bill to avoid addition of a penalty.

(7) The total amount due after addition of any penalty for nonpayment within a designated period. The terms "gross bill" and "net bill" or other similar terms implying the granting of a discount for prompt payment shall not be used where a penalty is added for nonpayment within a designated period.

(8) A distinct marking to identify an estimated bill.

(9) If there is a conversion from meter reading units to billing units, or any calculation to determine billing units from recording or other devices, or any other factors used in determining the bill, full information shall be furnished on request.

(10) In the case of a special form of billing, such as a level payment plan, any of the above information which is inappropriate may be omitted.

(11) The fuel adjustment or purchased power adjustment factor associated with the respective clauses on the consumer's bill.

(12) The electric bill submitted by the utility furnishing electric service to the consumer shall be allocated to the party(ies) affected by such consumer submeters in a manner approved by and on file with the PUD Director.

(13) Utilities that serve 150,000 Oklahoma customers or more shall provide historical usage information, e.g., a chart, table or graph, which shall be displayed prominently on each bill, and depict the actual usage of the residential consumer, at the place of service for which the bill is issued. Such historical usage shall be tracked and displayed over the previous twelve (12) month period.

(14) Utilities that serve less than 150,000 Oklahoma Customers consumers shall provide, in a conspicuous manner, notice on each residential consumer bill that historical usage information is available at no charge, upon the consumer's request.
(15) The name and toll-free telephone number of the Commission's CSD, to which the end-user may direct complaints and questions regarding utility services.

[**Source:** Amended at 19 Ok Reg 1970, eff 7-1-2002; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 634, eff 7-25-19]

165:35-19-31. Average monthly payment plan (AMPP)

(a) Each utility shall offer to its residential consumers the option of being billed on an "average monthly payment plan" (AMPP). Each utility's plan shall be submitted to the Commission for approval and shall then become a part of that utility's approved tariffs.
(b) At least once a year, and consistent with OAC 165:35-19-2(d) above, the utility shall give written notice to its residential consumers of the availability of an Average Monthly Payment Plan.

[**Source:** Amended at 19 Ok Reg 1971, eff 7-1-02]

165:35-19-32. Penalty or charge for late payment of bills and dishonored negotiable instruments

(a) **Meters read by the utility.** A utility may make a penalty charge in an amount not to exceed one and one-half percent (1.1/2%) for delay in receipt of payment by the utility past the due date of the bill. The due date shall be stated on the face of the bill and shall not be earlier than ten (10) days after the bill is mailed or provided by electronic notification to customers who make an affirmative election to receive electronic notification of such information, except that for residential consumers it shall not be earlier than twenty (20) days after the bill is mailed or provided electronically to consenting consumers.
(b) **Late payment penalty.** A utility shall clearly state upon the face of its bills the amount of any late payment penalty, and the date on or before which payment must be received in order to avoid paying the late payment penalty. In its billing, the utility shall not use the term "prompt payment discount" or other words of similar import which suggest that the consumer will receive a discount or reduction of charges for electric service for payment prior to a certain date. The late payment penalty may be applied to any unpaid balance due at each monthly billing period.
(c) **Meters read by the consumer.** A utility which allows its consumers to read their own meters may make a late payment charge on past due bills, not to exceed one and one-half percent (1.1/2%) of the amount due per billing period and, in such event, the due date stated on the bill shall not be earlier than twenty (20) days after the bill is mailed or provided by electronic notification to customers who make an affirmative election to receive electronic notification of such information.
(d) **Payment acceptance.** The utility shall not refuse to accept payment by check from any consumer unless the utility has, within the preceding twelve (12) months, received as tendered payment of the consumer's account two (2) or more negotiable instruments which were dishonored by the financial institution on which they were drawn. The utility may make a charge outlined in its tariffs for negotiable instruments which are dishonored.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, effective 9-12-2014]

PART 7. APPLICATION FOR SERVICE AND TAMPERING OF EQUIPMENT

165:35-19-40. Failure to make application for electric service

(a) A utility may elect not to disconnect electric service to a premises when an application or contract for service is terminated, provided the meter is read and the reading recorded when service is terminated and the meter is read and the reading recorded when initiating service to subsequent consumer. Such election does not constitute consent of the utility for a new occupant of such premises to use the service without making proper application or contract for service.

(b) Any person who uses electric service of the utility, but fails to make application or contract for such service of the utility, shall be liable to the utility for payment therefore under the applicable rate schedule. Proper notice as set forth in OAC 165:35-21-20(a) must be given prior to the utility making a disconnection. The utility may prorate the charge to this consumer, based on the date of occupancy.

[**Source:** Amended at 23 Ok Reg 1675, Eff 7-1-06; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-19-41. Tampering with measuring equipment or other property

(a) No regulating or measuring equipment, or other property or equipment owned by a utility, wherever situated, whether upon consumer's premises or elsewhere, shall be tampered with or interfered with, either for the purpose of adjustment or otherwise, except by representatives of the utility owning it; and official responsibility under authority of a municipal government shall not constitute an exception to this Section.

(b) If the consumer tampers with the utility's equipment or receives the benefit of the tampered service, the utility may;

(1) Disconnect service.

(2) Charge a tampering fee in accordance with the utility's tariff.

(3) Charge a reconnect fee in accordance with the utility's tariff.

(4) Charge a deposit in accordance with the OAC 165:35-19-10 to be paid prior to restoration of service.

[**Source:** Amended at 22 Ok Reg 1804, eff 7-1-05; Amended at 35 Ok Reg 1030, effective 9-12-2014]

SUBCHAPTER 21. DISCONNECTION OF SERVICE

PART 1. DISCONNECTION OF SERVICE

Section

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PART 1. DISCONNECTION OF SERVICE

165:35-21-1. Disconnection of service by a consumer

A consumer may be required to give up to five (5) days notice, excluding legal holidays, Saturdays and Sundays, of intention to have service disconnected or to have the account closed and shall be responsible for all charges for service until the expiration thereof. This 5-day notice provision may be waived by the utility. Such disconnection or closing of the account does not relieve the consumer of obligations incurred prior to disconnection. At the time the consumer requests disconnection or closing of the account, the utility will advise the consumer of any reconnection and service fees, if any reconnection and or service fee applies pursuant to the utility's approved tariffs.

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-21-2. Disconnection of service by a utility

(a) **Sufficient reasons for disconnection of service.** A utility may disconnect service to a consumer for any of the following reasons:

(1) Nonpayment of all or any portion of undisputed utility bills or a utility bill which is no longer disputed or for which the Commission's dispute process has been completed.

(2) Nonpayment of an account for service of a similar character previously supplied to such applicant or consumer by the utility.

(3) Failure to comply with the terms and conditions of a settlement agreement or any type of deferred payment agreement or with a Commission order.

(4) Failure to post a deposit as prescribed in OAC 165:35-19-10.

(5) Failure to make application for service.

(6) Misrepresentation of identity or facts for the purpose of obtaining service or use of an alias, trade name, business name, relative's name or another person's name as a device to escape payment of an unpaid obligation for utility service provided to the consumer.

(7) Violation of any rule or regulation of the Commission or Commission-approved rule of the utility.

(8) Unauthorized use of electricity accomplished through bypassing of the utility's measuring equipment or tampering with wires, pipes, meters, or other utility equipment.

(9) Whenever the utility has reason to believe that continued service will create a condition on the consumer's premises that is dangerous to persons or property.

(10) Refusal to grant access at reasonable times for the purpose of installation, inspection, maintenance, replacement, or reading of utility equipment installed upon the premises of the consumer, or maintaining any obstruction that would deny access for these purposes.

(11) Potential adverse effect of the service required by the consumer on the service of other consumers of the utility, provided the consumer has been notified and given a reasonable opportunity to correct the adverse effect.

(12) Abandonment of the premises served.

(13) Upon request of the consumer pursuant to OAC 165:35-21-1.

(14) Causing injury or threatening to cause injury to an employee of the utility or the family of an employee of the utility or the property of the utility for the purpose of preventing a utility employee from engaging in activities authorized by law or in retaliation for such activities.

(15) Violation of the utility's rules regarding the operation of nonstandard equipment or unauthorized attachments, if the consumer was notified first and given a reasonable opportunity to comply with the rules.

(16) Violation of federal, state, or local laws or regulations through use of the service.

(17) Causing damage to utility property.

(18) A condition exists which poses a health or safety hazard.

(b) **Insufficient reasons for disconnection of service.** A utility shall not disconnect service to a consumer for any of the following reasons:

(1) Failure to pay for a different kind or classification of service from that requested.

(2) Failure to pay a bill correcting a previous underbilling, due to misapplication of rates, unless the utility offers the consumer a deferred payment agreement as provided elsewhere in this Chapter.

(3) Failure of a previous owner or occupant at the premises or user of the service to pay an unpaid or delinquent account, except where the previous occupant remains an occupant or user of the utility service.

(4) Failure of a consumer to pay any portion of an estimated billing which the consumer disputes, except where the consumer fails to allow a utility representative access to the meter, or if the consumer regularly reads the consumer's own meter and fails to supply a current meter reading.
(5) If a current consumer in good standing who accepts an additional household member owing a previous bill to the utility unless that additional household member is listed on the lease arrangements or another utility service as a responsible party, or unless the household member shared service with the subscriber at a different or same location.
(6) If a consumer or potential consumer for a previously unpaid account from a different utility beyond the boundaries of the utility's service territory.
(7) Pending verification, service cannot be withheld or disconnected from a consumer whose name was used to obtain service at another location without the consumer's permission or knowledge.
(8) Nonpayment of an amount past due for more than three (3) years if the utility cannot substantiate the charges with a copy of the consumer's complete billing history reflecting usage, consumption and relevant charges.
(9) Failure to pay a past due amount to another utility.

(c) **Effective period of notice.** A utility may disconnect service on the date specified in the notice or within thirty (30) calendar days thereafter, during regular business hours, so long as the disconnection does not occur within the last two (2) hours of the business day, nor shall service be disconnected on a holiday, nor after noon (12:00 p.m.) on Fridays until Monday morning.
(d) **Documentation of reason(s).** The utility shall provide documentation to the consumer indicating the reason(s) that service is being withheld or disconnected.

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 22 Ok Reg 1804, eff 7-1-05; Amended at 36 Ok Reg 634, eff 7-25-19]

165:35-21-3. Utilities encouraged to keep current lists of energy assistance programs

(a) **Compilation.** The utilities are strongly encouraged to compile a list with the names, addresses, and phone numbers of known payment assistance programs, including information regarding any bilingual services offered, that are applicable to each service area within the utility's areas of operation. The list should include but is not limited to: local, state, federal, and tribal energy assistance programs. The list should also include public/private charitable organizations offering or known to offer energy payment assistance, which have given prior consent to their inclusion on this list. The utilities are encouraged to use due diligence in compiling and updating this information, with updates to occur on an annual basis. However, the Commission encourages the addition of new assistance programs to the list, as the information becomes available.
(b) **Availability.** The utility shall provide a copy of this list to any consumer who asks for requests such assistance.
(c) **Liability.** The offer of any such list under this Section is meant as an informative resource only, for the utility to better assist its consumers. Failure of the consumer to gain funding in full or in part, from any of the proffered resources under this Section shall not result in any liability to the utility.

[**Source:** Added at 19 Ok Reg 1971, eff 7-1-2002; Amended at 35 Ok Reg 1030, effective 9-12-2014]

PART 3. SPECIAL PROVISIONS REGARDING RESIDENTIAL DISCONNECTION

165:35-21-10. Delays to disconnection of residential service

(a) **Limitations on disconnections.** After notice and hearing, the Commission may issue an order that may include limitations on disconnection of residential utility service used or needed for the primary heating or cooling source.

(b) **Temporary ban on disconnections.** The Commission shall have the authority to order a temporary ban on any or all disconnections during periods of extremely severe weather or when circumstances exist such that disconnection could create a situation dangerous to the life or health of consumers or to property.

(c) **Severe weather.**

(1) If the NWS issues a local forecast predicting the temperature will drop below 32 degrees Fahrenheit for any time period during the following twenty-four (24) hours, the utility shall suspend its disconnection of service if the electric service is used for heating purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(2) If the NWS issues a local forecast predicting the heat index will be 101 degrees Fahrenheit or higher on the day of disconnection, or if the actual heat index is 101 degrees Fahrenheit or higher, the utility shall suspend its disconnection of service activity if the electric service is used for cooling purposes. The utility must obtain the most recent local forecast for the customer's location from the NWS reports between the hours of 6:00 a.m. and 8:00 a.m. on the morning of the day that the customer's shut-off is scheduled. If the NWS issues an updated forecast on the day of disconnection, then such updated forecast shall be used in place of the earlier obtained forecast.

(3) Nothing in this Section shall prohibit a utility from establishing a higher temperature threshold for residential heating purposes below which it will not discontinue utility service or from establishing a lower temperature threshold for residential cooling purposes above which it will not discontinue utility service. The utility may continue to disconnect utility service for unauthorized use of the utility's measuring equipment or tampering with wires, pipes, meters, or any other utility equipment or obtaining service without contract.

(d) **Financial assistance delay.** When a residential consumer has applied for and is awaiting financial assistance, including social security income, from a federal, state, or local social service agency, and the utility has initiated written notice of disconnection, it shall delay disconnection of service for a period of at least twenty (20) calendar days from the date when such notice was either delivered or mailed to the premises where service is rendered, provided:

(1) The reason for disconnection is for nonpayment of the utility bill.

(2) The consumer has notified the utility that the consumer has applied for and is awaiting financial assistance.

(3) Verification from the involved agency must be provided in a form as prescribed by the utility upon its request.

(4) If the expected financial assistance is less than the amount owed for services, the utility may require the consumer to enter into a deferred payment agreement as prescribed pursuant to (e) of this Section.

(5) Under no condition is the utility required to furnish service to the consumer unless there is a reasonable expectation of payment for such service except where other rules of this Commission apply.

(e) **Deferred payment agreement.** The utility shall be required to offer a deferred payment agreement before disconnecting service when a residential consumer is unable to pay an account in full. The utility shall not disconnect service for nonpayment of a bill if the consumer enters into a deferred payment agreement with the utility. The utility shall mail, or by electronic notification to customers who make an affirmative election to receive electronic notification of such, a confirmation of the terms of the deferred payment agreement if it is made orally. A deferred payment agreement may be entered into by the consumer up to, but not including, the day of disconnection. Except where payment assistance for the total amount of the bill is pending, the utility may require a reasonable partial payment in accordance with paragraph one (1) of this subsection, at the time the deferred payment agreement is made.

(1) Deferred payment agreement means a just and reasonable agreement offered by the utility and agreed to by the consumer which provides for the payment of all future bills during the period of agreement by the due date and the payment of the balance of any outstanding bills in reasonable installments based upon:

(A) Consideration of the consumer's gross income.

(B) Size of the delinquent account.

(C) Consumer's ability to pay.

(D) Consumer's payment history with the utility.

(E) Length of time and reasons why the debt has not been paid.

(F) Other extraordinary expenses of the consumer.

(G) Loss of income through unemployment or illness.

(H) Any other relevant factors concerning the circumstances of the consumer.

(2) The payments under such an agreement need not be equal in amount.

(3) The consumer shall initiate renegotiation prior to breach of the deferred payment agreement. The deferred payment agreement shall be renegotiated if financial circumstances, such as loss of income through unemployment or illness or any other relevant factors concerning the circumstances of the consumer, change during the payment period.

(4) If a consumer fails to comply with the terms of the deferred payment agreement, the consumer will be subject to disconnection without further notice, so long as the disconnection date on the first and second notice has not been passed. If the disconnection date has passed, the utility shall provide at least twenty-four (24) hours' notice of disconnection to the consumer.

(5) Under no condition is the utility required to furnish service to the consumer unless there is a reasonable expectation of payment for such service except where other rules of the Commission apply.

(f) **Life-threatening situation.**

(1) For purposes of this Section, a life-threatening situation is defined as one where the consumer or other permanent resident of the household is dependent upon equipment that is prescribed by a physician, operates on electricity, and is needed to sustain the person's life. Examples of life-sustaining equipment would be: kidney dialysis machine, iron lung, oxygen concentrators and certain other oxygen machines, cardiac monitory, heating and air

conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. If the life-sustaining equipment without a battery backup is prescribed by a licensed medical doctor, then it shall be considered life-sustaining equipment. The following are not considered to be life-sustaining equipment: hot water heater, refrigerator, range/stove, nebulizers that are battery-driven or hand-driven or self-contained, battery-driven sleep apnea monitors, battery-driven cardiac monitors.

(2) When a consumer to whom service is provided is unable to pay the account in full, the utility shall suspend discontinuance of service, or reconnect if disconnected, if the consumer notifies the utility that disconnection of service will give rise to a life-threatening condition for the consumer or other permanent resident of the household should electric service be terminated, and within thirty (30) calendar days of the initial notification, the consumer shall return the Medical Certificate described in (3) of this subsection.

(3) The consumer shall use a Medical Certificate Form which verifies the existence of a life-threatening situation. The form shall be provided by the utility at no cost to the consumer. The form shall provide certification by a licensed medical doctor or osteopath. The consumer may choose the appropriate medical personnel. At a minimum, the Medical Certificate Form provided by the utility shall contain, substantially, the information in the form as set forth in Appendix A to this Chapter. The service account name holder shall sign the Medical Certificate Form at the appropriate space, indicating knowledge that a permanent resident of the household is applying for the life-threatening situation certificate and further acknowledging the responsibility for payment of bills rendered for electric service.

(4) Completion of (2) and (3) of this subsection will suspend disconnection of electrical service to the specified residence for a period of thirty (30) calendar days from the initial notification. This 30-day period allows the consumer, if eligible, to pay the account in full or enter into a deferred payment agreement with the utility and/or make alternative arrangements for the person(s) named on the certified form as having the life-threatening condition. After thirty (30) calendar days, normal collection action will resume. The 30-day period may be extended by the utility at the request of the service account name holder for one (1) additional contiguous 30-day period, but only if necessitated by the life-threatening condition (as indicated on the Medical Certificate Form). The request for the additional 30-day extension must be made before the end of the initial 30-day period. The utility is not required to furnish service to the consumer beyond a total of sixty (60) calendar days for the life-threatening condition without full payment of the account or acceptable payment arrangements on any unpaid balance.

(5) Verification of the medical condition of the consumer or other permanent resident in the household by the utility may include the following:

(A) Utility personnel may visit the consumer's residence with the consumer's permission to verify that life-sustaining equipment is being used.

(B) Utility personnel may verify the doctor's signature and clarify the medical terms of the diagnosis which is the reason for the life-threatening certificate.

(6) This collection abeyance in no way absolves the consumer from full responsibility for the payment in full of the utility services rendered, and is intended for the purpose of providing the consumer an opportunity to maintain service during the life-threatening situation within the prescribed time frames.

(7) Failure of the service account name holder to fully comply with this subsection may result in denial of life-threatening status and renewed collection activities of the utility, to include termination of service to said residence.

(8) Any consumer who uses this subsection to avoid disconnection or for reconnection of service and does not complete the required documentation will be subject to disconnection.

(9) A consumer is not prohibited from claiming life threatening situation once full payment of the account balance from a previous life-threatening claim is made and a Medical Certificate Form signed by a licensed medical doctor has been received by the utility.

(g) **False information.** If a consumer provides false or misleading information to the utility to avail the consumer of the provisions applicable to the financial assistance delay, deferred payment agreement, life-threatening situation, or Commission notification procedure for elderly and/or consumers with disabilities, the false information shall be grounds for disconnection of service by the utility. The utility may disconnect service upon the utility providing notice to the customer in accordance with OAC 165:35-21-20(a).

(h) **Consumer liability.** Reconnection or continuance of service under this Section shall not in any way relieve the consumer of the consumer's liability incurred for utility service.

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 19 Ok Reg 1971, eff 7-1-2002; Amended at 22 Ok Reg 1805, eff 7-1-05; Amended at 23 Ok Reg 1676, eff 7-1-06; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 635, eff 7-25-19]

165:35-21-11. Commission notification procedure for the elderly and/or consumers with disabilities

(a) At any time prior to disconnection of service, the notification procedure shall be available to those elderly and/or consumers with disabilities who have notified the utility that they wish to be included in the following notification procedure:

(1) For those who have registered with the utility as elderly and/or consumer with disabilities, the utility shall delay disconnection of service for five (5) additional business days upon request of the Commission's CSD.

(2) Elderly and/or consumers with disabilities are those consumers who have notified the utility in writing that they:

(A) Have a permanent impairment which substantially limits the disabled consumer's ability to pay for utility service; or

(B) Are sixty-five (65) years of age or older.

(b) The utility shall notify the consumer or other person responsible for the bill, during the initial application for service, annually thereafter, and at any time disconnection is imminent, of this additional notification procedure.

(c) The utility may require verification of the consumer's qualifications.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 19 Ok Reg 1973, eff 7-1-2002; Amended at 22 Ok Reg 1807, eff 7-1-05; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 637, eff 7-25-19]

165:35-21-12. Financial assistance delays [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2115, eff 7-1-95]

165:35-21-13. Deferred payment plan (DPP) [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2115, eff 7-1-95]

165:35-21-14. Service limiters and other restrictions on utility service

(a) If a utility has met all of the conditions delineated in this Subchapter and the consumer is now subject to disconnection of service, the utility may, with the consumer's permission, place a service limiter on the consumer's meter to restrict usage in lieu of disconnecting the consumer's service.

(b) If the consumer has consented and a limiter is placed on the consumer's meter, the utility will leave proper notification that a limiter has been placed on the electric meter and information on how to reset the limiter if an overload should occur.

(c) Any costs incurred by the utility in placing or removing this limiter shall not be passed on directly to that consumer, unless specifically outlined in the utility's terms and conditions of service. [Per Order No. 326294, issued May 23, 1988]

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 19 Ok Reg 1973, eff 7-1-2002]

165:35-21-15. Life-threatening situations [REVOKED]

[**Source:** Revoked at 12 Ok Reg 2115, eff 7-1-95]

PART 5. NOTICE REQUIREMENTS

165:35-21-20. Notice of disconnection of service

(a) **Twenty-four hour notice.** Except as provided in subsections (b), (c) and (f) of this Section and OAC 165:35-21-30, service shall be disconnected only after at least twenty-four (24) hours written notice has been given to the consumer by leaving a copy of such notice with the consumer or by leaving a copy of such notice in a conspicuous place at the premises where service is provided. This notice shall be in writing, in bolded lettering, and state the reason for the disconnection, the amount due, if applicable, and the utility company's name, telephone number, and contact information. After the utility company's contact information, the notice shall include the telephone number of CSD in a printed size smaller than the print size used for the utility company's contact information, not bolded, and shall include the following statement: "For clarification of statutes and rules governing services, or escalations of disputes, you may contact the Oklahoma Corporation Commission's Consumer Services Division." The utility shall submit a copy of the notice to PUD for approval prior to usage.

(b) **First residential notice.** When service to a residential consumer is to be disconnected for nonpayment of a bill for utility service or failure to make a required security deposit, the utility shall give at least ten (10) days written notice from the date of mailing to the consumer (when the deposit is required as a condition of service, the ten (10) day notice is not required. Refer to OAC 165:35-21-30(4) Disconnection of service without notice). Said written notice shall be sent by first-class mail, address correction requested, by the utility to the consumer's billing address, unless the mail is returned from that address as undeliverable, in which case the notice shall be delivered to the premises at which the service was rendered.

(1) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility, which shall not extend the ten (10) days written notice from the date of mailing to the consumer requirement above.

(2) A notice of disconnection shall contain the following information:

(A) The words "DISCONNECTION NOTICE" or "CUT OFF NOTICE" in bold print no smaller than one-half inch (1/2") tall.

(B) The name and address of the consumer.

(C) A statement of the reason for the proposed disconnection of service.

(D) The date on or after which service will be disconnected unless appropriate action is taken.

(E) The telephone number in bold print of the utility where the consumer may make an inquiry.

(F) The approved charges for reconnection.

(G) A statement that the consumer must contact the utility regarding the disconnection, prior to contacting CSD, and should contact CSD if they cannot reach a resolution with the utility.

(H) The address and telephone number of CSD, in print size which is smaller than the print size used for the utility's telephone number.

(I) A statement that advises the consumer of the availability of a deferred payment agreement.

(J) A statement that advises the consumer of the elderly/consumer with disabilities notification.

(K) A statement that advises the consumer of the life-threatening certificate.

(L) A statement that advises the consumer of the availability of the twenty (20) day financial aid assistance delay.

(M) A statement that advises the consumer of the availability of a list of agencies providing assistance to consumers for their utility bills as outlined by OAC 165:35-21-3.

(3) The utility shall provide to consumers, upon request, the name and address of the authorized payment agencies, other than the utility's offices, where consumers may make payments.

(c) **Second residential notice.** During the time period of November 15 through April 15, the utility shall give a minimum of forty-eight (48) hours notice (at least two (2) business days) prior to disconnection of residential service that service will be disconnected unless the consumer enters into a deferred payment agreement as prescribed in OAC 165:35-21-10(e) or unless disconnection of service would create a life-threatening situation for the consumer or other permanent resident of the premises where the utility service is rendered. If the utility elects to give oral notice, it shall only be after it has complied with (b) of this Section. The second notice may be in writing, in person or by telephone.

(1) If the second residential notice is in writing, it shall be entitled "CUT OFF NOTICE" in bold letters of not less than one-half inch (1/2") in height and shall contain, in nontechnical language, the following information:

(A) The reason for service disconnection and the amount of the unpaid bills, if any.

(B) The date on or after which service will be disconnected unless the consumer takes appropriate action.

(C) The telephone number of the utility office, in bold print, where a consumer may call for assistance, make inquiries, enter into a deferred payment agreement, obtain information

on utility assistance programs, pay the bill or notify the utility of a life-threatening situation.

(D) The telephone number of CSD in print size which is smaller than the print size used for the utility's telephone number.

(2) The utility shall keep a written log of all oral communication with at least the following information when contact has been made:

(A) The date and time of call or personal visit and identity of utility representative.

(B) The name of the individual and relationship to the account. If the contact is with a designated representative for the consumer, a statement of authority to represent the account should be included.

(C) The nature of the call and telephone number called.

(D) A narrative of the communication between the utility and the consumer.

(E) A statement that the consumer must notify the utility on the day of payment, as to the place and method of such payment, when the bill is paid at a place other than the office of the utility.

(F) A statement that the consumer was advised of the telephone number of CSD.

(3) The oral communications log shall be maintained and retained in accordance with the record keeping requirements contained in this Chapter.

(4) A copy of the oral communications log shall be provided to CSD or to the consumer and/or their designated representative upon oral or written request.

(5) Oral communications with the consumer shall not begin before 8:00 a.m. or continue beyond 9:00 p.m. during normal business days.

(6) Oral communications shall be deemed as not to have occurred, including but not limited to the following circumstances:

(A) When there is no answer, the telephone line is busy or no one is home.

(B) When a message is left on an answering device or made on a recording device.

(C) When the message or attempted message is left with an individual having a physical and/or mental impairment that impedes communication or mutual understanding.

(D) When the communication is with a minor under the age of eighteen (18), unless the minor is the consumer or the spouse of the consumer.

(E) When the communication is with an individual who is not either the consumer or the designated representative of the consumer.

(F) When the communication is with a consumer or consumer's designated representative whose primary language is other than English and the consumer or consumer's designated representative has a language barrier, unless the communication is made in the primary language of the consumer or the consumer's designated representative.

(7) Unless otherwise directed by CSD, the utility company shall not contact the consumer regarding the consumer's account after CSD has notified the utility company of a complaint or inquiry from the consumer. CSD shall be the intermediary between the utility and the consumer until the resolution of the problem has been completed.

(8) Notice will be deemed delivered to the consumer three (3) business days after mailing by the utility company, which shall not extend the two (2) days written notice from the date of mailing to the consumer requirement above.

(d) **Third party notice.** A utility shall permit residential consumers to designate a consenting individual or agency to receive the applicable notice of disconnection.

(e) **Tenant notice.** Where a master metered apartment complex, building, or trailer court is subject to disconnection, the written notice to the consumer shall also be posted in a common area of the premises at least ten (10) days prior to disconnection of service. The utility may contract with tenants for residential service.

(f) **Commercial or business notice.** Nonresidential service shall be disconnected for nonpayment of all or any portion of an undisputed utility bill only after at least five (5) business days written notice has been mailed to the consumer by the utility or after the notice is left in a conspicuous place at the premises where service is provided.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 19 Ok Reg 1974, eff 7-1-2002; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 638, eff 7-25-19]

165:35-21-21. Manner of disconnection of service

When service is disconnected at the premises of the consumer:

(1) The utility employee may receive payment of past due bills or accept a copy of the consumer's payment assistance application, or accept a copy of the cancelled check or a utility company receipt showing payment; and upon the receipt thereof, cancel the disconnection order. If payment is offered in a form other than cash or negotiable instrument, the utility employee may verify the payment with the appropriate entity involved. If payment is offered by negotiable instrument, the utility employee may contact the financial institution involved for verification of sufficient funds in the account to cover the negotiable instrument. If the account does not contain sufficient funds for payment, then the utility employee may reject the offered negotiable instrument for payment of past due bills.

(2) Receipt of a subsequently dishonored negotiable instrument in response to a notice of disconnection shall not constitute payment of the consumer's account, and after the consumer is notified of such, the utility shall allow one (1) business day for the consumer to make payment at the utility company or its authorized agent(s) in cash, cashier's check, money order, or a check from a social service agency.

(3) The utility employee shall leave a written statement at the premises that service has been disconnected, the reason for the disconnection, and the telephone number and address where the consumer may arrange to have the service reconnected.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 19 Ok Reg 1975, eff 7-1-2002]

PART 7. EXCEPTIONS AND RECONNECTION PROCEDURES

165:35-21-30. Disconnection of service without notice

Notwithstanding any other Section regarding disconnection of service, a utility may at any time disconnect service without notice and without delaying disconnection of service as prescribed in other Sections of this Part, if:

(1) It reasonably believes that such action is necessary to correct a condition that poses a health or safety hazard to the consumer, the general public, or the equipment of the utility. Prior to

or immediately upon disconnection of service, the utility shall make a good faith effort to notify the consumer of the reason for disconnection either by telephone, electronic notification, personal contact, or notice left at the premises.

(2) For the purpose of essential repair, maintenance, or testing of utility equipment, the utility shall make such efforts as are reasonable under the circumstances to minimize the adverse effects of disconnection of service and to inform affected consumers prior to disconnection of service.

(3) The utility may disconnect for unauthorized use of electricity accomplished through bypassing of the utility's measuring equipment or tampering with wires, pipes, meters, or any other utility equipment or obtaining service without a contract. Prior to or immediately upon disconnection of service, the utility shall make a good faith effort to notify the consumer of the reason for disconnection either by telephone, electronic notification, personal contact, or notice left at the premises. If service is disconnected under this paragraph, the utility may require the consumer to pay the following applicable charges before service is restored:

(A) The applicable charges for reconnecting service prescribed in the utility's approved tariffs.

(B) The amount due for unmetered or unpaid usage, if such usage can be determined exactly. If the exact usage cannot be determined, the utility may compute and charge for the previous six (6) months an estimated usage based on historical usage from the previous two (2) years billing period or billing information; and/or

(C) The cost associated with the testing, repair, or replacement of any damaged equipment.

(4) The utility may disconnect for failure by consumer to post deposit, when the deposit has been required as a condition of service. Prior to or immediately upon disconnection of service, the utility shall make a good faith effort to notify the consumer of the reason for disconnection either by telephone, by personal contact, or by notice left at the premises. If service is disconnected under this paragraph, the utility may require the consumer to pay applicable charges before service is restored.

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-21-31. Reconnection of service

(a) A utility shall reconnect service upon the consumer's request as soon as the reason for disconnection of service has been eliminated. The utility shall give precedence to reconnection of service when disconnection was the fault of the utility; the utility shall reconnect service in the normal course of its reconnection workload, as soon as possible but no later than twenty-four (24) hours after the consumer eliminates the reason for disconnection and requests reconnection, when disconnection of service was the fault of the consumer. If the reason for disconnection is unauthorized use of electricity accomplished through bypassing the utility's measuring equipment or tampering with the wires, pipes, meters, or other utility equipment, the utility may, prior to reconnecting service, require a reasonable payment for estimated service rendered or may refuse to reconnect service until ordered by the Commission. A utility may require payment of a reconnection charge when disconnection of service was the fault of the consumer, if such a charge is provided in the utility's tariffs.

(b) When the disconnection of service was for nonpayment of service and disconnection took place on a Friday morning, service shall be restored as soon as possible, but no later than twenty-four (24) hours from when the consumer eliminates the reason for disconnection and requests reconnection, subject to an intervening Act of God.
(c) When a disconnection for nonpayment of service has occurred immediately preceding periods of severe weather as described in OAC 165:35-21-10(c), the utility shall reconnect service as soon as possible but no later than twenty-four (24) hours, subject to an intervening Act of God, upon receipt of one of the following:

(1) Payment of the past due bill for which service was disconnected.
(2) Submission of a life-threatening certificate from the consumer pursuant to OAC 165:35-21-10.
(3) Guarantee by a federal, state, or local social service agency that payment will be made directly to the utility.

(d) Reconnection or continuance of service under this Section shall not in any way relieve the consumer of the consumer's liability incurred for utility service.

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 19 Ok Reg 1975, eff 7-1-2002]

PART 9. MEDIATION AND COMMISSION REVIEW

165:35-21-40. Mediation

(a) Whenever there is a dispute between the utility and the consumer as to the following, the matter may be brought by either party to CSD:

(1) The existence of or seriousness of a life-threatening situation.
(2) The existence of elderly or handicapped status.
(3) The question of financial assistance or guarantee of payment by a federal, state, or local social service agency.
(4) The provisions of a deferred payment agreement.
(5) The terms and conditions of payment of any part of a bill as rendered.
(6) The proper interpretation of this Section.
(7) Other issues addressed in this Chapter.

(b) CSD shall review the matter and issue an informal review decision in writing, setting forth the terms and conditions for continued service, disconnection of service, or deferred payment agreement (DPA). If it is the desire of the consumer, they may be represented by a third party, if the consumer is available for verification. If the dispute can be resolved by telephone with the party seeking review, the review decision need not be in writing unless requested by either party. During any period of time when a disconnection dispute is before the Commission or in mediation, the utility shall suspend disconnection procedures.
(c) If CSD is unable to resolve the dispute to the mutual satisfaction of the parties, either party may file a Complaint with the Commission for final determination.
(d) Whenever the consumer informs the utility that the consumer disputes a charge for service, the utility shall investigate the dispute promptly and thoroughly, and make a diligent effort to reach a mutually satisfactory settlement. If the consumer is dissatisfied with the decision of the utility, the consumer may report the dispute CSD. Upon complaint by the consumer to the Commission,

disconnection of service shall be held in abeyance provided the consumer pays the portion of the bill which is not in dispute.

[**Source:** Amended at 12 Ok Reg 2115, eff 7-1-95; Amended at 22 Ok Reg 1808, eff 7-1-05; Amended at 23 Ok Reg 1677, eff 7-1-06; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 639, eff 7-25-19]

165:35-21-41. Commission review

The utility's disconnect notice, service violation disconnection notice, life-threatening certificate, and any notice or form used by the utility to comply with the requirements of this Subchapter shall be submitted to the Commission for approval. Upon approval, the forms or notice shall become a part of the utility's approved tariff.

SUBCHAPTER 23. SERVICE REQUIREMENTS

Section

165:35-23-1. Denial of service to a consumer
165:35-23-2. Records of complaints as to service
165:35-23-3. Replacement of meters
165:35-23-4. Service to consumer's appliances or electrical installations
165:35-23-5. Service to mobile home parks
165:35-23-6. Standby service
165:35-23-7. Temporary service
165:35-23-8 Request for service

165:35-23-1. Denial of service to a consumer

(a) A utility may refuse to provide service to an applicant or consumer from whom there remains owing an unpaid account for service of a similar character previously supplied to such applicant or consumer at any location in Oklahoma by an electric utility governed by this Chapter. The utility shall not be required to provide service to an applicant or consumer who uses an alias, trade name, business name, the name of a relative or other person as a device to escape payment of an unpaid obligation for utility service provided to such applicant or consumer; however, subject only to the above, the utility may not require a payment of unpaid utility bills of any other person, except where the previous consumer remains an occupant or user, as a condition to furnishing utility service.

(b) A utility shall not deny service to a consumer for failure to pay any obligation to the utility except the amount due for utility service actually furnished.

(c) The utility may refuse to provide service to an applicant when the applicant has not provided an acceptable valid and non-expired proof of identity. Acceptable valid and non-expired proof of identity may include the following:

(1) Driver's license or state identification card;
(2) Department of Defense identification;
(3) Employment identification;
(4) Social Security card;

(5) Student identification card;
(6) Passport;
(7) Birth certificate; or
(8) Any other verifiable proof which would establish identity.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 36 Ok Reg 640, eff 7-25-19]

165:35-23-2. Records of complaints as to service

(a) Each utility shall make a full and prompt investigation of every complaint made to it by its consumers, and or members of the public, either directly or through the Commission. It shall keep a record of each complaint received, which record shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof, which record shall be retained for two (2) years. Records shall be kept of all complaints as defined by this Chapter.

(b) In the event of a dispute between the consumer and the utility as to the accuracy of a metering device, the utility shall make such investigation as shall be required by the particular case and report the result thereof to the consumer. In the event that the complaint is not reconciled, the utility or the consumer may make application to the Commission for review of the complaint.

(c) When a utility has been notified that a complaint regarding meter accuracy has been referred to the Commission, the questioned metering equipment shall not be changed in any manner without prior authorization of the Commission. Violation of this provision will be considered as a substantiation of the complainant's contentions.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 36 Ok Reg 640, eff 7-25-19]

165:35-23-3. Replacement of meters

(a) A request from a consumer for replacement of the service meter on his/her premises because of alleged inaccuracy of the meter shall be deemed a request for the test of the meter, pursuant to OAC 165:35-15-20.

(b) The utility shall make no charge for initial connection of electric service for a consumer except the charges specified in the approved tariffs and rules of service of the utility; provided that for each disconnection and reconnection of service requested for the same consumer at the same location within twelve (12) months after the most recent connection of service, the utility may make a charge prescribed in its approved tariffs.

[**Source:** Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-23-4. Service to consumer's appliances or electrical installations

(a) Upon the effective date of this Chapter, each electric utility shall file with the Commission a detailed statement of all free service of any nature furnished or offered to any consumer or class of consumers. The utility shall offer the same free service to all consumers of the same class. The utility shall not discontinue, change, or amend its policy or offer any new free service or type of

free service to any consumer or class of consumers except upon order of the Commission, made upon application, notice, and hearing.
(b) A utility shall not, without approval of the Commission, service or repair appliances or electrical installations of its consumers beyond the point of delivery as defined in 165:35-9-1. The Commission, upon application of the utility and after notice and hearing, may grant the utility authority to service and repair all types of appliances or specified types of electrical installations or specified types of appliances of consumers in a specified town, city, or locality for the sole reason that service and repair facilities for the type of appliances or electrical installations are otherwise not available. The Commission may revoke the authority as to any city, town, or locality on application of any person, and after notice and hearing, upon a showing that facilities for such service and repair are available.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99]

165:35-23-5. Service to mobile home parks
(a) No utility shall be required to furnish electrical service to a mobile home park until the utility has been furnished, at no cost to the utility, any necessary easements which may terminate when the property ceases to be used as a mobile home park.
(b) After the effective date of this Chapter, mobile home spaces shall be served by the utility through individual meters and billed under the residential rate.

165:35-23-6. Standby service
A utility shall not supply standby or breakdown service to consumers whose premises are regularly serviced with light, electrical heat or power from a source or supply other than the utility, except pursuant to a tariff or special contract filed with and approved by the Commission.

165:35-23-7. Temporary service
(a) A consumer requiring temporary service shall pay the regular rates applicable to the class or classes of service rendered for all energy used and in addition shall pay the installation and removal cost, less salvage value, of facilities installed by the utility to furnish temporary service to the consumer.
(b) Temporary service is defined as service for purposes which by their very nature indicate short duration, and shall not exceed ninety (90) calendar days without notification and justification being provided to CSD prior to the expiration of the ninety (90) calendar day period.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 640, eff 7-25-19]

165:35-23-8. Request for service
Every electric utility shall initiate service to each qualified applicant for service within its service area in accordance with this Section.
(1) Applications for new electric service under 500 kVA of connected demand not requiring line extensions or construction of new facilities shall be filled by the end of the fifth (5^{th}) business day after the applicant has met the credit requirements and complied with all applicable state and municipal regulations. This requirement must be met at least ninety-five

percent (95%) of the time, weather permitting, and after the customer's location is ready for service.

(2) Applications for new or upgraded electric service under 500 kVA of connected demand requiring construction of new facilities shall be filled by the end of the ninetieth (90^{th}) business day, or within a time period agreed to by the customer and the electric utility, after the applicant has met the credit requirements, has made satisfactory payment arrangements for construction charges, and has complied with all applicable state and municipal regulations. This requirement must be met at least ninety-five percent (95%) of the time, weather permitting, and after the customer's location is ready for service.

(3) Applications for new or upgraded industrial electrical service over 500 kVA of connected demand requiring construction shall be completed within 180 calendar days, or within a time period agreed to by the customer and the electric utility, if the applicant has met the credit requirements, has made satisfactory payment arrangements for construction charges, and has complied with all applicable state and municipal regulations. This requirement must be met ninety-five percent (95%) of the time, weather permitting, and after the customer's location is ready for service.

(4) For customers with less than 500 kVA of connected demand, if facilities must be constructed, then the electric utility shall contact the customer within ten (10) business days of receipt of the application. The electric utility shall provide a cost estimate and estimated completion date within sixty (60) calendar days of receipt of the application and all necessary information being provided by the customer.

(5) For customers with over 500 kVA of connected demand, if facilities must be constructed, then the electric utility shall contact and meet with the customer within ten (10) business days of receipt of the application. The utility shall include customer representatives in the planning for the construction and assessment of the work during the actual construction, unless the customer affirmatively indicates no desire to be so involved. The electric utility shall provide a cost estimate and estimated completion date within ninety (90) calendar days of receipt of the application and all necessary information being provided by the customer.

(6) Unless the delay is beyond the reasonable control of the electric utility, where no construction is required for requests from customers with under 500 kVA of connected demand, a delay of more than ten (10) business days and where construction is required for requests from customers under and over 500 kVA of connected demand a delay of more than 180 calendar days, shall constitute failure to serve unless the customer and electric utility have otherwise agreed in writing, to a longer term.

[**Source:** Added at 21 Ok Reg 2092, eff 7-1-04; Amended at 36 Ok Reg 640, eff 7-25-19]

165:35-23-9. Utility acknowledgement of customer complaint inquiries

If PUD contacts a utility concerning a customer complaint, the utility shall respond to PUD within the following time periods:

(1) Inquiries regarding disconnection, suspension, or termination of service shall be acknowledged by the utility within one (1) business day of receipt of inquiry from PUD.

(2) Inquiries other than for disconnection, suspension, or termination of service shall be acknowledged by the utility within three (3) business days of receipt of inquiry from PUD.

[**Source:** Added at 21 Ok Reg 2092, eff 7-1-04; Amended at 36 Ok Reg 641, eff 7-25-19]

SUBCHAPTER 25. OPERATIONS REQUIREMENTS FOR UTILITIES

PART 1. OPERATION MAINTENANCE AND RECORDS

Section
165:35-25-1. Clearance for house and equipment moving
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165:35-25-3. Maintenance of plant, equipment, and facilities
165:35-25-4. Daily record of generating plants
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PART 5. UTILITY SCORECARD

Section
165:35-25-24. Utility Scorecard

PART 1. OPERATION MAINTENANCE AND RECORDS

165:35-25-1. Clearance for house and equipment moving

Where a house, structure, or equipment is to be moved upon, across or over roadways, or along a way over which electric wires are strung, advance notice in writing must be made to the utility of the dimensions of the object, the time to be moved, and the precise route over which to be moved. Payment shall be made in advance to the utility of the cost of providing clearance of wires. In no case shall anyone other than authorized employees of the utility remove, cut, rise, or handle any wires in connection with the moving and providing of clearance.

165:35-25-2. Extension of distribution systems

(a) **Free extension.** The utility shall extend its overhead distribution lines a distance of three hundred feet (300') to provide service to each bona fide application for residential service, without cost to the consumer. The utility may prescribe terms and conditions of extending service to applicants for other types of service, and for extensions for low load service such as wells, security lights, and fence charges, and for extension policy required by law or by the terms of a financing agreement; which provisions, when filed with and approved by the Commission, shall be deemed to constitute compliance with this Section.

(b) **Tariff requirements of extension.** A utility shall include in its filed tariffs, terms and conditions of furnishing underground service which shall provide for determining and recovery by the utility for the additional cost of providing underground service, and the responsibility for trenching and backfilling, and the method of calculating costs of construction.

(c) **Extension above free limit.** If the extension of the distribution system necessary to furnish service to an applicant or group of applicants is greater than specified in (b) of this Section, the utility shall require payment of the cost of the extension over the free limit before extending the distribution system.

(d) **Extension may be made above free limit when economically justified.** In lieu of making an extension pursuant to (a) and (b) of this Section, the utility may make an extension above the free limit upon receipt of a lesser payment or no payment, when the gross anticipated annual revenue from the extension will provide the utility with adequate return upon its investment, pursuant to a formula approved by the Commission or contained in its approved terms and conditions of service.

(e) **Determination of the length and cost of an extension.** For purposes of measuring extensions under this Section, the distance shall be measured along lines of proper construction from the nearest point of connection to the point of delivery on the property to be served. A required advance for construction shall be calculated from the total construction cost of the extension from which there shall be deducted:

(1) Any cost incident to excess capacity above that required to serve the applicant or group of applicants.

(2) Any cost incident to future expansions or to continue a construction plan of the utility.

(3) The cost of the free extension to which the applicant would be entitled.

(f) **Extensions applicable to prospective real estate subdivisions.**

(1) In lieu of extensions pursuant to other provisions of this Section, the utility may require a developer desiring an extension to a prospective real estate subdivision to make an advance for construction equal to the estimated total cost of the project before construction or the extension is started, which advance for construction shall not draw interest. The term "project" includes the entire distribution construction necessary to serve the subdivision and all line extensions to serve the individual parcels of said subdivision. In no case shall the total amount refunded exceed the amount advanced for construction with the utility. Consumers locating on an extension made pursuant to this paragraph shall not be required to make an extension advance for construction.

(2) The utility may require the developer desiring service to a prospective real estate subdivision to make an advance for construction equal to the estimated cost of the distribution system without line extensions. In such cases no refund to the developer will be made upon connection of individual line extension within the subdivision.

(3) A utility may enter into a contract with a developer which shall be deemed a special contract governed by OAC 165:35-5-1(c).

(g) **Appeals to the Commission.** If the extension above the free limits is of such length and the future anticipated revenues therefrom so small that it is doubtful that the extension would ever make a fair return on the investment, the utility or any interested person may apply to the Commission for an appropriate order.

(h) **Property of extension.** Every extension shall at all times be the property of the utility, regardless of whether an advance for construction is made in aid of its construction. At the end of five (5) years, any unrebated portion of a contribution or advance for construction made subject to refund shall become the property of the utility.

(i) **Adoption of policy by utility**. The utility may adopt a policy for extension to be made for the purpose of serving irrigation wells and/or oil field water flooding projects and for advances for construction for payment of all or part of the cost thereof by such consumer, which policy shall be prescribed in its approved tariffs.

[**Source:** Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 641, eff 7-25-19]

165:35-25-3. Maintenance of plant, equipment, and facilities

(a) **Safety of plant and system.** Each utility shall install, operate, and maintain its entire plant and system in such condition as will enable it to furnish safe and adequate service, subject only to emergency conditions beyond its control. Utilities shall also perform routine inspections of overhead electric supply lines and accessible facilities for hazards to the public.

(b) **Accepted good practice.** The generating, transmission, and distribution system, including but not limited to generating plants and equipment, transmission lines, substations, overhead systems, underground systems, street lighting systems, service wires and support equipment attachments, transformers, meters and measuring equipment, and remote meter reading equipment shall be constructed, installed, maintained, and operated in accordance with accepted good practice up to and including the point of delivery to the consumer. "Accepted good practice" shall be defined by the applicable rules governing installation, operations, maintenance, and safety contained in the NEC.

(c) **Compliance with the NEC.** The installation and maintenance of electric utility systems shall comply with the NEC minimum standard requirements.

(1) Only the specific minimum clearances required by the NEC shall be required by this Chapter. Construction and facilities which meet the specific minimum clearances shall be deemed to meet the purpose of the NEC of the "practical safeguarding of persons." Any additional clearances provided will be at the discretion of the electric utility, or as directed by the Commission, and shall not be required or necessary to provide additional public safety.

(2) On all underground construction completed after the effective date of this Chapter, the utility shall place warning labels (of a Commission-approved design) at all locations where aboveground equipment and facilities are readily accessible to the public.

(3) The utility shall perform detailed inspections of its overhead facilities to identify any potential safety issues that could impact service or public safety. Utilities shall submit their inspection programs to PUD.

(d) **Duties of pole owners and pole occupants.**

(1) A pole owner must establish, maintain, and make available to pole occupants its joint use construction standards for attachments to its poles, and for joint space in conduits. Standards for attachment must apply uniformly to attachments by all operators, including the pole owner.
(2) A pole owner must establish and maintain mutually agreeable protocols for communications between the pole owner, pole occupants, and PUD. Such protocols shall include, but not be limited to including, standards for notification of pole abandonment, replacements, or moves. Such protocols shall be available upon request to PUD.
(3) Primary responsibility to rectify safety problems shall lie with the pole occupant whose facilities are in violation. In the event facilities are abandoned, the pole owner shall work with PUD to rectify the safety concern, and shall correct any unsafe condition to alleviate a safety risk, or a potential risk, to the general public and/or property.
(4) Nothing in this section shall be interpreted as requiring pole owners to allow pole occupants access to their poles. Further, nothing in this section indicates that the Commission shall have any right to regulate the rates charged by pole owners for access to poles.
(5) After a major event, a utility shall be given a ninety (90) day grace period to complete service restoration to the affected area and to conduct any post-inspection analyses. Utilities may request an extension of the grace period from the PUD Director by submitting the request in writing.

(e) **Reliability of supply.** The generating capacity of a utility's plant, supplemented by the electric power regularly available from other sources or firm contracts for electric power by a utility which operates no generating plants, must be sufficiently large to meet all normal demands for service and provide a reasonable reserve for emergencies.

(f) **Quality of service.**

(1) In the event that any consumer operates or connects any electrical device to his/her electric system which causes an interference, noise, distortion of the 60 Hz sine wave, or other disturbance on the system of the utility which results in a disruption, disturbance, or interference to the utility, its consumers, or a communication company or its consumers, the utility shall:

(A) Require the consumer causing the problem to take corrective measures by installing suitable or special equipment necessary to eliminate or reasonably limit such adverse effect, or

(B) Install, at the consumer's expense, equipment specifically designed to reasonably limit such adverse effect.

(2) The consumer causing the problem shall bear all expenses necessary to eliminate the adverse conditions or be subject to a discontinuance of service after written notice so that other consumers are not deprived of the quality of service provided prior to the existence of the problem. Where the utility believes the condition creates a hazard to the public, the utility, or the property, the disconnection may be made without prior notice. However, the utility shall notify the consumer as soon as practical after the disconnection.

(g) **Harmonics.** In 60 Hertz electric power systems, a harmonic is a sinusoidal component of the 60 Hertz fundamental wave having a frequency that is an integral multiple of the fundamental frequency. "Excessive harmonics," in this subsection, shall mean levels of current or voltage distortion at the point of common coupling (metering point) between the utility and the consumer outside the levels recommended in the IEEE standard referenced in subsection (g)(1). Each utility shall assist every consumer or communications provider affected with problems caused by

excessive harmonics and consumers or communications providers affected in exceptional cases as described in subsection (f)(5).

(1) **Applicable standards.** In addressing harmonics problems, the utility and the consumer shall implement, to the extent reasonably practicable and in conformance with prudent operation, the practices outlined in IEEE Standard 519-1992, *IEEE Recommended Practices and Requirements for Harmonic Control in Electric Power Systems*, or any successor IEEE standard, to the extent not inconsistent with law, including state and federal statues, orders, and regulations, and applicable municipal regulations.

(2) **Investigation.** After notice by a consumer or communications provider that it is experiencing problems caused by harmonics, or if a utility otherwise becomes aware of harmonics conditions adversely affecting a consumer or communications provider, the utility shall determine whether the condition constitutes excessive harmonics. If so, the utility shall investigate and determine the cause of the excessive harmonics.

(3) **Excessive harmonics created by consumer.** If a utility determines that a consumer has created excessive harmonics that cause or are reasonably likely to cause another consumer or communications provider to receive unsafe, unreliable or inadequate electric service, the utility shall provide written notice to the consumer creating excessive harmonics. The notice shall state that the utility has determined that the consumer has created an excessive harmonics condition and that the utility has explained the source and consequences of the harmonics problem. The notice shall give the consumer two options to cure the problem.

(A) The utility may cure the problem by working on the consumer's electric facilities at a mutually agreeable time and assess the investigation and repair costs to the consumer.

(B) The consumer may elect to cure the problem at its option and its cost, but the remedy shall occur within a reasonable time, which will be specified in the notice.

(4) **Failure of the consumer to remedy the problem.** Failure of the consumer to remedy the problem may require the utility to disconnect the consumer's service. The utility shall then remedy the excessive harmonics condition, or the utility may determine that the consumer has remedied the condition within the time specified. In the event the consumer refuses to allow the utility to remedy the problem and does not stop creating excessive harmonics within the time specified, the utility may disconnect the consumer's service. Before disconnecting pursuant to this subsection, the utility shall provide written notice of its intent to disconnect at least five (5) business days before doing so, unless the consumer grants the utility access to its electric facilities or ceases creating excessive harmonics. The utility may disconnect the consumer five (5) business days after providing the notice, unless the consumer grants the utility access to its electric facilities or ceases creating excessive harmonics.

(5) **Excessive harmonics created by a utility or third party.** If a utility determines that its operation or facilities, or the operations or facilities of a third party other than a consumer, created excessive harmonics that causes, or is reasonably likely to cause, a consumer or communications provider to receive unsafe, unreliable or inadequate electric service, the utility shall remedy the excessive harmonics condition at the earliest practical date.

(6) **Excessive total harmonic distortion created by two or more harmonic sources within IEEE 519 limits.** If, in its investigation of a harmonics problem, an electric utility determines that two or more consumer's harmonic loads are individually within IEEE 519 limits but the sum of the loads are in excess of the IEEE 519 limits, the utility may require each consumer to reduce its harmonic levels below the limits specified in IEEE 519.

(7) **Cost responsibility.** Each utility or third party that created an excessive harmonics condition, or that investigated or remedied an excessive harmonics condition created by a third party other than a consumer, must bear the costs incurred in investigating and remedying the condition, and shall not assess any fees to the affected consumer.

(h) **Power quality monitoring.** In addressing power quality monitoring, each utility shall implement, to the extent reasonably practicable and in conformance with prudent operation, the practices outlined in IEEE Standard 1159-1995, *IEEE Recommended Practice for Monitoring Electric Power Quality*, or any successor IEEE standard, to the extent not inconsistent with law, including state and federal statutes, orders, and regulations, and applicable municipal regulations.

(i) If PUD informs the utility of any safety issues concerning the utility's plant, equipment, or facilities by identifying the relevant NEC, Commission rule, or other applicable Federal or State laws implicated by the safety issue, the utility shall electronically provide photographic evidence to PUD showing completion of work and that the issue has been resolved.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 14 Ok Reg 2560, eff 7-1-97; Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 19 Ok Reg 1976, eff 7-1-2002; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 642, eff 7-25-19]

165:35-25-4. Daily record of generating plants

Each utility shall keep a daily record of the operation of each of its generating plants showing the energy generated, station use, net output of plant, length of time each unit is in operation, and cause and reason for any unexpected plant shutdown. A utility having only generating plants of 5,000 KW or less is exempt from this Section.

[**Source:** Amended at 21 Ok Reg 2092, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-25-5. Load reduction

No utility shall execute plans or procedures, without proper authorization of the Commission, which will reduce the utility's load in Oklahoma, for the purpose of diverting power for use outside of Oklahoma, except to provide power and energy to its own system outside Oklahoma.

165:35-25-6. Record of accidents

Each utility shall maintain adequate records of accidents occurring in connection with its operations resulting in injury to persons or damage to property. Accident reports shall be available for inspection by the Commission or its representative.

PART 3. RELIABILITY OF SERVICE AND RELIABILITY PROGRAM

165:35-25-12. Adoption of Standards

For the purposes of this Subchapter, the Commission adopts the most current edition of the IEEE's Std. 1366, *IEEE Guide for Electric Power Distribution Reliability Indices.*

[**Source:** Added at 21 Ok Reg 2092, eff 7-1-04]

165:35-25-13. Definitions

In addition to the definitions set forth in IEEE's Std. 1366, *IEEE Guide for Electric Power Distribution Reliability Indices*, the following words and terms, when used in this Part, shall have the following meaning:

"Major event" means a catastrophic event that exceeds the design limits of the electric power system, such as an extreme storm, tornado or earthquake. These events shall include situations where there is a loss of service to 10% or more of the customers in a region, and where full restoration of all affected customers requires more than 24 hours from the beginning of the event.

[**Source:** Added at 21 Ok Reg 2093, eff 7-1-04]

165:35-25-14. Reliability program

(a) Each utility, to the maximum extent practicable, shall design and maintain a program to limit the frequency and duration of electric service interruptions and to maintain acceptable electric service reliability levels and to sustain that reliability over time. This program must address all the factors that impact the reliability of the distribution system, including, but not limited to:

(1) The age, distribution, and location of equipment on each circuit;

(2) The number, density, and location of customers on each circuit;

(3) The location and density of trees on the system;

(4) Annual vegetation management plan; and

(5) The impacts on distribution system reliability of animals, wind, storms, ice, and automobile accidents.

(b) The program shall include inspection, maintenance, repair and replacement standards that ensure timely and efficient service restoration as well as preventive and emergency maintenance. In establishing such standards it is imperative that the utility locate sufficient personnel, equipment, repair materials, and supplies strategically throughout its service territory to fully and adequately meet the reliability standards established herein.

(c) The program shall give special emphasis to the improvement of the worst-performing circuits in each region of the utility's service territory.

[**Source:** Added at 21 Ok Reg 2093, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-25-15. Vegetation management plan

(a) Vegetation management means all activities associated with the trimming, removal, or control of plant material in the proximity of energized electric utility conductors and equipment.

(b) As part of its Reliability program, each utility shall prepare an annual vegetation management plan and submit this plan to the Commission for review prior to implementation. This plan shall be an integrated part of the utility's Reliability program and shall include, but not be limited to:

(1) Definitions of activities;

(2) Calendar of activities;

(3) Implementation plan;
(4) Criteria to assess results of the vegetation management plan; and
(5) The name and contact information of a company representative who is knowledgeable about the plan, its implementation and potential results.

(c) Each utility shall, at a minimum, perform vegetation management on a 4-year cycle, unless needed otherwise or unless otherwise ordered by the Commission. The utility may request an exemption from this requirement by submitting an alternative(s) to the 4-year cycle to the Commission in its annual vegetation management plan for review and hearing.

(d) Each utility shall track and record all vegetation management costs for easy identification upon Commission review.

[**Source:** Added at 21 Ok Reg 2093, eff 7-1-04]

165:35-25-16. Notification for vegetation management activities

When trimming trees and trimming or removing other vegetation in electric line right-of-way maintenance in urban areas, the utility shall make a reasonable attempt to contact the landowner, customer, or tenant at a minimum of twenty-four (24) hours prior to beginning work on the property. In rural areas the utility shall make a reasonable attempt to contact the landowner, customer or tenant, if known, a reasonable time prior to beginning work on the property. This contact may take the form of a written notice delivered to the landowner's, customer's, or tenant's residence; a telephone call to the landowner, customer, or tenant; or an in-person contact. Reasonable effort shall be made by the utility to accommodate a landowner's, customer's, or tenant's desire to be present when work is done on his or her property. Vegetation management related to emergency repairs is exempt from this notification requirement.

[**Source:** Added at 21 Ok Reg 2093, eff 7-1-04]

165:35-25-17. RESERVED

165:35-25-18. Performance levels

(a) **Utility's responsibility and indices used.** It shall be the utility's responsibility to maintain and compile the data necessary to compute System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI) (and to the maximum extent practicable, Momentary Average Interruption Frequency Index (MAIFI). These indices shall be computed by the utility for each reporting year, or any sub-period thereof, as requested by PUD. The data maintained and compiled for the computation of the indices shall conform strictly to their respective definitions as set forth in this Part. The indices shall be computed for the utility's entire service territory, for each region, and for each distribution circuit. Computation of the indices shall not include interruptions that have resulted from operating conditions that are beyond the utility's control (such as a major event, as that term is defined and used under this subchapter). Each utility shall maintain the raw interruption and duration date as well as the computation of the indices for each reporting year, for a period of not less than three years after the annual report filing deadline. The utility shall maintain all data necessary to compute SAIDI and SAIFI (and to

the maximum extent practicable, MAIFI), for all major events but is not required to make such computations except as requested by PUD.

(b) **Minimum performance level.** Upon receipt of the utility's annual report, PUD will compare the indices computed for the utility's service territory to the minimum performance level. The minimum performance level shall represent the lower threshold of adequate service below which further review, analysis, and corrective action may be required. The minimum performance levels shall be reached when the SAIDI and SAIFI values of each utility's service are equal to or better than the minimum performance levels for these indices. The base performance level for SAIDI and SAIFI for the period January 2005 through December 2009 shall be established through engineering and economic studies of historical performance and system operations prepared by each utility, in consultation with PUD Staff, and submitted as part of each utility's reliability report submitted March 1, 2005. This base performance level shall be recomputed by each utility every fifth (5^{th}) year and submitted to PUD in the next year's reliability report. After notice and hearing, the Commission may modify the minimum performance level of any utility. The minimum performance level for a utility with less than 100,000 customers shall be adjusted to account for variances in the rural nature or other special characteristics of their distribution system. The adjusted minimum performance level for a utility with less than 100,000 customers shall be determined by multiplying the annual minimum performance level by the ratio of miles of line per customer plus 1 for the reporting year. It will be the responsibility of the utility to determine the adjusted minimum performance level using this formula for each reporting year. The utility's average number of customers for the prior reporting year shall determine the standards to be applied to the current reporting year.

(c) **Objective performance level.** The objective performance level shall represent a fully adequate level of service that each utility should strive to achieve and maintain. It shall be reached when the SAIDI and SAIFI values of each utility's service territory are for the year is within the bandwidth established based on the data gathered pursuant to the process described in OAC 165:35-25-18(b).

(d) **Commission Review.** In its review of a utility's cost of service and rate of return, the Commission may consider, in general rates cases, the utility's reliability reporting and levels for SAIDI, SAIFI, Customer Average Interruption Duration Index (CAIDI), and MAIFI.

(e) **Limitations to technology.** Utilities that do not have the technological capability to maintain and compile all such data, shall maintain and compile such data that it has available and utilizes to define and identify system reliability levels as well as outline progress towards attainment of additional technologies.

[**Source:** Added at 21 Ok Reg 2093, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 644, eff 7-25-19]

165:35-25-19. Individual circuit reliability

Each utility shall maintain a program for identifying and analyzing its worst performing circuits during the course of each reporting year. The program shall include, but should not be limited to, an analysis of the top 5% worst performing circuits for the entire utility and for each of the utility's operating regions, if the utility is divided into regions, and the actions taken to improve their performance. The worst performing circuits shall be identified and ranked using the SAIDI and SAIFI (and to the maximum extent practicable, MAIFI) values computed for each circuit, and

in any other manner chosen by the utility. The details and results of the ranking and program to improve the performance of these circuits shall be submitted as part of the annual reliability report described in 165:35-25-20.

[**Source:** Added at 21 Ok Reg 2094, eff 7-1-04]

165:35-25-20. Annual reliability report

(a) Each utility shall submit an annual reliability report to PUD by March 1 of each year, beginning March 1, 2005.

(b) The annual reliability report shall include the following:

(1) A description of all vegetation management it performed for the previous calendar year and the vegetation management it plans to perform for the current year.

(2) SAIDI and SAIFI (and to the maximum extent practicable, MAIFI) values computed for the entire service territory and displayed in tabular form. SAIDI and SAIFI events should be calculated using a sustained time of five (5) minutes or more for Root Mean Square (RMS) zero voltages; MAIFI events should be calculated using any time less than five (5) minutes for RMS zero voltages. Multiple interruptions within five (5) minutes are considered one momentary interruption event.

(3) SAIDI and SAIFI (and to the maximum extent practicable, MAIFI) values computed for each of the utility's regions and displayed in tabular form. SAIDI and SAIFI events should be calculated using a sustained time of five (5) minutes or more for RMS zero voltages; MAIFI events should be calculated using any time less than five (5) minutes for RMS zero voltages. Multiple interruptions within five (5) minutes are considered one momentary interruption event.

(4) A detailed report for each major event that is not included in the calculation of the reliability indices. The major event report shall include the interruption cause or causes, date, regional location, percentages of consumers without service in that region as a result of the event, the time or time frame in which service was lost to 10% or more of that region, the time the last consumer's service was restored in that region, and any other details that the utility or PUD believes will further justify the exclusion of the event from the calculations.

(5) A description of the program the utility has in place for analyzing and improving worst performing circuits and a summary of the results of the program for the reporting year.

(6) A description and map identifying the utility's service regions or operations divisions. Documentation and illustration of any changes in region boundaries as defined by the utility, and justification for such changes.

(7) For each utility with less than 100,000 consumers, show the data used to calculate as well as the calculation of the rural adjusted minimum performance level.

(c) PUD reserves the right to request additional data and/or documents if necessary.

(d) **Limitations to technology.** Utilities that do not have the technological capability to maintain and compile all such data, shall maintain and compile such data that it has available and utilizes to define and identify system reliability levels as well as outline progress towards attainment of additional technologies.

[**Source:** Added at 21 Ok Reg 2094, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-14; Amended at 36 Ok Reg 644, eff 7-25-19]

PART 5. UTILITY SCORECARD

165:35-25-24. Utility performance scorecard

(a) Using the data submitted pursuant to OAC 165:35-25-20, PUD shall annually prepare a scorecard for each utility covering the following areas:

(1) SAIFI;
(2) SAIDI;
(3) MAIFI (to the extent that this measure is utilized);
(4) Vegetation management; and
(5) Worst performing circuits.

(b) The scorecard shall be prepared such that the performance of utilities of differing sizes and number of consumers can be directly compared.

(c) PUD's utility performance scorecards will be published annually not later than May 1.

[**Source:** Added at 21 Ok Reg 2094, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 645, eff 7-25-19]

SUBCHAPTER 27. COST REPORTING AND ACCOUNTING

Section

165:35-27-1. Cost of services, materials, or facilities for other types of business or subsidiaries
165:35-27-2. Municipal fees, franchise taxes, and other exactions
165:35-27-3. Method for compensating fuel or power cost changes; reporting for rate adjustment and billing purposes [Revoked]
165:35-27-3.1. Reporting of purchased fuel and power for adjustment purposes
165:35-27-4. Accounting

165:35-27-1. Cost of services, materials, or facilities for other types of business or subsidiaries

(a) When a utility is engaged in any type of nonutility business or operations, through subsidiaries or otherwise, or in any business not considered in ratemaking process by the Commission, and personnel, material, equipment, or any facility of the utility is supplied for the operation of such other type of business or subsidiary, the utility shall keep an accurate account of allocation of all of the cost of personnel, services, material, equipment, or any facility between utility and nonutility operations. There shall be a written accounting thereof for utility and nonutility operations on a monthly basis. This accounting will clearly delineate company's utility and non-utility expenses and revenues for the purposes of accurate ratemaking.

(b) The cost of keeping the records and any other expense caused by furnishing such services, materials, or facilities shall be charged to the recipient thereof. The term "all of the cost" in this Section shall mean actual cost plus any direct or indirect charges related to the cost of services, materials, or facilities calculated on the same basis used in allocating direct or indirect charges to the utility operations.

(c) Records of and reports on services, materials, or facilities of other types of business or subsidiaries referred to in this Section shall be available to PUD or its representative.

[**Source:** Added at 21 Ok Reg 2094, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 645, eff 7-25-19]

165:35-27-2. Municipal fees, taxes, and other exactions

The aggregate amount of all franchise payments, or contributions or payments in lieu thereof, or other exactions imposed upon utilities or electric cooperatives by any municipality of this state for engaging in business within the municipality or for the use and occupancy of its streets and public ways is a matter between the municipality and the utility or electric cooperative. The amount of the exactions charged to and collected from the consumers by the utility shall be in accordance with the respective municipal ordinance or statute. The amount of such exactions shall be charged to consumers within said municipality pro rata in accordance with actual revenue associated with the provided service. The amount of such charges shall be separately stated as a line item on the regular billings to consumers as a dollar amount.

[**Source:** Amended at 13 Ok Reg 2435, eff 7-1-96; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 645, eff 7-25-19]

165:35-27-3. Method for compensating fuel or power cost changes; reporting for rate adjustment and billing purposes [REVOKED]

[Source: Revoked at 12 Ok Reg 2125, eff 7-1-95]

165:35-27-3.1. Reporting of purchased fuel and power for adjustment purposes

A utility having a purchased power adjustment clause or a fuel adjustment clause in its approved tariffs shall file periodic and detailed reports of its fuel and power purchases in such form as the Commission may require and as set forth in OAC 165:50.

[**Source:** Added at 12 Ok Reg 2125, eff 7-1-95]

165:35-27-4. Accounting

(a) The Uniform System of Accounts of FERC prescribed for Public Utilities and Licensees (Class A, B, C, and D) or prescribed by the RUS or other uniform system acceptable to the Commission may be adopted by a utility.

(b) Electric utilities operating within Oklahoma shall be classed by revenue as follows:

CLASS	ANNUAL GROSS OPERATING REVENUE
A	$2,500,000 or more
B	$1,000,000 to $2,500,000
C	$150,000 to $1,000,000
D	$25,000 to $150,000

(c) No change in or departure from the system used by the utility will be permitted except upon order of the Commission, made after notice and hearing.
(d) The Annual Report FERC Form 1 - Class A and B Electric Companies and FERC Form 1A - Class C and D Electric Utility Companies promulgated by the FERC and RUS Report Form 7A promulgated by the RUS are hereby adopted for purposes of the annual report to this Commission by all Class A, B, C, and D Electric Utilities filing such reports with the FERC and the RUS. Each utility having multistate utility operations, in addition to submitting with the Commission a copy of its annual report to the FERC if any, shall submit an annual report on a form furnished or approved by the Commission, of its utility service and operations in the State of Oklahoma. Any allocation of costs or revenues necessary in developing results of utility operations for the State of Oklahoma shall be accomplished on a basis acceptable to the Commission.
(e) The results of operations reported by each electric utility in its annual report to the Commission shall be reconciled with the results of operations shown on its books, records and in its other reports to the Commission.
(f) Each utility shall report to the Commission at the end for the utility's fiscal year on forms furnished or approved by the Commission, the book value of its utility plant. These reports and annual reports required by (d) of this Section shall be delivered to the Commission within five (5) business days of the date such reports are filed with either the FERC or RUS; provided that the Commission may grant an extension for time for good cause shown. In the event that the utility has requested an extension of time from FERC or RUS, it will advise the PUD Director, in writing, of such filing delay.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 36 Ok Reg 645, eff 7-25-19]

SUBCHAPTER 29. ELECTRICITY PURCHASES FOR PRODUCERS AND PARALLEL OPERATION

Section
165:35-29-1. Purchase of electricity from cogenerators or small power producers
165:35-29-2. Parallel operation of generation facilities

165:35-29-1. Purchase of electricity from cogenerators or small power producers

(a) Purchases under this Section shall be from cogenerators and small power producers (producers) as defined and qualified under Section 201 of the Public Utility Regulatory Policies Act (PURPA) of 1978. Producers shall not be utilities as defined elsewhere in the Chapter.
(b) Unless otherwise provided for by this Section and in an approved experimental purchase tariff, the utility's Terms and Conditions of Service shall apply to joint consumer producers.
(c) Each utility will maintain a list available to the Commission for all potential cogenerators and small power producers who have been in written contact with the utility and record the disposition of each such line of inquiry.
(d) Each utility will maintain an experimental purchase tariff on file applicable to purchases from certain facilities of 300 KW or less. This tariff will consist of a Purchase Agreement form prepared by the utility and approved by the Commission; Purchase Rate Schedules for wind, photo-voltaic

and stored water hydro power, which reflect the utility's avoided costs, as approved by the Commission; and the experimental standard Terms and Conditions of Purchase of the Commission.

(e) Each utility will maintain on file for all other potential cogenerators and small power producers information sufficient to guide such parties in regard to avoided costs and procedures. Such information shall include, but not be limited to:

(1) The utility's response to avoided cost interrogatories as requested by the Commission.

(2) A copy of this Chapter.

(3) A copy of the experimental tariff.

(4) Such reports and analyses as shall be prescribed by the Commission.

(5) For investor owned utilities, the information required by Section 210 of the Public Utility Regulatory Policies Act (PURPA) of 1978.

(f) A cogenerator or small power producer has the right:

(1) To generate in parallel with the utility.

(2) To sell, at his/her option, his/her total generation or his/her generation net of electrical requirements.

(3) To receive for his/her generation a fair rate based on the costs avoided by the utility because of his/her delivery, reliability, dispatchability and other factors, as determined by the Commission.

(4) To other substantive rights granted by PURPA.

(5) To good faith negotiation by the utility.

(6) To bring complaint or dispute to the Commission for mediation, hearing or other resolution.

(g) Nothing in this Section will prevent a qualified producer from executing a special purchase contract with a utility, provided that the contract must be approved by the Commission prior to its effective date.

[**Source:** Amended at 10 Ok Reg 2633, eff 6-25-93; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 646, eff 7-25-19]

165:35-29-2. Parallel operation of generation facilities

(a) This Section applies to any party (interconnected party) who wishes to operate or who is operating generation facilities in parallel with a utility except the following:

(1) Other utilities subject to the rules of this Commission or FERC or its successor organization, if any.

(2) Parties qualifying under OAC 165:35-29-1, and who have not agreed with the utility to operate under this Section.

(3) Parties operating in parallel according to an agreement signed prior to March 20, 1981, who have not agreed with the utility to operate under OAC 165:35-29-1.

(b) As a condition of service, no interconnecting party may interconnect or operate generation facilities in parallel with a utility without prior written approval by the utility of such parallel operation and for the interconnection facilities.

(c) Interconnection requirements shall be reasonable and all costs (over normal policies under the terms of service) shall be borne by the interconnecting party.

(d) Any party meeting the requirements in (a) through (d) of this Section shall have the right to operate in parallel with the utility using a detented service meter so that no credits are obtained for

amounts returned to the utility system. The utility may establish buy back rates or enter into special contracts that are otherwise consistent with this Chapter.
(e) All agreements and contracts for such interconnection and parallel operation shall be submitted to the Commission for approval prior to interconnection, except as otherwise ordered by the Commission. In no event shall the terms of such agreement or contract be less favorable to the utility than those provided under OAC 165:35-29-1.
(f) Upon interconnection, the PUD Director shall be notified by the utility of the date, name, and legal address of the interconnecting party, and the location and description of the facilities.

[**Source**: Amended at 16 Ok Reg 2237, eff 7-1-99; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 646, eff 7-25-19]

SUBCHAPTER 31. AFFILIATE TRANSACTIONS AND FINANCIAL TRANSACTIONS OF UTILITIES AND AFFILIATES

Section

165:35-31-1. Purpose, scope and application of Subchapter
165:35-31-2. Determination of confidential information
165:35-31-3. Exemption for corporate and shared services
165:35-31-4. Request for Information
165:35-31-5. [RESERVED]
165:35-31-6. [RESERVED]
165:35-31-7. [RESERVED]
165:35-31-8. [RESERVED]
165:35-31-9. [RESERVED]
165:35-31-10. [RESERVED]
165:35-31-11. [RESERVED]
165:35-31-12. [RESERVED]
165:35-31-13. [RESERVED]
165:35-31-14. [RESERVED]
165:35-31-15. [RESERVED]
165:35-31-16. [RESERVED]
165:35-31-17. [RESERVED]
165:35-31-18. [RESERVED]
165:35-31-19. Standards for transactions between utilities and affiliate(s)
165:35-31-20. Sales of services, products, or assets between regulated and unregulated affiliates
165:35-31-21. [RESERVED]
165:35-31-22. Financial transactions by utilities or their affiliate(s)
165:35-31-23. [RESERVED]
165:35-31-24. [RESERVED]
165:33-31-24. Remedies and enforcement for violation of the standards of conduct
165:35-31-26. [RESERVED]
165:35-31-27. [RESERVED]

165:35-31-1. Purpose, scope and application of Subchapter

(a) The affiliate transactions and financial transactions (such as stock, bond, derivatives, and any financing instrument issuance) rules are promulgated to establish enforcement, reporting and monitoring provisions of utilities as to these transactions.

(b) The intention of this Subchapter includes [but is not limited to]:

(1) The establishment of standards for transactions between utilities and their affiliates for purposes of determining fair, just and reasonable rates and charges;

(2) The prevention of subsidization of an affiliate by a utility;

(3) The support of fair and clear cost allocations; and

(4) The protection of the customers of a utility from being subjected to any unreasonable financial obligation or costs of an affiliate.

[**Source:** Added at 21 Ok Reg 2087, eff 7-1-04]

165:35-31-2. Determination of confidential information

(a) If a utility that seeks to provide electric utility services is required by this Subchapter to submit information to the Commission that is alleged to be confidential, a motion for a protective order concerning said confidential information may be filed requesting a determination be made by the Commission to protect said information pursuant to 51 O.S. § 24A.22.

(b) After a determination regarding approval of any protective order by the Commission, PUD, and the Attorney General's Office may, at its option, review the information claimed to be confidential at a mutually agreed upon location.

(c) In the absence of a protective order, all information considered by the Commission in establishing utility tariffs and in determining compliance with the rules of this Subchapter shall not be maintained in confidence by the Commission.

[**Source:** Added at 21 Ok Reg 2088, eff 7-1-04; Amended at 36 Ok Reg 647, eff 7-25-19]

165:35-31-3. Exemption for corporate and shared services

Corporate and support services are exempt from asymmetrical pricing, to the extent that the affiliate information requirements in Chapter 70 and OAC 165:35-31-4 are satisfied.

[**Source:** Added at 21 Ok Reg 2088, eff 7-1-04; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-31-4. Request for Information

Required Information. Upon request by the Commission, affiliate information shall be provided pursuant to this Subchapter and shall contain records and work papers which provide, at a minimum, the following information and such other information that the Commission shall request:

(1) Consolidated Companies and Subsidiaries Balance Sheet.

(2) Income Statements.

(3) Cost Allocation Basis, if applicable.

(4) Affiliate/Subsidiary General Data: Narrative(s) providing:
(A) The date of establishment of each affiliate and/or subsidiary;
(B) A statement of each affiliate and/or subsidiary's core businesses;
(C) The utility company resources used in establishment of each affiliate and/or subsidiary; and
(D) The utility company resources currently being used by each affiliate and/or subsidiary, either directly or indirectly.
(5) Affiliate/Subsidiary Contracts: Copies of any and all contracts with affiliates and/or subsidiaries.
(6) Assets Sold/Transferred to Affiliates/Subsidiaries: A listing, by asset category and net book value, of assets sold or transferred to any affiliate and/or subsidiary since the utility's last rate case.
(7) Services/Products from Affiliates/Subsidiaries: A listing and description of the services and/or products (and related costs) provided by each affiliated and/or subsidiary company to the utility for the required period.
(8) Services/Products to Affiliates/Subsidiaries: A listing of any significant utility company facilities and/or resources, whether plant, other assets or personnel that were used during the required period, by each affiliate and/or subsidiary. The cost of the resources shall be indicated.
(9) Cost of Debt or Financing: A listing of debt instruments bearing any cost of financing transactions, in part or in full, or any debt, equity, trading activity, or derivative which has a direct or indirect financial or cost impact upon the utility.

[**Source:** Added at 21 Ok Reg 2088, eff 7-1-04]

165:35-31-5. [RESERVED]

165:35-31-6. [RESERVED]

165:35-31-7. [RESERVED]

165:35-31-8. [RESERVED]

165:35-31-9. [RESERVED]

165:35-31-10. [RESERVED]

165:35-31-11. [RESERVED]

165:35-31-12. [RESERVED]

165:35-31-13. [RESERVED]

165:35-31-14. [RESERVED]

165:35-31-15. [RESERVED]

165:35-31-16. [RESERVED]

165:35-31-17. [RESERVED]

165:35-31-18. [RESERVED]

165:35-31-19. Standards for transactions between utilities and affiliate(s)

Electric utilities must conduct their business to conform to the following standards:

(1) Electric utilities must apply any tariff provision in the same manner to the same or similarly situated persons if there is discretion in the application of the provision.

(2) Electric utilities must strictly enforce a tariff provision for which there is no discretion in the application of the provision.

(3) Except as necessary for physical operational reasons, electric utilities may not, through a tariff provision or otherwise, give their affiliates or knowingly give customers of their affiliates preference over other utility customers in matters relating to any service offered including, but not limited to: generation, transmission, distribution and ancillary services, scheduling, balancing, or curtailment policy.

(4) Unless such disclosure is made public simultaneously or as near to the event as possible, electric utilities shall not disclose to their affiliates any information which they receive from, a non-affiliated customer, a potential customer, any agent of such customer, or potential customer, or other entity seeking to supply electricity to a customer or potential customer.

(5) An electric utility's operating employees and the operating employees of its affiliate must function independently of each other and shall be employed by separate corporate entities.

(6) Electric utilities and their affiliates shall keep separate books of accounts and records.

(7) Electric utilities shall establish a complaint procedure. In the event the electric utility and the complainant are unable to resolve a complaint, the complainant may address the complaint to the Commission.

(8) With respect to any transaction or agreement relating in any way to electric generation, transmission, distribution and ancillary services, an electric utility shall conduct all such transactions with any of its affiliates on an arm's length basis.

(9) The Commission shall resolve affiliate transaction disputes or abuses on a case-by-case basis. Any aggrieved party may file a complaint with the Commission alleging the particulars giving rise to the alleged dispute or abuse. The Commission shall consider at a minimum, the following issues when hearing a complaint:

(A) Whether or not the information or data furnished to the affiliate was generally available to other market participants.

(B) Whether or not the electric utility conducted business in such a manner that actual or expected expenses were shifted from the non-regulated subsidiary to the regulated entity.

(C) Whether or not the electric utility conducted business in such a manner that actual or expected revenues were shifted from the regulated entity to the non-regulated entity.

(D) Whether or not the regulated entity offered terms, condition or rates for the provision of electric services to the affiliate that it refused to provide to other customers or whether such resulted in the affiliate having an unfair advantage.

(10) Electric utilities must process all similar requests for electric services in the same manner and within the same period of time.

(11) Electric utilities shall not provide leads to their affiliates and shall refrain from giving any appearance that the electric utility speaks on behalf of its affiliate(s). Nor shall the affiliate trade upon, promote or advertise its affiliation or suggest that it receives preferential treatment as a result of its affiliation. The use of a common corporate or parent holding company name shall not be a violation of this provision so long as the regulated utility and the affiliate entities can be distinguished.

(12) Electric utilities, except for billing and collection services and customer service, or by order of the Commission, shall not share their customer list or related customer information with affiliates unless the information is simultaneously shared with non-affiliate entities.

(13) The electric utility shall not communicate with any third party that any advantage in the provision of electric services may accrue to such third party as a result of that third party's dealings with the electric utility's affiliate.

[**Source:** Added at 21 Ok Reg 2088, eff 7-1-04]

165:35-31-20. Sales of services, products, or assets between regulated and unregulated affiliates

(a) **Transactions between a utility and its affiliates.** A utility shall not subsidize the business activities of any affiliate with revenues from a regulated service. A utility cannot recover more than its reasonable fair share of the fully allocated costs for any transaction or shared services.

(b) **Contemporaneous record requirement.** A utility shall maintain a contemporaneous written record of all individual transactions with a value equal to or over one million dollars with its affiliates, excluding those involving shared services or corporate support services and those transactions governed by tariffs or special contracts. Such records, which shall include at a minimum, the date of the transaction, name of affiliate(s) involved, name of a utility employee knowledgeable about the transaction, and a detailed description of the transaction with appropriate support documentation for review purposes, shall be maintained by the utility for three years.

(c) **Transfers of assets**. Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract, or as otherwise ordered by the Commission; cost recovery for property transferred from a utility to its affiliate shall be

priced at the "higher of cost or fair market value." Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; asset valuation and transfers of property transferred from an affiliate to its utility shall be priced at the "lower of cost or fair market value." No matter the origin of the transaction, all transfers between a utility and an affiliate will be individually scrutinized by the Commission on a case-by-case basis.

(d) **Sale of products or services**. Except as otherwise required by federal or state statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; any sale of products and services provided from the affiliate to the utility shall be priced at the "lower of cost or fair market value." Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; any sale of jurisdictional products and services provided from the utility to the affiliate shall be priced at the "higher of cost or fair market value."

(e) **Joint purchases.** A utility may make a joint purchase with its affiliates of goods and services involving goods and/or services necessary for utility operations. The utility must ensure that all joint purchases are priced, reported, and conducted in a manner that permits clear identification of the utility's and the affiliate's allocations of such purchases.

(f) **Tying arrangements prohibited**. Unless otherwise allowed by the Commission through a rule, order or tariff, a utility shall not condition the provision of any product, service, pricing benefit, waivers or alternative terms or conditions upon the purchase of any other good or service from the utility's affiliate.

[**Source:** Added at 21 Ok Reg 2089, eff 7-1-04; Amended at 36 Ok Reg 647, eff 7-25-19]

165:35-31-21. [RESERVED]

165:35-31-22. Financial transactions by utilities or their affiliate(s)

(a) **Financial transactions**. Financial transactions include, but are not limited to, stock, bond, derivatives, and any financing instrument issuance as well any debt, equity, derivative or related transaction.

(b) **Separate books and records**. A utility shall keep separate books of accounts and records from its affiliates. The Commission may review records relating to any transaction between a utility and an affiliate to ensure compliance with this Subchapter including the records of both the utility and the affiliate relating to any transaction.

(1) In accordance with generally accepted accounting principles, a utility shall record all transactions with its affiliates, whether they involve direct or indirect expenses.

(2) A utility shall prepare non-GAAP financial statements that are not consolidated with those of its affiliates.

(3) A utility shall have a cost allocation manual or upon Commission request, be able to provide its cost allocation methodology in written form with supporting documentation. Such records shall reflect the transaction and the allocated costs, with supporting documentation, to justify the valuation.

(c) **Limited credit, investment or financing support by a utility**. A utility may share credit, investment, or financing arrangements with its affiliates if it complies with paragraphs (1) and (2) of this Subsection.

(1) The utility shall implement adequate safeguards precluding employees of an affiliate from gaining access to information in a manner that would allow or provide a means to transfer confidential information from a utility to an affiliate, create an opportunity for preferential treatment or unfair competitive advantage, lead to customer confusion, or create opportunities for subsidization of affiliates.

(2) Where an affiliate obtains credit under any arrangement that would include a pledge of any assets in the rate base of the utility or a pledge of cash necessary for utility operations the transactions shall be reviewed by the Commission on a case-by-case basis.

(d) **Cost of financing transactions of any affiliate.** The cost of any financial transactions, in part or in full, or any debt, equity, trading activity, or derivative, of any parent company, holding company or any affiliate, which has a direct or indirect financial or cost impact upon the utility shall be reviewed by the Commission on a case-by-case basis.

[**Source:** Added at 21 Ok Reg 2090, eff 7-1-04]

165:35-31-23. [RESERVED]

165:35-31-24. [RESERVED]

165:35-31-25. Remedies and enforcement for violation of the standards of conduct

(a) A complaint may be brought to the Commission at any time. The Commission encourages informal resolutions. Whenever a controversy does exist in connection with the interpretation of this Subchapter, the applicability of the requirements set forth herein, or any right or duty imposed thereby; the Commission, upon application of any interested party and after notice and hearing, will enter such order thereon as it may deem appropriate.

(b) Each violation of this Subchapter shall be considered to be a separate occurrence.

(c) If the Commission determines, after investigation and an evidentiary hearing, that the electric utility has violated these affiliate rules, the Commission may assess a fine against the utility for contempt as set forth in 17 O.S. § 1 *et seq.* and may order such further action as may be fair, just and reasonable under the circumstances of the proceeding.

(d) The Commission may act upon any violation of these standards including but not limited to the following:

(1) Prospective limitation or restriction of the amount, percentage or value of cost recovery for transactions entered into between a utility and an affiliate;

(2) Denial of recovery of costs, all or in part, for business transactions between the utility and the affiliate; or

(3) Application of any other remedy available to the Commission, including financial penalties.

(e) **No immunity from state law.** Nothing in this subchapter shall relieve any utility from any duty prescribed by the laws of the State of Oklahoma.

[**Source:** Added at 21 Ok Reg 2090, eff 7-1-04]

165:35-31-26. [RESERVED]

165:35-31-27. [RESERVED]

SUBCHAPTER 33. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

Section

165:35-33-1. Purpose and scope
165:35-33-2. [RESERVED]
165:35-33-3. Definitions
165:35-33-4. [RESERVED]
165:35-33-5. Utility Security Plan
165:35-33-6. [RESERVED]
165:35-33-7. Reporting Requirements
165:35-33-8. [RESERVED]
165:35-33-9. Cost Recovery
165:35-33-10. Commission authorized participation
165:35-33-11. Confidentiality

[**Source:** Added at 22 Ok Reg 704, eff 7-1-05]

165:35-33-1. Purpose and scope

(a) The purpose of this Subchapter is to require utilities to take all reasonable measures necessary to protect their critical infrastructures from extended interruption of service from all extraordinary events, natural and man-made.

(b) The Commission requires electric utilities to develop, implement, and maintain Homeland Security and Critical Infrastructure Plans according to the industry standards enumerated in sub-section (d) below.

(c) To the extent that a utility seeks to recover costs for security measures outside of a general rate review for the implementation of Homeland Security and/or Critical Infrastructure protections, the utility shall comply with all provisions of this Subchapter.

(d) Each electric utility serving Oklahoma jurisdictional ratepayers is required to follow the most current applicable North American Electric Reliability Corporation's (NERC's) Security Guidelines and Standards or equivalent cybersecurity framework, as may be amended from time to time, for use as guidelines for protecting the utility's Critical Infrastructure from extended service interruption.

(e) Each electric utility seeking to recover costs for security measures from Oklahoma jurisdictional ratepayers outside of a general rate review shall develop, implement, and maintain a Critical Infrastructure and Security Plan as further set forth within this Subchapter.

(f) If the utility has implemented a Security Plan or process in accordance with the applicable

industry guidelines but is not seeking or receiving cost recovery for security-related costs, the utility shall submit the Certification Letter required by OAC 165:35-33-7(f) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:35-33-10 and OAC 165:35-33-11. The utility is not otherwise required to comply with the provisions of this Subchapter.
(g) The Commission retains its jurisdictional and supervisory authority to address the reasonableness and/or prudence of any proposed security cost recovery.
(h) Nothing in this subchapter shall relieve any utility from any duty otherwise prescribed by the laws of the State of Oklahoma or this Commission's rules.
(i) Nothing in this Subchapter is intended to divest the utility of its right to object to any discovery requests from intervenors seeking access to "Highly Sensitive Confidential" materials.
(j) If any provision of this Subchapter is held invalid, such invalidity shall not affect other provisions or applications of this Subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Subchapter are declared to be severable.

[**Source:** Added at 22 Ok Reg 705, eff 7-1-05; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 647, eff 7-25-19]

165:35-33-2. [RESERVED]

[**Source:** Added at 22 Ok Reg 705, eff 7-1-05]

165:35-33-3. Definitions

The following words and terms, when used in this Subchapter 33, shall have the following meaning, unless the context clearly indicates otherwise:

"Annual Report" means the Annual Report submitted by Commission Staff to the Commission beginning December 30, 2005 and by July 1 of each year thereafter, summarizing the results of Staff's review of each utility's Security Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).

"Authorized Participant" means those persons authorized by the utility or as may otherwise be authorized by law and/or ordered by the Commission, to view highly sensitive confidential information. Such authorization shall be granted on a case-by-case basis and may extend to the utility, state government officials, persons having been granted intervenor status by the Commission and Commission authorized designees of the parties.

"Certification Letter" means the written certification to the Director of the Public Utility Division made by August 1, 2005 and on March 1 of each subsequent year thereafter, indicating that as of the date of the Certification Letter, the utility has a Plan or that it has updated the Plan and/or previous Plan Update Reports, has a Plan but is not seeking cost recovery or has no Plan in place.

"Critical Infrastructure" means the property of a utility located in the State of Oklahoma, comprised of either physical assets or computer software which, if severely damaged or destroyed, would have a significant impact on the ability of the utility to serve large numbers of customers for an extended period of time, would have a detrimental impact on the reliability or operability of the energy grid, or would cause significant risk to public health and safety.

"Highly Sensitive Confidential" means that the information is of such a sensitive nature that its public disclosure could be harmful to the security of a utility's critical infrastructure and as such it may only be viewed by those persons authorized by the utility or as may otherwise be ordered by the Commission.

"NERC" means the North American Electric Reliability Corporation.

"Plan" means a Homeland Security and Critical Infrastructure Plan including any subsequent Plan Update Reports that have been prepared with reference to the NERC GUIDELINES.

"Plan Update Report" means the written redlined changes made by the utility updating the Plan and/or previous Plan Update Reports. At the utility's option, changes will either be redlined or a history of changes may be maintained.

"Security Cost Rider" means the per billing unit rate mechanism whereby a utility may, upon approval and Order of this Commission, recover the costs of providing security for its Critical Infrastructure as defined under this Subchapter 33.

[**Source:** Added at 22 Ok Reg 705, eff 7-1-05; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-33-4. [RESERVED]

[**Source:** Added at 22 Ok Reg 706, eff 7-1-05]

165:35-33-5. Utility Security Plan

(a) Each electric utility is required to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the applicable NERC Security Guidelines and Standards or equivalent cybersecurity framework and standard as guidance with a defined cybersecurity strategy.

(b) The Plan shall be marked as "Highly Sensitive Confidential" and designate those facilities that the utility considers to be Critical Infrastructure (physical assets and computer software as defined in OAC 165:35-33-3 above), and shall set forth the utility's measures to secure such facilities from extended service interruption. The Plan shall also include an estimate of the costs necessary to achieve such measures.

(c) The Plan shall remain on site at the utility's business office in accordance with OAC 165:35-33-7(g) below and shall have the most current version of the redlined Plan Update Report attached to the clean version of the utility's latest Plan. At the utility's option, changes will either be redlined or a history of changes may be maintained.

(d) The Plan shall list all locations deemed by the utility to be critical, as well as identification of any subsequently increased security measures. All locations and security measures shall be identified by code known only to the utility and designated state government officials and their designees.

(e) Any subsequent security measures identified in the Plan shall contain an estimate of the cost necessary to implement such measures, a description of the measures necessary to adequately secure each specific location and an estimated schedule for completion of each measure.

(f) All locations identified by the Plan that require additional security measures shall be prioritized by the utility.

(g) Beginning December 30, 2005 and on July 1 of each year thereafter, Commission Staff shall submit an Annual Report marked as "Highly Sensitive Confidential" to the Commission,

summarizing the results of Staff's review of a utility's Plan (and any Plan Update Reports), along with any recommendations that Staff may have regarding such Plan(s).
(h) Beginning December 30, 2005, where the Attorney General elects to submit recommendations to the Commission regarding a utility's Plan, such recommendations shall be marked as "Highly Sensitive Confidential" and shall also be due by July 1 of each subsequent year thereafter.

[**Source:** Added at 22 Ok Reg 706, eff 7-1-05; Amended at 36 Ok Reg 648, eff 7-25-19]

165:35-33-6. [RESERVED]

[**Source:** Added at 22 Ok Reg 706, eff 7-1-05]

165:35-33-7. Reporting requirements
(a) Subsequent to the preparation of the initial Plan prepared under OAC 165:35-33-5(a), each utility shall prepare a Plan Update Report by March 1 of each succeeding year, following the same format as the initial Plan with redlines of all new changes, marked "Highly Sensitive Confidential" and kept on site at the utility's business office.
(b) Each subsequent Plan Update Report shall update the previous year's report by indicating for each specific coded location, all costs and completion dates (actual and projected) for all current and prior additional security measures claimed under this Subchapter.
(c) The utility is required to report cybersecurity or infrastructure security events that affect customers immediately to the PUD Director or designee.
(d) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.
(e) The Plan Update Report shall also include (by specific coded location) a description of each proposed security measure that has not been previously reported, the estimated costs for each, as well as the estimated completion date for each measure.
(f) Costs reflected in the initial Plan and in subsequent Plan Update Reports, whether estimated or actual, shall be identified as either capital or expense costs.
(g) Beginning August 1, 2005 and by March 1 of every year thereafter, and/or when a change is made, each utility shall submit a Certification Letter to the PUD Director, marked as "Highly Sensitive Confidential" and certifying that as of the date of the Certification Letter:

(1) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated and defined by this Subchapter;

(2) The utility does not have a Homeland Security and Critical Infrastructure Plan as contemplated or defined by this Subchapter but has otherwise taken steps to secure Critical Infrastructure and is not seeking cost recovery under this Subchapter;

(3) The utility does have a Plan but is not seeking cost recovery; or

(4) The utility has a Plan and/or has prepared its Plan Update Report updating the Plan and/or previous year's Plan Update Report;

(A) The redlines contained within the current Plan Update Report encompass in the entirety, all of the changes made to the utility's Plan since the Plan's inception or the previous year's certification; and

(B) The Plan is available for Commission and/or Attorney General review at the utility's local place of business.

(h) A utility shall not be required to file its initial Plan or any of its subsequent Plan Update Reports with the Commission. Each utility shall instead, secure and maintain on site, at the utility's local place of business, its initial Plan and all subsequent Plan Update Reports.

[**Source:** Added at 22 Ok Reg 706, eff 7-1-05; Amended at 36 Ok Reg 648, eff 7-25-19]

165:35-33-8. [RESERVED]

[**Source:** Added at 22 Ok Reg 706, eff 7-1-05]

165:35-33-9. Cost recovery

(a) Each utility seeking cost recovery of expenditures outside of a general rate review related to securing its Critical Infrastructure shall prepare and make available for inspection, its Plan and any subsequent Plan Update Reports in accordance with this Subchapter.

(b) A utility shall file an application with the Commission for cost recovery as provided for within this Subchapter. Such cost recovery shall only occur to the extent the utility has incurred all or a portion of its actual security-related costs.

(c) Unless otherwise ordered by the Commission, the utility shall have the burden of proving compliance with all of the provisions of this Subchapter prior to obtaining any cost recovery for security related measures.

(d) Upon approval and Order of the Commission, a utility shall be allowed to recover a return based on its weighted cost of long-term debt and equity on all capital expenditures made for security measures. The utility shall also be allowed to recover related depreciation expense and ad valorem taxes. Such recoveries shall be based upon similar ratemaking treatment for corresponding cost elements from the utility's most recent general rate case.

(e) Upon approval and Order of the Commission, a utility shall be allowed to recover expenses typically classified as operations and maintenance expenses for ratemaking purposes. The utility may request inclusion of any such similar costs incurred as long as these costs are directly associated with the security measures taken.

(f) The total costs incurred under this Subchapter shall be combined for recovery purposes, for consideration by the Commission.

(g) All costs approved by the Commission for recovery, shall be recovered from the utility's customers through a "Security Cost Rider" based on the projected annual billing units for the utility and shall be subject to annual true-up.

(h) Unless otherwise ordered by the Commission, a utility shall immediately discontinue recovery of the "Security Cost Rider" when the earlier of the following occurs: natural expiration due to the full recovery provided for in a Rider granted under this Subchapter or forced expiration required pursuant to OAC 165:35-33-9(i) and/or OAC 165:35-33-9(j). Under no circumstances, shall the utility be permitted to double recover Homeland Security and Critical Infrastructure related costs.

(i) Unless otherwise ordered by the Commission, any utility with a "Security Cost Rider" currently in effect, that files for a general rate change, shall include in the rate case, all security-related costs and those costs shall be accorded standard ratemaking treatment. A utility shall discontinue its "Security Cost Rider" when the change in rates becomes effective upon Final Order in the rate case.

(j) Unless otherwise ordered by the Commission, all "Security Cost Riders" approved by the

Commission, shall expire five years from the initial date of the "Security Cost Rider's" implementation.
(k) Upon the filing of a cost recovery request by a utility, Commission Staff, the state Attorney General's office (based upon that entity's statutory authority) and all other Authorized Participants shall review the cost recovery proposal submitted by the utility and file testimony in accordance with:

(1) Any applicable protective orders issued by the Commission in the security-related cost recovery cause;
(2) OAC 165:35-33-11 (below);
(3) The Commission's Rules of Practice (OAC 165:5); and
(4) Any other protective measures or requirements prescribed by law or the Commission.

(l) Testimony of Commission Staff, the state Attorney General and all other Authorized Participants, shall detail each of the parties' respective recommendations and any objections to the utility's Plan and the utility's request for cost recovery related to the Plan. Also in accordance with the Commission's Rules of Practice, Commission Staff, the state Attorney General and all other Authorized Participants shall provide copies of their respective individual testimonies to one another, with redacted versions of each individual testimony filed with the Commission's Court Clerk.
(m) Upon notice and hearing, the Commission shall issue an Order regarding any requests for security-related cost recovery.

[**Source:** Added at 22 Ok Reg 707, eff 7-1-05; Amended at 36 Ok Reg 649, eff 7-25-19]

165:35-33-10. PUD authorized participation
(a) **PUD Staff.** Only PUD and PUD's designees authorized by PUD to participate in a cause before the Commission regarding a utility's Plan and then, shall do so only after meeting all applicable requirements for PUD authorization, which shall be determined on a case-by-case basis. All PUD and PUD's designees authorized to participate in a security cause shall comply with the requirements for protecting information obtained under the "Highly Sensitive Confidential" designation.
(b) **Attorney General.** Only those Attorney General personnel who have formally entered an appearance pursuant to Oklahoma Statute and the Commission's Rules of Practice and that entity's Commission authorized designees shall be granted review of a utility's Plan and/or Plan Update Reports. All Attorney General personnel and their designees authorized to participate in a security cause shall meet all applicable requirements for Commission authorization, to be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.
(c) **Intervenors.**

(1) For the purposes of this Subchapter, all intervenors, including but not limited to counsel and experts for intervenors, shall be deemed "Authorized Participants" in accordance with OAC 165:35-33-3 above. All Authorized Participants wishing to participate in a security-related cause before the Commission shall meet all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.
(2) In addition to acquiring "Authorized Participant" status from the Commission, each

intervenor and its designees desiring to participate in a cause before the Commission regarding a utility's Plan shall post a bond or other security acceptable to the Commission, in an amount to be determined by the Commission, to protect the utility from harm in the event the Authorized Participant breaches the confidentiality terms established under this Subchapter or as may otherwise be established by the Commission. A copy of such bond or other security shall be filed with the Commission's Court Clerk. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(3) Any Authorized Participant found in violation of a Commission issued Protective Order and Proprietary Agreement, shall be liable for contempt penalties pursuant to the penalty provisions found in Article IX, § 19 of the Oklahoma Constitution, Title 17 of the Oklahoma Statutes and the Commission's Rules of Practice at OAC 165:5. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(4) In addition to the above protections, all Authorized Participants may be required by the Commission to enter into a separate non-disclosure agreement as a pre-requisite to being granted intervention and "Authorized Participant" status.

[**Source:** Added at 22 Ok Reg 707, eff 7-1-05; Amended at 36 Ok Reg 649, eff 7-25-19]

165:35-33-11. Confidentiality

(a) Pursuant to the Commission's jurisdiction granted under Article IX, Section 18 of the Oklahoma Constitution, 51 O.S. (2001) §24A.22 of the Oklahoma Statutes and OAC 165:5, the Commission's Rules of Practice; all un-redacted documents related to a utility's Homeland Security and Critical Infrastructure Plan shall be considered "Highly Sensitive and Confidential" and shall only be admitted into evidence in en camera proceedings.

(b) "Highly Sensitive Confidential" designation and protection shall extend but not be limited to the following: initial Plans (including underlying documents), Plan Update Reports, Certification Letters, Annual Reports made by Commission Staff, recommendations submitted by the Attorney General of the State of Oklahoma and un-redacted documents used in cost recovery proceedings. For all other documents, the "Highly Sensitive Confidential" designation may be granted upon hearing and Final Order of the Commission.

(c) Each utility's Plan and/or Plan Update Report prepared in accordance with this Subchapter, shall be marked "Highly Sensitive Confidential" and shall be kept and maintained on site at the utility's business office in accordance with OAC 165:35-33-7(g), above. Only those individuals on the Staff of the Commission and in the State Attorney General's office and their respective experts who have been authorized by the Commission, shall have access to the Plan and Plan Update Reports prepared by each utility and any related or supporting documentation thereto. All other parties granted authorized intervenor status to a security cause pursuant to OAC 165:35-33-10(c) may also have access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

[**Source:** Added at 22 Ok Reg 708, eff 7-1-05; Amended at 36 Ok Reg 650, eff 7-25-19]

SUBCHAPTER 34. COMPETITIVE PROCUREMENT

Section

165:35-34-1.	Purpose of this Subchapter
165:35-34-2.	Confidential Information
165:35-34-3.	RFP Competitive Bidding Procurement Process
165:35-34-4.	Commodity fuel supply competitive bidding procurement process for a term greater than five years

[**Source:** Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 24 Ok Reg 1827, eff 7-1-07, Amended at 25 Ok Reg 1566, eff 7-1-08, Amended at 29 Ok Reg 1541, eff 7-12-12]

165:35-34-1. Purpose of this Subchapter

(a) This Subchapter establishes a fair, just, and reasonable process that best serves the public interest of all electricity consumers and that will complement and improve the state's economic growth by, among other things, making the most efficient use of Oklahoma's coal, natural gas, and power generation and transmission assets and furthers the policy of the Commission that a competitive procurement process is among the most effective means to achieve these objectives. To obtain a presumption of prudence, a utility shall employ the competitive bidding procedures set forth in this subchapter, when purchasing or self-building of new long-term electric generation, long term purchase power agreements, or long-term fuel supply for self-generation of electricity as set forth in this subchapter. A utility may exercise managerial discretion and enter into contracts, fixed-priced or index-based, without seeking a presumption of prudence. However, if a utility does not employ the competitive bidding process set forth in this subchapter, there shall be no presumption of prudence and the determination of prudence will be decided during a subsequent Commission review. The competitive bidding process shall be open to Commission scrutiny, as are other regulated utility practices.

(b) It is the intent of the Commission to create an open, transparent, fair and nondiscriminatory competitive bidding process for the utility to meet its needs. It should not be construed that this Subchapter absolves or relieves any utility or competitive bidder from any duty prescribed by the laws of the State of Oklahoma or the United States including, but not limited to, the federal Public Utility Regulatory Policies Act (Public Law 95-617, as amended) and any other state or federal law regarding contractual rights and obligations, antitrust enforcement or liability, or laws against improper restraint of trade or "takings" of property.

(c) This Subchapter also establishes reasonable standards of conduct for transactions between utilities and their affiliates and standards for transactions between utilities and competitive bidders conducting business within the State of Oklahoma.

(d) This Subchapter shall not be applicable to a utility with no generation plant within the boundaries of Oklahoma and less than ten percent of its customers within the state.

(e) Wherever Independent Evaluator is referred to in this subchapter, it is understood that particular reference is only applicable if an Independent Evaluator has been retained by the Commission.

[**Source:** Added at 23 Ok Reg 1668, eff 7-1-06, Amended at 25 Ok Reg 1568, eff 7-1-08, Amended at 29 Ok Reg 1541, eff 7-12-12; Amended at 35 Ok Reg 1030, effective 9-12-2014]

165:35-34-2. Confidential Information

(a) A person or entity may file a motion with the Commission for an order to protect confidential information pursuant to 51 O.S., Section 24A.22.

(b) Bids submitted in a competitive bidding process and the resulting contracts shall be considered confidential information. Such bidding documents and contracts shall be available for review subject to a protective order issued by the Commission except that such protective order may limit access to appropriate non-competitive representatives such as lawyers and consultants, of bidders participating in the RFP, so that such persons may review the details of all the bids, the bid process and the bid evaluation-related materials. The Commission may determine, on a case-by-case basis, that certain information about the winning bid and resulting contract shall be publicly disclosed so long as such disclosure does not reveal confidential information.

(c) Pending a determination by the Commission regarding any protective order, the person or entity seeking the protective order, the Commission, the Attorney General and the Independent Evaluator may, at their option, review the information claimed to be confidential at a mutually agreed upon location.

[**Source:** Added at 23 Ok Reg 1668, eff 7-1-06, Amended at 25 Ok Reg 1569, eff 7-1-08]

165:35-34-3. RFP Competitive Bidding Procurement Process for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements

(a) Competitive Bidding Structure and Process Guidelines for Long Term Fuel Transportation, Long Term Fuel Storage, Long Term Electric Generation and Long Term Purchase Power Agreements.

(1) The soliciting utility shall notify the Commission of its intent to engage in a competitive bidding process at least thirty (30) calendar days before issuing a request for proposal ("RFP"), as required by subsection (4) below.

(2) The soliciting utility shall prepare the initial draft of the RFP documents, including but not limited to RFP procedures, and a pro forma power purchase agreement that, to the maximum extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule (collectively, the "RFP Document").

(3) In addition to the information required by (1) of this Section, the RFP and RFP Document, at a minimum, shall identify clearly:

(A) Term;

(B) Amount of megawatts, if applicable, and types of products being solicited;

(C) All price and non-price evaluation factors to be considered;

(D) Respective weight for each price and non-price evaluation factor; and

(E) Utility's preliminary analysis of transmission availability and the utility's plan for evaluation of transmission availability for each proposal received, including, but not limited to:

(i) Description of the role of transmission analysis to be conducted by the utility in the bid evaluation process. This analysis should use publicly available tools provided by the controlling entity, such as the Southwest Power Pool Scenario Analyzer; and

(ii) Any role of the transmission analysis to be conducted by the controlling entity, currently the Southwest Power Pool, in the bid evaluation process.

(4) The draft of the RFP Document, supporting documentation, and bid evaluation procedures shall be provided to the Commission, Attorney General, non-competitive representatives and Independent Evaluator and posted on the utility's website at least fifteen (15) calendar days prior to the technical conference referenced below. After the draft RFP is issued, a technical conference shall be scheduled by the utility to discuss the draft RFP and the bidding process. After receiving input from interested persons, and holding the technical conference the soliciting utility shall post the draft RFP Document and any comments received, on the soliciting utility's website or electronic bulletin board, or by some other publicly accessible method. After due consideration of all comments, the soliciting utility will submit the final RFP Document to the Commission and post the final RFP Document on its website or electronic bulletin board, or by other publicly accessible method. RFPs shall include the Southwest Power Pool's time requirements to conduct transmission analyses, i.e. the aggregate study.

(b) **Independent Evaluator.**

(1) The Commission may, at its discretion, retain and arrange compensation for an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting there from is expected to have a material impact on the utility's cost of providing electricity to its customers, or (iii) when it is anticipated that the utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission and the Attorney General.

(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting utility about the winning bidder(s), the Independent Evaluator and utility may attempt to resolve such differences. In the event the Independent Evaluator and utility cannot resolve their differences, the soliciting utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting utility in conjunction with the competitive bidding process.

(c) **Affiliate Bidders' Requirements.**

(1) Each soliciting utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting utility and bidding affiliate shall execute an acknowledgement that the utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of Responses to the RFP.**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting utility will evaluate all timely submitted bids to determine the lowest reasonable cost for long-term reliable power or reliable long-term fuel sought that minimizes ratepayer cost, including but not limited to charges for or costs relating to long-term fuel supply, long-term fuel transport, long-term fuel storage, long-term fuel processing, or increased cost of capital, consistent with the principles and procedures contained in this Subchapter and in the utility's resource plan and associated procurement plans.

(B) The Commission, Attorney General, non-competitive representatives and Independent Evaluator will be included in the evaluation of all bids submitted to the soliciting utility. The soliciting utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General, non-competitive representatives and the Independent Evaluator may attend and monitor the opening of bids. Bids shall be opened by the soliciting utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. No bidder shall be permitted to unilaterally submit a refreshed bid unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting utility, Commission, Attorney General, non-competitive representatives or Independent Evaluator may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting utility, Commission, Attorney General, non-competitive representatives or Independent Evaluator and bidder should be conducted through an open process in which the utility, Independent Evaluator, Commission, non-competitive representatives and Attorney General are given adequate notice and an opportunity to attend.

(4) The Commission, Attorney General, non-competitive representatives and Independent Evaluator, as well as the soliciting utility, may rely on the Southwest Power Pool to conduct all necessary transmission analyses concerning bids received. Southwest Power Pool analyses provided to the Commission, Attorney General, non-competitive representatives or Independent Evaluator shall be equivalent in quality and content to that provided to the soliciting utility. No bidder, including any bidder that is an affiliate (including the Bid Team) of the soliciting utility, shall communicate with the Southwest Power Pool Transmission group during the course of the competitive bidding process regarding any aspect of the RFP or process.

(5) In conducting the evaluation of the responses, the soliciting utility shall not:

(A) Waive or otherwise modify any evaluation factor or evaluation weight for any bidder;

(B) Add any adjustments on the basis of expected effects on the utility's cost of capital if not already contained in the RFP;

(C) Impose any penalty on the price of purchased power; or

(D) Include any discount for utility self-generation on the basis of reliability as part of the utility's resource mix.

(e) Prior to a utility taking long-term procurement action other than the competitive procurement process set forth in this Subchapter, such utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission.

(f) The utility shall promptly submit its decision concerning the successful bid with the Commission and mail copies of such submission to all bidders, non-competitive representatives, the Independent Evaluator, and the Attorney General. Included within that mailing, the utility shall provide the non-winning bidders the rationale and analysis used for the selection of the winning bid.

(1) Any unsuccessful bidder, non-competitive representatives, the Independent Evaluator, or the Attorney General shall have fifteen (15) calendar days following submission of the successful bid decision with the Commission to file with the Commission a complaint challenging the decision as not meeting the criteria for decision specified in this subchapter or waiver previously obtained pursuant to 165:35-34-3(e) and the RFP document and bid evaluation procedures developed pursuant to 165:35-34-3(a).

(2) In the event of the filing of such a complaint, after notice to all bidders and hearing, the Commission shall determine whether the utility's decision reveals either a clear departure from the criteria stated in these rules or previously obtained waiver, the RFP Document and bid evaluation procedures for decision or is erroneous, in which event the utility shall be required immediately to rebid, in accordance with this Subchapter, the items which were the subject of such determination.

(g) Upon determination of the successful bidder, the utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.

(1) The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services.

(2) At the request of either party and upon notice and hearing, the Commission shall have authority to determine any disputes between the parties as to terms incidental to the bid. All matters to be determined by the Commission under this provision shall be heard on an expedited basis and a decision rendered thereon within thirty (30) calendar days from filing.

[**Source**: Added at 23 Ok Reg 699, eff 2-17-06 (emergency); Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 24 Ok Reg 1827, eff 7-1-07; Revoked at 25 Ok Reg 1566, eff 7-1-08; Amended at 27 Ok Reg 2129, eff 7-11-10, Amended at 29 Ok Reg 1541, eff 7-12-12; Amended at 36 Ok Reg 650, eff 7-25-19]

165:35-34-4. Commodity fuel supply competitive bidding procurement process for a term greater than five years

(a) **Pre-approval filing.** When a Utility contracts for commodity fuel supply for self-generation of electricity for a term greater than five years, and seeks a pre-determination of prudence, the Utility shall file an application and receive the Commission's approval of the Utility's proposed Request for Proposal (RFP) Competitive Bidding Procurement Process prior to the Utility issuing the RFP. The evaluation and approval of the RFP shall contain, but not be limited to, the proposed bidding process, the evaluation process, consistency with the Integrated Resource Plan (IRP), and a determination of need for the proposed fuel supply. The evaluation and approval of the RFP may contain a consideration of opt-out provisions. The process shall focus on and result in the lowest reasonable cost for ratepayers. The request shall be processed as follows:

(1) An Independent Evaluator may be utilized pursuant to 165:35-34-4(b);

(2) The soliciting Utility shall file a cause for pre-approval of the RFP and will provide notice to the Commission and Attorney General to engage in the RFP approval process at least thirty (30) calendar days before issuing a request for pre-approval of the proposed RFP;

(3) The soliciting Utility shall prepare the initial draft of the RFP documents that, to the extent practicable, utilizes industry standard contractual terms and contains all expected material terms and conditions and a solicitation schedule;

(4) In addition to the information required by (3) of this Section, the RFP, at a minimum, shall identify clearly:

(A) Term and Renewals;

(B) Types and quantity of fuel being solicited;

(C) All price and non-price evaluation factors to be considered;

(D) Respective weight for each price and non-price evaluation factor;

(E) The Utility's preliminary analysis of desired delivery points or options as appropriate; and

(F) The extent to which a consideration of hedging and price volatility mitigation has been included in the RFP; and

(5) A Commission order approving or disapproving the RFP shall be issued in no more than 180 calendar days following the filing of the Utility's application.

(b) **Independent evaluator.**

(1) The Commission Staff or Office of the Attorney General may, at their discretion, file a request with the Commission for the assessment of specific costs, which shall be deemed recoverable costs associated with conducting the prudence review analysis, related to the retention of an Independent Evaluator to monitor the RFP and competitive bidding process. Notwithstanding the foregoing, the Commission, or the Attorney General shall retain an Independent Evaluator to monitor the RFP and competitive bidding process in the following instances: (i) when an affiliate of the Utility is anticipated to participate in the competitive bidding process; (ii) when the RFP and bid resulting there from is expected to have a material impact on the Utility's cost of providing electricity to its customers, or (iii) when it is

anticipated that the Utility may participate as a bidder in the competitive bidding process. The Commission shall establish the minimum qualifications and requirements for an Independent Evaluator and ensure the Independent Evaluator is financially and substantively independent from any soliciting electric Utility or affiliate thereof, complaining entity, and any potential bidder.

(2) The Independent Evaluator will report to the Commission or the Office of the Attorney General.

(3) If the Independent Evaluator's conclusion is different from the conclusion of the soliciting Utility about the winning bidder(s), the Independent Evaluator and Utility may attempt to resolve such differences. In the event the Independent Evaluator and Utility cannot resolve their differences, the soliciting Utility will determine which bid(s) is successful. The Independent Evaluator shall submit its independent evaluation to the Commission.

(4) As part of its contract with the Independent Evaluator, the Commission shall require the Independent Evaluator, to enter into an agreement to keep all information confidential that pertains to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature provided or made available by the soliciting Utility in conjunction with the competitive bidding process.

(c) **Affiliate bidders' requirements.**

(1) Each soliciting Utility affiliate that intends to bid shall disclose publicly, in writing, the names and titles of the members of the affiliate's "Bid Team." Each soliciting Utility shall disclose publicly, in writing, the names and titles of the members of its "Evaluation Team." A Bid Team develops the affiliate's bid and, to assure fairness, is not involved, directly or indirectly, in the evaluation or selection of bids. An Evaluation Team evaluates bids, selects the successful bidder and, to assure fairness, is not involved, directly or indirectly, in the development of the affiliate's bid.

(2) Each soliciting Utility and bidding affiliate shall assure that the Bid Team and the Evaluation Team and any member of either do not engage in any communications, either directly or indirectly, regarding the RFP or the competitive bidding process. For bidder and Commission assurance, the soliciting Utility and bidding affiliate shall execute an acknowledgement that the Utility and affiliate have not and will not in the future so communicate, other than to submit and receive the bid at the appropriate time. The Bid Team and Evaluation Team may communicate as part of a bidding technical conference of which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(3) The Evaluation Team shall report to the Independent Evaluator, any contact or communications by any bidder, including the Bid Team, and advise the bidder any future contact must be directed to the Independent Evaluator. Bidders and the Evaluation Team may communicate as part of a bidding technical conference which potential bidders or all actual bidders, if bids have already been submitted, are given adequate notice and opportunity to attend.

(d) **Evaluation of responses to the RFP.**

(1) The evaluation of the responses to the RFP will proceed as follows:

(A) The soliciting Utility will evaluate all timely submitted bids to determine the lowest reasonable cost for fuel supply that results in the lowest reasonable cost with consideration given to all other bid terms outlined in the RFP; and

(B) The Commission, Attorney General, Independent Evaluator, and non-competitive representatives will be included in the evaluation of all bids submitted to the soliciting Utility pursuant to the provisions of the Protective Order. The soliciting Utility shall include within the RFP the time and place for the opening of the bids so that the Commission, Attorney General, the Independent Evaluator and non-competitive representatives may attend and monitor the opening of bids. Bids shall be opened by the soliciting Utility at the time and place so indicated in the RFP whether or not any or all of those parties are in attendance.

(2) All bids shall be evaluated on the basis of the bidder's final best offer. Bids will be evaluated on all relevant economic and non-economic factors. No bidder shall be permitted to unilaterally submit a refreshed bid prior to award unless all bidders are given a meaningful opportunity to submit a refreshed bid as a result of some material, documented change. The Independent Evaluator shall be charged with evaluating any such changes and ensuring that the changes are substantive and not an attempt to influence the final selection process in favor of a particular bidder.

(3) Should any bid be unclear to such extent that the lack of clarity could impact the outcome of the bidding, the soliciting Utility, Commission, Attorney General, Independent Evaluator and non-competitive representatives may request further information from any bidder regarding its bid, provided, any such communication between or among the soliciting Utility, Commission, Attorney General, Independent Evaluator and non-competitive representatives and bidder should be conducted through an open process in which the Utility, Independent Evaluator, Commission, Attorney General and noncompetitive representatives are given adequate notice and an opportunity to attend.

(4) In conducting the evaluation of the responses, the soliciting Utility shall not: waive or otherwise modify any evaluation factor or evaluation weight for any bidder.

(e) **Bid award.**

(1) The Utility shall submit its decision, rationale and analysis concerning the successful bid with the Commission, non-competitive representatives, the Independent Evaluator, and the Attorney General within 24 hours of the selection. The utility shall provide the non-winning bidders notice that they were not selected as the winning bid.

(2) The PUD Director, any unsuccessful bidder, the Independent Evaluator, Intervenors, or the Attorney General shall have two (2) business days following submission of the successful bid decision to file with the Commission a complaint challenging the Utility's adherence to the approved RFP and the resulting bid award.

(3) In the event of the filing of such a complaint, after notice to all parties and hearing, the Commission shall determine whether the Utility's decision reveals a clear departure from the criteria stated in the previously obtained waiver or the RFP Document in which event the bid award may not be pre-approved by the Commission.

(4) The Commission shall endeavor to hear the complaint in camera within three (3) business days of the filing of the complaint.

(5) The Commission shall endeavor to enter a final order within fifteen (15) calendar days of the initial bid award letter. If the Commission has not entered a final order within fifteen (15) calendar days, the winning bidder may be allowed to refresh their bid pursuant to the provisions of the RFP.

(6) The Commission shall endeavor to enter a final order no later than thirty (30) calendar days after the initial bid award.

(7) Upon determination of the successful bidder, the Utility and successful bidder shall promptly proceed to finalize contracts necessary to implement the bid.
(8) The final order, if awarding a pre-determination of prudence, will provide as follows:
(A) Purchases made according to the terms of the contract shall be deemed prudent;
(B) Variances from the terms of the contract shall be subject to additional prudence review and determination.

(f) **Waiver.** Prior to a utility taking competitive procurement action other than the competitive procurement processes set forth in this Subchapter, such Utility shall seek a waiver of all or any part of these competitive bidding rules by filing a cause with the Commission if the Utility will seek pre-approval.

[**Source**: Added at 29 Ok Reg 1541, eff 7-12-12; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 652, eff 7-25-19]

SUBCHAPTER 35. PRUDENCE REVIEWS

Section
165:35-35-1. Prudence Reviews

[**Source:** Added at 23 Ok Reg 1666, eff 7-1-06]

165:35-35-1. Prudence Reviews

(a) The Commission shall conduct prudence reviews on all generation, purchased power and fuel procurement processes and costs. The first prudence review will be selected by March 31, 2006. Utilities serving four hundred thousand (400,000) consumers or more shall be reviewed at least once every two (2) years. The utility shall bear the burden of proof as to prudence. Utilities serving fewer than four hundred thousand (400,000) consumers shall be reviewed at least once every three (3) years.
(b) All fuel and generation expenses, including purchased-power-related expenses, shall be reviewed by the Commission in adjudicatory proceedings to determine that such expenses were prudently incurred. Additional prudence reviews shall be conducted when the Commission determines that circumstances warrant such review.
(c) The Commission may impose any corrective action or penalty allowed explicitly or implicitly by law, including refund, as the result of a prudence review.
(d) Nothing in this Subchapter shall diminish the authority of the Commission to review for prudence or other reasons any utility contract, decision or other action for the provision of electric power capacity or energy.

[**Source:** Added at 23 Ok Reg 1670, eff 7-1-06; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 654, eff 7-25-19]

SUBCHAPTER 37. INTEGRATED RESOURCE PLANNING

Section

165:35-37-1. Purpose of this Chapter
165:35-37-2. Confidential Information
165:35-37-3. Public Meetings
165:35-37-4. Integrated Resource Plan Reviews

[**Source:** Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 24 Ok Reg 1827, eff 7-1-07]

165:35-37-1. Purpose of this Subchapter

(a) The purpose of this Subchapter is to establish fair, just, and reasonable rules and procedures for Commission review of the resource plans of utilities. The utility resource plans establish additional bases for substantial investment and expenses incurred by utilities to provide electric supply to retail consumers. The practices and polices embodied in a utility's resource plan have direct, substantial effects on the costs and reliability of the electric supply to be provided to retail consumers in Oklahoma. Resource planning is a complex process affecting decisions that account for a substantial portion of the total cost of electricity over the long term, including investments in generation and transmission facilities, purchases of power and fuel supply, price volatility mitigation, and investments in energy efficiency. Recognizing the significance of the costs incurred based on resource plans, the Commission believes it is in the best interest of retail ratepayers and the utilities providing regulated retail electric supply to establish regular review of the utilities resource plans to ensure that the utilities' resource planning and resulting investment are reasonably and prudently conducted and that the overall cost of power supply to retail ratepayers is fair, just, and reasonable.

(b) This Subchapter establishes fair, just, and reasonable procedures for:

(1) Setting standards for prudent resource planning;

(2) Conducting periodic reviews of utility resource plans;

(3) Participation of stakeholders, particularly those representing ratepayer interests, to review and have input into the utility's resource plans and the Commission's resource planning policies;

(4) Establishing the need for additional resources serving as the basis for long-term competitive procurement of resources, including, but not limited to, utility construction of new electric generation facilities, the utility purchase of existing electric generation facilities, and the purchase of long-term power supplies;

(5) Establishing objectives and action plans consistent with Commission resource planning policies;

(6) Establishing a clear standard of prudent financial management including but not limited to a utility’s demonstration of consideration of physical and financial hedging, cost effectiveness, and other tools of prudent financial management;

(7) Establishing appropriate plans for capital expenditures for equipment or facilities at utility generation facilities necessary to comply with the Federal Clean Air Act, as amended, and other federal, state, local, or tribal environmental requirements;

(8) Establishing a clear, before-the-fact foundation for the recovery of prudently incurred investment and expenses in subsequent rate and fuel and purchased-power cost recovery proceedings; and
(9) Establishing the appropriate portfolio of products to be obtained through competitive procurement.

[**Source:** Added at 23 Ok Reg 1671, eff 7-1-06, Amended at 29 Ok Reg 1541, eff 7-12-12]

165:35-37-2. Confidential Information

(a) If a utility is required by this Subchapter to submit information to the Commission that is alleged by the utility to be confidential, a motion for a protective order concerning such information may be filed requesting a determination to be made by the Commission to protect the information pursuant to 51 O.S., Section 24A.22.
(b) Pending a determination regarding approval of any protective order by the Commission, the Commission and Attorney General, at their option, may review the information claimed to be confidential at a mutually agreed upon location, provided that for purposes of 51 O.S., Section 24A.22, the information shall be deemed confidential pending such determination by the Commission.

[**Source:** Added at 23 Ok Reg 1671, eff 7-1-06]

165:35-37-3. Public Meeting

(a) A utility shall notify the Commission that it has prepared a proposed initial integrated resource plan at least thirty (30) calendar days prior to submission pursuant to 165:35-37-4. After giving notice, the Commission shall conduct a public meeting on the record concerning the utility's proposed initial integrated resource plan, allowing comment from interested persons as to the strengths and weaknesses of the proposed plan.
(b) The utility shall take into account the comments made at the public meeting and make such changes to the plan as seem reasonable.
(c) The utility shall make the proposed plan available prior to the public meeting to any person who requests it, except any portions subject to a Commission protective order.
(d) The Commission may conduct similar public meetings at its discretion concerning updates to the integrated resource plan as provided by 165:35-37-4.

[**Source:** Added at 23 Ok Reg 1671, eff 7-1-06; Amended at 36 Ok Reg 655, eff 7-25-19]

165:35-37-4. Integrated Resource Plan Reviews

(a) Each utility shall submit to the Commission a proposed integrated resource plan. The utility's first integrated resource plan was due on October 1, 2006, and subsequent plans shall be due every three (3) years thereafter, unless the utility requests an extension from the PUD Director or the utility requests a waiver from the Commission. The extension granted by the PUD Director shall not exceed six (6) months. Subsequent plans shall be developed and submitted as provided by the procedure set forth in OAC 165:35-37-5. The proposed resource plan shall include, among other

things, a fuel procurement plan, purchased-power procurement plans, a risk management plan, an environmental compliance plan, and other elements as described further in this Subchapter. This plan will be made available upon request by any person or entity to the soliciting utility, except any portions subject to a Commission protective order.

(b) Each utility shall have an ongoing obligation to monitor markets and inputs and to notify the Commission when material changes in planning assumptions occur. As the integrated resource plan changes from year to year, the utility shall submit updates to the Commission. The Commission may require the utility to submit an interim, updated integrated resource plan to reflect material change(s) in planning assumptions.

(c) The integrated resource plan shall include, at a minimum, a tabular summary of each of the following Sections:

(1) Schedule A: An electric demand and energy forecast;

(2) Schedule B: A forecast of capacity and energy contributions from existing and committed supply- and demand-side resources;

(3) Schedule C: A description of transmission capabilities and needs covering the forecast period;

(4) Schedule D: An assessment of need for additional resources;

(5) Schedule E: A description of the supply, demand-side and transmission options available to the utility to address the identified needs;

(6) Schedule F: A fuel procurement plan, purchased-power procurement plan, and risk management plan;

(7) Schedule G: An action plan identifying the near-term (i.e., across the first five [5] years) actions that the utility proposes to take to implement its proposed resource plan;

(8) Schedule H: Any proposed RFP(s), supporting documentation, and bid evaluation procedures by which the utility intends to solicit and evaluate new resources; and

(9) Schedule I: A technical appendix for the data, assumptions and descriptions of models needed to understand the derivation of the resource plan.

(10) Schedule J: A description and analysis of the adequacy of its existing transmission system to determine its capability to serve load over the next ten (10) years, including any planned proposed changes to existing transmission facilities.

(11) Schedule K: An assessment of the need for additional resources to meet reliability, cost and price, environmental or other criteria established by the Commission, the State of Oklahoma, the Southwest Power Pool, North American Electric Reliability Council, or the Federal Energy Regulatory Commission. This assessment should address both base line forecast condition and important uncertainties, including but not limited to load growth, fuel prices, and availability of planned supplies.

(12) Schedule L: An analysis of the utility's proposed resource plan and any alternative scenarios necessary to demonstrate how the preferred plan best meets the planning criteria. Technical appendices should be included to document the planning analysis and assumptions used in preparing this analysis.

(13) Schedule M: A description and analysis of the Utility's consideration of physical and financial hedging to determine the Utility's ability to mitigate price volatility for the term covered by the IRP.

[**Source:** Added at 23 Ok Reg 699, eff 2-17-06 (emergency); Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 24 Ok Reg 1827, eff 7-1-07; Amended at 27 Ok Reg 2131, eff 7-11-10, Amended

at 29 Ok Reg 1541, eff 7-12-12; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 655, eff 7-25-19]

165:35-37-5. Procedure for subsequent integrated resource plans

(a) A utility shall notify the Commission that it has prepared a proposed update of its integrated resource plan at least sixty (60) calendar days prior to submission pursuant to 165:35-37-4.

(b) To allow all stakeholders the opportunity to review and provide input regarding utility objectives, assumptions, planning scenarios, and other information contained in the proposed updated integrated resource plan, after giving notice and prior to submitting the final integrated resource plan, the utility shall conduct at least one technical conference for all stakeholders. Stakeholders then may submit comments to the utility as to the strengths and weaknesses of the proposed plan.

(c) The utility shall make the proposed plan available prior to the technical conference to any person who requests it, except any portions subject to a Commission protective order or confidentiality agreement.

(d) The utility shall take into account any comments received prior to or at the technical conference and make such changes to the plan as seem reasonable.

(e) The utility shall provide a facilitator to coordinate and assist the stakeholders in their discussions at the technical conference. The facilitator provided by the utility shall prepare meeting minutes from the technical conference and prepare a summary of stakeholder input for inclusion as an exhibit in the final integrated resource plan.

(f) The Commission and/or the Attorney General may, at its discretion, retain third party consultants and/or expert witnesses to review the proposed plan and participate in the technical conference on its behalf. The utility shall be responsible for, and be allowed recovery of, the cost of such third party consultants and/or expert witnesses.

(g) The Commission may conduct similar technical conferences at its discretion concerning updates to the integrated resource plan as provided by OAC 165:35-37-4.

(h) After the above procedure has occurred, the utility shall present its final integrated resource plan at a public meeting held at the Commission.

[**Source:** Added at 27 Ok Reg 2132, eff 7-11-10; Amended at 35 Ok Reg 1030, effective 9-12-2014; Amended at 36 Ok Reg 655, eff 7-25-19]

SUBCHAPTER 38. RECOVERABLE COSTS

Section

165:35-38-1. Purpose of this Chapter
165:35-38-2. Application and Scope of Subchapter
165:35-38-3. Transmission Upgrades
165:35-38-4. Capital Expenditures to Meet Environmental Requirements
165:35-38-5 Self-build or Purchase Options

[**Source:** Added at 23 Ok Reg 1666, eff 7-1-06]

165:35-38-1. Purpose of Subchapter

The purpose of this Subchapter is to provide for utility recovery of (1) costs directly associated with transmission upgrades approved by a regional transmission organization of which such utility is a member and which upgrades are the result of an order by a federal regulatory authority having legal jurisdiction over interstate regulation of transmission rates; (2) capital expenditures for equipment or facilities necessary to comply with the Federal Clean Air Act (Public Law 84-159), as amended, and, as the Commission may deem appropriate, federal, state, local or tribal environmental requirements that apply to generation facilities: and (3) costs associated with the purchase or construction of a generation facility needed to provide reliable service using the competitive bidding RFP Process.

[**Source:** Added at 23 Ok Reg 1672, eff 7-1-06]

165:35-38-2. Application and Scope of Subchapter

(a) This Subchapter is applicable to all electric utilities operating within the State of Oklahoma under the jurisdiction of the Commission.

(b) These cost recovery rules are promulgated to establish processes, procedures, enforcement, reporting, and monitoring provisions that apply to electric utilities regarding the expenditures referenced in 165:35-38-1.

(c) The intention of this Subchapter includes, but is not limited to:

(1) The provision of rules for the recovery of costs associated with transmission upgrades, environmental facilities installed at generation facilities, generation assets constructed by the utility, and generation assets acquired by the utility; and

(2) The protection of customers of a utility from imprudent financial obligations or costs.

(d) All amounts subject to recovery are subject to Commission audit and review. The Commission will resolve any disputes regarding this Subchapter.

[**Source:** Added at 23 Ok Reg 1672, eff 7-1-06]

165:35-38-3. Transmission Upgrades

(a) Costs incurred by a utility that are directly related to transmission upgrades as set forth in 165:35-38-1 are presumed recoverable by such utility. However, the presumption may be rebutted by evidence presented by a complainant or through the audit and review process that the costs so incurred by the utility for such transmission upgrades exceed the scope of the project authorized by the regional transmission organization or federal regulatory authority order.

(b) Before costs set forth in 17 O.S. Section 286(A), as amended, are allowed to go into effect, a cause will be opened by the utility before the Commission. After notice and hearing and upon proper evidence, the Commission may authorize an electric utility to recover all or a portion of the costs incurred by the utility for such transmission upgrades.

(c) A utility seeking cost recovery for transmission upgrades as they pertain to this subsection may file an application to recover such costs and shall provide, at a minimum:

(1) A detailed summary of the costs for which recovery is sought;

(2) Evidence of the approval received by the utility from the regional transmission organization or order received from the federal regulatory authority giving rise to the transmission upgrade; and
(3) A proposed recovery mechanism to recover such costs, which shall be in accordance with Commission's traditional rate making procedures.

[**Source:** Added at 23 Ok Reg 699, eff 2-17-06 (emergency); Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 27 Ok Reg 2132, eff 7-11-10]

165:35-38-4. Capital Expenditures to Meet Environmental Requirements

(a) A utility may file an application pursuant to 17 O.S. Section 286(B), as amended, and this subchapter seeking Commission authorization of the utility's plan to make capital expenditures for equipment or facilities necessary to comply with the environmental requirements applicable to generation facilities as set forth in 17 O.S. Section 286(B).
(b) If approved by the Commission after notice and hearing, the equipment or facilities specified in the approved utility plan shall be conclusively presumed used and useful.
(c) The utility may elect periodically to adjust its rates to recover the costs of such expenditures provided that the utility shall file a request for a review of its rates pursuant to Section 152 of Title 17 of the Oklahoma Statutes.
(d) Periodic rate adjustments as contemplated above shall not prevent a utility from seeking cost recovery of capital expenditures as otherwise may be authorized by the Commission. However, the reasonableness of the costs to be recovered by the utility shall be subject to Commission review and approval.

[**Source:** Added at 23 Ok Reg 699, eff 2-17-06 (emergency); Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 27 Ok Reg 2133, eff 7-11-10]

165:35-38-5. Self-build or Purchase Options

(a) An electric utility may elect to file an application pursuant to 17 O.S. Section 286(C), as amended, and this subchapter seeking approval by the Commission to construct a new electric generating facility, to purchase an existing electric generation facility or to enter into a long-term contract for purchased power and/or energy.
(b) Upon application by an electric utility pursuant to this Subchapter, the Commission shall review the requested cost recovery.
(c) If the soliciting utility wishes to consider an option for full or partial ownership of a self-build option, the utility must submit its construction proposal ("Self-build Proposal") to provide all or part of the capacity requested in the RFP stated in 165:35-34 at the same time the bids are requested.
(d) Once submitted, the Self-build Proposal may not be modified by the soliciting utility. If a Self-build Proposal is selected and approved by the Commission, the amount the soliciting utility shall recover through the rate base or other cost-recovery methods without additional Commission approval is limited to the total project cost identified in the Self-build Proposal.

(e) A Cause shall be opened by the utility for cost recovery if the competitive bidding RFP process established in 165:35-34 is not utilized and the utility wishes to gain approval of cost before construction starts.
(f) Bid responses will be opened with the Independent Evaluator, Commission and the Attorney General present.
(g) Bid award terms and conditions shall be posted on the utility's web site or electronic bulletin board within sixty (60) calendar days after receipt, with a notice to the Commission.
(h) The Commission decision approving or denying the plan shall address the contents of the utility's resource plan, including its fuel procurement plan, purchased-power procurement plan, and risk management plan. If the record contains sufficient evidence, the Commission shall specifically approve or reject:
(1) The utility's proposed plans for resources in the planning period,
(2) The utility's proposed plans for acquiring additional resources through the competitive acquisition process, and
(3) The utility's proposed RFP(s).
(i) Upon the filing of an application pursuant to this Subchapter, the Commission will establish a procedural schedule, which shall provide for a Commission order within two hundred forty (240) calendar days of the date of such filing.

[**Source:** Added at 23 Ok Reg 699, eff 2-17-06 (emergency); Added at 23 Ok Reg 1666, eff 7-1-06; Amended at 27 Ok Reg 2133, eff 7-11-10; Amended at 36 Ok Reg 656, eff 7-25-19]

SUBCHAPTER 39. MINIMUM FILING REQUIREMENTS

Section

165:35-39-1. Purpose and Scope of this Subchapter
165:35-39-2. Definitions and Acronyms
165:35-39-3. Confidential Information
165:35-39-4. Initiation of Fuel Audit or Prudence Review
165:35-39-5. Actual Fuel and Purchased Power Expenses
165:35-39-6. Fuel Purchase and Power Procurement Practices
165:35-39-7. Fuel, Purchased Power and Fuel-Related Contracts
165:35-39-8. Fuel Transportation Agreements
165:35-39-9. Disclosure of all Fuel Related and Purchased Power Affiliate Transactions
165:35-39-10. Material Public Filings and Disclosures
165:35-39-11. Generator Availability and Dispatch
165:35-39-12. Eligible Fuel Costs
165:35-39-13. Sunset Provisions

[**Source:** Added at 24 Ok Reg 1827, eff 7-1-07; Amended at 28 Ok Reg 2252, eff 7-25-11]

165:35-39-1. Purpose and Scope of this Subchapter

(a) The purpose of this Subchapter is to establish fair and reasonable rules and procedures for the Minimum Filing Requirements ("MFR") associated with the annual audit of fuel, purchased power

cost recovery and purchased power supply acquisitions, of a utility ("Fuel Audit"), including but not limited to Prudence Reviews. These MFRs set forth the information to be filed and the documentation to be made available for examination by PUD Staff, the Attorney General, and to those parties that have intervened in the proceeding, subject to the appropriate confidentiality measures.
(b) It is the intent of the Commission to establish a set of standards for the filing of MFR Packages that will facilitate the Commission's responsibilities in conducting Fuel Audits and Prudence Reviews and reflect the practices and policies of the Commission.

[**Source:** Added at 24 Ok Reg 1830, eff 7-1-07; Amended at 28 Ok Reg 2252, eff 7-25-11; Amended at 36 Ok Reg 656, eff 7-25-19]

165:35-39-2. Definitions and Acronyms

The following terms and acronyms shall have the meanings set forth below for the purpose of this Subchapter 39 to the Commission's Electric Rules (OAC 165:35):

"EIS market" means the Energy Imbalance Service market implemented pursuant to FERC-approved amendments to SPP's OATT on February 1, 2007.

"FERC" means the Federal Energy Regulatory Commission.

"Fuel Audit" means the statutory audit of an electric utility's costs of fuel and purchased power costs as delivered into the utility's system pursuant to 17 O.S. §§251 *et seq.*

"Fuel Supply Portfolio and Risk Management Plan" means the documentation required to be submitted to the Commission by each utility by Commission Order.

"Material Change," "Material Deviation," or **"Material Impact"** means any change deviation from planned operations, or cost impact to the utility's customers equal to or greater than three percent (3%) for any single line item or event reflected in the utility's total cost of fuel burned and purchased power during the Review Period.

"Minimum Filing Requirements" or **"MFR"** means the minimum filing requirements established by this Subchapter 39 of the Electric Rules to be filed or made available by a utility to the Commission, PUD Staff, the Attorney General, and interested parties, subject to appropriate confidentiality protection, upon the filing by PUD Staff of an application initiating a Fuel Audit or a Prudence Review.

"MFR Package" means all of the documentation to be provided or made available by the utility as identified in this Subchapter.

"Monthly Fuel Adjustment Clause ("FAC") filings" means the information electric utilities are required to file pursuant to 17 O.S. §253.B prior to implementing fuel and fuel related costs pursuant to a Commission approved fuel and purchased power adjustment tariff.

"OATT" means an Open Access Transmission Tariff as approved by the FERC.

"Production Tax Credits" or **"PTCs"** means an income tax credit available to owners or operators of electric generation facilities that produce electricity from "qualified energy resources". These include wind, geothermal, solar and hydropower. (26 USC 45 Electricity produced from certain renewable resources, etc.; Title 68 O.S. Section 2357.32A Credit for Electricity Generated by Zero-Emission Facilities).

"Prudence Review" means the biennial review of the fuel, generation, and purchased power related expenses incurred by a utility pursuant to OAC 165:35-35-1.

"Renewable Energy Certificates," "Green Tags," "Renewable Energy Credits," "Renewable Electricity Certificates," "Tradable Renewable Certificates," or **"RECs"** means tradable, non-tangible energy commodities in the United States that represent proof that 1 megawatt-hour (MWh) of electricity was generated from an eligible renewable energy resource (renewable electricity). Solar Renewable Energy Certificates are RECs that are specifically generated by solar energy.

"Review Period" means the period of time, in calendar year increments, identified by PUD Staff in an application initiating a Fuel Audit or a Prudence Review.

"SPP" means the Southwest Power Pool, the Regional Transmission Organization recognized by the FERC and encompassing the State of Oklahoma and all or parts of surrounding jurisdictions.

[**Source:** Added at 24 Ok Reg 1830, eff 7-1-07; Amended at 28 Ok Reg 2253, eff 7-25-11; Amended at 36 Ok Reg 656, eff 7-25-19]

165:35-39-3. Confidential Information

(a) The Commission recognizes that some information to be disclosed within the MFR Package may be proprietary or business sensitive and such information should be treated as confidential for the protection of the utility and/or its customers. Schedules requiring the disclosure of confidential information shall contain, a statement to that effect in the MFR Package, and disclosure of confidential information shall be withheld until the Commission issues an appropriate protective order pursuant to 17 O.S. §24A.22. Any confidential information shall be specifically identified in each such schedule contained within the MFR Package. The utility shall file a motion for a protective order identifying the confidential information to be protected simultaneously with the filing of the MFR Package, and the Commission shall determine the manner in which confidential information should be protected.

(b) Information deemed to be confidential by the utility may be withheld from disclosure until the Commission issues an appropriate protective order.

(c) All information supplied by the utility in connection with any Fuel Audit or Prudence Review, except that information subject to a requested or existing protective order, shall be considered in the public domain.

[**Source:** Added at 24 Ok Reg 1831, eff 7-1-07]

165:35-39-4. Initiation of Fuel Audit or Prudence Review

(a) PUD Staff shall initiate a Fuel Audit or Prudence Review by filing an application identifying the utility or utilities subject to the Fuel Audit or Prudence Review and identifying the period of time the Fuel Audit or Prudence Review is intended to cover. PUD Staff shall file its application for a Fuel Audit or Prudence Review no sooner than one hundred fifty (150) calendar days subsequent to the end of the period identified for review.

(b) Each utility being reviewed shall make a filing meeting the MFRs, sixty (60) calendar days after PUD has filed an application commencing a Fuel Audit or Prudence Review. The MFR Package shall contain documentation as described in this Subchapter covering January through December, of the period identified in the application.

(c) All Class A Electric Companies as outlined in OAC 165:70-1-4(a)(1)(A), whether for Fuel Audit or Prudence Review, shall file direct testimony concurrently with the filing of the MFR Package.

[**Source:** Added at 24 Ok Reg 1831, eff 7-1-07; Amended at 28 Ok Reg 2253, eff 7-25-11; Amended at 36 Ok Reg 657, eff 7-25-19]

165:35-39-5. Actual Fuel and Purchased Power Expenses

Under this Section, a utility must file documentation of actual fuel expenses, purchased power expenses, and off-system power sales revenues that occurred during the Review Period. This information should be contained in Schedule A of the MFR Package, consisting of the following:

(1) A thorough and detailed narrative of the fuel and purchased power expenses, procurement practices, and procedures;

(2) An electronic spreadsheet summary of annual volumes and expenses and revenues for fuel and purchased power, consistent with the format of the utility's monthly Fuel Adjustment Clause (FAC) filings;

(3) Electronic copies of the utility's monthly FAC filings. The spreadsheet should include a tabular summary of the type, volume and expense/revenues associated with affiliate fuel and purchased power transactions, and the summary should address energy production by separate fuel types;

(4) A comparison in matrix form of fuel and purchased power expenses and off-system sales revenues for the Review Period identified in PUD's application and for the previous two most recent years;

(5) A narrative explanation of the key factors and events that had a Material Impact on the utility's actual fuel and purchased power expenses, and their relative magnitudes.

[**Source:** Added at 24 Ok Reg 1831, eff 7-1-07; Amended at 28 Ok Reg 2253, eff 7-25-11; Amended at 36 Ok Reg 657, eff 7-25-19]

165:35-39-6. Fuel and Purchased Power Procurement, and REC Management Practices

Schedule B of the MFR Package shall include a thorough and detailed narrative for the fuel and purchased power procurement practices and procedures, both short-term and long-term, of the utility during the Review Period, and REC management practices, with the following information:

(1) A list of the fuel and purchased power procurement practices, REC management practices, and Risk Management Plans relevant to the Review Period that are filed with the Commission together with copies of all such plans previously submitted but not filed;

(2) A list of Material Deviations from the fuel and purchased power procurement and Risk Management Plans as the plans were implemented during the Review Period to include a discussion of any resulting price exposure and the causes for the Material Deviations from the plans to include material sales and/or purchases from the Southwest Power Pool Energy Imbalance Service (EIS) Market;

(3) A description of the safeguards in place concerning affiliate transactions to ensure fair treatment of non-affiliated potential providers of commodities or services;

(4) A list of fuel and purchased power solicitations and actions during the Review Period, including the type of competitive procurement methods used, the timeline for each solicitation, a narrative description of each solicitation, and copies of major fuel and purchased power transactions resulting from such solicitations of one month or more in duration.

[**Source:** Added at 24 Ok Reg 1831, eff 7-1-07; Amended at 28 Ok Reg 2254, eff 7-25-11; Amended at 36 Ok Reg 657, eff 7-25-19]

165:35-39-7. Fuel, Purchased Power, Wind Energy Purchased Power and Fuel-Related Contracts

Schedule C of the MFR Package shall include the following information related to fuel, purchased power, wind energy purchased power and fuel-related contracts in effect during the Review Period:

(1) A list of all fuel and fuel-related contracts in effect during the Review Period between the utility and any affiliate of the utility that supplied fuel or fuel-related services to the utility;

(2) A list of all natural gas contracts in effect during the Review Period including natural gas contracts having a term less than one year, which are considered "spot market" contracts. The utility may provide one or more "generic" contracts which represent the terms of individual spot market contracts, in lieu of the natural gas contracts. The following information relating to all gas purchase contracts, including contracts with affiliates, shall be provided in summary form:

(A) Contract number/serial number/other designation;

(B) Supplier;

(C) Negotiation date or date signed; and

(D) Term and specific service provided under the contract

(3) Upon request, each contract identified in this schedule shall be made available, subject to any confidentiality provisions contained therein;

(4) A list of all applicable fuel supply contracts in effect during the Review Period including coal purchases, oil purchases, and any other fuel commodity contracts;

(5) A list of all purchase power contracts, including wind energy purchase power agreements, in effect during the Review Period for all purchases of energy, capacity or both having a term of thirty (30) calendar days or longer;

(6) For those contracts requiring the use of government or other published indices to adjust the price, provide the monthly values for each index during the Review Period and identify the source of the values for each index;

(7) With respect to each contract, provide monthly minimum, maximum and actual takes by contract for the Review Period;

(8) Documentation for all occurrences when the minimum take or pay volumes under contract were not met during the Review Period;

(9) Documentation of analyses performed to evaluate any fuel or fuel related solicitations having contract terms of thirty (30) calendar days or longer during the Review Period that affected fuel costs during the period. It is not necessary to provide documentation for contracts previously approved by the Commission; and

(10) With respect to wind energy purchase power agreements and limited to those PTCs and RECs owned by the utility pursuant to the terms of any such agreements, the utility shall report

the amount of PTCs and RECs generated in the reporting year; the PTC and REC balance carried forward from prior years; PTCs and RECs available to be used; PTCs and RECs expected to be utilized; PTCs and RECs actually used and related credits and sales revenue, PTCs and RECs expiring unused and the PTC and REC balance carried forward.

[**Source:** Added at 24 Ok Reg 1831, eff 7-1-07; Amended at 28 Ok Reg 2254, eff 7-25-11; Amended at 36 Ok Reg 658, eff 7-25-19]

165:35-39-8. Fuel Transportation Agreements

Schedule -D- of the MFR Package. Provide a list of each transportation agreement that was in place for natural gas and coal, the associated volumes transported, and the annual expense. Identify the agreements utilized during the Review Period.

[**Source:** Added at 24 Ok Reg 1832, eff 7-1-07]

165:35-39-9. Disclosure of all Fuel Related and Purchased Power Affiliate Transactions

Schedule -E- of the MFR Package. To the extent that a utility has not provided a complete disclosure of all fuel related affiliate transactions during the recovery period in response to the disclosure requirements otherwise set forth in this Subchapter, the utility shall provide a narrative explanation of any such transactions.

[**Source:** Added at 24 Ok Reg 1832, eff 7-1-07]

165:35-39-10. Material Public Filings and Disclosures

Schedule -F- of the MFR Package. Each utility shall file a list of all material public filings and disclosures made to this Commission, the FERC, or the SEC in which the utility disclosed information related to fuel, purchased power, off-system sales, or fuel procurement relevant to the Review Period.

[**Source:** Added at 24 Ok Reg 1832, eff 7-1-07]

165:35-39-11. Generator Availability and Dispatch

Schedule -G- of the MFR Package shall include generator availability and dispatch during the Review Period and a narrative description of the same, including Material Deviations from planned operations including the following:

(1) A tabular summary of the monthly availability and output of each utility generating unit and any major non-utility generating unit under long-term contract to the extent available;

(2) A narrative description of each generating unit utilized by the utility during the Review Period, the manner in which it operated (i.e. baseload energy, peaking, load following service, ancillary services, etc.) during the Review Period, and the annual average heat rate achieved by each generating unit during the Review Period including the actual average monthly heat

rate by including MMBtu burned per unit per month and the KWH generated each month for each unit;

(3) A narrative explanation of all significant unusual events with respect to generating unit availability and the extent to which the events affected the utility's fuel and purchased power expenses;

(4) A list of forced and scheduled outages and deratings whether it was an unplanned outage or forced outage that occurred during the fuel Review Period. Information submitted should contain unit name, date started, date ended, duration of outage or power reduction in hours, reason for outage or information may be reported consistent with North American Electric Reliability Corporation (NERC) Generating Availability Data Survey (GADS) reporting requirements in effect during the Review Period for each utility generating unit, including a description of the reason(s) for each outage and derating;

(5) Description and explanation of any limitations on the output of utility generating units, including excess supplies or shortages of fuel; and

(6) A tabular summary of utility owned wind generation which includes:

(A) Name of wind facility;
(B) Name plate capability for each facility;
(C) Monthly capacity factor for each facility;
(D) Annual capacity factor for each facility;
(E) Actual MWH output;
(F) Unit value amount of PTC (credit/MWH);
(G) PTCs generated; and
(H) REC information, including amount sold, sales revenue, and expiration dates.

[**Source:** Added at 24 Ok Reg 1832, eff 7-1-07; Amended at 28 Ok Reg 2254, eff 7-25-11]

165:35-39-12. Eligible Fuel Costs

Schedule -H- of the MFR Package shall contain the following:

(1) The utility shall provide in this schedule a distribution of eligible fuel expenses for each month of the eligible period, in the following categories for each generating station:

(A) Coal and Lignite: Coal and lignite costs as delivered to the utility’s plants;
(B) Natural Gas:
(i) Gas cost;
(ii) Gas transportation (if contracted separately);
(iii) Gas storage (if contracted separately); and
(iv) Other costs (specify);
(C) Fuel Oil:
(i) Oil cost, and
(ii) Other costs (specify).

(D) Other costs: If costs are not readily identifiable and separable in the Company's accounting system, and are included in a cost category listed above, then indicate the type of costs and the cost category in which they are included.

[**Source:** Added at 24 Ok Reg 1832, eff 7-1-07]

165:35-39-13. Sunset Provisions [REVOKED]

[**Source:** Added at 24 Ok Reg 1833, eff 7-1-07; Revoked at 28 Ok Reg 2255, eff 7-25-11]

SUBCHAPTER 41. DEMAND PROGRAMS

Section
165:35-41-1. Purpose
165:35-41-2. Goals
165:35-41-3. Definitions
165:35-41-4. Demand portfolio submission and implementation
165:35-41-5. Commission consideration
165:35-41-6. Evaluation, measurement, and verification
165:35-41-7. Reporting
165:35-41-8. Incentives
165:35-41-9. Stakeholder process

165:35-41-1. Purpose

The purpose of this subchapter is to establish fair and reasonable rules for planning and implementation of Demand Programs that may receive cost-recovery treatment from the Commission. The rules in this Subchapter shall apply to Demand Portfolios having program years that begin on January 1, 2016 and thereafter.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, eff 1-1-16; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-2. Goals

(a) The goals of Demand Programs are to:

(1) Minimize the long-term cost of utility service,

(2) Avoid or delay the need for new generation, transmission, and distribution investment, and

(3) Encourage and enable utility customers to make the most efficient use of utility capacity and energy and reduce wasteful use of energy.

(b) The Commission shall set specific savings goals for each utility to reduce the rate of growth of peak demand, energy usage, and capacity addition without adversely affecting customer comfort or state economic activity, based on market potential studies, integrated resource plans, or other evidence presented as part of the hearing process for approval of a utility's Demand Programs.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, effective 1-1-2016; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-3. Definitions

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

"Administrative Cost" means the expenses incurred in controlling and supporting Demand Programs that are not tied to the marketing and delivery of those programs. These expenses include:

(A) reviewing and selecting Demand Programs in accordance with this section;

(B) providing regular and special reports to the Commission, including reports of Demand Program savings;

(C) a utility's costs for an annual review of Demand Programs or true-up proceeding for cost recovery mechanism;

(D) Supervisory functions performed by Demand Portfolio Manager that are related to supervision of employees and related human resource administration.

"Average customer bill" means the value derived from the sum of all ratepayer bills in a particular customer sector divided by the number of ratepayers in that sector; i.e., the arithmetic mean. A utility may provide average customer bills for customer rate classes rather than customer sectors if it chooses to do so and clearly identifies the choice.

"Barrier" means any physical or non-physical necessity, obligation, condition, constraint, or requisite that obstructs or impedes electricity user participation in Demand Programs. Barriers may include but are not limited to language, physical or mental disability, access to capital, educational attainment, utility meter type, economic status, property status, or geography.

"Base line" means kilowatt-hour energy use, trend in kilowatt-hour energy use, percentage of capacity use over time, trend in percentage of capacity use, and description of conditions affecting such uses and trends prior to implementation of a Demand Program designed to affect particular uses and trends. When evaluating energy efficiency measures implemented or installed as a result of the Demand Programs, the base lines to be used in savings calculations shall be either the performance standard base line (the minimum efficiency prevailing in the market) or a customized, project specific base line. For Demand Programs that replace existing equipment before the end of its expected useful life, savings calculations must incorporate a two-part baseline. First, for the period of the remaining life of the replaced equipment, the baseline is the difference between the energy usage of new equipment and that of the replaced equipment. Second, for the remainder of the life of the new equipment that extends beyond the remaining life of the old equipment, the baseline is the difference between the new equipment and the standard equipment that otherwise would have been purchased at the end of the useful life of the old equipment.

"California Standard Practice Manual" means The California Standard Practice Manual: Economic Analysis of Demand Side Programs and Projects, 2001 edition, produced by the California Energy Commission and the California Public Utility Commission.

"Cost effective" and **"cost effectiveness"** mean utilizing a specified amount of money, in a way that delivers the most benefit from available alternative uses, so long as the benefit's value exceeds the money spent.

"Customized opportunity" means a Demand Program tailored to an individual electricity user's needs, including opportunities for high-volume electricity usage customers to self administer and self fund their own programs.

"Deemed savings" means an estimate of energy or peak demand savings for a single unit of an installed energy-efficiency or renewable-energy measure that (1) has been developed from data

sources and analytical methods that are widely considered acceptable for the measure and purpose, and (2) will be applied to measures that are deployed in significant numbers in similar ways.

"Demand portfolio" means a collection of energy efficiency and demand response programs offered or proposed by an electric utility; for example, a residential weatherization program, a program to trade ordinary commercial fluorescent ballasts for equipment with a higher efficiency rating, a general education program for energy efficiency, and a program to provide financial inducement for purchase of properly sized industrial motors is a demand portfolio.

"Demand portfolio administrator" means the utility employee responsible for supervising the utility's energy efficiency and demand response efforts as proposed in compliance with this subchapter.

"Demand program(s)" means the Energy Efficiency and Demand response programs offered or proposed by an electric utility. Collectively, the Demand Programs make up the company's Demand Portfolio.

"Demand response" means any load management program in which a utility offers electricity users payments or other inducement to reduce their demand for electricity for specified periods of time.

"Education" means any formal program, training, or activity designed to raise awareness of, and participation in company specific Demand Programs or increase general knowledge concerning energy savings opportunities and efficiency topics. These programs may include communication efforts designed to reach customers with energy efficiency information through a variety of mediums, including but not limited to, television, radio, print and web-based media.

"Electricity user" means a real property freeholder or leaseholder at a specific location who consumes energy at that location, regardless of whether the consumer receives an energy bill directly from a utility.

"Energy efficiency" means reducing electricity consumption on the customer's side of the meter while achieving substantially the same level of end-use service.

"Evaluation, measurement, and verification or EM&V" means a systematic, objective study conducted periodically to authenticate, assess, and report how well a Demand Program is achieving its objectives, including identification and quantification of inputs, outputs, outcomes, and unintended effects.

"EM&V Costs" means the costs associated with performance of studies and activities intended to determine the actual savings and other effects from Demand Programs.

"Free rider" means a program participant who would have implemented the program measure or practice in the absence of the Demand Program. A free rider can be total, in which the participant's activity would have completely replicated the program measure; partial, in which the participant's activity would have partially replicated the program measure; or deferred, in which the participant's activity would have completely replicated the program measure, but at a time after which the program measure was implemented.

"Fuel switching" means changing from natural gas to electricity or from electricity to natural gas for a particular end-use service or installing electric heating devices in new construction where natural gas service is available or can be economically made available. It does not include installation of any device that relies primarily on on-site renewable energy, such as, but not limited to, a solar water heater, geothermal heat pump, or biomass gas-powered furnace.

"Goal" means a target to be achieved by a utility's demand portfolio. A goal may be expressed in kilowatts, kilowatt-hours, percentage reduction or limitation, years that anticipated construction of utility plant is delayed, and/or another quantifiable measurement approved by the Commission.

When determining whether a goal is met, reductions or increases attributable to weather and economic activity will not be counted.

"Gross savings" means the values reported by an electric utility after the Demand Program activities have been completed, but prior to the time an independent, third-party evaluation of the savings is performed. As with projected savings estimates, these values may utilize results of prior evaluations and/or values in technical reference manuals. However, they are adjusted from projected savings estimates by correcting for any known data errors and actual installation rates and may also be adjusted with revised values for factors such as per-unit savings values, operating hours, and savings persistence rates. Gross savings can be indicated as first year, annual demand or energy savings, and/or lifetime energy or demand savings values.

"Hard-to-reach customers" means

(A) Residential electricity users who rent their residences from persons other than kin related to the third degree of affinity or consanguinity, trusts operated by and for the benefit of the users, or the users' legal guardians,

(B) Commercial electricity users who rent their business property from persons other than the users' owners, parent companies, subsidiaries of their parent companies, their own subsidiaries, or trusts operated by and for the benefit of the same;

(C) Residential or commercial electricity users who traditionally fail to engage in energy efficiency or demand response programs because of one or more severe barriers beyond those experienced by average residential or commercial customers in a utility's service area.

"High-volume electricity user" means a customer within a utility company's service territory whose annual consumption is 15 million kWh of electricity or greater regardless of the number of meters or service locations.

"Incentive" means a sum of money a utility may be allowed to recover--in addition to program costs and lost net revenues. Incentives shall be based on the utility's verified savings from the Demand Portfolio for the previous program year and shall be calculated as described in 165:35-41-8.

"Inducement" means anything of value offered by a utility to encourage an electricity user or trade ally to engage in Demand Programs approved pursuant to this subchapter. While inducements can include a variety of costs, direct payments to customers or trade allies on behalf of customers shall make up the majority of total inducement costs.

"Lost net revenue" means income from the retail sale of electricity forgone by a utility directly resulting from the success of its demand portfolio, less expenses the utility was not required to pay by forgoing the sales. Lost net revenue shall be calculated using verified savings, shall exclude customer service charge revenues (non-volumetric revenues), and shall exclude revenues collected from riders with annual true-ups.

"Low-income customer" means a residential electricity user who provides proof to a utility that the user has been determined by the appropriate authority to be eligible to receive services through the Oklahoma Department of Commerce Weatherization Assistance Program State Plan, as provided by OAC 150:80; Health Care Authority SoonerCare Choice or fee-for-service programs, as provided by OAC 317:25, 35, and 40; or Department of Human Services Temporary Assistance for Needy Families, State Supplemental Payment, Low Income Home Energy Assistance, Food Stamp, or Refugee Resettlement programs as provided by OAC 340:10, 15, 20, 50, and 60, respectively, or similar program.

"Market potential study" means an evaluation that assesses customer population base lines, customer needs, target customer populations, and how best to address these issues.

"Market transformation" means the strategic process of influencing customer population and trade ally's decision-making that creates lasting change in customer behavior by removing barriers or exploiting opportunities to accelerate adoption of cost-effective energy efficiency as a matter of standard practice.

"Measure" means the equipment, materials, or actions that are installed or used within a Demand Program that results in measurable or verifiable savings; for example, a measure would include caulking around windows or weather stripping around doors to prevent heat loss.

"Net benefits" equal the difference between total benefits and total costs as calculated for cost-effectiveness. The economic objective of Demand Resource portfolios is to maximize net benefits. A Demand Portfolio is cost-effective if it yields positive net benefits.

"Net savings" means the total change in load that is directly attributable to a Demand Program or the Demand Portfolio. This change in energy and/or demand use shall include, implicitly or explicitly, consideration of appropriate factors. These factors shall include free ridership, participant and non-participant spillover and induced market effects.

"Net-to-gross" means a factor representing net program savings divided by gross program savings that is applied to gross program impacts to convert them into net program impacts. The factor may be made up of a variety of factors that create differences between gross and net savings, commonly considering the effects of free riders and spillover.

"Peak demand" means a utility system's maximum annual customer-driven electricity requirement, measured in kilowatts.

"Peak shaving" means reducing demand for electricity during high-use hours.

"Program" means an organized set of activities or measures directed toward the common purpose of energy efficiency or demand response that a utility undertakes or proposes to undertake to reduce peak demand or future growth in energy or capacity demand; for example, a general offer to assist homeowners in weatherizing their homes is a program.

"Program cost" means the expenditures, including expenditures paid to a third–party to deliver a program, incurred by a utility to achieve capacity, energy, and peak demand savings through Demand Programs. Expenditures made by customers or third parties are not included. Programs costs must be reported in nominal dollars in the year in which they are incurred, regardless of when the savings occur. The utility's demand program costs are all Administrative Costs, Education costs, labor, equipment, inducement, marketing, monitoring, measurement and evaluation, and other program delivery expenditures incurred by the utility for operation of the Demand Programs, regardless of whether the costs are expensed or capitalized.

"Program implementer" means the person who puts a Demand Program into practical effect.

"Projected incentives" means the amount of estimated annual incentives calculated at the time the Demand Portfolio is submitted to the Commission for initial approval, or subsequent modification, of the Demand Portfolio.

"Projected savings" means the values reported by an electric utility prior to the implementation of the Demand Programs. These are typically estimates of savings prepared for Program and/or Demand Portfolio design or planning purposes. These values are based on pre-program or Demand Portfolio estimates of factors such as per-unit savings values, operating hours, Net-to-Gross ratios, installation rates, and savings persistence rates. These values can be indicated as first year, annual demand or energy savings, and/or lifetime energy or demand savings values.

These values can also be indicated as Gross savings and/or Net savings. Projected savings are reflected in the goal reduction as set in this subchapter.

"Research and development" means a planned activity aimed at discovering new knowledge with the hope of developing new or improved energy efficiency processes, products, or services and the translation of these research findings into a plan or design for new or improved energy efficiency processes, products, and services.

"Savings" means a reduction in the rate of growth of energy use, as measured in kilowatt-hours, or capacity addition, as measured in kilowatts, or peak demand, as measured in kilowatts.

"Spillover" means the reductions in energy consumption and/or demand caused by the presence of a Demand Program beyond the Demand Program-related gross savings of the participants and without financial or technical assistance from the program. Spillover can be applied to participants, consumers directly participating in a Demand Program, and/or non-participants.

"Standard offer" means a Demand Program available to a group of customers or customers generally on the same terms and without customization.

"Trade allies" means contractors, retailers, skilled laborers, service providers, and wholesale distributors who support programs Demand Programs through sale or installation of goods and services.

"Verified savings" means values reported by an electric utility after review by an independent third party evaluator. The third party evaluator shall be chosen by the utility and such costs shall be determined to be a Program Cost. These values should reflect all adjustments, including corrections for any known data errors and actual installation rates, and should also be adjusted by revised values for known factors such as per-unit savings values, operating hours, savings persistence rates, and net to gross adjustments.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, eff 1-1-16; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-4. Demand portfolio submission and implementation

(a) All electric utilities under rate regulation of the Commission having more than 10,000 meters in the state of Oklahoma shall propose, at least once every three years, and be responsible for the administration and implementation of a Demand Portfolio of Demand Programs within their service territories. Such proposals shall be made by filing an application with the Commission on or before July 1 prior to the year the programs will be effective. The application shall describe the Demand Portfolio and contain the following information:

(1) A description of the intent of the Demand Portfolio as a whole;

(2) A description of the intent of each Demand Program;

(3) A description and quantification of the target market of each Demand Program, differentiated by customer sectors;

(4) A base line describing the state of the market that each Demand Program is intended to address, taking into account applicable building energy codes and appliance and equipment energy standards;

(5) A description of the barriers to investment in energy efficiency and demand response in the absence of each Demand Program and the ways each program Demand Program will reduce or eliminate these barriers;

(6) A description of research and public input that contributed to the development of the content of each Demand Program;
(7) A report of the cost-effectiveness of each Demand Program and the Demand Portfolio, including program and measure-level supporting data which shall include, but not be limited to, cost-effectiveness screening assumptions of gross and net energy and demand savings, coincident demand factors, energy allocation factors for seasonal and for peak, off-peak and shoulder periods, non-electric resource benefits, non-resource benefits, participation and/or measure unit numbers, inducement levels, measure cost, and other non-inducement program costs;
(8) A detailed description of the derivation of the energy, generation, and transmission and distribution avoided costs, retail cost projections, reserve margins, discount rates, and average and peak line loss assumptions used in the cost-effectiveness calculations.
(9) A description of how each Demand Program is expected to change over its course to reflect expected changes in market penetration, technology, and other market information, as well as lessons learned;
(10) A plan for evaluation, measurement, and verification of performance and results of the demand portfolio and each program, including a plan for the use of deemed savings, if applicable, or the use of statistical sampling, if applicable, or the use of metering, where appropriate; provided that costs associated with the EM&V plan shall not exceed five percent (5%) of the total three-year Demand Portfolio budget;
(11) A plan for evaluation of the market effects of each Demand Program or applicable group of programs;
(12) A plan for evaluation of administration and implementation of each Demand Program or applicable group of programs;
(13) A plan for ending a Demand Program, if applicable;
(14) A process for amending a Demand Program;
(15) An annual budget for each Demand Program, providing detail for program costs, and differentiating evaluation, measurement, and verification costs from other program costs;
(16) A report on how the Demand Portfolio is expected to affect rates, sales, average bills and total revenue requirement for each customer sector;
(17) A report on how the Demand Portfolio meets savings goals that may be in place at the time of filing;
(18) An estimate of expected savings in peak demand, energy use, and capacity, with location information about the source of savings if savings are not expected to be evenly distributed throughout the utility system;
(19) Detailed explanation of the utility's request for recovery of prudently incurred program costs, recoupment and calculation of lost net revenue, and additional incentives the utility proposes it requires to make the programs workable; and
(20) Identification of the Demand Portfolio administrator, including name, job title, business postal address, business electronic mail address, and business telephone number.

(b) Demand Portfolios shall:
(1) Contain Demand Programs for all customer sectors;
(2) Strike a balance among procuring peak demand reduction, procuring energy savings, procuring capacity savings, educating the public, and transforming markets for energy efficiency;

(3) Include standard offers to customers and trade allies to encourage simple ways to participate, where appropriate;
(4) Contain customized opportunities for energy efficiency and demand response among larger customers;
(5) Not include programs or measures that promote fuel switching. For new construction, an electric utility shall not offer customer or builder inducements for the use of specific electric equipment or appliances with the exception of programs or measures that promote renewable technologies such as geothermal, solar and other renewable resources;
(6) Be consistent with the utility's integrated resource plan;
(7) Have an implementation schedule of no more than three years;
(8) Address opportunities presented by new construction and renovation;
(9) Promote comprehensive energy efficiency and demand response in buildings;
(10) Address programs for low-income customers and hard-to-reach customers to assure proportionate Demand Programs are deployed in these customer groups despite higher barriers to energy efficiency investments. Demand Programs targeted to low-income or hard-to-reach customers may have lower threshold cost-effectiveness results than other Demand Programs; and
(11) Allow any High-Volume Electricity User, after the utility has a reasonable opportunity to contact and present customized opportunities to such user, to opt out of some or all Demand Programs by submitting notice of such decision to the director of the Public Utility Division and to the electric utility that submits the Demand Portfolio.

(A)High-Volume Electricity Users may opt out with thirty (30) days notice after the company has received final approval of the Demand Portfolio.

(B) High-Volume Electricity Users who chose to participate in Demand Programs shall remain as a participant for the Demand Portfolio period (three years) and shall pay their calculated contribution to the Demand Programs recovery for the Demand Portfolio period. This requirement does not apply to High-Volume Electricity Users who participate only in the demand response portion of the Demand Programs.

(C) High-Volume Electricity Users who chose to opt out may not opt back in unless they agree to pay their calculated contribution to the Demand Programs recovery for the Demand Portfolio period. This requirement does not apply to High-Volume Electricity Users who participate only in the demand response portion of the Demand Programs.

(D) Once a High Volume Electricity User has opted out of Demand Programs, none of the costs of any Demand Programs shall be charged to such User, including its affiliate or subsidiary listed on such User's opt out notice, unless and until the User chooses to opt back into the Demand Programs.

(c) Demand portfolios may:
(1) Integrate energy efficiency and demand response;
(2) Include research and development and pilot programs that would lead to effective Demand Programs or other energy end use efficiency for Oklahoma so long as the total budget for such programs does not exceed five percent of the total budget for Demand Programs and the Commission finds the cost-effectiveness for the Demand Portfolio remains sufficient;
(3) Encourage utility cooperation in state, regional and national programs that have the potential to save energy, reduce peak demand, or avoid capacity addition in Oklahoma; and

(4) Encourage utility cooperation in state, regional and national programs to take advantage of economies of scale, provide consistent mass media messages, or otherwise improve program administration or customer acceptance.

(5) Encourage utility cooperation in state, regional and national efforts to accelerate the development and improve the enforcement of building energy codes and product efficiency standards.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-5. Commission consideration

(a) In reviewing Demand Portfolios, the Commission will consider:

(1) The quality of the programs in all their elements relative to their program objectives;

(2) Experience of the program administrator and program implementer, if known, at designing and implementing programs;

(3) The cost-effectiveness for each program and for the Demand Portfolio; individual programs or individual measures for a specific program do not have to be cost-effective if their inclusion is expected to provide for greater comprehensiveness, customer or trade ally participation, or address Hard to Reach Customer participation;

(4) The savings goals;

(5) The availability of programs to all customers;

(6) The degree to which programs include innovative ways of increasing savings, increasing participation in programs, increasing market transformation, increasing customer education, or decreasing the cost to obtain savings or promote participation and include stakeholder interests;

(7) The effect on rates, average customer bills, and total cost of service;

(8) Forecasts of utility plant that would be required absent savings from the energy efficiency and demand response programs;

(9) Consistency with the most recently filed integrated resource plan;

(10) The effect on the environment, to the extent of Commission authority; and

(11) Other evidence the Commission finds relevant.

(b) The Commission will endeavor to issue an order within ninety days of the filing of the application.

(c) Whether a program is cost effective will be determined by the Commission and may be based on the tests found in the California Standard Practice Manual. The California Standard Practice Manual tests are to be used in conjunction with one another and no one test may be used to deem a program to be lacking cost-effectiveness. Results of the Rate Impact Measure Test contained in the California Standard Practice Manual shall also include an estimate of the impact on average customer bills.

(d) A utility's recovery of prudently incurred program costs in rates or riders shall be determined by the Commission on a utility-specific basis, provided that:

(1)Administrative costs shall not exceed ten percent (10%) of portfolio costs;

(2) All Program Costs should not add more than $2.50 to the residential sector's monthly average customer bill unless benefits and rationale for exceeding cap can be proven; bill impacts on other classes of customers shall reflect allocated Demand Program cost recovery.

(3) The cost of time-of-use devices or other equipment required for billing purposes and their installation shall be specifically excluded from program costs (directly or indirectly);

(4) Tariffs covering rates or riders for Demand Programs shall be updated to be in compliance with this subchapter or in accordance with OAC165:35-1-3 (f).

(e) Programs may be modified by the utility with forty-five days notice to the Commission without prior approval by the Commission under the following conditions:

(1) The program is not terminated earlier than specified in the program; and

(2) The modification does not result in a shift of more than ten percent of the total demand portfolio budget resources away from programs serving any customer sector.

(f) If the Commission receives an objection to the proposed program modification no later than thirty days after receiving the utility's notice, the Commission may, but is not required to, set a hearing before the Commission or an administrative law judge.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-6. Evaluation, measurement, and verification

(a) Utilities are responsible for timely evaluation, measurement, and verification (EM&V) of their energy efficiency and demand response programs. The EM&V should be conducted by an independent third party evaluator chosen by the utility and cost of such EM&V shall be determined to be a Program Cost.

(b) The intent of the evaluation, measurement, and verification process is:

(1) To provide a reliable calculation of the net savings produced by energy efficiency and demand response programs;

(2) To assess the effects of programs on the market for energy efficient products and services and products and services that support demand response programs; and

(3) To assess the effectiveness of the administration and implementation of energy efficiency and demand response programs.

(c) Utilities shall prepare and maintain a program-tracking database.

(d) Each evaluation, measurement, and verification plan for a program will explain the methods that will be applied with an explanation of how those methods will meet the requirements of this rule.

(e) Deemed savings, customer bill analysis, on-site metering, and statistical sampling will be permitted in appropriate applications.

(f) Assumptions with any supporting research about the ratio between gross savings in energy consumption by utility customers and net savings attributable to energy efficiency and demand response programs will be included in the evaluation, measurement, and verification plan.

(g) The evaluation, measurement, and verification process shall produce reports that are fully documented, auditable, and transparent.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-7. Reporting.

(a) Each utility shall submit an annual report by July 1 of each year on the performance of the Demand Portfolio for the preceding program year and cumulative program performance which shall include the information enumerated in this section.

(b) The annual report shall be submitted with any true-up mechanism for cost recovery in order for the Public Utility Division to evaluate and review cost recovery, lost revenue and incentive calculations proposed to be recovered from consumers.

(c) Energy efficiency program results and demand response program results will be reported separately.

(d) The report shall contain a Demand Portfolio summary reflecting the scale of each Demand Program as a part of the Demand Portfolio and will include the following:

(1) Name of Demand Program listed by customer category;

(2) The date each Demand Program was started or the date each Demand Program was revised;

(3) The number of participating customers per Demand Program;

(4) By Demand Program, approved projected energy and demand savings;

(5) Gross energy and demand savings and performance of each Demand Program;

(6) Verified energy and demand savings by Demand Program and methods used to verify these savings;

(7) For education programs, measurements of outreach efforts, including pre-program and post program results. Copies of evaluations, surveys, focus group results, and other measurement techniques used to gauge effectiveness of education efforts;

(8) Levelized cost per kWh for the Demand Portfolio, Demand Program, and levelized cost per kWh by customer sector including all assumptions used to make the calculation;

(9) Demand Portfolio funding as a percent of total annual electricity revenue;

(10) Demand Portfolio energy savings as a percent of total annual energy sales;

(11) The projected program costs.

(A) These costs should be separated into the following categories to allow review of spending:

(i) Administrative costs;

(ii) Inducements: direct payments and other inducements;

(iii) Education and marketing costs;

(iv) Program delivery costs;

(v) EM&V costs.

(B) Workpapers to allow review and reconciliation of accounting information:

(i) Utilities shall provide workpapers with working formulas, calculations, and linkages to support all costs;

(ii) General Ledger: a copy of, or access to, the general ledger and subledgers; and

(iii) Comparative Trial Balances: a schedule of, or access to, comparative trial balances detailed by account for the test year and the first preceding year.

(12) The actual program costs.

(A) These costs should be separated into the following categories to allow review of spending:

(i) Administrative costs;

(ii) Inducements: direct payments and other inducements;

(iii) Education and marketing costs;

(iv) Program delivery costs; and

(v) EM&V costs.

(B) Workpapers to allow review and reconciliation of accounting information.

(i) Utilities shall provide workpapers with working formulas, calculations, and linkages to support all costs;

(ii) General Ledger: a copy of, or access to, the general ledger and subledgers; and

(iii) Comparative Trial Balances: a schedule of, or access to, comparative trial balances detailed by account for the test year and the first preceding year;

(13) Projected lost revenues;

(14) Actual calculated lost net revenues, including workpapers and working spreadsheets (formulas, calculations, linkages, and assumptions) in sufficient detail to allow review of adjustments to verify energy and demand savings;

(15) Projected incentives, including project cost effectiveness tests;

(16) Actual calculated incentives, including workpapers and working spreadsheets(formulas, calculations, linkages, and assumptions) for updated cost effectiveness tests, in sufficient detail to allow review of cost effectiveness calculations;

(17) The utility's annual growth in metered energy and peak demand for the previous three (3) years, with a calculation of the average growth rate over that entire period by customer class or major customer class segments;

(18) The most current information available comparing the base line and milestones to be achieved under market transformation programs with actual conditions in the market;

(19) The amount of reduced emissions and water consumption experienced by the utility, including all assumptions and calculations details, during the Demand Program period for the current program year;

(20) By Demand Program, a summary of spending including the following:

(A) Administrative costs;

(B) Inducements: direct payments and other inducements;

(C) Education and marketing costs;

(D) Program Delivery Costs; and

(E) EM&V costs;

(21) A statement of any funds that were committed but not spent during the year, by program, with an explanation for non-spending;

(22) A detailed description of each Demand Program reflecting the scale of the program as a part of the Demand portfolio that includes the following:

(A) Number of customers served by each Demand Program or program category;

(B) Program or program category expenditures;

(C) Verified energy and peak demand savings achieved by the Demand Program or program category, when available; and

(D) A description of proposed changes in the Demand Program plans;

(23) A list of research and development activities included in the Demand Portfolio, their status, and a report on the connection between each activity and effective Demand Programs;

(24) Identification of Demand Program implementers, including names, job titles, business postal addresses, business electronic mail addresses, and business telephone numbers;

(25) The number of customers eligible for High-Volume Electricity User opt out, their aggregate load as a percentage of total energy sales, the number of such customers that have opted out, and the percentage of total energy sales that they comprise. The number of

municipal or state customers that have opted out and the aggregated load this represents as percentage of total energy sales; and

(26) Identification of instances in new construction or renovation when a natural gas main served a location so a gas furnace or water heater could have been installed but the customer installed an electric device and an electric utility inducement was provided.

(d) After receiving the report, the Commission:

(1) May schedule a hearing about the performance of the programs, the outlook for the future, and other relevant issues and may consider requests from parties for a hearing; and

(2) Will endeavor to act on the report within ninety (90) days by accepting the report, rejecting the report, or opening an investigation to inquire further into the report.

(e) The Commission may direct the utility to make brief quarterly or monthly reports including measurements of key metrics and news of any unexpected developments in program administration, delivery or planning.

[**Source:** Added at 26 Ok Reg 1852, eff 6-25-09; Amended at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-8. Incentives

(a) Each utility shall be eligible to receive an incentive for successful implementation of their Demand Portfolio if:

(1) the Demand Portfolio achieves a minimum of 80% of the individual utility's goal ratio (Verified savings divided by the Projected savings); and

(2) the Demand Portfolio achieves a total resource cost test benefit/cost ratio (TRC:B/CR) that is greater than one; and

(3) the Demand Portfolio achieves a utility cost (UC) test benefit/cost ratio that is greater than 1.2.

(b) No incentive shall be allowed for performance of the Demand Portfolio if the Utility fails to pass all of these threshold measures (OAC 165:35-41-8(a)(1)and(2)).

(c) The Incentive will be calculated as follows:

(1) A maximum incentive of 15 percent of Net Benefits will be paid for achievement of 100 percent (100%) or greater of the total annual energy savings goal.

(A) The goal ratio (Verified savings divided by the Projected savings) must be 80 percent (80%) or greater to receive an incentive.

(B) Incentive for savings achieved between 80 and 100 percent of the savings goal will be determined by multiplying the goal ratio by the maximum incentive percentage.

(2) The Demand Portfolio costs to be included for review of achievement of Demand Portfolio shall include all costs incurred for implementation of Demand Programs including all program costs, education or outreach program costs, Administrative costs, and EM&V costs.

(3) Costs incurred for the implementation or reporting of the Demand Programs which are not directly incurred for a specific program are to be allocated to all Demand Programs and included as part of the Demand Program costs in determining Demand Portfolio cost effectiveness.

(d) The Incentive will be capped at 15 percent of Demand Portfolio costs inclusive of program delivery costs, education and/or marketing outreach costs, Administrative costs and EM&V costs.

[**Source:** Added at 31 Ok Reg 1057, eff 1-1-16]

165:35-41-9. Stakeholder process

(a) Each utility shall have, at a minimum semi-annual stakeholder meetings, one of which is to be held within 30 days of the submittal of the Annual Report, as set forth in 165:35-41-7. Notice of such meetings shall be made at least 30 days prior to the date of the stakeholder meeting.

(b) At each meeting the utilities will present their most current data as to savings goal attainment and budget expenditures at the Demand Portfolio, customer sector and Demand Program level. The utility will highlight any program changes implemented since the previous meeting and any planned changes that will occur prior to the next meeting.

(c) In the years in which a utility plans to file a Demand Portfolio application as required by OAC 165:35-41-4, the Public Utility Division shall use one of the semi-annual stakeholder meetings to obtain stakeholder feedback on the proposed application.

[**Source:** Added at 31 Ok Reg 1057, eff 1-1-16]

SUBCHAPTER 43. TRANSMISSION ONLY UTILITY

165:35-43-1. Purpose of this Subchapter
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165:35-43-1. Purpose of this Subchapter

The purpose of this Subchapter is to establish fair, just and reasonable rules and procedures for a Utility that builds, constructs, owns, operates, controls, manages or maintains Transmission Line(s) or services within the State of Oklahoma. This Subchapter applies to Transmission Only Utilities that build, construct, own, operate, control, manage or maintain Transmission Line(s) within the State of Oklahoma. This Subchapter does not address a Utility's authority to exercise eminent domain, condemnation, siting, or project-specific approval.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12]

165:35-43-2. Definitions

The following words and terms, when used in this Sub-chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Interconnection" means two or more electric systems having a common transmission tie that permits a flow of energy between them. An Interconnection includes a common transmission tie between a Transmission Line and generation facilities, between a Transmission Line and load facilities, or between a Transmission Line and one or more other Transmission Line(s).

"NERC" means the North American Electric Reliability Corporation.

"SPP" means the Southwest Power Pool, Inc.

"Transmission Line" means a set of conductors, insulators, supporting structures, and associated equipment used to move power at 60 kilovolts (kV) or above.

"Transmission Only Utility" or **"TOU"** means an entity that builds, constructs, owns, operates, controls, manages, or maintains Transmission Line(s) within the State of Oklahoma and provides no retail service subject to the rate jurisdiction under 17 O.S. Section 151 et seq. by this Commission. This shall not include Utilities operated by municipalities, governmental bodies, or unregulated cooperatives.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12; Amended at 36 Ok Reg 658, eff 7-25-19]

165:35-43-3. Recognition by the Commission

(a) If an entity wishes to seek recognition by the Commission that such entity is a Public Utility, as is defined by Title 17 O.S. Section 151, such entity shall file an application before the Commission seeking such recognition as a Public Utility.

(b) Appropriate assessment fees may be applied to such entity during the application for recognition process as provided by Commission rules.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12]

165:35-43-4. Reporting

(a) For a TOU providing electric transmission services, other than those facilities operating for the purpose of directly connecting generation resources to the existing grid, regular review of operations is reasonable to preserve the reliability of electric transmission service, to ensure public safety, and the enhancement of economic efficiency in the production and consumption of electricity for the electric consumer. This Subchapter establishes annual reporting requirement(s) to each TOU under Commission jurisdiction.

(b) On or before June 15 of each year, each TOU shall submit information to PUD about any Transmission Line(s) the TOU has built, constructed, owned, operated, managed and/or maintained based on the preceding calendar year. Additionally, on or before June 15 of each year, each TOU shall submit information about any additional Transmission Line(s) it plans to build, own, operate, manage and/or maintain subsequent to June 15. Within such submission, the TOU shall provide information, which includes but is not limited to the following:

(1) A description of any new transmission route(s) that the TOU has submitted to the SPP's regional planning process or other applicable regional planning process, or that has been approved by a Federal authority;

(2) A status report of any Interconnection proposal that the TOU has submitted to a regional planning process or that has been approved by a Federal authority;

(3) Identification of the allocation of transmission costs to Oklahoma Utilities from SPP;

(4) An analysis of the costs and benefits to Oklahoma rate payers of any transmission project or portfolio of transmission projects, if the TOU or regional planner has prepared such a study, and excluding projects done primarily to comply with NERC standards;

(5) The expected number of Oklahoma residents that will be employed during construction of any project and the specific type of job(s) utilizing Oklahoma residents;

(6) The expected number of Oklahoma residents that will continue to be employed after construction of any project and the specific type of job(s) utilizing Oklahoma residents;
(7) A statement reflecting any known annual property or ad valorem tax assessed to the TOU for Transmission Lines and related operations;
(8) Aggregate total payments made to private landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;
(9) Aggregate total payments made to public landowners for transmission right-of-way, reported after all right-of-way for a particular project has been acquired;
(10) Identification of any new energy resource(s) to which the transmission project is directly connected or, to the extent known, resources to which the transmission project could be connected to integrate existing natural gas or other resource generation;
(11) Copies of any impact studies previously provided to state or federal agencies concerning the environment and the wildlife in the area of any new Transmission Line(s) built by the TOU will be made available for onsite review as requested;
(12) An attestation that the TOU's insurance coverage will be made available for onsite review as requested.

(c) Any additional information required by the Commission shall be requested from all TOU at such time as the Commission determines the need for such information.
(d) Information submitted in the reports required by this section shall be deemed confidential records or trade secrets of the reporting TOU under the Open Records Act as provided for by 51 O.S. Section 24A.22 and shall be made available for Commission onsite review, unless such records are successfully challenged or become the subject matter of an enforcement action at the Commission. Utilities will clearly mark all confidential documents as confidential.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12; Amended at 36 Ok Reg 658, eff 7-25-19]

165:35-43-5. Public Utility Division consideration

(a) PUD shall review and may investigate all reported transmission information for compliance with reporting requirements.
(b) After receiving a report from a TOU pursuant to the preceding Section, PUD:
(1) Will determine whether the report is compliant with the requirements of the Commission rules; and
(2) Inform the TOU of PUD's determination regarding compliance within ninety (90) calendar days of receipt of the report. In the event PUD determines the TOU's report is not in compliance with the rules, PUD shall contact the TOU to require additional information, and such information shall be provided within fifteen (15) calendar days of such notice. If the TOU fails to correct such non-compliance, PUD may reject the report or open an investigation to inquire further into the reported or submitted information.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12; Amended at 36 Ok Reg 659, eff 7-25-19]

165:35-43-6. Determining assessment fees

(a) In causes initiated on the Public Utility Docket to meet requirements of this subsection, fees shall be assessed upon a motion of PUD Staff or upon motion of the Attorney General.

(b) The Commission shall make a determination of the estimated costs of PUD and the Attorney General required to process, analyze and review filed information as required by this subsection. These estimated costs shall be the basis of the fee assessed on a TOU subject to this Subchapter.

(c) After notice to the TOU to be assessed and hearing, the Commission shall issue an order which shall include the following:

(1) Whether or not the TOU will be assessed fee(s);

(2) The amount of the fee(s) to be assessed; and

(3) The date payment(s) shall be paid.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12; Amended at 36 Ok Reg 660, eff 7-25-19]

165:35-43-7. Decommissioning of transmission lines

(a) A TOU shall be responsible, at its expense, for the decommissioning of any and all of its equipment upon abandonment or the end of the useful life of a Transmission Line or other electric transmission facility. After the decommissioning of any Transmission Line, a TOU shall restore the land upon which a decommissioned Transmission Line or other electric transmission facility was located consistent with the TOU's decommissioning plan.

(b) A TOU shall submit a decommissioning plan to identify the methodology used to mitigate potential impacts resulting from the cessation of operation at the end of the project's useful life. The plan shall consist of but not limited to the following:

(1) Identification of the specific project components that will be removed;

(2) A description of the decommissioning process in the event of abandonment during construction and abandonment during operation;

(3) A description of the process used for soil and road restoration; and

(4) An attestation that a statement of financial capability or insurance coverage sufficient to decommission the project outlined in the plan will be made available to the Commission upon request.

[**Source:** Added at 29 Ok Reg 1541, eff 7-12-12; Amended at 36 Ok Reg 660, eff 7-25-19]

SUBCHAPTER 45. WIND ENERGY

165:35-45-1. Purpose of this Subchapter
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165:35-45-3. Annual reporting requirements
165:35-45-4. Notification of intent to build a wind energy facility and other notices
165:35-45-5. Commission consideration
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165:35-45-7. Decommissioning of wind energy facilities

165:35-45-1. Purpose of this subchapter

The purpose of this Subchapter is to implement provisions of the Oklahoma Wind Energy Development Act, 17 O.S. §§ 160.11 *et seq.*, by establishing rules and procedures for an entity that builds, constructs, owns, operates, controls, manages or maintains a wind energy facility within the State of Oklahoma. This Subchapter applies to the components of wind energy facilities built, constructed, owned, operated, controlled, managed or maintained within the State of Oklahoma, provided however it does not apply to any TOU.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended at 36 Ok Reg 660, eff 7-25-19]

165:35-45-2. Definitions

In addition to terms defined in the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 et seq., the following word(s) or term(s), when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Clearinghouse" means the Military Aviation and Installation Assurance Siting Clearinghouse.

"Determination of No Hazard" means a document issued by the Federal Aviation Administration.

"FAA" means the Federal Aviation Administration.

"Project boundary" means a graphic depiction of a wind energy facility's outer boundary, which should adequately demonstrate the project's outer perimeter, inclusive of all wind turbines.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended emerg. eff 12-7-18; Amended at 36 Ok Reg 660, eff 7-25-19; Amended emerg. eff 10-2-19]

165:35-45-3. Annual reporting requirements

On or before March 1 of each year, each wind energy facility owner or operator shall submit information required by PUD. This submission shall provide to PUD information about wind energy facilities the owner constructs, owns, operates, manages or maintains within the State of Oklahoma. Within such submission, the wind energy facility owner or operator shall provide information, which includes but is not limited to the following:

(1) The commercial generation date of each wind energy facility;

(2) If a wind energy facility fails to generate power, an explanation of the cause of the failure to generate;

(3) An attestation indicating that the wind energy facility's insurance coverage will be made available for onsite review by PUD as requested;
(4) For the first annual report(s) associated with a wind energy facility's first year of commercial operation, the report shall also include: a final project description and a final location description for each turbine, as constructed, and an attestation indicating that setback and notice requirements have been complied with.
(5) For those wind energy facility components that are otherwise subject to the rules applicable to the annual reports of TOUs, this Subchapter does not require duplicative reporting.
(6) Electronic submission is preferred; however, all forms of submission will be accepted.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended at 36 Ok Reg 660, eff 7-25-19]

165:35-45-4. Notification of intent to build a wind energy facility and other notices

(a) Within six (6) months of the initial filing with the FAA, the owner of a wind energy facility shall electronically submit to the PUD Director all initial 7460-1 forms for all individual wind turbines or any other individual structure that requires a FAA Form 7460-1 that is part of a wind energy facility, an attestation of compliance with the provisions of 17 O.S. § 160.20 (A), and a map of the project boundary. Within thirty (30) days of the initial filing with the FAA, the owner of a wind energy facility shall submit copies of all initial 7460-1 forms for individual wind turbines and other individual structures that require a 7460-1 that are part of a wind energy facility to the Aeronautics Commission.
(b) PUD shall provide the owner of a wind energy facility with affirmation of submission of the notification of intent to build by either providing proof of receipt stamp or confirmation of receipt if submission is made electronically.
(c) The owner of the wind energy facility shall send copies of the notification with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of submission with the Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be sent to the governing body of the municipality within twenty-four (24) hours of submission with the Commission.
(d) Within six (6) months of submitting the notification with the Commission as provided for in subsection (a) of this section, the owner of the wind energy facility shall cause a copy of the notification to be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located. Proof of publication shall be submitted to the PUD Director.
(e) Within sixty (60) calendar days of publishing the notification in a newspaper as provided for in subsection (f) of this section, the owner of the wind energy facility shall hold a public meeting. Notice of the public meeting shall be published in a newspaper of general circulation and submitted to the board of county commissioners in the county or counties in which all or a portion of the wind energy facility is to be located. The notice shall contain the place, date and time of the public meeting. Proof of publication of the notice shall be submitted to the PUD Director. The public meeting shall be held in one of the counties in which all or a portion of the wind energy facility is to be located.
(f) If the owner of a wind energy facility is required to file subsequent 7460-1 forms with the FAA due to changing locations or heights of individual structures from the locations or heights

originally proposed in the initial 7460-1 forms submitted to the Oklahoma Aeronautics Commission, the owner shall, within ten (10) calendar days of filing with the FAA, submit such subsequent 7460-1 forms to the Corporation Commission and Aeronautics Commission. A wind energy facility owner shall not be required to start the notification processes over unless the subsequent 7460-1 forms expand the project beyond its original project boundary submitted to the Corporation Commission.
(g) The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information as required in this section, the owner shall be subject to an administrative penalty from the Commission not to exceed One Thousand Five Hundred Dollars ($1,500) per day, per violation following hearing and issuance of a final order of the Commission.

(h) No individual wind turbine or any other individual structure that requires a FAA 7460-1 form that is part of a wind energy facility may be constructed or expanded unless there is an active Determination of No Hazard from the FAA and adverse impacts to the United States Department of Defense, pursuant to Title 32 of the Code of Federal Regulations, Section 211.6, have been resolved as evidenced by documentation from the Clearinghouse for the individual wind turbine or other individual structure. The Mission Compatibility Certification Letter or successor form may serve as such evidence of adverse impacts being resolved with the Department of Defense or successor agency. Determinations of No Hazard and documentation of the resolution of adverse impacts to the Department of Defense shall be submitted by the owner of a wind energy facility to the Corporation Commission and the Aeronautics Commission.
(i) If an owner of a wind energy facility fails to submit an active Determination of No Hazard and documentation that adverse impacts to the Department of Defense have been resolved by the Clearinghouse for the individual turbine or other individual structure prior to the start of construction, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day, per violation from the Corporation Commission.
(j) All notices, notifications, Determinations of No Hazard, and proof of compliance with all provisions of the Oklahoma Wind Energy Development Act, shall be retained by the wind energy developer, for a period of three (3) years after commercial operation date; and, upon reasonable request, PUD may inspect these documents to ensure compliance.
(k) The owner of a wind energy facility shall electronically provide a notice to the PUD Director indicating that it has commenced the 60-day notice as required by 17 O.S. § 160.21(F). Such notice shall be sent to the PUD Director prior to commencement of construction of the wind energy facility. The notice to the PUD Director shall also include an affirmation that all required notices and notifications have been properly provided, and a list of the recipients of all required notices and notifications shall be retained by the wind energy developer and made available to PUD upon reasonable request.
(l) All submissions shall be submitted electronically to PUD, unless prior approval is granted by the PUD Director.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended emerg. eff 12-7-18; Amended at 36 Ok Reg 661, eff 7-25-19; Amended emerg. eff 10-2-19]

165:35-45-5. Commission consideration

(a) PUD shall review and may investigate all wind energy facility information reported or submitted for compliance with the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or with the notice requirements in this Subchapter or in 17 O.S. § 160.20 or 17 O.S. § 160.21.

(b) After receiving a report or submission from a wind energy facility pursuant to the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or the notice requirements in this Subchapter regarding notice of intent to construct in 17 O.S. § 160.20 or 17 O.S. § 160.21, PUD will:

(1) Determine whether the report or submission is compliant with the annual reporting or notice requirements; and

(2) Inform the wind energy facility owner or operator of PUD's determination within thirty (30) calendar days of receipt of the report or submission if it is not in compliance. In the event PUD determines the wind energy facility's report or submission is not in compliance, PUD shall contact the owner or operator to require additional information; and, such information shall be provided within fifteen (15) calendar days of such notice. If the facility owner fails to correct such non-compliance, PUD may reject the report or submission and may open an investigation to inquire further into the reported or submitted information.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended emerg. eff 12-7-18; Amended at 36 Ok Reg 662, eff 7-25-19; Amended emerg. eff 10-2-19]

165:35-45-6. Determining assessment of fees

(a) In wind energy facility causes initiated on the Public Utility Docket for alleged violation(s) of any provision of this Subchapter, fees shall be assessed upon motion of the PUD in wind energy facility causes.

(b) The Commission shall make a determination of the estimated costs of PUD required to process, analyze and review wind energy facility causes initiated on the Public Utility Docket. These estimated costs shall be the basis of the fee assessed to a wind energy facility subject to this Subchapter.

(c) After notice to the wind energy facility to be assessed and hearing, the Commission shall issue an order which shall include the following:

(1) Whether or not the wind energy facility will be assessed a fee(s);

(2) The amount of the fee(s) to be assessed; and

(3) The date payment(s) of the fee(s) shall be made.

(d) In causes wherein the wind energy facility owner is also a public utility, as defined in 17 O.S. § 151, required to pay the public utility assessment fee pursuant to 17 O.S. § 180.11 and OAC 165:5-3-20, the above assessment of fees shall not apply.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended at 35 Ok Reg 662, eff 7-25-19]

165:35-45-7. Decommissioning of wind energy facilities

(a) The owner of a wind energy facility shall be responsible, at its expense, for the proper decommissioning of the facility upon abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility. Decommissioning shall be in a manner consistent with 17 O.S. § 160.14 and 17 O.S. § 160.15.

(b) Evidence of financial security to cover the anticipated costs of decommissioning may be in the form of a surety bond, collateral bond, parent guaranty, cash, cashier's check, certificate of deposit, bank joint custody receipt, or irrevocable letter of credit.
(c) The owner of a wind energy facility shall submit to the PUD Director, a notice of decommissioning for the proper retirement of the facility upon abandonment or the end of the useful life of the commercial wind energy facility. Such notice of decommissioning shall be submitted not less than sixty (60) calendar days prior to commencement of decommissioning in a manner consistent with 17 O.S. § 160.15.

[**Source:** Added at 33 Ok Reg 645, eff 8-25-16; Amended at 45 Ok Reg 662, eff 7-25-19]

APPENDIX A. TO VERIFIERS OF UTILITY CONSUMERS HAVING LIFE-THREATENING CONDITIONS [NEW]

Thirty (30) Day Medical Verification Certificate To Suspend Disconnection For Life Threatening Health Conditions

A. INSTRUCTIONS

The Oklahoma Corporation Commission requires electric utilities under its jurisdiction to suspend disconnection of service, or reconnect if disconnected, when a utility consumer or a permanent member of the household has a medical condition wherein discontinuance of the electric service would be life-threatening. A life-threatening condition is defined as one where the consumer or other permanent resident of the household is dependent upon electric-operated equipment that is prescribed by a physician and is needed to sustain the person's life.

Examples of life-sustaining equipment include: kidney dialysis machine, iron lung, oxygen concentrator and certain other oxygen machines, cardiac monitor, heating and air-conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. If battery backup is normally available for the life-sustaining equipment, then the medical condition is not considered life-threatening. The following equipment is not considered to be life-sustaining equipment: hot water heater, refrigerator, range/stove, nebulizer that is battery-driven or hand-driven or self-contained, battery-driven sleep apnea monitor, battery-driven cardiac monitor.

The utility consumer may initially certify the condition by completing "Form For Utility Consumer Verification" which will suspend disconnection of electric service to the specified residence for a period of thirty (30) days from the initial notification. After the initial thirty (30) days, normal collection action will resume.

An additional thirty (30) day period shall be extended by the utility at the request of the utility consumer accompanied with verification by a medical or osteopath doctor (use "Form For Medical Or Osteopathic Doctor Verification"). The request for the additional thirty (30) day extension must be made by the consumer to the utility company before the end of the initial thirty (30) day period. The utility is not required to furnish service to the consumer beyond a total of sixty (60) days for a life-threatening condition without full payment of the account or acceptable payment arrangements on any unpaid balance unless otherwise directed by the Commission. Failure of the consumer to fully comply may result in denial of life-threatening status and renewed collection activity by the utility, including termination of service to the residence.

We appreciate your willingness to participate as a verifier and trust you will do so advisedly, considering the fact that energy consumed during this suspension period must eventually be paid for by the utility consumer. Our intent is to ensure that those utility consumers having genuine life-threatening situations in their homes are not mistaken for those who would abuse this privilege at the expense of others.

B. FORM FOR UTILITY CONSUMER VERIFICATION
(to be completed by the utility consumer for the initial thirty (30) day period)

Name of Consumer:
_____

Electric Account
No.:_____

Address: _____

City: _____State: _____Zip: _____

Home Phone: _____

Place of Employment: _____

Name of Impaired Individual if other than consumer:
_____

Relationship to Consumer if other than consumer:
_____

By signing this Medical Certificate, I acknowledge that a permanent resident of the household is applying for the medical verification certificate to suspend disconnection of electric service for a period of 30 days from the date the request was made with the utility company due to a life-threatening conditions and, as the consumer, I am responsible for the payment of bills rendered for electric service during this suspension of disconnection. I acknowledge that I may be considered for an additional 30 days (total of 60 concurrent days) if my doctor submits the completed form to the utility company within 30 days of the forms request from the utility and I call the utility within the same period of time to confirm receipt of the form and if the claim is accepted by the company.

Consumer's Signature: _____ Date: _____

C. FORM FOR MEDICAL OR OSTEOPATHIC DOCTOR VERIFICATION

(to be completed by a medical or osteopathic doctor and returned by the medical or osteopathic doctor to the utility company via the method indicated on the form for the applicant to be considered for an additional thirty (30) days to pay the past due balance.)

Name of Patient: _____

Nature of Medical Problem: _____

Is this condition considered life-threatening without electric service? Yes? No?

What is the estimated duration of the life-threatening condition?: _____

Specify the effect that discontinuance of electric service might have upon the health of the impaired individual: _____
_____

Specify any electric-operated equipment necessitated by the medical problem: _____
_____

Doctor's Name: _____

Business Phone: _____

Address: _____

City: _____ State: _____ Zip: _____

Doctor's Signature: _____ Date: _____