BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

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

CAUSE NO. RM 201900004

RULE IMPACT STATEMENT

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

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

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

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

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

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

Those benefiting from the proposed emergency rules are: wind energy developers, landowners near wind farms, and the general public.

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

V. Probable cost and benefits to the agency and to any other agency of the implementation and enforcement of the proposed emergency rules, the source of revenue to be used for implementation and enforcement of the proposed emergency rules, and any anticipated effect on state revenues:

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

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

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

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

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

VIII. Explanation of the measures the agency has taken to minimize compliance cost and a determination of whether there are less costly or non-regulatory methods or less intrusive methods for achieving the purpose of the proposed emergency rules:

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

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

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

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

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

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 19th day of August, 2019.

Prepared by:

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