BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING OAC 165:35, ELECTRIC UTILITY RULES

CAUSE NO. RM 202000001

RULE IMPACT STATEMENT

Pursuant to 75 O.S. § 303(D) of the Oklahoma Administrative Procedures Act, the Public Utility Division ("PUD") of the Oklahoma Corporation Commission ("Commission") submits the following Rule Impact Statement for its proposed rules regarding Title 165, Chapter 35 of the Oklahoma Administrative Code ("OAC").

I. Brief description of the purpose of the proposed rules:

The purpose of the proposed rules is to address changes to the Oklahoma Wind Energy Development Act ("the Act"), which was amended by House Bill 2118 ("HB 2118"). The proposed changes to OAC 165:35, Subchapter 45 include: removing the definition of "Mitigation plan;" amending the definition of "Project boundary;" general grammatical changes; and modifying the notification of intent to build a wind energy facility section to align with the requirements in HB 2118. This proposal would make permanent the recently adopted emergency wind rules.

II. Description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities:

Those most likely to be affected by the proposed rules are wind energy developers who are required to submit specific information to the Commission's PUD. The PUD does not expect significant compliance costs for these wind energy developers due to the passage of HB 2118 or these permanent rules, and has not received any cost impact information from any private or public entity. The PUD expects a significant increase in its costs to administer the requirements of HB 2118; however, on August 1, 2019, a new fee in OAC 165:5-3-42 became effective and will be assessed against wind energy developers. The fee will only cover a portion of the PUD's costs.

III. Classes of persons who will benefit from the proposed rules:

The persons benefiting from the proposed rules are wind energy developers, landowners near wind farms, and the general public.

IV. Description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:
The PUD believes that due to the amendment of the Act by HB 2118 and these rules, wind energy developers will be economically impacted; however, no information regarding economic impact has been provided to the PUD at this time. While HB 2118 may increase compliance costs for the Oklahoma Aeronautics Commission ("Aeronautics Commission") and the Military Aviation and Installation Assurance Siting Clearinghouse ("Clearinghouse"), these rules are not expected to increase the costs of either the Aeronautics Commission or the Clearinghouse. Further, as stated previously, the PUD will incur increased costs due to the requirements in HB 2118 and these rules. The proposed rules do not propose any fee changes.

V. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

The PUD expects increased costs to administer the requirements of HB 2118; however, as of August 1, 2019, a new fee in OAC 165:5-3-42 became effective. This new fee is attributable to wind energy developers, and will cover some of PUD's costs. The remaining source of revenue to be used for implementation and enforcement of the proposed permanent rules is the PUD Assessment. There is no anticipated effect on state revenue.

VI. Determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:

The rules are not expected to have an economic impact on either the Aeronautics Commission or the Clearinghouse. Further, these permanent rules will not require the cooperation of the Aeronautics Commission or the Clearinghouse in implementing or enforcing the rules. It is not anticipated that implementation and enforcement of the proposed rules will have an economic impact on any other political subdivisions or require their cooperation in implementing or enforcing the permanent rules.

VII. Determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The PUD does not believe that the proposed rules will have an adverse economic effect on small business.

VIII. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:

The requirements of HB 2118 require wind energy developers to submit specific information to the PUD. The rules clarify the submission process set forth in the Act as amended by HB 2118, and wind energy developers may incur additional compliance costs as a result. The
PUD has attempted to minimize compliance costs by clarifying, and not expanding, the submission process. The PUD knows of no non-regulatory methods or less intrusive methods of achieving the purpose of HB 2118 or the proposed permanent rules.

IX. Determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:

The proposed rules are designed to reduce significant risks and/or hazards to the public health, safety, and environment and also with regard to landowners, military training operations, economic impacts, national weather service radars, federal and state regulatory agencies, wind energy developers, and national security by ensuring compliance with the updated statutory reporting requirements for wind energy developers in Oklahoma, by requiring the submission of the Federal Aviation Administration Form 7460-1, a Determination of No Hazard, and a Mission Compatibility Certification Letter.

X. Determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented:

If the proposed rules are not implemented, potential detrimental effects to the public health, safety and environment could result as described above. Extraordinary events having significant effects on military operations, landowners, and national weather service radars could occur if the rules are not implemented.

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 30 day of January, 2020.

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