

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT)
RULEMAKING OF THE OKLAHOMA)
CORPORATION COMMISSION) CAUSE NO. RM 201800012
AMENDING OAC 165:45. GAS SERVICE)
UTILITIES)

PUBLIC UTILITY DIVISION'S PROPOSED RULES

(Proposed Changes since the 11/20/2018 Technical Conference are highlighted in yellow)

**TITLE 165. CORPORATION COMMISSION
CHAPTER 45. GAS SERVICE UTILITIES**

SUBCHAPTER 1. GENERAL PROVISIONS

165:45-1-1. Purpose

The rules in this Chapter are intended to define good business practice under normal conditions, to insure safe, adequate and reliable service, and to ~~insure~~ensure fairness to the public and to the utility.

165:45-1-2. 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.

"**Aggregation point**" means any Commission approved interconnection point of more than one citygate at which gas can be aggregated for the purposes of supplying reliable and least cost natural gas services for more than one city or municipality.

"**ANSI**" means the American National Standards Institute, Inc.

"**Attorney General**" means the Oklahoma Attorney General.

"**Business day**" means Monday through Friday, excluding all legal holidays which have been declared legal holidays by law or proclamation of the Governor of Oklahoma, or those days on which mail is not delivered.

"**Citygate**" means the interconnection point between the local distribution facilities which are located downstream of such interconnection point and the transmission lines and/or other facilities

located upstream of such interconnection point at a point in time to be determined by the Commission during the unbundling plan hearing, or as otherwise ordered by the Commission.

"Citygate gas service(s)" means any one or more of the services of natural gas supply, gathering, storage or transmission of natural gas upstream of the citygate or other delivery point acquired by a gas utility at the citygate or other delivery point pursuant to the competitive bidding procedures in Subchapter 17 of this Chapter in order to provide natural gas service to end-users on its local distribution facilities.

"Competitive bid" means a response provided based on a public competitive bidding process.

"Commission" means the Oklahoma Corporation Commission.

"Complaint" means an oral or written communication by an interested party requesting an investigation or corrective action regarding the provision of natural gas services. A complaint may be made orally, electronically or in writing, but must be made or received at the utility's offices.

"Consumer" means any person, firm, corporation, municipality, or agency, other political subdivision of the United States or the State of Oklahoma receiving any type of natural gas service. 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" are 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 gas utility, its parent holding company or an affiliated entity and such other services authorized by the Commission on a case-by-case basis.

~~**"Corporation Commission"** means the Oklahoma Corporation Commission.~~

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

"Customer rate class" means a division of rates as provided by a utility's tariff for pricing natural gas service.

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

"Distribution main" means a distribution line that serves as a common source of supply to service lines.

"Distribution system" means any pipeline, meter, metering station, valve, regulator, regulating station and/or delivery station which receives natural gas from a transmission system, gathering line, or other natural gas supply source for service to one or more consumers.

"Distribution" or "Distribution service" means the downstream transportation of natural gas services from the citygate to end-users through a utility's local distribution facilities unbundled from all citygate gas services, but generally bundled with any one or more of the services of billing, metering, customer service and similar services.

"Downstream (or "merchant" or "retail") service" means any one or more of the citygate(s) service(s) of natural gas supply, gathering, storage or transmission of natural gas marketed downstream by an entity at the retail or merchant level to end-users rather than through the competitive bidding process pursuant to Subchapter 17 of this Chapter, and which entity uses the local distribution facilities of a utility, rather than bypass for ultimate delivery of such downstream or merchant or retail service to the end-user.

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

"End-user" means any consumer receiving natural gas service of any nature.

"FERC" means the Federal Energy Regulatory Commission.

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

"Gas" means manufactured gas, natural gas, other hydrocarbon gas, or any mixture of gases produced, transmitted, distributed or furnished by a utility unless otherwise specifically designated.

"Gas supply source" means gas from the wellhead, any type of storage, processing plant, or other provider of gas.

"Gathering line" means a pipeline that transports gas from a production facility within a gathering system.

"Gathering system" means a pipeline system bringing gas from the wellhead to an aggregation point or transmission line or other gas handling facility.

"Gas utility" means natural gas utility as defined in this Chapter.

"Independent producer" means, for purposes of this Chapter only, any person who produces natural gas and is not engaged in marketing natural gas except for its own account or for other working interest owners in operated wells or who derives a majority of his or her oil or natural gas related income from working interests.

"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 natural gas services.

"Intrastate pipeline" means a common carrier transmission pipeline as defined in 52 O.S. § 24 and as applied in this Chapter.

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

"Local distribution company" means the utility distributing natural gas, delivered to its citygate from a transmission pipeline or gathering system, to residential, commercial and industrial end-users over a local geographic area.

"Local distribution facilities" means facilities whose function is the local distribution of natural gas to residential, commercial and industrial consumers and which facilities are characterized by a system of pipes, meters, stations, valves and other equipment for distributing natural gas among consumers within a particular local community or in smaller diameter lines at lower pressures in contrast to movement in larger diameter lines at higher pressures characteristic of transmission, unless otherwise ordered by the Commission.

"Meter" means any device that measures the quantity of gas transferred from one party to another.

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

"Municipality" means an incorporated city or town in the State of Oklahoma.

"Natural gas services" means any of the services in the natural gas industry, including, but not limited to, local distribution, transmission, gathering, storage, and gas supply, and as specified in Subchapter 17 of this Chapter.

"Natural gas utility" means a natural gas utility as defined in 17 O.S. § 151 *et seq.*, and that includes all utility affiliate assets which the Commission has determined to be included in ratebase.

"P.s.i.a." means pounds per square inch absolute.

"Pipe" means any tubing used in the gathering, transmission or distribution of gas which meets the specifications of the U.S. Department of Transportation (U.S.D.O.T.).

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

"Prudency review" means, for purposes of this Chapter, a comprehensive review that examines as fair, just and reasonable, a utility's practices and policies and judgment 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, without consideration of its ultimate used and useful nature.

"PUD" [means the Public Utility Division of the Oklahoma Corporation Commission.](#)

"Public competitive bidding process" means a gas utility process to solicit from all entities offers to provide natural gas services upstream of the citygate as provided in Subchapter 17 of this Chapter.

"Regulator" means a device used to reduce the gas pressure.

"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.

"Request for bid" means a gas utility's request for proposals to provide natural gas services at a Commission approved gas utility's designated citygate or aggregation point.

"Service line" means a line that branches off a distribution main or distribution line in order to transport gas from the common source of supply to utility meters or to a consumer's piping, whichever is farther downstream, or the connection to a consumer's piping if there is no utility meter.

"Shipper" means any person, firm or corporation engaged in the intrastate or interstate transmission of natural gas for third parties.

"Special contract" means a written Commission-approved agreement between a utility and a consumer for the provision of gas service on terms and conditions which are different from those authorized by a tariff.

"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.

"Storage" means an underground natural or man-made facility used to store natural gas for extended periods of time.

"Stranded costs" means those prudent and verifiable costs and investments incurred by a natural gas utility, which were "used and useful" to meet the needs of its end-users, including but not limited to, its upstream capacity and supply commitments that cannot be avoided or mitigated or recovered from end-users under an existing tariff which have been caused as a result of the restructuring of the natural gas industry which were incurred prior to February 19, 1997, the date of issuance of Commission Order No. 409563, which closed the Notice of Inquiry, Cause No. PUD 960000133, and which ordered the promulgation of rules to restructure the natural gas service industry, such date being the date the gas utilities were placed on notice of the Commission's intent to restructure natural gas utility service(s). Prior to or during the utilities' stranded cost hearing, this date may be modified by order of the Commission, after notice and hearing. Stranded costs may include prudent and verifiable transition costs.

"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.

"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.

"Tariff" means every rate schedule, or provision thereof, and all terms, conditions, rules and regulations for furnishing gas service filed with the Commission and approved by the Director of the Public Utility Division.

"Therm" means 100,000 British thermal units of heat.

"Transition costs" means those prudent and verifiable costs and investments incurred by a public gas utility after February 18, 1997, in implementing the Commission's gas utility restructuring rules and to restructure its facilities, contracts and operation. Such costs as determined by the Commission may include education for the public related to the natural gas industry restructuring.

"Transmission or transmission service" means the upstream transportation of natural gas through pipelines and/or other facilities from a well-head, gathering line or other receipt point to a local distribution facilities or an end-user located on the transmission pipeline.

"Transmission pipeline" means a pipeline, either a gas utility owned transmission line or an intrastate pipeline, other than a gathering system that transports gas from a gathering system, interstate pipeline or storage facility to a citygate, aggregation point, storage facility or other delivery point.

"Unbundling" means the identification and separation of natural gas services and/or products and the associated costs to provide each such service and/or product which have been part of the "bundled" complement of services provided by a public gas utility.

"Unbundling plan" means a public utility's proposal(s) to separate its previously bundled services offered upstream of the citygate and to price these services individually.

"Uniform System of Accounts (USOA)" means the system of accounts as currently prescribed the Federal Energy Regulatory Commission (FERC), those accounting systems as published by the National Association of Regulatory Utility Commissioners (NARUC) or other accounting methods approved by the Commission.

"Upstream of the Citygate" means all natural gas services provided at the gas utility's citygate or other point of delivery to local distribution facilities which are necessary to serve end-users.

"Upstream related entity" means an affiliate of a gas utility or that portion of a gas utility which provides citygate gas services.

"U.S.D.O.T." means the United States Department of Transportation.

"Utility" means a natural gas utility as defined in this Chapter.

165:45-1-3. Commission authority

The ~~Corporation~~ Commission has authority to promulgate rules concerning the provision of natural gas service to all end-users within the State of Oklahoma pursuant to Okla. Const. Art IX, §§ 18 and 34, 17 O.S. § 151 et seq., and 52 O.S. § 24 et seq.

165:45-1-4. Scope of rules

- (a) This Chapter shall apply to the operations of any gas utility, including gas supply gathering, transmission and storage facilities operating within the State of Oklahoma subject to the jurisdiction of the ~~Corporation~~ Commission. Amendments or changes to this Chapter shall not apply retroactively to existing systems that were in physical compliance with all applicable laws that were in effect at the time of their installation, unless otherwise specifically stated in this Chapter.
- (b) All tariffs filed by gas utilities shall conform to this Chapter. The filing or acceptance of a tariff which is in conflict herewith shall not be deemed a waiver of this Chapter, unless it specifically states that this Chapter is waived and cites the specific authority for the waiver.
- (c) Gas utilities shall submit proposed tariffs which conform to the provisions of this Chapter, as revised, within one hundred twenty (120) calendar days after July 1, 1996.
- (d) Gas utilities shall submit proposed tariffs which conform to the provisions of Subchapter 17 of this Chapter within thirty (30) calendar days from the effective date of Subchapter 17, or the date of the Commission order approving the utility's unbundling plan or alternative to an unbundling plan, as applicable.
- (e) Nothing provided in this Chapter shall relieve any utility from any duty prescribed by the laws of the State of Oklahoma or the United States.
- (f) No rate, special contract, agreement, rule, or term and condition of service which is in conflict with the rules of this Chapter shall be effective unless the utility has been granted a waiver by the Commission pursuant to OAC 165:45-1-4.2.

SUBCHAPTER 3. PLANT, EQUIPMENT, AND FACILITIES

165:45-3-1. Maintenance of plant, equipment, and facilities

- (a) Each utility shall install, operate, and maintain its entire plant and system in such condition as will enable it to furnish safe, adequate and reliable gas service, subject only to emergency conditions beyond its control.
- (b) The transmission and distribution systems, including transmission lines, distribution mains, compressing equipment, regulators, meters, services, etc., shall be constructed, installed, and maintained in accordance with the U.S. Department of Transportation, Regulations for Transportation of Natural and other Gas by Pipeline - Title 49 C.F.R. §192; and all applicable rules adopted by the Commission.
- (c) Each utility shall file with the Commission, annually, a statement regarding its plant, equipment, and facilities in such form as the Commission may require.
- (d) If PUD informs the utility of any issues concerning the utility's plant, equipment, or facilities, the utility shall electronically provide photographic evidence to PUD showing completion of work and that the issue has been resolved.

165:45-3-2. Extent of system in which utility shall maintain service

- (a) Each utility shall operate and maintain in safe, efficient, and proper condition all of its facilities and instrumentalities used in connection with the transmission, distribution, storage, regulation, measurement, and delivery of gas to each consumer up to and including the point of delivery into the piping owned by the consumer. Unless otherwise agreed by the utility and the consumer, the point of delivery shall be at the outflow side of the meter.

- (b) ~~House piping~~ Customer owned piping shall conform to requirements of the applicable city or town ordinances. In towns, villages, and suburban territory where there are no applicable regulations as to gas service, ~~house piping~~ customer owned piping, and venting shall comply with the International Gas Code, dated ~~2003~~2018, and future amendments or supplements thereto.
- (c) ~~House piping~~ Customer owned piping shall include a shut-off valve on the outside of the structure for the consumer's use. The consumer shall cause to have one installed on all new construction or when the ~~house~~customer owned piping is altered outside the structure.
- (d) All gas lines, pipes, and equipment owned by the consumer shall be maintained in safe, efficient, and proper condition by and at the expense of the consumer. The utility shall have the right to inspect a new installation prior to furnishing service, the right to inspect an existing installation under reasonable conditions, and may refuse or discontinue service until the provisions of this Chapter are complied with. Service may be refused or discontinued wherever a test reveals excessive loss of gas through leakage on consumer's premises.

165:45-3-3. Service lines

- (a) Upon application by any bona fide applicant for service, a utility shall, at its own expense, furnish and install a stopcock and service line of suitable capacity to the meter location.
- (b) Where by agreement between the utility and the consumer the meter is located at a point other than at the property line or curb line of the consumer, the proper consumer's service line shall be installed and maintained by or at the expense of the consumer. The utility shall install and maintain the service line up to the property or curb line and all measurement equipment wherever located. Any such agreement hereafter made shall be in writing, signed by the consumer first taking service thereunder, and shall be binding upon all consumers subsequently receiving service at the premises. The agreement shall not be deemed a special contract under 165:45-15-2.
- (c) Where a utility and consumer cannot agree upon the location, dimensions, and type of equipment to be installed, the Commission shall, upon application of either the consumer or the utility and after notice and hearing, designate the installation to be made.
- (d) When the installation of a service line requires a trench to remain open on the consumer's property for an inspection or waiver of inspection, the utility shall perform the inspection, or request that the inspection be performed if done by a third party, within fourteen (14) calendar days of the installation.
- (e) All open trenches shall be clearly marked for the safety of the public using, at a minimum, caution tape or flags.

165:45-3-5. Sale or disposal of jurisdictional facilities by utility

- (a) The parties to a transaction, the performance of which will result in the transfer of any portion of a natural gas utility's jurisdictional plant or operating system or the transfer of some or all of a natural gas utility's customers to a person or entity that is not an affiliate of such utility, shall, at least ninety (90) calendar days before the effective date of such sale or transfer, request the approval of the Commission of the transaction by filing an original and eight (8) copies of a joint application, consistent with 165:5-7-1, with the Commission's ~~Office of the~~ Court Clerk, accompanied by the applicable filing fee. At the time the joint application is filed, the parties to the transaction shall serve a copy of the joint application, with all attachments thereto, upon the Attorney General and the Pipeline Safety Division. Additionally, the person or entity receiving

the facilities or customers shall, at the time of the filing, be providing natural gas service to Oklahoma customers or be seeking approval, in the joint application or in a separate cause, to provide such service to Oklahoma customers.

- (b) The joint application referred to in (a) of this Section shall include the following information:
- (1) The names of the parties to the transaction and the addresses of their respective principal places of business;
 - (2) A narrative description of the transaction, including, without limitation, a description of the transferring party's jurisdictional plant or operating system to be transferred to the acquiring party, the number and types of customers to be transferred to the acquiring party as a result of the transfer of those jurisdictional assets, the contemplated effective date of the transfer, and the consideration to be given for consummating the transfer;
 - (3) A statement as to whether the consideration to be given for consummating the transfer is below or above the net book value of the transferred assets;
 - (4) A narrative description of how the transferred customers will continue to receive safe and reliable natural gas service after the effective date of the transaction, any proposed changes to the rates charged for that service after the effective date of the transaction, including a summary of the effect that the proposed changes to rates would have on an average customer's bill, and any other proposed changes in the terms and conditions of that service after such effective date subject to the terms of (g) of this Section;
 - (5) A narrative description of the principal occupation or business of the acquiring party and all affiliates thereof during the previous five (5) years, and the names and relevant biographical information of all principals, officers, and directors of the acquiring party;
 - (6) A narrative description of the operational and managerial experience of the acquiring party's personnel to be responsible for the operation and management of the facilities to be used to provide natural gas service to the transferred customers after the effective date of the transaction;
 - (7) The names, addresses, and telephone numbers of representatives of the acquiring party who will be the contacts for ~~the Public Utility Division PUD~~ and ~~the Consumer Services Division CSD~~ and who will be primarily responsible for:
 - (A) Customer service issues;
 - (B) Repair and maintenance issues;
 - (C) Customer complaint issues;
 - (D) Authorizing and furnishing refunds to customers;
 - (E) Tariff issues; and
 - (F) Receiving notices related to causes docketed at the Commission.
 - (8) Audited financial statements of the acquiring party, to include but not be limited to balance sheets and income statements, covering the previous three (3) years;
 - (9) An unaudited financial statement of the acquiring party, covering the most recent quarter closed immediately preceding the filing of the application;
 - (10) An affidavit by the acquiring party stating that the acquiring party possesses the financial and managerial ability to provide safe and reliable natural gas utility service to the transferred customers and that the acquiring party is aware of and will abide by all Commission rules applicable to the provision of such service;
 - (11) The information required by 165:45-11-1(q) and (s) and an affirmation that the records and reports required by 165:45-9 exist and may be subject to review by the Commission during the application process.

- (12) A copy of the agreement governing the terms of the transaction;
- (13) If the acquiring party is also a public utility subject to the jurisdiction of the Commission, a statement to that effect. The information listed in (5) through (9) of this subsection is not required if the acquiring party is a public utility currently engaged in the furnishing of public utility services under the jurisdiction of the Commission at the time that the application is filed; and
- (14) The name and address of the acquiring party's service agent registered with the Oklahoma Secretary of State.
- (c) Upon Commission approval of the joint application referred to in (a) of this Section, the transferring party shall also transfer to the acquiring party the records required by the Commission to be maintained pursuant to 165:45-9 and 165:45-11-1(q) and (s), to the extent they pertain to the transferred customers.
- (d) After notice and hearing, the Commission shall issue an order approving the application if it finds that the transaction is fair, just, and reasonable and in the public interest. The acquiring party shall have the burden of establishing that the proposed transaction is fair, just and reasonable, as well as in the public interest.
- (e) Unless otherwise ordered by the Commission, the hearing referred to in (d) of this Section shall be commenced within sixty (60) [calendar](#) days after the joint application referred to in (a) of this Section is filed. Upon motion by any interested party in the proceeding, or *sua sponte*, the Commission shall establish a procedural schedule setting forth dates for the filing of written testimony, discovery, and the hearing on the merits and such other dates, as the Commission deems appropriate.
- (f) Notice of the hearing referred to in (d) of this Section shall be mailed to the Attorney General and to each customer of record of the transferring party who will be transferred to the acquiring party, and to any other person directed by the Commission to receive notice, at least twenty (20) [calendar](#) days prior to the date of the hearing. The form of the notice must be approved by the Commission prior to such mailing.
- (g) If the application is approved, the rates for natural gas service in effect for the transferred customers prior to the effective date of the transfer shall continue to be charged by the acquiring party with respect to those customers, unless and until different rates are reviewed and approved by the Commission in the current cause or in a subsequent cause. If different rates are reviewed and approved and/or changes in the terms and conditions of service are approved by the Commission in the current cause or in a subsequent cause, the acquiring party shall have thirty (30) [calendar](#) days after the final order has been issued to submit an original and two (2) copies of the proposed tariffs, which conform to 165:45-15-2, reflecting the changes or additions to rates and/or terms of service to [the Public Utility Division PUD](#) for review and approval.
- (h) Upon motion, a party may request a waiver from or modification to any of the requirements of this section pursuant to 165:45-1-4.2.
- (i) This section does not apply to transactions that involve the acquisition, control, or merger of a domestic public utility pursuant to 17 O.S. §§ 191.1 through 191.13, discontinuance of service pursuant to 165:45-11-10 or 165:45-11-11, nor routine retirement or replacement of facilities.

165:45-3-5.1. Acquisition, control, or merger of domestic public gas utilities

- (a) An original and ~~eight (8)~~ [four \(4\)](#) copies of an application for approval, consistent with 165:5-7-1, shall be filed with the Commission's ~~Office of the~~ Court Clerk no less than forty-five (45)

calendar days prior to the effective date of any of the following transactions pursuant to 17 O.S. §§191.1 through 191.13:

- (1) acquisition of all or any controlling interest in a domestic public utility,
 - (2) merger of a domestic public utility,
- (b) At the time the application is filed, the filing party shall serve a copy of the application with all attachments upon the Attorney General and the Commission's Pipeline Safety Division. The application shall include the following additional information, made under oath or affirmation:
- (1) The name and address of each acquiring party and all affiliates thereof; and
 - (A) If such acquiring party is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years, or
 - (B) If such acquiring party is not an individual, a report of the nature of its business and its affiliates' operations during the past five (5) years or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such acquiring party and its subsidiaries; and a list of all individuals who are or who have been selected to become directors or officers of such acquiring party, or who perform or will perform functions appropriate or similar to such positions. Such list shall include for each such individual the information required by (A) of this paragraph.
 - (2) *The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a detailed description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential if the person filing such statement so requests.* [17 O.S. § 191.3(A)(2)]
 - (3) Audited financial information in a form acceptable to the Commission as to the financial condition of an acquiring party of the preceding three (3) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar information as of a date not earlier than one hundred thirty-five (135) calendar days prior to the filing of the application or the period of the most recent closed quarter prior to the filing of the application.
 - (4) *Any plans or proposals which an acquiring party may have to liquidate such public utility, to sell its assets or a substantial part thereof, or merge or consolidate it with any person, or to make any other material change in its investment policy, business or corporate structure, or management. If any change is contemplated in the investment policy, or business or corporate structure, such contemplated changes and the rationale therefore shall be explained in detail. If any changes in the management of the domestic public utility or person controlling the domestic public utility are contemplated, the acquiring party shall provide a resume of the qualifications and the names and addresses of the individuals who have been selected or are being considered to replace the then current management personnel of the domestic public utility or the person controlling the domestic public utility.* [17 O.S. § 191.3(A)(4)]-
 - (5) *The number of shares of any voting security which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement, or acquisition referred to in 17 O.S. §191.2 . . . ;*

- (6) *The amount of each class of any voting security which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party.* [17 O.S. § 191.3(A)(6)]
- (7) *A full description of any contracts, arrangements, or understanding with respect to any voting security in which any acquiring party is involved, including but not limited to transfer of any securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements, or understandings have been entered into.* [17 O.S. § 191.3(A)(7)]
- (8) *A description of the purchase of any voting security during the twelve (12) calendar months preceding the filing of the application, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefore.* [17 O.S. § 191.3(A)(8)]
- (9) *Copies of all tender offers for, requests for, advertisements for, invitations for tenders of, exchange offers for, and agreements to acquire or exchange any voting securities and, if distributed, of additional soliciting material relating thereto.* [17 O.S. § 191.3(A)(9)]
- (c) Such additional information as the Commission may prescribe as necessary or appropriate for the protection of ratepayers of the domestic public utility or in the public interest shall be provided as directed by the Commission.
- (d) If a person required to file the application is a partnership, limited partnership, syndicate or other group, the Commission may require that the information called for in (b) of this Section shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member, person or acquiring party is a corporation or if a person required to file the application is a corporation, the Commission may require that the information called for by (b) of this Section be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of such corporation and each affiliate of such corporation.
- (e) If any material change occurs in the facts set forth in the application filed with the Commission and sent to such domestic public utility, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commission and sent by the person filing the application to the domestic public utility within two (2) business days after such person learns of such change.
- (f) Unless otherwise ordered by the Commission, a hearing shall be commenced within ~~thirty (30)~~ sixty (60) calendar days after the application is filed and shall be concluded within ~~thirty (30)~~ sixty (60) calendar days after its commencement. Notice of hearing shall be mailed to the domestic gas utility and to each of its customers prior to the date of the hearing as ordered by the Commission.
- (g) Any application for merger and other acquisition of control shall be deemed approved unless the Commission has, within sixty (60) calendar days after the conclusion of such hearing, entered its order approving or disapproving the merger or other acquisition.

SUBCHAPTER 5. METERS AND REGULATORS

PART 1. GENERAL PROVISIONS

165:45-5-2. Adjustment of bills for meter error

(a) **Fast meters.** Whenever any meter tested by ~~the Commission-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 corrected meter reading for a period equal to one-half (½) 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 some cause, the date of which can be fixed with reasonable certainty, in which case the charge shall be computed from that date.

(b) **Slow meters.** Whenever any meter tested by ~~the Commission-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 may charge for the gas consumed, but not included in bills previously rendered based upon the corrected meter reading for a period equal to one-half (½) 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** ~~some cause the date of which can be fixed with reasonable certainty, in which case the charge shall be computed from that date.~~ 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, 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 gas 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 preceding or subsequent thereto. The estimated amount shall not exceed six (6) months. The utility shall allow the consumer to pay the estimated amount, in installment payments, over six (6) months, unless otherwise agreed to by the utility and consumer.

(d) **Incorrect register, regulator, or multiplier on meter.** If a meter is found to have an incorrect register, regulator, or multiplier, the error shall be corrected. Where the error is adverse to the consumer, the utility shall refund the excess charged for the amount of gas incorrectly metered over the period of time the meter was used in billing the consumer. Where the error is adverse to the company, the utility may charge the consumer the undercharge for the amount of gas incorrectly metered for the period of time, not to exceed six (6) months, the meter was used in billing the consumer, ~~and, if necessary, the utility may receive payment installments over a reasonable period of time.~~ The utility shall allow the consumer to pay any unbilled amount over the same period of time in which the under-billing took place, **but not to exceed six (6) months, unless otherwise agreed to by the utility and consumer.**

(e) Notwithstanding the provisions set forth in (a)-(d) above, any corrections for billing as set forth in said subsections shall not exceed a period of three (3) years from the date of discovery.

(f) **Scope.** This Section shall not apply to routine testing and replacement of meters pursuant to OAC 165:45-5-13.

165:45-5-3. Information as to reading of meters

(a) **Means of informing consumers concerning the method of reading meters.** Each utility supplying metered service shall adopt a means of informing its consumers as to ~~the-its~~ method of reading meters, either by printing on its bills a description of the method of reading meters, by distributing booklets or folders describing the method, or by notice to the effect that the method will be explained at the office of the utility upon application for service.

(b) **Clarification of method by which quantity is determined.** Each service meter shall indicate clearly the number of cubic feet of gas registered by the meter. Where gas is measured under high pressure or where the quantity is determined by calculation from recording devices, the utility, upon request, shall supply the consumer with sufficient information ~~to make clear~~ clarifying the method by which the quantity is determined.

(c) **Meter reading information.** Each service meter shall be read by the utility or their designated representative at ~~approximate~~ monthly intervals at least ten (10) times a year, on approximately the same day of each meter reading period. If it is necessary for the utility to estimate more than two (2) bills per year due to 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 upon consumer reading or past service records, and the amount of such estimated bill shall to be adjusted as necessary when the next actual reading is obtained.

(d) **Meters read by consumers.** For each utility which permits its consumers to regularly read their own meters, the procedure for meter reading by the consumer shall provide for meter reading at monthly intervals. The utility shall verify such readings not less than once every six (6) months; however, a utility which has a residential rate schedule which does not have seasonal variations shall verify such readings not less than once a year. The utility shall file its proposed plan for implementing this subsection for approval by the Commission. Upon approval, said plan will become part of the utility's terms and conditions of service. When the consumer fails to furnish meter readings, the utility may submit an estimated bill based on the consumer's previous two (2) months average usage and other available information or based on previous usage adjusted for weather or other comparative data. The amount of such estimated bill will be adjusted as necessary when the next actual reading is obtained.

(e) **Authorization of meter reading.** Upon application of the utility and after notice and hearing, the Commission may authorize the reading of meters less frequently than required by this Section and prescribe conditions and procedures therefore. However, a utility is not prohibited from reading meters more frequently than required by this Section.

(f) **Utility records.** The utility records shall show the following:

- (1) Consumer's name, address and rate schedule symbol;
- (2) Identifying number and type of the meter;
- (3) Meter reading and dates thereof;
- (4) Whether the reading has been estimated; and,
- (5) Any applicable multiplier or constant.

(g) **Meter charts.** All charts taken from recording meters shall be marked with the date of recording and sufficient information to identify the location.

(h) **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 factor due to gas being delivered at a pressure not consistent with the meter index pursuant to OAC 165:45-7-12(a), the gas bill will be calculated with the correction factor.

(i) **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 for the purpose of meter reading, maintenance, inspection and discontinuance of service. Refusal on the part of the consumer and/or property owner to provide reasonable, safe and unobstructed access for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility, after ~~10~~ ten (10) business days written notice. In the event the customer is a tenant, the utility shall attempt to notify the property owner of the access violation and the pending

disconnection. If the consumer and/or property owner does not correct unsafe conditions or obstructions, including dangerous 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 in order to claim the right of access.

PART 3. TESTING

165:45-5-10. Meter testing facilities and equipment

(a) **Equipment and facilities arranged for accurate testing of meters.** Each utility furnishing metered gas service shall own or arrange for equipment and facilities and follow test procedures necessary for accurate testing of its meters to the limits of accuracy specified in this Subchapter. The laboratory apparatus and equipment shall be available at all times for inspection or use by the Commission or its authorized representative. A utility may contract for testing of its meters by another utility. A facility operated by a person other than a utility engaged in the repair and testing of meters, may, after inspection by the Commission, be authorized to test and certify meters for utilities as provided in this Section.

(b) **Equipment for testing small capacity meters.** Each utility shall own and maintain, or have available, a minimum of one (1) meter prover of approved type and of a capacity adequate for the testing of small capacity meters. Each meter prover shall be equipped with all accessories needed for accurate meter testing, and it shall be maintained in proper adjustment so that it will be capable of determining the accuracy of any service meter to within plus or minus one-half (1/2) of one (1) percent. Each meter prover shall be so placed that it will not be subjected to drafts and excessive changes of temperature.

(c) **Equipment for testing large capacity meters.** Each utility furnishing metered gas service through large capacity meters shall have available and maintain in proper adjustment, proving equipment, equipped with all accessories needed for accurate meter testing and suitable for determining the accuracy of any large capacity meter to within plus or minus one-half (1/2) of one (1) percent

(d) **Equipment for testing orifice meters.** Each utility furnishing metered gas through orifice meters shall have available and maintain in proper working condition, equipment suitable for the testing and calibration of such devices to ensure the accuracy based upon nationally recognized industry standards and practices such as American Gas Association Report Number 3.

165:45-5-11. Place and methods for meters and test equipment

(a) **Domestic meters-diaphragm type (under 500 c.f.h. capacity).**

(1) All tests on domestic meters in service, provided for in this Chapter, shall be made at an approved testing facility with a suitable meter prover as specified in OAC 165:45-5-10. The differential pressure carried on the prover shall not exceed two inches (2") of water column pressure.

(2) Meters shall be tested at two or more rates of flow as needed to ascertain their accuracy. When two rates are used, the low flow rate shall be equivalent to 20% to 40% of the applicable badged capacity and the high flow rate shall be equivalent to 80% to 120% of the applicable

badged capacity (See ANSI B109.1 Section 4.2.4). Before being placed in service, meters shall be adjusted to an accuracy of 100% within the limits of plus or minus one (1) percent at a low flow rate (20% to 40% of capacity) and a high flow rate (80% to 120% of capacity). The numerical difference between the test values for these two rates should not exceed one (1) percentage point.

(b) **Special meters-diaphragm type (500 c.f.h. or more capacity).**

(1) All tests on large positive meters in service provided for in this Chapter shall be made with approved testing apparatus as specified in OAC 165:45-5-10. Such meters shall be tested on location on the consumer's premises, if feasible. Meters shall be tested with air at one or more rates of flow as needed to ascertain their accuracy. When two rates are used, the low flow rate shall be equivalent to 20% to 40% of the applicable meter capacity and the high flow rate shall be equivalent to 80% to 120% of the applicable meter capacity. These tests shall be conducted on the basis of either the 0.5 or 2 inch water column (125 or 500 Pa) capacity of the meter as appropriate for its use. (See ANSI B109.2 Section 4.2.4). Before being placed in service, meters shall be adjusted to an accuracy of 100% within limits of plus or minus one percent at low flow (20% to 40% of capacity) and a high flow rate (80% to 120% of capacity). The numerical difference between the test values for those two rates should not exceed one percentage point.

(2) All tests on orifice meters in service provided for in this Chapter shall be made in their permanent location on the consumer's premises with approved testing apparatus as specified in OAC 165:45-5-10. The accuracy of the differential pressure registration shall be determined on a rising and falling pressure throughout the entire range of the differential element. The accuracy of the static pressure registration shall be determined at zero or atmospheric pressure and at least a second point which approximates the normal operating pressure of the recorder.

(c) **Rotary type meters.** Rotary meters shall be tested and calibrated at the factory and/or the utility's meter shop in accordance with recognized and accepted practices, and shall be correct to within plus or minus one percent when operating at rated capacity. Meter accuracy shall be 100% plus or minus one percent from approximately 20% to 100% of the meter's rated capacity (See ANSI B109.3 Section 4.2.3.). Rotary meters may be tested and calibrated on location or at the utility's facilities with an approved apparatus as specified in OAC 165:45-5-10. Meters shall be tested at one or more rates of flow to ascertain their accuracy. When one rate of flow is used, it shall be 10% to 30% of the rated capacity. When two rates are used, one of the flow rates shall be the same as the single test. The high flow rate shall be 60% to 100% of the rated capacity. If this is not attainable, then it shall be the maximum capacity of the proving equipment. If an intermediate flow rate is used, it should be approximately midway between the low and high rates. After the initial accuracy tests have been made by the manufacturer or user, differential tests may be used to confirm the continued accuracy of in-service rotary meters (See ANSI B109.3 Section 4.2.2.).

(d) **Turbine meters.** Turbine meters shall be tested and calibrated at the factory and/or the utility's meter shop in accordance with recognized and accepted practices and shall be correct to within plus or minus one (1) percent when operating at rated capacity (See American Gas Association Report No. 7 Sections 8 and 9). Turbine meters may be tested and calibrated on location or at the utility's facilities with an approved testing apparatus as specified in OAC 165:45-5-10.

165:45-5-12. Meter accuracy requirements

(a) **Installation test.**

(1) Every domestic meter, whether new, repaired, or removed from service for any cause, shall be in good order when installed and shall not be more than plus or minus one (1) percent in error on check proof, and the open proof shall be within plus or minus one (1) percent of the check proof. Each repaired meter shall be marked to indicate the month and year of the last test made on that meter.

(2) Every orifice meter, linear, or positive meter with more than 500 c.f./hr. capacity, whether new, repaired, or removed from service for any cause, shall be in good order when installed and shall not be more than plus or minus one (1) percent in error when operating at any rate of flow within the limits of its capacity as specified in OAC 165:45-5-11.

(b) **Allowable error in adjustment of charges.** Whenever any gas meter is tested, at the request of the Commission or by the utility at the request of the consumer to determine its accuracy, it shall be considered correct if it is found to have an average error of no more than plus or minus two (2) percent. The utility shall not be required to make an adjustment in past charges for gas service, unless the error revealed by such a test exceeds plus or minus two (2) percent.

(c) **Average error.** The average error of a meter shall be determined as follows:

(1) **Domestic meters.** For domestic meters, one-half of the algebraic sum of the error at check proof and the error at open proof.

(2) **Special meters.** For orifice, linear, and positive meters with more than 500 c.f./hr. capacity, the algebraic average of the errors determined at the various rates of flow at which the meter was tested as specified in OAC 165:45-5-11; however, if the rates of flow at which the meter has been registering in service can be definitely established, the weighted average error shall be determined.

(d) **Prepayment meters.** No utility shall use prepayment meters geared or set to produce a rate or amount higher than would be paid if a standard type meter were used, except pursuant to a special rate schedule approved by the Commission for the particular class of service.

(e) **General.**

(1) All meters and/or associated metering devices, when tested, shall be adjusted as closely as practicable to the condition of zero error.

(2) All tolerances set forth in this Subchapter are to be interpreted as maximum permissible variations from the condition of zero error. No meter shall be adjusted to be in error, even within the tolerance authorized by this Subchapter.

165:45-5-13. Periodic testing of meters and test equipment

(a) Every utility shall make periodic tests of all meters, associated devices, and instruments to insure their accuracy. Such tests shall be scheduled within the calendar year, or earlier, when the interval is stated in years; or within the calendar month, or earlier, when the interval is stated in months. The basic periodic test interval shall not be longer than provided in the following schedule (Note: Maintenance programs suggested by manufacturers of the following meters and devices should be carefully followed.):

(1) Positive displacement meters:

(A) Schedule as provided in ~~program~~ programs submitted to and approved by the Commission as provided in subsection (b) of this Section

(B) 500 c.f./hr. or less - 10 years

(C) 501 to 1500 c.f./hr. - 7 years

- (D) 1501 to 2500 c.f./hr. - 5 years
 - (E) Over 2500 c.f./hr. - 3 years
 - (2) Orifice meters - 6 months
 - (3) Base pressure correcting devices - 24 months
 - (4) Base volume correcting devices - 24 months
 - (5) Secondary standards:
 - (A) Immersion Type Cubic-Foot Bottle, one (1) cubic foot - 10 years
 - (B) Dead weight tester - 10 years
 - (C) Pneumatic dead weight tester - 2 years
 - (6) Working standards:
 - (A) Bell provers - 5 years
 - (B) Rotary displacement test meters - 5 years
 - (C) Flow provers - 5 years
 - (D) Laboratory quality indicating pressure gauges - 6 months
- (b) The Commission may, upon application of the utility and after notice and hearing, extend the test intervals on any meters or class of meters, based upon a statistical sampling methodology or a similar methodology, upon proper showing that the extension would not be detrimental to consumers.

SUBCHAPTER 9. RECORDS AND REPORTS

165:45-9-1. Preservation and availability of records; reporting contact persons

(a) Unless otherwise specified, all records required by this Subchapter shall be preserved by the utility in the form and for a period of time not less than that specified by rules of FERC or, in the absence thereof, for two (2) years.

(b) All records required by this Subchapter shall be kept within the State of Oklahoma at the office or offices of the utility, and shall be open for examination by the Commission or its authorized representatives; provided, if the principal place of business of the utility is located outside of the State of Oklahoma, the records may be kept at the principal place of business of the utility or at such other location where the records are regularly kept. Each utility shall maintain accurate and detailed records reflecting the original cost of property located in and required for doing business in the State of Oklahoma, including the cost of fuel. The utility shall make any such records available 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's Court Clerk ~~of the Commission~~ such reports as the Commission may from time to time require.

(c) **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.

(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.

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

165:45-9-2.1. 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 gas utility shall have a written restoration of service policy/plan, which shall include a communication plan to be followed during unplanned or emergency interruptions, with a current copy filed by September 30 of each year with the ~~Director of the Commission's Consumer Services Division~~ CSD Director and the Commission's Emergency Liaison, and updated as changes occur. 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 gas 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 with 24-hour contact numbers, to the Commission's ~~Director of the Consumer Services Division~~ CSD Director and the Commission's Emergency Liaison. 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 customers 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 gas service 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 customers or major gas consuming facilities who are affected by the service outage, when possible. Radio and/or television should be utilized

to notify larger numbers of customers 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 ~~Director of the Consumer Services Division CSD~~ Director and the Commission's Emergency Liaison to implement the process outlined in paragraphs A through C of this subsection. The Commission notification process to the designated Consumers Services Division 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) customers 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 Staff.

(C) A conclusory contact detailing the results and completion of the restoration of service plan implementation.

165:45-9-3. Records of service complaints; investigations

(a) Each utility shall make a full and prompt investigation of every formal complaint made to it by its consumers, either directly, or through the Commission after the consumer or other interested party has contacted the utility. It shall keep a record of all formal complaints received, which record shall show the name and address of the complainant, the date, the character of the complaint, and the adjustment, or disposal made thereof, which record shall be retained for examination by the Commission or its Staff. For purposes of this Section, a formal complaint is an oral or written communication by a consumer or other interested party to the utility's business office that prompts an investigation by the utility. All records of formal complaints shall be retained for a period of at least two (2) years from the date of final disposition.

(b) In the event of a dispute between the consumer and the utility regarding 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 request that the Commission's ~~Consumer Services Division CSD~~ mediate the dispute, or 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 meter equipment shall be handled in accordance with OAC 165:45-5-15. Violation of this subsection will be considered substantiation of the complainant's contentions.

165:45-9-10. Accounting

(a) Gas utilities operating within the State of Oklahoma shall be classified as prescribed by OAC 165:70-1-4 (a) and (b).

- (b) All gas utilities having multi-state operations shall maintain records in such detail that the costs of property located in and required for doing business in the State of Oklahoma in accordance with jurisdictional boundaries can be accurately and readily ascertained.
- (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 2 - Class A and B Natural Gas Companies and FERC Form 2A - Class C and D Natural Gas Companies promulgated by the FERC are hereby adopted for purposes of the annual report to this Commission by all Class A, B, C, and D Gas Companies filing reports with the FERC. Each utility, in addition to filing with the Commission a copy of its annual report to the FERC, if any, shall file an annual report on a form furnished 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 operations for the State of Oklahoma shall be accomplished on a basis approved by the Commission.
- (e) The results of operations reported by each gas 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 of the utility's fiscal year and on summary sheets furnished or approved by the Commission, the book value of its utility plant. These reports and the annual reports required by subsection (d) of this Section shall be delivered to the Commission not later than ninety (90) [calendar](#) days after the end of the fiscal year, provided that the Commission may grant an extension of time for good cause shown.
- (g) Each utility shall make special reports at such time and in such form as the Commission may from time to time require.

165:45-9-11. Response to 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.

SUBCHAPTER 11. CUSTOMER SERVICE

PART 1. INITIATION OF SERVICE

165:45-11-1. Deposits and interest

- (a) Each utility shall prepare and submit a plan containing criteria for deposits to the Commission for approval. The plans 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), (d) and (k).

- (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 for 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. The utility may also require consumers to pay the entire deposit prior to initiating service.
- (d) 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 165:45-11-11 or has presented a check subsequently dishonored.
- (e) 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 165:45-11-11 or has presented a check subsequently dishonored.
- (f) Interest shall be paid on cash deposits 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 the 1st day of January 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 the 1st day of January 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 subsection (e)(1) of this Section, for the first year the deposit is held.
 - (3) Provided, however, that after the interest rate is initially established pursuant to this subsection, the interest rate(s) shall not change unless the application of the formula in paragraph (1) and/or (2) of this subsection results in a change in interest rate(s) that is/are greater than fifty (50) basis points.
 - (4) The ~~Director of the Public Utility Division~~ PUD Director shall calculate the interest rates as pursuant to (e)(1) and (2) of this Section, and shall mail notice to the gas utilities by December 15th of each year, only if a change in the rate(s) is/are necessary pursuant to subsection (e) of this Section, otherwise the current interest rate(s) will remain in effect.
- (g) If refund of deposit is made within thirty (30) calendar days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than thirty (30) calendar days, payment of interest shall be made retroactive to the date of deposit. No interest shall accrue on a deposit after final discontinuance of service.
- (h) The deposit shall cease to draw interest on the date it is returned or credited to the consumer's account.

- (i) 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.
- (j) Each consumer posting a cash deposit shall receive a nonassignable receipt in writing at the time the deposit is made or within ten (10) business days thereafter. When a consumer pays a deposit as a portion of a gas service bill, payment of the bill shall serve as a receipt for payment 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 balance to which he/she is entitled, but who is unable to produce the original receipt may not be deprived of this deposit or balance.
- (k) 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.
- (l) 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, 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.
- (m) The utility plan shall provide for the review of all residential deposits at least annually and deposits for non-residential service at least every twenty-four (24) months and shall provide that 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.
- (n) 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) calendar days either in person or by mailing it to the consumer's last known address.
- (o) The utility shall provide payment of accrued interest for all consumers annually by negotiable instrument or by credit against current billing.
- (p) The utility may withhold refund or return of the deposit pending the resolution of a dispute with respect to charges secured by such deposit.
- (q) The utility company shall keep records to show:
 - (1) The name, account number, and address of each depositor;
 - (2) The amount of the deposit and date received; and,
 - (3) Each transaction concerning the deposit.
- (r) Such records shall be retained for two (2) years after the deposit and/or interest is refunded or applied.
- (s) 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 for 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.

(t) The deposit made by the consumer with the utility at the time of application for gas service 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.

165:45-11-2. Right to refuse service

(a) The 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 within that utility's service territory by a gas utility governed by this Chapter, or a judgement arising from an unpaid account remains unpaid in the applicant's name.

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

(c) The utility may refuse to provide service to an applicant for 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.

(d) The utility shall provide documentation to the consumer indicating the reason(s) that service is being withheld, upon request of the consumer.

(e) The utility may refuse to provide service to an applicant when the applicant is not in compliance with a Commission order, a deferred payment agreement, or an extension agreement with the utility entered into with respect to service previously rendered by the utility to the applicant.

(f) The utility may refuse to provide service to an applicant when the applicant has not paid the utility an approved fee, charge, or deposit as provided for in this Subchapter or the utility's approved tariffs.

(g) The utility may refuse to provide service to an applicant when the applicant has not furnished adequate assurance of payment in the form of a deposit or other security for service within twenty (20) [calendar](#) days of an order for relief under the United States Bankruptcy Code, U.S.C.A. Title 11 Section 366.

(h) The utility may refuse to provide service to an applicant when there is evidence that the applicant is using service in an unauthorized manner or is tampering with the equipment furnished and owned by the utility.

(i) The utility may refuse to provide service to an applicant when the applicant has not provided acceptable proof of identity. Acceptable proof of identity may include the following:

- (1) ~~Driver's~~ Current driver's license or state identification card.
- (2) Military identification.
- (3) ~~Employment~~ Current employment identification.
- (4) Social security card.
- (5) Current student identification card.
- (6) ~~Passport~~ Current passport.
- (7) Birth certificate.
- (8) Any other ~~verifiable~~ verifiable proof which would establish identity.

(j) The utility may refuse to provide service when:

- (1) The applicant is not in compliance with all state and/or municipal regulations governing the service for which applied.
- (2) The applicant is not in compliance with the utility's tariffs which have been approved by this Commission.
- (3) The service applied for is of such character that it is likely to unfavorably affect the service of other consumer.
- (4) The connection of utility service to the applicant's equipment would create a hazard.
- (5) The applicant is causing or threatening injury to a utility employee or an employee's family to retaliate for or prevent an act the utility performs in the course of business.
- (6) The applicant is causing or threatening damage to utility's property.

165:45-11-4. 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 services available in any locality; and,
- (2) Annually, transmit to each of its nonresidential consumers a statement that the rate tariff on which they are served is available upon request. Additionally, the consumer shall be advised that the utility company, upon request, will review the consumer's applicable rate tariff to determine if the consumer is receiving the rate tariff that is best suited to the consumer.

(b) 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.

~~(b)~~(c) The utility shall advise its residential consumers through its consumer mailing, 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 165:45-11-16 *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/Consumers with Disabilities Notification ~~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 Consumer Services Division CSD;
- (8) The limitations for disconnection, including days or periods of time when service shall not be disconnected as outlined below in OAC 165:45-11-14(c); and
- (9) The availability of a list of agencies providing assistance to consumers for their utility bills as outlined by OAC 165:45-11-12.

~~(e)~~(d) The mailing required by paragraph (b) of this Section, shall occur during the months of September and/or October of each year.

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

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

PART 3. DISCONNECTION OF SERVICE

165:45-11-11. Physical disconnection of service by a utility

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

- (1) Nonpayment of all or any portion of undisputed utility bills.
- (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 165:45-11-1.
- (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 gas accomplished through bypassing of the utility's measuring equipment or tampering with 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 to 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 165:45-11-10.
- (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 terms and conditions regarding the operation of nonstandard equipment or unauthorized attachments, if the consumer was notified first and given a reasonable opportunity to comply with the terms and conditions.
- (16) Violation of federal, state, or local laws or regulations through use 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.

- (2) Failure to pay a bill correcting a previous underbilling, due to misapplication of rates, unless the utility offers the customer a deferred payment agreement as provided elsewhere in this Chapter.
 - (3) Failure of a previous owner or occupant of 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 the consumer regularly reads the consumer's own meter and fails to supply a current meter reading.
 - (5) If a current consumer is 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 has a previously unpaid account from a different utility beyond the boundaries of the utility's service territory.
 - (7) Pending verification, service cannot be withheld nor 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 noon (12:00p.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.

165:45-11-13. Commission notification procedures for the elderly and/or consumers with disabilities

- (a) At any time prior to disconnection of service, the Commission 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 Commission notification procedure:
- (1) ~~A utility shall notify the Commission's Consumer Services Division in writing or by electronic notification at least ten (10) business days prior to disconnection.~~
 - (2) ~~The confirmation shall contain at a minimum:~~
 - (A) ~~The name, address, telephone number, and account number of the involved parties.~~
 - (B) ~~The words "NOTICE", "SERVICE SUBJECT TO CUTOFF", AND "ELDERLY and/or CONSUMER WITH DISABILITIES" should be conspicuously placed on the notice in bold, capitalized letters.~~
 - (C) ~~Scheduled date for disconnection.~~
 - (D) ~~The unpaid balance amount.~~
 - (E) ~~The name and telephone number of a contact person at the utility.~~

~~(3) For those who have registered with the utility as elderly and/or consumer with disabilities, the utility shall delay disconnection of service to the elderly and/or consumers with disabilities for five (5) additional business days upon request of the Commission's Consumer Services Division CSD.~~

~~(4)(2) Elderly and/or consumers with disabilities are those consumers who have notified the utility in writing that they wish to be included in the Commission's notification procedure available to them and who:~~

(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.

~~(d) The Commission's notification procedure is in addition to the other requirements set forth in this Part which the utility shall meet prior to disconnection of service.~~

165:45-11-14. Delays to disconnection of residential service

(a) **Limitations on disconnection.** 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 high temperature is actually, or predicted to be, 32 degrees Fahrenheit or below on the day of disconnection or the nighttime low is predicted to be 20 degrees Fahrenheit or less~~ If the National Weather Service has issued a local forecast predicting the temperature will drop below 32 degrees Fahrenheit for any time period during the following twenty-four (24) hours, or if the actual temperature drops below 32 degrees Fahrenheit at any time, the utility shall suspend its disconnection of service if the gas service is used for heating purposes.

(2) ~~If the service is utilized for cooling and the temperature is actually, or predicted to be, 101 degrees heat index or higher on the day of disconnection, the utility shall suspend its disconnection of service activity.~~ If the National Weather Service has issued a local forecast predicting the temperature will be 101 degrees Fahrenheit heat index 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 gas service is used for cooling purposes.

(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.

(4) Disconnections shall be suspended upon direction from the PUD Director, or designee.

(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 is 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 conditions is the utility required to furnish service to the consumer unless there is 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 may mail or provide electronic notification to customers who make an affirmative election to receive electronic notification of such information 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 (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 size.

(3) The consumer shall initiate renegotiation prior to breach of the deferred payment agreement if the consumer's financial conditions change, 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 period as provided in OAC 165:45-11-11(c) on the first and second notice has not been passed. If the disconnection period 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 gas, 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 monitor, heating and air conditioning equipment, or any other equipment that is prescribed by a licensed medical doctor. The following are not considered to be life-sustaining equipment: hot water heater, refrigerator, and range/stove.

(2) When a consumer to whom service is provided is unable to pay the account in full, the utility shall suspend disconnection 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 gas 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 condition. This form is 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 gas service.

(4) Completion of (2) and (3) of this subsection will suspend disconnection of gas service to the specified residence for a period of thirty (30) calendar days from the initial notification. This 30-day period allows the consumer 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 customer 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 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 utility 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 fulfill the required documentation will be subject to disconnection.

(9) A consumer is not prohibited from claiming a life-threatening situation once full payment of the account balance from a previous life-threatening claim is made and a valid 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 in order 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.

(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.

165:45-11-16. Notice of disconnection of service

(a) **Twenty-four hour notice.** Except as provided in subsections (b), (c) and (f) of this Section, OAC 165:45-11-14(e) and OAC 165:45-11-18, 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 and state the reason for the action, the amount due, if applicable, the company to contact in bold print, the contact telephone number, in bold print, and the telephone number of the Consumer Services Division.~~ 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 security deposit after a reasonable time, the utility company shall give at least ten (10) business days written notice from the date of mailing to the consumer. Said written notice shall be sent by first-class mail, address correction requested, by the utility company to the consumer's billing address, unless the mail is returned from that address as undeliverable, in which case the notice may 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 company, which shall not extend the ten (10) business 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 company where the consumer may make an inquiry.
 - (F) The approved charges for reconnection.
 - (G) A statement that the consumer must contact the utility company regarding the disconnection, prior to contacting the Commission's ~~Consumer Services Division CSD~~, and should contact CSD if they cannot reach a resolution with the utility.
 - (H) The address and telephone number of the Commission's ~~Consumer Services Division CSD~~, in print size which is smaller than the print size used for the utility company'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 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 identified by OAC 165:45-11-12.
 - (N) A statement that advises the consumer, that a list of pay agents is available upon request.
 - (3) The utility company shall notify the consumers in writing, at least annually, of the availability of and the method of accessing the name and address of the authorized payment agencies, other than the utility company'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 165:45-11-14(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 the Commission's ~~Consumer Services Division-CSD~~ CSD in print size which is smaller than the print size used for the utility's telephone number.
- (2) The utility company shall keep a written log of all oral communication with at least the following information when contact has been made:
- (A) Date and time of call or personal visit and identity of utility company representative.
- (B) Name of the individual and relationship to the account. If the contact is made with a designated representative for the consumer, then a statement of authority to represent the account should be included.
- (C) 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 company 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 company.
- (F) A statement that the consumer was advised of the telephone number of the Commission's ~~Consumer Services Division-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 the Commission 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 consumer's designated representative.
- (7) Unless otherwise directed by the ~~Consumer Services Division-CSD,~~ the utility company shall not contact the consumer regarding the consumer's account after the Commission has notified the utility company of a complaint or inquiry from the consumer. The Commission 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) business 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) business 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.

165:45-11-17. Manner of disconnection of service

(a) 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 for 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, ~~cashiers~~ cashier's check, money order, or a check from a social service agency.

~~(3)~~(2) 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/or address where the consumer may arrange to have the service reconnected.

165:45-11-19. Reconnection of service

(a) The utility shall give priority to reconnection of service when disconnection was the fault of the utility.

(b) When disconnection of service was the fault of the consumer, the utility shall reconnect service in the normal course of its reconnection workload, as soon as possible, but no later than two (2) business days, not to exceed three (3) calendar days after the consumer eliminates the reason for disconnection and requests reconnection, except as provided for in subsection c of this Section. If the reason for disconnection is unauthorized use of gas accomplished through bypassing the utility's measuring equipment or tampering with the 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.

(c) During the time period of November 15 through April 15, the utility shall reconnect service in the normal course of reconnection workload, as soon as possible, but no later than forty-eight hours; however, if disconnection for nonpayment of service has occurred immediately preceding periods of severe weather pursuant to OAC 165:45-11-14(c), the utility shall reconnect service as soon as possible but no later than twenty-four (24) hours, while the consumer or the consumer's representative is present, 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; or
- (2) Submission of a Life-threatening Certificate from the consumer as described in OAC 165:45-11-14.
- (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 their liability incurred for utility service.

(e) The consumer of record or their representative must be present in order for service to be restored. If the consumer or their representative fails to be present for service to be restored through no fault of the utility, the return trip may be scheduled in accordance with subsection b and c of this Section.

165:45-11-20. Mediation

(a) Whenever there is a dispute between the utility and the consumer as to any of the following, the matter may be brought by either party to the Commission's ~~Consumer Services Division-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) The Commission's ~~Consumer Services Division-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 plan agreement. If it is the desire of the consumer, the consumer 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 the Commission's ~~Consumer Services Division-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 to the Commission's ~~Consumer Services Division CSD~~. Upon complaint by the consumer to the Commission, disconnection of service shall be held in abeyance, for as long as a resolution of the complaint is pending at the Commission, provided the consumer pays the portion of the bill which is not in dispute.

PART 5. CHARACTER OF SERVICE

165:45-11-31. 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. In addition, the consumer shall pay the installation and removal cost, less salvage value, of facilities installed by the utility to furnish temporary service to the consumer. The utility may require a deposit of such cost in advance.

(b) "Temporary service" is defined as service for purposes which, by their very nature, indicate short duration, ~~or are for a specific time frame for service which is established prior to connection and shall not exceed ninety (90) days without notification and justification being provided to CSD prior to the expiration of the ninety (90) day period.~~

165:45-11-33. Service from other than distribution system

(a) When a consumer desires natural gas service from a production, gathering or transmission line which is not a part of the distribution system, the utility may, at its sole discretion, make a tap on the line and furnish the consumer with natural gas service under the applicable rate schedule approved by the Commission for the type of service rendered or, if there is no such rate schedule, pursuant to a Special Contract approved by the Commission. When necessary for operational efficiencies or safety reasons, the utility may discontinue or abandon service to the nondistribution system consumer or remove, abandon or relocate the pipeline from which the nondistribution system consumer is furnished natural gas service, upon thirty (30) calendar days written notice to the consumer at the consumer's last known address. If the pipeline is owned and operated by a company that also has a gas distribution system, the pipeline will be considered part of the distribution system if, for a period of three (3) years, the volume of gas sold off the pipeline is equal to or more than fifty percent (50%) of the gas transported by the pipeline. The utility may seek a waiver of an impending recharacterization before or after the three (3) year period if the pipeline leakage is minimal and the utility desires to continue to provide natural gas service from the pipeline.

(b) If a consumer requests service from a transmission line that is not owned by the utility and the company owning the line assesses a fee for making the tap, the consumer requesting the tap will be responsible for paying the fee.

(c) Unless otherwise ordered by the Commission, after notice and hearing, a utility shall not provide service from a production, gathering or transmission line unless the gas in the line is of a suitable quality and free of liquid hydrocarbons. When it has come to the attention of the utility that a temporary gas quality problem exists in a line, the utility shall be allowed a reasonable time in which to correct the problem. This subsection shall not apply to existing consumers receiving service.

(d) Under this Section, a private line served from other than a distribution system will not be considered to be a distribution system, and private line customers on these systems will be considered as a single service under the master meter agreement for purposes of abandonment.

PART 7. BILLS

165:45-11-41. Information on bills

(a) The utility shall bill each consumer as promptly as possible following the reading of the consumer's 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 metered.
- (4) The applicable rate schedule or identification of the applicable rate schedule. If the actual rates are not shown, the bill shall carry a statement to the effect that the applicable rate schedule will be furnished upon request.
- (5) The total amount due for gas used. In the case of prepayment meters, the amount of money collected shall be shown.
- (6) The date by which the consumer must pay the bill in order to avoid addition of a penalty.
- (7) The total amount due after addition of any penalty for nonpayment within a designated period or the dollar amount of the penalty or the rate at which the penalty will be calculated. 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) Any conversions from meter reading units to billing units, any calculations to determine billing units from recording or other devices, or any other factors used in determining the bill.
- (10) Total tax amount billed, pursuant to OAC 165:45-15-3.
- (11) The purchased gas adjustment ("PGA") amounts associated with the respective clauses on the consumer's bill.
- (12) The amount due pursuant to an Equalized (Average, Budget, Equal, Levelized, etc.) Monthly Payment Plan shall be shown on the bill, when applicable.
- (13) Utilities that serve one-hundred fifty-thousand Oklahoma Customers or more; the historical usage, e.g., a chart, table or graph, shall be displayed prominently on each bill, depicting the actual usage of the residential customer, 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 one hundred fifty thousand Oklahoma Customers shall provide, in a conspicuous manner, notice on each residential customer 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.](#)

SUBCHAPTER 13. PROMOTIONAL POLICIES AND PRACTICES

165:45-13-7. Filing-Submission of promotional practices

The utility shall submit, ~~to the Public Utility Division,~~ 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 ~~the Public Utility Division-PUD,~~ it will allow ~~the Public Utility Division 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.

SUBCHAPTER 15. MISCELLANEOUS PROVISIONS

165:45-15-1. Resale of gas prohibited

(a) Gas and/or service furnished by a utility shall not be resold or caused to be resold by any consumer except pursuant to a tariff or special contract on file with and approved by the Commission which authorizes resale. Except as set forth in subsection b below, no utility shall knowingly furnish gas and/or service 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 gas, it shall notify the Commission's Pipeline Safety Department and the PUD Director ~~of the Public Utility Division~~ of the name and address of any consumer reselling gas and/or service. Unless otherwise directed, the utility may continue to provide gas and/or service to the consumer pending review and action by the Commission's Pipeline Safety Department or the PUD Director ~~of the Public Utility Division~~. This Section shall not apply to the sales of natural gas to or by a distributor for use as a vehicular fuel.

165:45-15-2. Filing of rate schedules, contracts, agreements, and terms and conditions

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

(b) No jurisdictional tariff or rate schedule shall be added, deleted, changed, closed, discontinued, or instituted except by order of the Commission after such notice and hearing, if any, as directed by the Commission or otherwise pursuant to the laws of the state of Oklahoma.

(c) An annual tariff submission for review and approval by the PUD Director may be accepted or rejected. If there is a dispute and resolution is not accomplished, the utility shall suspend any recovery associated with the disputed item until the issue is resolved, pursuant to order of the Commission upon application and after such notice and hearing.

~~(e)~~(d) A utility shall not demand or accept payment for service of any kind of a sum greater or less than specified in an approved tariff.

~~(d)~~(e) A special contract or agreement other than a filed tariff under which gas service is furnished to one (1) or more consumers shall be deemed a tariff for purposes of this Section. No service shall be furnished pursuant to such a contract which has not been filed with and approved by the Commission. Any special contract for gas service shall not become effective except after approval by order of the Commission as herein provided for a tariff.

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

- (1) A copy of every tariff and rate schedule under which gas service is being furnished to consumers within the area serviced by that local office.
- (2) A copy of the approved terms and conditions of service of the utility governing furnishing of gas service.
- (3) A copy of this Chapter, and all amendments thereto.
- (4) A copy of every franchise, agreement, or permit granted a utility by any municipality and a copy of each rate schedule and contract approved by the FERC applicable to sales by the utility in the State of Oklahoma.

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

165:45-15-3. 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 gas utilities 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 gas utility. 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 ~~payments~~ charges shall be separately stated as a line item on the regular billings to consumers as a dollar amount.

165:45-15-4. Settlement of disputes

Whenever a dispute or disagreement arises involving the furnishing of utility service or the interpretation of this Chapter, either the utility or any person affected may request the Commission's ~~Consumer Services Division~~ CSD to mediate the dispute, or file a written application or complaint with the Commission. The Commission, after notice and hearing, will make such order thereon as it may deem proper. Proceedings upon such an application or complaint will be governed by the provisions of OAC 165:5.

SUBCHAPTER 17. COMPETITIVE BIDDING AND AFFILIATE TRANSACTION RULES FOR THE PROVISION OF NATURAL GAS SERVICES OF GAS SUPPLY, GATHERING, TRANSMISSION AND STORAGE OF NATURAL GAS UTILITIES UPSTREAM OF THE CITYGATE

165:45-17-1. Purpose of this Subchapter

(a) The purpose of Subchapter 17 is to establish a fair and reasonable process, wherein, the natural gas utility service industry can be restructured in such a manner that will be in the best public interest of all natural gas consumers, and that would complement and improve the state's economic growth by increasing its market base for Oklahoma's greatest natural resource, natural gas. To accomplish this two-fold objective, Subchapter 17 provides for the unbundling of the currently

bundled services of gas supply, transmission, storage and gathering upstream of the citygate by the utility, and further provides that these services be competitively bid by entities desiring to participate in a competitive market. Accordingly, the Commission believes that a competitive bidding process is among the most effective means to achieve these objectives. Therefore, it is the policy determination of the Commission that competitive bidding and an unbundling process be utilized by natural gas utilities, and further, the Commission expects Oklahoma gas utilities to comply with this policy determination of the Commission.

(b) It is not the intent of Subchapter 17 to be applicable to downstream unbundling or competition.

(c) Since it is recognized that competitive bidding is not the only means to acquire and receive reliable and least cost natural gas services, this Subchapter also allows for other processes to be proposed by the utility for Commission consideration to acquire and receive those services. A utility seeking to propose processes other than competitive bidding must notify and obtain Commission approval, after notice and hearing, within thirty (30) calendar days prior to implementation of those processes in nonemergency situations. In emergency situations, the utility must notify the Commission within thirty (30) calendar days following implementation.

(d) Failure to utilize competitive bidding to obtain the natural gas services of gas supply, gathering, transmission and storage at the least cost, shall subject the utility to a prudence review, as defined in OAC 165:45-1-2, by the Commission. Subsequent to this review, after notice and hearing, the Commission shall make a determination as it deems necessary and proper, including, but not limited to, disallowance of recovery of the difference between the market price and the price at which the natural gas services were purchased.

(e) It is the intent of the Commission to create a fair and nondiscriminatory competitive market for natural gas services. It should not be construed that this Subchapter absolves or relieves any utility, competitive bidder, or downstream marketer or provider from any duty prescribed by the laws of the State of Oklahoma or the United States including, but not limited to, any state or federal law regarding contractual rights and obligations, antitrust enforcement or liability, or laws against improper restraint on trade or "takings" of property.

(f) This Subchapter also establishes reasonable standards of conduct for transactions between the natural gas utilities and their affiliates conducting business on the utility-owned transmission pipeline within the State of Oklahoma, and for competitive bidders.

(g) To ensure that the public interest is best served by the restructuring of the natural gas industry, the Commission may implement a consumer education program of its own design. The Commission may seek assistance of those parties directly or indirectly involved in the retail sale of natural gas.

165:45-17-9. Unbundling of utility services and access

(a) An application shall be filed by gas utilities with the Commission proposing an unbundling plan for the natural gas services of gas supply, gathering, transmission and storage upstream of all citygates and proposed aggregation points and the appropriate cost allocation and rate design for each of the unbundled services, as classified in OAC 165:70, as follows:

(1) Class A natural gas utilities which provide natural gas services upstream of all citygates and proposed aggregation points shall file an application for an unbundling plan by April 1, 1998, with appropriate documentation including, but not limited to, maps and lists of facilities owned and unbundling of the natural gas services of gas supply, gathering, transmission and

storage upstream of the citygate and the appropriate cost allocation and rate design for each of the unbundled services.

(2) Class A natural gas utilities which, at the time of the effective date of Subchapter 17, do not provide natural gas services, except gas supply, upstream of all citygates and proposed aggregation points, shall provide a letter to the PUD Director ~~of the Public Utility Division~~, within sixty (60) calendar days after the effective date of this Subchapter, stating the same with appropriate documentation, including but not limited to, maps and lists of facilities owned. After review, ~~the Public Utility Division~~ PUD will make a recommendation to the Commission regarding exempting the utility from the requirement to file an unbundling plan.

(3) Class A natural gas utilities which provide natural gas services upstream of all citygates and proposed aggregation points that have less than 25,000 customers may have an automatic waiver for one year or until April 1, 1999, whichever is the shorter time period, to file their respective unbundling plan. The utility seeking said automatic waiver shall contact the PUD Director ~~of the Public Utility Division~~ of such intention within sixty (60) calendar days of the effective date of this Subchapter.

(4) Class B, C and D natural gas utilities which provide natural gas services upstream of all citygates and proposed aggregation points may have an automatic waiver for two years or until April 1, 2000, to file their respective unbundling plan. The utility seeking said automatic waiver shall contact the PUD Director ~~of the Public Utility Division~~ of such intention within sixty (60) calendar days of the effective date of this Subchapter.

(5) Class B, C and D natural gas utilities which, at the time of the effective date of Subchapter 17, do not provide natural gas services, except gas supply, upstream of all citygates and proposed aggregation points, shall provide a letter to the PUD Director ~~of the Public Utility Division~~, within sixty (60) calendar days after the effective date of this Subchapter, stating the same with appropriate documentation, including but not limited to, maps and lists of facilities owned. After review, ~~the Public Utility Division~~ PUD will make a recommendation to the Commission regarding exempting the utility from the requirement to file an unbundling plan.

(6) Recognizing the unique situations of small utilities, those utilities serving one thousand (1000) customers or less, regardless of their classification, may file an application requesting an alternative plan or process in lieu of an unbundling plan or may request a complete waiver of the unbundling provisions. The Commission may grant such requested relief if the applicant natural gas utility can establish one or more of the following:

- (A) The utility adequately shows that unbundling the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate would create an unreasonable financial hardship for the utility;
- (B) The utility would be unable to solicit reasonable competitive bids;
- (C) The Commission finds it would not be in the best interest of public health and safety to require natural gas unbundling; or
- (D) For other good cause shown as determined by the Commission, after notice and hearing.

(b) **Informal collaborative process.** Prior to the filing of the unbundling plan, the Commission desires that an informal collaborative process and dialogue commence between each Class A utility and potential competitive bidders, including but not limited to, amounts and volumes needed or available, interconnection points, requests for bids, engineering and operational issues, metering, eminent domain, and any other information which can be reasonably discussed prior to approval of the unbundling plan. Any interested party may file a statement with the Commission, with a

copy mailed to the utility and the Attorney General, giving its notice of intent to participate in the collaborative process set forth in this subsection.

(c) **Open access to intrastate pipelines.** Comparable nondiscriminatory open access by intrastate pipelines shall be required. Intrastate pipelines shall not take any action that imperils or impedes a competitive bidding process directly or indirectly.

(d) **Access by the utility.** All natural gas utilities must provide comparable, non-discriminatory open access to their facilities and services upstream of the citygate.

165:45-17-11. Application requirements for an unbundling plan; public hearing and plan implementation

(a) In an application for approval of an unbundling plan, the utility shall identify in detail the following:

- (1) All Oklahoma jurisdictional facilities it owns and those owned by an affiliate, which have been or can be used in the provision of natural gas services of gas supply, gathering, transmission or storage upstream of the citygate or proposed aggregation point.
- (2) The capacity of such facilities identified in paragraph (1) of this Subsection.
- (3) Each Oklahoma geographic area in which the utility or an affiliate has provided or can provide the services of gas supply, gathering, transmission or storage upstream of the citygate,
- (4) The proposed citygates or other delivery points for which the aforementioned services will be competitively bid. There will be a designated citygate for every city and municipality regardless of the recommended aggregation point. Such designation does not mean actual installation, unless ordered by the Commission.
- (5) All natural gas service agreements which may have sole supplier and full requirements provisions or other provisions which may have the effect of restricting competition.
- (6) A schedule for competitive bidding for each citygate or proposed aggregation point.
- (7) Actual or estimated volumes of natural gas supply delivered to each citygate and proposed aggregation point for the utility's distribution service over each of the thirty-six (36) months preceding the date of application and an estimate for each of the subsequent twelve (12) months.
- (8) The actual or reasonable estimate of the peak volume requirements by month of each citygate and/or proposed aggregation point.
- (9) The actual or reasonable estimate of the maximum daily and hourly demand for each citygate and proposed aggregation point during the year.
- (10) Separate proposed tariffs reflecting all of the natural gas services upstream of the citygate and/or proposed aggregation point including gas supply, gathering, transmission and storage, which the utility proposes to make available for competitive bidding and which the utility will make available. Full documentation together with disaggregated cost of service studies identifying the system wide cost by consumer class or subgroup of each of the services and the allocation of those costs to each citygate or proposed aggregation point, together with all workpapers supporting such studies, shall be included with the proposed tariffs. In addition, an allocation of these system wide costs to each of the utility's citygates and proposed aggregation points shall be included, together with the methodology for making such allocation and workpapers supporting such allocation. The proposed tariff shall also contain the terms and conditions associated with each such service and, with the exception of gas supply, the

rate to be charged for each such service based upon the supporting disaggregated cost of service study.

(11) Standard form requests for competitive bidders for gas supply, gathering, transmission and storage upstream of the citygate or proposed aggregation point.

(12) A detailed, itemized estimate to the extent known of the utility's total prudent and verifiable stranded and transition costs together with all workpapers supporting such estimate and the competitive market and any other assumptions underlying such estimate(s).

(13) A standard competitive bidder contract for natural gas services, which shall include appropriate guarantees regarding the delivery of the natural gas services to the citygate.

(14) A map(s) of the gas utility's facilities which includes;

(A) Separate delineation of gathering facilities, storage facilities, transmission facilities and local distribution facilities;

(B) The location of each citygate and/or proposed aggregation point;

(C) The operating pressures of all facilities at and upstream of each citygate and/or proposed aggregation point; and

(D) The capacity of all facilities at and upstream of each citygate and/or proposed aggregation point.

(15) All contracts regarding upstream natural gas services executed subsequent to February 18, 1997.

(16) Any amendments or addendums to any existing contracts regarding upstream natural gas services that were executed after February 18, 1997.

(b) All information and data submitted pursuant to subsection (a) shall be updated annually by supplemental filings. Such filings shall be public information.

(c) Each utility's unbundling application shall be subject to public review, comment and hearing. All hearings on each utility's unbundling application shall be completed and a final Commission order issued no later than one hundred and twenty (120) [calendar](#) days following the filing date of the utility's unbundling application, unless otherwise ordered by the Commission.

(d) Upon approval of the unbundling plan, the utility shall implement said plan within twenty (20) [calendar](#) days from the date of the Commission's order, unless otherwise ordered by the Commission

165:45-17-13. Competitive bidding

(a) To effectuate the policy of the Commission that a competitive bidding process is among the most effective means to restructure the natural gas service industry in such a manner that will be in the best public interest of all natural gas consumers, and that would complement and improve the state's economic growth by increasing its market base for natural gas, natural gas utilities are to acquire citygate or Commission approved aggregation point gas services through a public bidding process, unless otherwise ordered by the Commission, in accordance with the schedule set forth in each utility's Commission approved unbundling plan, which bidding process shall be subject to Commission oversight.

(b) Recognizing the importance to expediently implement the Commission's policy to begin a competitive bidding process by the heating season of 1998, the citygates of Oklahoma City and Tulsa will have an in-service date of November 1, 1998, subject to a final order by the Commission approving the utility's unbundling plan prior to September 1, 1998. Such bidding shall not commence until the utility's unbundling plan is approved by the Commission.

(c) Any entity desiring to provide the natural gas services of gas supply, gathering, transmission or storage upstream of the citygate or Commission approved aggregation point for a utility may file with the Commission, with a copy mailed to the utility, a written notice of its desire to provide one or more of such citygate natural gas service(s). Such notice shall identify with specificity:

- (1) The type of natural gas services it proposes to provide and the geographic areas in which the service(s) would be rendered;
- (2) The facilities which would be used in the provision of such service; and
- (3) The capacity of such facilities.

(d) All upstream citygate or Commission approved aggregation point gas services required, acquired, or obtained by a gas utility for its citygate(s) or Commission approved aggregation point(s) shall be acquired or obtained by a competitive bid procedure with the following exceptions:

(1) Such citygate or Commission approved aggregation point gas supply which the natural gas utility is obligated to purchase under existing long-term gas purchase or transmission contracts which were entered into prior to February 18, 1997, and were not amended after that date with non-affiliated entities, or were entered into or amended after February 18, 1997 with affiliates or nonaffiliates if such contracts or amendments were approved by Commission order, after notice and hearing; provided that these contracts are in effect and such contracts shall be terminated at their earliest opportunity. Nothing in this subpart shall diminish the authority of the Commission to review any contract of a gas utility for prudence or other reasons.

(2) Such citygate or Commission approved aggregation point gas service required during a bona fide emergency; provided, however, until the initial commencement of competitive citygate or Commission approved aggregation point service to such citygate(s) or Commission approved aggregation point(s), the gas utility shall continue to acquire natural gas services in a manner consistent with all other Commission rules and orders.

(3) Services which are generally not available through competitive bidding such as emergency services, or services which the Commission has found to be acceptable following a prudence review.

(4) Class A utilities shall notify the Commission within fifteen (15) calendar days of the effective date of Subchapter 17, of all contracts that fall under the exception of subsection (d)(1). The utility shall make such contracts available for inspection by the Commission and to intervening parties upon Commission order, after notice and hearing.

(e) When a citygate or Commission approved aggregation point becomes available for competitive bidding pursuant to the schedule set forth in the utility's Commission approved unbundling plan and a notice for such citygate or Commission approved aggregation point has been received as provided under subsection (c), the utility shall provide a request for competitive bid.

(f) If no notice has been received when the citygate or Commission approved aggregation point becomes initially available for competitive bid, the utility shall submit a request for competitive bid within thirty (30) calendar days after receipt of a notice under subsection (c).

(g) A request for competitive bid shall be in accordance with the requirements of this subsection as follows:

(1) The gas utility shall provide a request for competitive bid to the sender of such written notice and any other person or entity the gas utility reasonably believes would be capable of providing natural gas services in question, as well as to the Commission.

(2) Each request for bid shall set out in detail the natural gas services required with sufficient specificity as to volumes, delivery dates, term of contract not less than two (2) years or more

than five (5) years for bids submitted prior to the year 2002, and the types of service or other pertinent information, which would permit an informed and meaningful bid to be made.

(3) Each request for bid shall provide for an in service date of not later than six (6) months from the date the bid is awarded to the successful bidder.

(4) If the successful bidder is unable to complete construction by the designated in service date, the bid shall provide that a third party may provide service to the citygate or Commission approved aggregation point on an interim basis until construction can be completed to initiate new service.

(5) Any successful bidder that requires third party service by the utility or its affiliate, pursuant to subsection (g)(4), shall be assessed no more than the rate proposed by that successful bidder. Such interim service shall not exceed one hundred twenty (120) [calendar](#) days, except upon order of the Commission.

(h) Any interested person may, within a period of fifteen (15) [calendar](#) days following the filing of such request for competitive bid with the Commission, file a complaint with the Commission challenging the criteria or parameters of the request for bid as non-competitive or not necessary to meet the needs or not in the best interest of the customers of the natural gas utility. The Commission shall set the matter for hearing at which all interested persons may appear and the Commission shall determine the criteria.

(i) Any person interested in submitting a bid in response to a request for bid shall submit its bid to the Commission and submit a copy of such bid, under seal, to the utility within thirty (30) [calendar](#) days after the natural gas utility's filing of the request for bid with the Commission, or if a complaint is filed challenging the criteria of the request for bid within twenty (20) [calendar](#) days following a determination of proper criteria by the Commission. It is the intent that a bid will be sufficiently definite and firm so that, when taken together with the request for bid, its acceptance will result in the formation of an enforceable contract.

(j) To reinforce the integrity of the process, the gas utility and the Commission Staff shall promptly open all sealed bids received, at a date certain, and at the Commission.

(k) The gas utility shall promptly evaluate all bids and make a decision thereon within thirty (30) [calendar](#) days following the deadline for submitting bids. A gas utility shall make its decision on an arm's length, stand-alone basis showing no preferential treatment to its affiliate.

(l) The gas utility shall promptly file its decision with the Commission and mail copies of such filing to all bidders and the Attorney General identifying the successful bidder, which filing shall include a copy of the successful bid. Any unsuccessful bidder and the Attorney General shall have fifteen (15) [calendar](#) days following filing 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 subsection and the request for bids.

(m) Upon a determination of the successful bidder, the gas utility and the successful bidder shall promptly proceed to finalize contracts necessary to implement the bid. The contract shall contain appropriate guarantees, as set by the Commission, regarding the reliability of services to be delivered at the citygate or Commission approved aggregation point.

(n) 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 Section shall be heard on an expedited basis and a decision rendered thereon within thirty (30) [calendar](#) days from filing.

(o) After notice to all bidders and hearing, the Commission shall determine whether the gas utility's decision reveals either a clear departure from the criteria for decision or is erroneous, in which

event the gas utility shall be required immediately to rebid, in accordance with this Section, the citygate gas services which were the subject of such determination.

(p) An upstream related entity or an affiliate of the gas utility may bid competitively to furnish citygate gas service to such natural gas utility in response to such natural gas utility's request for bid. In no event may a gas utility give any preferential treatment or consideration to an upstream entity, including an affiliate of the gas utility, in the preparation of the request for bid, evaluation of bids or in the award of any contract for the supplying of natural gas services to a citygate or Commission approved aggregation point, and no person shall have any right to match any bid made by others or any right of first refusal.

(q) The Commission believes that the public interest would be best served by having independent producers participate in the competitive bidding process. To encourage independent producers, including those new market entrant producers that aggregate their production or that have their production aggregated through amended or prospective agency agreements as service providers to citygates or Commission approved aggregation points, to participate in the competitive bidding, the following provisions apply:

(1) 10% of the competitive bid for gas supply to each citygate or Commission approved aggregation point, which is the subject of a request for bid, will be awarded to the independent producers, provided the independent producers' bids are sufficient to serve 10% for such bid package.

(2) 10% of transmission services for each Commission approved citygate and aggregation point shall be designated for independent producers pursuant to (q)(1).

(3) Independent producers receiving the award pursuant to (q)(1) and/or the discount pursuant to (q)(2) shall be required to match the lowest bid for the service and/or supply.

(4) Upon Commission determination, after notice and hearing, that effective competition exists, any future awards available pursuant to (q)(1) and the discount pursuant to (q)(2) shall be discontinued.

(r) All costs of the utility in providing the natural gas services to a citygate or Commission approved aggregation point that are competitively bid and provided shall be removed from the utility's rates effective the date the competitively bid services are provided to a citygate or Commission approved aggregation point pursuant to this Subchapter. The utility shall file with the Commission documentation of the removal of such costs, which shall be subject to the review and approval or disapproval of the Commission. The utility will be allowed to recover the actual costs paid, as ordered by the Commission, for competitively bid services through either the utility's purchased gas adjustment (PGA) or through a surcharge with a time period which coincides with the contract term for such services. The Commission may determine the method of recovery at the time the utility's unbundling plan is approved. A Commission determination on the recovery of costs should not be construed as deregulation of the utility's facilities and assets. For competitively bid services, the gas utility shall utilize the cost and allocation data filed pursuant to OAC 165:45-17-11 in determining the costs to be removed from the utility's rates with amounts to be adjusted upward or downward by the Commission as appropriate.

(s) No gas utility may charge or allocate any of the costs of furnishing unregulated service or competitively bid service to other regulated service or recover any of the costs of furnishing unregulated service or competitively bid service in its rates and charges for other regulated service. Facilities serving competitively bid service and other regulated service and unregulated service shall be allocated between competitively bid service, other regulated service and unregulated

service based on the fully allocated costs actually incurred and separately determined for competitively bid service, other regulated service and unregulated service.

(t) After Commission review of the results of the competitive bidding process, the Commission will make a finding as to whether or not effective competition exists at each citygate or Commission approved aggregation point for each individual service which was competitively bid and what level of regulation is appropriate, if any, and will issue an order to that effect. Accordingly, there shall be no presumption of competition at any citygate or Commission approved aggregation point for each individual service that is being competitively bid prior to a Commission order reflecting the same.

(u) Once there has been a determination by the Commission that effective competition exists at a citygate or Commission approved aggregation point for any individual service which is being competitively bid for such citygate or Commission approved aggregation point, the utility owned transmission pipeline shall not be required to maintain tariffs for services obtained through the competitive bidding process for such specific citygate or Commission approved aggregation point, or in the alternative, the utility shall maintain tariffs as a ceiling level and may be allowed to discount its tariff in order to competitively bid to a specific citygate or Commission approved aggregation point, unless otherwise ordered by the Commission.

165:45-17-17. Public information regarding competitive bidding; bypass and partial and standby service

(a) **Public information regarding competitive bidding.** Each intrastate pipeline or utility owned transmission pipeline shall establish and operate a public web site. The public web site shall be accessible through the Internet and will allow for the posting of gas bidding information in the State of Oklahoma. Within one hundred and twenty (120) calendar days from the effective date of this Subchapter, the transmission pipeline shall submit a good faith statement of operation to the PUD Director ~~of the Public Utility Division~~ which states that the public web site has been established, is operational and is accessible via the Internet, and shall give the specific address of the site.

(1) The following information shall be posted to the site within a reasonable time of the transaction:

(A) Operationally available capacity at mutually agreeable citygate or Commission approved aggregation points and selected interstate delivery points; and

(B) Prices for operationally available capacity at those delivery points itemized in (A) above.

(2) ~~The Public Utility Division~~ PUD shall have free and unrestricted access to the site.

(3) Any entity seeking to competitively bid or requesting access to a transmission pipeline shall be given access to that transmission pipeline's public web site.

(4) Pursuant to the complaint procedures established in OAC 165:45-17-29, ~~the Public Utility Division~~ PUD will assist in negotiations regarding disputes related to information posted to the public web site or nondiscriminatory open access. If no successful agreement can be reached by the parties, any party to the dispute may file an application with the Commission for relief.

(b) **Bypass.** While neither encouraged nor prohibited, it is recognized by the Commission that competition in the natural gas industry creates the opportunity for some end-users of gas utilities,

which receive natural gas services pursuant to their respective tariffs, to now, through bypass or duplication of facilities, receive these services from other providers.

(c) **Partial service and standby service.** Any utility, which provides citygate or Commission approved aggregation point natural gas services, must make available partial service and standby service at rates appropriate for such service. Pursuant to this Subchapter, partial service means providing some fractional percentage of service which is less than one-hundred percent (100%) and standby service means a type of service wherein the utility does not provide service continuously but rather stands ready to do so when called upon by the customer. Provision of partial and standby service by a utility shall not jeopardize the reliability of service to residential and other small volume customers. When necessary to protect residential and small volume customers, partial and standby service shall be provided on an interruptible basis.

165:45-17-29. Complaints procedure regarding competitive bidding

(a) **Informal complaints.** Any party who is aggrieved by a competitive bidding process is encouraged to seek informal resolution of their complaints before filing a formal complaint with the Commission. Complaints concerning the competitive bidding process may be submitted in writing to the ~~PUD Director of the Public Utility Division~~, along with all supporting documentation. ~~The Public Utility Division~~-PUD may assist in negotiations regarding complaints. If no successful agreement can be reached by the parties, any party to the dispute may file an application with the Commission for relief.

(b) **Formal complaints.** Any party aggrieved by a competitive bidding process shall have the right to file a complaint with the Commission, in compliance with OAC 165:5 and this Subchapter, against any competitive bidder, if such party believes it has been:

- (1) Wrongfully denied access to any intrastate or utility owned transmission pipeline;
- (2) Discriminated against with respect to the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate;
- (3) Placed at a competitive disadvantage by virtue of the actions of any competitive bidder, or
- (4) Adversely impacted by violation of the provisions of this Subchapter.

165:45-17-31. Interconnection

(a) In order to facilitate the Commission's policy to encourage new market entrants, upon the effective date of the rules of this Subchapter, each gas utility shall have the duty to provide for the interconnection of the facilities and equipment of any requesting pipeline with such utility's facilities:

- (1) At any technically feasible point with the gas utility's system at or upstream of each citygate or Commission approved aggregation point;
- (2) In a manner that is, at least equal in quality to that provided by the utility to itself or to any affiliate, or any other party to which the utility provides interconnection.

(b) Although the Commission seeks to encourage new market entrants, new market entrants are strongly encouraged to bear the reasonable financial costs associated with interconnections. However, in no circumstances should the bid of the new market entrant be deemed inadequate due to the desire of the entrant to have the utility bear the cost for interconnection. In no event shall the utility seek recovery for the interconnection costs ~~born~~-borne by the new market entrant.

(c) The requesting party shall reimburse the utility for all reasonable costs of an interconnection, unless the Commission, after notice and hearing, finds that it is in the best interests of the utilities' consumers for the utility to bear the cost of the interconnection.

(d) The utility may recover from its utility customers the costs involved with providing the interconnection which the Commission has determined, after notice and hearing, to be economically justified.

SUBCHAPTER 19. DOWNSTREAM SERVICES

165:45-19-3. Downstream service unbundling plan

(a) No later than September 1, 1998, each Class A utility with 25,000 or more customers shall commence a collaborative process wherein a downstream unbundling plan shall be developed. Interested parties, including, but not limited to, downstream service providers (marketers), the Attorney General, and the Commission's ~~Public Utility Division-PUD~~, may participate in the collaborative process. The downstream unbundling plan should include but not be limited to the following requirements:

(1) The unbundling of all downstream natural gas services for all classes of customers.

(2) The establishment of an appropriate cost allocation and rate design for the downstream unbundled services.

(3) Standards of conduct for transactions between the utility and its affiliate.

(4) Tariffs reflecting all of the natural gas services that will provide open access to the utility's system by entities desiring to provide downstream services, establish interconnection requirements and that will allow end-users a choice to obtain natural gas services from entities other than the utility. Each tariff shall identify the terms and conditions under which such service will be made available to any end-user and the maximum rate which the utility may charge for such service.

(5) That transportation shall be provided on a firm and interruptible basis to all end-users on a non-discriminatory basis. Therefore, unless otherwise ordered by the Commission, the transportation proposal should:

(A) Eliminate volume restrictions.

(B) Remove alternate fuel requirements.

(C) Permit aggregation, where operationally and administratively feasible, for the purpose of making small consumer transportation viable; including nomination and imbalance provisions suitable for economically serving such customers.

(D) Specify under what conditions "returning" customers will be accepted and how they will be charged.

(6) Storage and balancing shall be provided as a separately priced service for customers interested in using storage and/or balancing services. This may include options keyed to varying conditions and/or time periods, wherein, each will be separately priced.

(7) Standby shall be provided as a separately priced service for transportation customers who have had their capacity or commodity curtailed.

(8) The utilities should clearly define if, when and how additional metering is required to provide additional services. The utility should be ready to demonstrate that the proposed metering requirements are not discriminatory and are truly necessary for operational reasons.

(9) The utility should propose a mechanism for notifying in-state customers of available interstate capacity. The proposal should include creditworthiness standards, bidding criteria and recall rights for such capacity. The aim of the capacity release program should be to provide the greatest contribution to the system's fixed capacity costs, while maintaining reliability for the firm sales customers.

(10) Curtailment plans should be updated in light of Order No. 636. Transportation customers should not be arbitrarily interrupted. The utilities should consider an operational condition that requires an interruption of load and also consider ways of interrupting only customers in those constrained areas. A pro-rata cutback arrangement may be put in place to relieve capacity constraints. If the utility finds that it is economical, it should arrange for the emergency/peak period use of customer owned gas under prearranged conditions and for a prescribed rate of compensation.

(11) Rate schedules should reflect the appropriate costs to provide each of the above services. Rate structure should be supported by work papers and a description of the methodology employed.

(12) Standards to allow customers to aggregate.

(b) To ensure that the public interest is best served by the restructuring of the natural gas industry, the Commission may implement a consumer education program of its own design. The Commission may seek the assistance of those parties directly or indirectly involved.

(c) The foregoing are intended as guidelines for a competitive rate and tariff structure. Utilities may find that one or more aspects of these guidelines are not practical for various reasons. Where this is the case the utilities may request an exemption from complying with that part of the guidelines. In such cases the utility should provide substantial documentation to support an exemption.

(d) Any interested party may by August 1, 1998, file a statement with the Commission, with a copy mailed to the utility and the Attorney General, giving its notice of intent to participate in the collaborative process set forth in subsection (a).

(e) Each collaborative process set forth in subsection (a) shall establish financial performance standards and appropriate consumer protection measures and safeguards.

(f) On or before April 1, 1999, the utility shall file with the Commission an application for approval of the proposed downstream unbundling plan that was developed as a result of the collaborative process set forth in subsection (a). The Commission shall conduct an examination and review of the utility's application. It is intended that the collaborative process continue between the applicant utility, the entity(ies) desiring to provide the downstream service, the Attorney General and any other party granted intervention status.

(g) The Commission shall conduct a public hearing on the utility's application for approval of its downstream unbundling plan and shall issue an order on or before June 1, 1999.

(h) Upon issuance of the Commission order, the utility shall begin implementation of the approved downstream unbundling plan for an in service date of October 1, 1999.

(i) It is recognized that the unbundling of the downstream system of a currently regulated utility may have potential tax implications. It is, therefore, contemplated that this subsection is subject to modification by the legislature or the Commission regarding tax implications, if any, and that the dates set forth herein may be modified by Commission order as appropriate to address tax issues.

(j) The Commission will, from time to time, reconvene the collaborative group(s) formed in response to subsection (a) for the purposes of monitoring the progress of the unbundling

implemented pursuant to this Subchapter and refining, as necessary, the terms, conditions, and rates adopted as a result of those collaborative discussions. New parties may join the collaborative group at any time by giving notice of their intent to participate to a collaborative group as it then exists.

(k) The dates, stated herein, may be reestablished by order of the Commission for utilities with less than 25,000 customers.

(l) In lieu of the requirements of this Subchapter, a utility that has not begun implementation of a downstream unbundling plan as of July 1, 2014, shall submit a statement annually, detailing the basis for which implementation has not occurred, to the PUD Director ~~of the Public Utility Division~~.

SUBCHAPTER 21. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

165:45-21-1. Purpose and scope

(a) The purpose of this Subchapter is to ~~encourage~~ 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 ~~Corporation~~ Commission ~~encourages~~ requires gas 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 the scope 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 gas utility serving Oklahoma jurisdictional ratepayers is encouraged required to follow the most current United States Department of Transportation, Office of Pipeline Safety's "Pipeline Security Information Circular" and "Pipeline Security Contingency Plan Guidance" ("DOT/OPS Guidelines") 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 gas 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 165:45-21-7(f) and the Plan shall be subject to review pursuant to the Authorized Participation and Confidentiality provisions of OAC 165:45-21-10 and OAC 165:45-21-11. 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.

165:45-21-3. Definitions

The following words and terms, when used in this Subchapter 21, 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 PUD Director ~~of the Public Utility Division~~ made by August 1, 2005 and by 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 utility system, or would cause significant risk to public health and safety.

"DOT/OPS Guidelines" means the guidelines, as may be amended from time to time, that are distributed by the United States Department of Transportation, Office of Pipeline Safety: "Pipeline Security Information Circular" and "Pipeline Security Contingency Plan Guidance."

"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.

"Plan" means a Homeland Security and Critical Infrastructure Plan including any subsequent Plan Update Reports that have been prepared with reference to the DOT/OPS 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 21.

165:45-21-5. Utility Security Plan

(a) Each gas utility is ~~encouraged~~ required to prepare and make available for inspection, a "Homeland Security and Critical Infrastructure Plan" ("Plan") that has been prepared with reference to the DOT/OPS GUIDELINES 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 165:45-21-3 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 165:45-21-7(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.

165:45-21-7. Reporting requirements

- (a) Subsequent to the preparation of the initial Plan prepared under OAC 165:45-21-5(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.
- ~~(d)~~(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.
- ~~(e)~~(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.
- ~~(f)~~(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 ~~of the Public Utility Division~~, marked as "Highly Sensitive Confidential," 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 and defined by this Subchapter but has otherwise taken steps to secure its 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 and Plan Update Report are available for Commission and/or Attorney General review at the utility's local place of business.

~~(g)~~(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.

165:45-21-9. 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. Cost recovery shall be subject to established rate-making principles. 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 165:45-21-9(i) and/or OAC 165:45-21-9(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 165:45-21-11 (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 ~~at the Commission~~.

(m) Upon notice and hearing, the Commission shall issue an Order regarding any requests for security-related cost recovery.

165:45-21-11. 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 165:45-21-7(g), above. Only those individuals on the Staff of the ~~Corporation~~ 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 165:45-21-10(c) may also be granted access to the Plan, Plan Update Reports and supporting documentation after notice and hearing.

SUBCHAPTER 23. DEMAND PROGRAMS [REVOKE]

165:45-23-1. Purpose [REVOKE]

~~The purpose of this subchapter is to establish fair and reasonable rules for planning and implementing 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, 2017 and thereafter.~~

165:45-23-2. Goals [REVOKE]

~~(a) The goals of Demand Programs are to minimize the long term cost of utility service, to encourage and enable utility customers to make the most efficient use of energy, and to discourage the inefficient and wasteful use of energy.~~

~~(b) The Commission shall set specific savings goals for each utility to achieve Net Source Energy Usage Savings without adversely affecting customer comfort or state economic activity, based on market potential studies, base line studies, gas supply portfolios, risk management plans, or other evidence presented as part of the hearing process for approval of a utility's Demand Programs.~~

165:45-23-3. Definitions [REVOKE]

~~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 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 consumer bills in a particular customer sector divided by the number of consumers in that sector; i.e., the arithmetic mean. A utility may use the average customer bills for the customer rate classes rather than the 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 natural gas 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 natural gas use, trend in natural gas 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 as a result of non fuel switching Demand Programs, the base line to be used in savings calculations shall be either the performance standard base line (the minimum efficiency available in the market), or a customized, project specific base line. When evaluating energy efficiency measures implemented as a result of fuel switching or non-prescriptive Demand Programs, the base line to be used in calculations shall be the replaced equipment efficiency.~~

~~"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 a benefit from available alternative uses, so long as the benefit's value exceeds the money spent.~~

~~"Customized opportunity" means an energy efficiency program tailored to an individual natural gas user's needs.~~

~~"Deemed savings" means an estimate of natural gas 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 programs, or as defined in this subchapter, Demand Programs including fuel switching programs offered or proposed by a natural gas utility; for example, a residential weatherization program and a program to trade tankless water heaters for tank water heaters or a general education program for energy efficiency may be contributors to a demand portfolio.~~

~~"Demand portfolio administrator" means the utility employee responsible for supervising the utility's energy efficiency efforts as proposed in compliance with this subchapter.~~

~~"Demand Program(s)" means the Energy Efficiency programs offered or proposed by a natural gas utility. Collectively, the Demand Programs make up the company's Demand portfolio.~~

~~"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 shall 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.~~

~~"Energy efficiency" means reducing natural gas 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. Free riders 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 the time the program measure was implemented.~~

~~"Fuel switching" means changing from rate regulated natural gas to rate regulated electricity or from rate regulated electricity to rate regulated natural gas for a particular end-use service. 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 thousand cubic feet, dekatherms, percentage reduction or limitation, 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 a gas 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 natural gas 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 natural gas 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 natural gas users who traditionally fail to engage in Demand Programs because of one or more barriers beyond those experienced by average residential or commercial customers in a utility's service area.~~

~~"Incentive" means a sum of money a utility may be allowed to recover, in addition to program costs and allowed 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 165:23-45-8.~~

~~"Inducement" means anything of value offered by a utility to encourage natural gas users or trade allies to engage in a Demand Program approved pursuant to this subchapter.~~

~~"Lost net revenue" means income from the retail sale of natural gas 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 natural gas 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.~~

~~"**Natural gas user**" means a real property freeholder or leaseholder at a specific location who consumes natural gas at that location, regardless of whether the consumer receives a gas bill directly from a utility.~~

~~"**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 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 Source Energy Usage Savings**" means the total change in source energy usage that is directly attributable to a Demand Portfolio. This change in source energy usage will reflect the pre-treatment source energy usage of a device or process less the post-treatment source energy usage of a device or process and 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 shall be made up of a variety of factors that create differences between gross and net savings, and commonly consider the effects of free riders and spillover.~~

~~"**Program**" means an organized set of activities or measures directed toward the common purpose of energy efficiency that a utility undertakes or proposes to undertake to reduce future natural gas usage or growth in natural gas usage; 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 natural gas 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 a natural gas utility prior to the implementation of the Demand Programs. These are typically estimates of savings prepared for Demand 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 energy savings, and/or lifetime energy 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 use of natural gas or rate of growth of natural gas use, as measured in dekatherms or thousand cubic feet.~~

~~"Spillover" means the reductions in energy consumption 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, builders, developers, retailers, skilled laborers, service providers, and wholesale distributors who support Demand Programs through sale or installation of goods and services.~~

~~"Transportation Customer" means any customer who buys gas on the open market from any provider, and engages a regulated utility's pipeline to transport the gas to the customer's facility.~~

~~"Verified savings" means values reported by a natural gas 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.~~

165:45-23-4. Demand portfolio submission and implementation [REVOKE]

~~(a) All natural gas utilities under rate regulation of the Commission having more than 25,000 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 May 1 of 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 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 in the absence of each Demand Program and the ways each 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 savings, 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 will meet savings goals that may be in place at the time of filing and or that are otherwise proposed in the filing;~~
 - ~~(18) An estimate of the expected savings in natural gas usage, with location information about the source of savings, if savings are not expected to be evenly distributed throughout the utility system;~~
 - ~~(19) A detailed explanation of the utility's request for recovery of prudently incurred program costs, recoupment of lost net revenue, and any additional incentives the utility proposes it requires to make the programs workable;~~
 - ~~(20) Identification of the Demand Portfolio administrator, including name, job title, business postal address, business electronic mail address, and business telephone number; and~~
- ~~(b) Demand Portfolios shall:~~

- ~~(1) Contain Demand Programs for all customer sectors;~~
- ~~(2) Strike a balance among procuring natural gas 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 among larger customers;~~
- ~~(5) Not include programs or measures that promote fuel switching, with the exception of:
 - ~~(A) programs or measures that promote renewable technologies such as biomass derived methane, geothermal, solar and other renewable resources; or~~
 - ~~(B) in the event after notice and hearing, such programs or measures are shown to promote the goals of the Commission pursuant to this Subchapter and/or otherwise to be in the public interest;~~~~
- ~~(6) Have an implementation schedule of no more than three years;~~
- ~~(7) Address opportunities presented by new construction and renovation;~~
- ~~(8) Promote comprehensive energy efficiency in buildings; and~~
- ~~(9) 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. Programs targeted to low income or hard to reach customers may have lower threshold cost effectiveness results than other programs.~~
- ~~(c) Demand portfolios may:
 - ~~(1) 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;~~
 - ~~(2) Encourage utility cooperation in state, regional and national programs that have the potential to save natural gas in Oklahoma;~~
 - ~~(3) 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; and~~
 - ~~(4) 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.~~~~
- ~~(d) Natural gas utilities having fewer than 25,000 meters in this state are exempt from filing application requirements in subsections (a) through (c); however, each qualifying natural gas utility shall submit to the director of the Public Utility Division for review, evidence of why it is not economically feasible to file the application requirements in subsections (a) through (c), and shall submit the following as evidence to further the goals of this Subchapter:
 - ~~(1) A description of the Demand Programs that are economically feasible to implement; and~~
 - ~~(2) The target market of each Demand Program.~~~~
- ~~(e) Transportation customers shall not be subject to Demand Programs and related Program costs implemented pursuant to this Subchapter.~~

165:45-23-5. Commission consideration [REVOKE]

- ~~(a) In reviewing Demand Portfolios, the Commission will consider:~~

- ~~(1) The quality of the Demand 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) The effect on the environment, to the extent of Commission authority; and~~
 - ~~(9) 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 program costs;~~
 - ~~(2) All program costs should not add more than \$1.60 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 should be reviewed and adjusted to reflect allocated Demand Program cost recovery; and~~
 - ~~(3) Tariffs covering rates or riders for Demand Programs shall be updated to be in compliance with this Subchapter or in accordance with OAC 165:45-1-4(b) and (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.~~

165:45-23-6. Evaluation, measurement, and verification [REVOKE]

- ~~(a) Utilities are responsible for timely evaluation, measurement, and verification (EM&V) of their Demand 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 Demand Programs;~~
 - ~~(2) To assess the effects of Demand Programs on the market for energy efficient products and services; and~~
 - ~~(3) To assess the effectiveness of the administration and implementation of Demand 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 Demand 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.~~

165:45-23-7. Reporting [REVOKE]

- ~~(a) Each utility shall submit an annual report by May 1 of each year on the performance of 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 Verified savings information in order for PUD to evaluate incentives levels to be recovered from consumers. PUD will provide Company with written notification of incentive levels, confirming or identifying disputed amounts with rationale for dispute by September 1. Any undisputed incentives may be included in recovery according to formula rate or other tariff terms. Any disputed incentives amounts will be resolved during the subsequent formula rate filing or other tariff recovery reviews. True-up mechanisms and recovery for all other Demand Program Costs shall be included with formula rate filings or other tariff recovery mechanisms.~~
- ~~(c) The report shall contain a Demand Portfolio summary reflecting the scale of each program as a part of the Demand Portfolio and will include the following:
 - ~~(1) The name of Demand Program listed by customer category;~~
 - ~~(2) The date program was started or date the Demand Program was revised;~~
 - ~~(3) The number of participating customers per Demand Program;~~
 - ~~(4) By Demand Program, approved projected energy savings (in decatherms) as approved;~~
 - ~~(5) The gross energy savings (in decatherms) and performance of each Demand Program;~~
 - ~~(6) The verified energy savings (in decatherms) by Demand Program and methods used to verify;~~
 - ~~(7) For Education programs measurements of outreach efforts, including pre program and post program results and copies of evaluations, surveys, focus group results, and other measurement techniques used to gauge the effectiveness of education efforts;~~~~

- ~~(8) The levelized cost per decatherm for the Demand Portfolio, Demand Programs, and by customer sector, including all assumptions used to make the calculation;~~
- ~~(9) 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;~~
- ~~(10) The Demand Portfolio funding as a percent of total annual gas revenue;~~
- ~~(11) The Demand Portfolio Net source energy savings as a percent of total gas annual usage;~~
- ~~(12) 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; 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) 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.~~~~
- ~~(14) Projected incentives — including projected cost effectiveness tests;~~
- ~~(15) 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;~~
- ~~(16) The utility's annual growth in metered energy for the previous three years, with a calculation of the average growth rate over that entire period by customer class or major customer class segments;~~
- ~~(17) The most current information available comparing the base line and milestones to be achieved under market transformation programs with actual conditions in the market;~~
- ~~(18) By Demand Program, provide a summary of spending, including the following:
 - ~~(A) Administrative costs;~~~~

- ~~(B) Inducements, including direct payments and other inducements;~~
- ~~(C) Education and marketing costs;~~
- ~~(D) Program Delivery Costs; and~~
- ~~(E) EM&V costs.~~
- ~~(19) A statement of any funds that were committed but not spent during the year, by program, with an explanation for non-spending;~~
- ~~(20) 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.~~
- ~~(21) 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 Program; and~~
- ~~(22) Identification of Demand Program implementers, including names, job titles, business postal addresses, business electronic mail addresses, and business telephone numbers.~~
- ~~(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;~~
 - ~~(2) Will endeavor to act on the report within ninety 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 Demand Program administration, delivery or planning.~~

165:45-23-8. Incentives [REVOKE]

- ~~(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 company's goal ratio (Verified savings divided by Projected savings);~~
 - ~~(2) and the Demand Portfolio achieves a total resource cost test benefit/cost ratio (TRC:B/CR) that is greater than one; and~~
 - ~~(3) No incentive shall be allowed for performance of the Demand Portfolio if the Utility fails to pass all of these threshold measures (OAC 165:45-23-8(a)(1) and (2)).~~
- ~~(b) 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 Utility's total annual Net Energy Source savings goal.~~
 - ~~(A) The goal ratio (Verified savings divided by the Projected savings) must be 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.~~

~~(c) 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.~~

165:45-23-9. Stakeholder process [REVOKE]

~~(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 165:45-23-7. 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 Demand 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 165:45-23-4, the Public Utility Division shall use one of the semi-annual stakeholder meetings to obtain stakeholder feedback on the proposed application.~~

APPENDIX A. Thirty (30) Day Medical Verification Certificate To Suspend Disconnection For Life Threatening Health Conditions

Thirty (30) Day Medical Verification Certificate To Suspend Disconnection For Life Threatening Health Conditions

A. INSTRUCTIONS

The Oklahoma Corporation Commission requires gas 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 gas 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 gas-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 gas service to the specified residence for a period of thirty (30) calendar days from the initial notification. After the initial thirty (30) calendar days, normal collection action will resume.

An additional thirty (30) day-calendar-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-calendar-day extension must be made before the end of the initial thirty (30) day-calendar-day period. The utility is not required to furnish service to the consumer beyond a total of sixty (60) calendar 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? _____

Gas 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 gas service for life-threatening conditions and, as the consumer, I am responsible for the payment of bills rendered for gas service during this suspension of disconnection.?

Consumer's Signature _____ **Date** _____

C. FORM FOR MEDICAL OR OSTEOPATHIC DOCTOR VERIFICATION

(to be completed by a medical or osteopathic doctor for an additional thirty (30) day period)

Name of Patient _____

Nature of Medical Problem _____

Is this condition considered life-threatening without gas service? Yes _____? No _____

What is the estimated duration of the life-threatening condition? _____

Specify the effect that discontinuance of gas service might have upon the health of the impaired individual.? _____

Specify any gas-operated equipment necessitated by the medical problem.? _____

Doctor's Name _____

Business Phone _____

Address _____

City _____ **State** _____ **Zip** _____

Doctor's Signature _____ **Date** _____