

**TITLE 165. CORPORATION COMMISSION
CHAPTER 35. ELECTRIC UTILITY RULES**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 1. General Provisions

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

Subchapter 45. Wind Energy [NEW]

165:35-45-1. Purpose of this subchapter [NEW]

165:35-45-2. Definitions [NEW]

165:35-45-3. Annual reporting requirements [NEW]

165:35-45-4. Notification of intent to build a wind energy facility [NEW]

165:35-45-5. Commission consideration [NEW]

165:35-45-6. Determining assessment of fees [NEW]

165:35-45-7. Decommissioning of wind energy facilities [NEW]

AUTHORITY:

Oklahoma Corporation Commission: 17 O.S. § 152(A), 17 O.S. § 160.22, 17 O.S. § 160.15(A), 17 O.S. § 160.21(A); and Article IX, § 18 of the Oklahoma Constitution

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

January 14, 2016

COMMENT PERIOD:

January 28, 2016 through March 3, 2016

PUBLIC HEARING:

March 15, 2016

ADOPTION:

March 15, 2016

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

March 25, 2016

APPROVED BY GOVERNOR'S DECLARATION:

The rules were approved by Governor's declaration on June 9, 2016.

FINAL ADOPTION:

June 9, 2016

EFFECTIVE:

August 25, 2016

SUPERCEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

ANALYSIS:

Rule 165:35-1-6 addresses the need for submission of distribution line location information to the Public Utility Division of the Oklahoma Corporation Commission. This rule establishes a submission date and the format of the data to be provided.

Rules 165:35-45-1 through 165:35-45-7 are applicable to wind energy facilities. The rules establish annual reporting requirements that are in addition to those found in

FILED
JUN 15 2016
COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

RECEIVED

JUN 14 2016
16-524
OKLAHOMA SECRETARY
OF STATE

the Oklahoma Wind Energy Development Act. The rules also include several sections impacting plans for development of wind energy facilities and also decommissioning of those facilities once they are no longer in service.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF AUGUST 25, 2016:

SUBCHAPTER 1. GENERAL PROVISIONS

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

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 Director of the Public Utility Division using geographic information system data or standards as prescribed by the Director of the Public Utility Division.

SUBCHAPTER 45. WIND ENERGY

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 Transmission Only Utility.

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:

"Project description" 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.

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 the Public Utility Division. This submission shall provide to the Public Utility Division 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 that the wind energy facility's insurance coverage will be made available for onsite review by the Public Utility Division 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.
- (5) For those wind energy facility components that are otherwise subject to the rules applicable to the annual reports of Transmission Only Utilities, this Subchapter does not require duplicative reporting.
- (6) Electronic submission is preferred; however, all forms of submission will be accepted.

165:35-45-4. Notification of intent to build a wind energy facility

(a) The owner of a wind energy facility shall submit notification of intent to build a facility to the Corporation Commission within six (6) months of the initial filing pertaining to commencement of construction with the Federal Aviation Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace. Such notification shall be submitted to the Director of the Public Utility Division of the Corporation Commission.

(b) The Public Utility Division 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) In the event that an owner of a wind energy facility submits notification of intent to build a facility with the Corporation Commission and files subsequent forms with the FAA, the owner is not required to submit amended or additional notification of intent to build a wind energy facility unless the project layout is expanded beyond the original project description.

(d) The owner of the wind energy facility shall submit 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 filing 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 submitted to the governing body of the municipality within twenty-four (24) hours of filing with the Commission.

(e) 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 Director of the Public Utility Division of the Corporation Commission.

(f) Within sixty (60) days of publishing the notification in a newspaper as provided for in subsection (e) 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 Director of the Public Utility Division of the Corporation Commission. 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.

(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 with the Commission as required in this section, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars (\$1,500) per day following hearing and issuance of a final order of the Commission.

(h) Electronic submission is preferred; however, all forms of submission will be accepted.

165:35-45-5. Commission consideration

(a) The Public Utility Division 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. § 160.21.

(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 or in 17 O.S. § 160.21, the Public Utility Division:

(1) Will determine whether the report or submission is compliant with the annual reporting or notice requirements; and

(2) Will inform the wind energy facility owner or operator of the Public Utility Division's determination within thirty (30) calendar days of receipt of the report or submission. In the event the Public Utility Division determines the wind energy facility's report or submission is not in compliance, the Public Utility Division 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, the Public Utility Division may reject the report or submission and may open an investigation to inquire further into the reported or submitted information.

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 Staff of the Public Utility Division in wind energy facility causes.

(b) The Commission shall make a determination of the estimated costs of the Public Utility Division 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.

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.

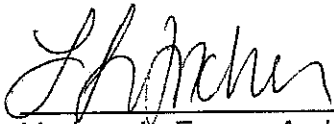
(b) Evidence of financial security to cover the anticipated costs of decommissioning may be in the form of a surety bond, collateral bond, parent guaranty, cash, cashier's check, certificate of deposit, bank joint custody receipt, or irrevocable letter of credit.

(c) The owner of a wind energy facility shall submit to the Director of the Public Utility Division of the Corporation Commission, 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.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to OAC 165:35, Electric Utility Rules, which were considered finally adopted by the Oklahoma Corporation Commission on June 9, 2016, under permanent rulemaking provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq.

I, the undersigned do hereby attest that such rules were finally adopted in substantial compliance with the Administrative Procedures Act.



Lindsay LaFevers Archer
Rules Liaison
Oklahoma Corporation Commission
June 15, 2016

NAME OF AGENCY: Corporation Commission
TYPE OF DOCUMENT: Final Adoption of Permanent Rules

LIAISON VERIFICATION:

I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the Administrative Procedures Act and the rules of the Secretary of State. Additional information may be obtained by contacting me at (405) 521-4259.



Lindsay LaFevers Archer
Rules Liaison
Oklahoma Corporation Commission
June 15, 2016