RULEMAKING ACTION:
PERMANENT final adoption

RULES:
165:50-1-2. Definitions [AMENDED]
165:50-3-2. Standard fuel and purchased gas adjustment clause provisions [AMENDED]
Subchapter 5. Requirements and Procedures Relating to Adjustment Clauses Employed by Public Utilities
165:50-5-2. Monthly adjustments with respect to any approved fuel adjustment clause [AMENDED]
165:50-5-3. Monitoring of fuel adjustment clauses [AMENDED]
165:50-5-5. Report of fuel adjustment clauses by the electric generation cooperatives [AMENDED]
165:50-5-6. Inapplicability of certain rules to electric distribution cooperatives [AMENDED]
Subchapter 7. Purchased Power Adjustment Clauses for Electric Distribution Cooperatives
165:50-7-2. Monitoring of application of adjustment clauses [AMENDED]

AUTHORITY:
Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; 17 O.S. § 152(A); and 17 O.S. §§ 158.21 et seq.

SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:
Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 15, 2019.

COMMENT PERIOD:
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ADOPTION:
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SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:
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February 8, 2019

LEGISLATIVE APPROVAL:
Approved May 28, 2019 by HJR 1022

FINAL ADOPTION:
May 28, 2019

EFFECTIVE:
SUPERSEDED EMERGENCY ACTIONS:
n/a
INCORPORATIONS BY REFERENCE:
n/a
GIST/ANALYSIS:
The purpose of the proposed rules is to add the definition of "PUD" and provide general grammatical changes; clarifying calendar days versus business days; removing REA Form 7A and adding Rural Utility Service (RUS) Form 7; changing references in the rules from "filing" of information with the Commission to "submission" of information to the Commission; and identifying the recipient(s) of the submissions.

CONTACT PERSON:
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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S., SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE DATE OF JULY 25, 2019:

SUBCHAPTER 1. GENERAL PROVISIONS

165:50-1-2. Definitions

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

"Act" means 17 O.S. 1977 Supp. §§ 250-64 and as it may hereafter be amended.

"Affiliate," "affiliated person," "corporation," "firm," or "subsidiary" means any person, subsidiary, firm, or corporation which is controlled by an entity that also controls the utility, or the utility or an entity controlling the utility has directly or indirectly the power to control.

"Commission" shall mean or refer to the Oklahoma Corporation Commission.

"Electric distribution cooperative" means a cooperative corporation organized and doing business under the Rural Electric Cooperative Act, 18 O.S. 1971, §§ 437-437.30, engaged in the retail distribution of electric energy.

"Electric generation cooperative" means a cooperative corporation organized and doing business under the Rural Electric Cooperative Act, 18 O.S. 1971, §§ 437-437.30 engaged in the generation and distribution for resale of electric energy.

"Emergency sales of gas" means sales of natural gas made by a public utility or subsidiary thereof to one or more interstate pipelines or other out-of-state customer pursuant to federal law which exempts such transactions from the jurisdiction of the Federal Power Commission.

"Fair field price" means the value attributed to gas produced from wells owned by a public utility, or a subsidiary, or affiliate of a public utility, which shall be the going price paid by the utility, subsidiary, or affiliate to others in the field where such production is located. If the utility, subsidiary, or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary, or affiliate in the nearest field where conditions are similar.
The value to be attributed to residue gas owned by a public utility, or a subsidiary, or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary, or affiliate to others from the same plant. If the utility, subsidiary, or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary, or affiliate at the nearest plant where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it.

"Fuel adjustment clause" means any mechanism which allows a public utility or electric generating cooperative to automatically adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel for generation of electricity, purchased power, or purchased gas, and shall include purchased gas adjustment clauses.

"Heat rate" means a measure of the efficiency of an electric generating station, computed by dividing the total British thermal unit content of the fuel burned by the resulting net kilowatt-hours generated.

"Line loss" means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system.

"Public utility" or "utility" means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for producing, generating, transmitting, distributing, selling, or furnishing electricity, or transmitting, directly or indirectly, or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public or for wholesale, unless its wholesale rates are regulated by a federal agency.

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

"Purchased gas adjustment clause" means fuel adjustment clause which allows a public utility or electric generating cooperative to automatically adjust its charges above or below the base amount included in its rates, based upon changes in the cost of purchased gas.

"Purchased power adjustment clause" means any mechanism which allows an electric utility or electric distribution cooperative to adjust its charges above or below the base amount included in its rates based upon changes in costs of wholesale power purchased from others.

"Thousand cubic feet" or "Mcf" means that quantity of gas occupying one thousand cubic feet of space at 60 degrees Fahrenheit (60° F) and an absolute pressure as stated in the utility's tariffs.

SUBCHAPTER 3. CONTENTS AND STANDARD PROVISIONS OF ADJUSTMENT CLAUSES

165:50-3-2. Standard fuel and purchased gas adjustment clause provisions
(a) Standard fuel and purchased gas adjustment provisions set forth in (1) and (2) of this subsection are hereby adopted for use, insofar as feasible, by the public utilities subject to the jurisdiction of the Commission.

(1) Electric. The method for use in compensating for charges in cost of fuel is as follows:
   (A) Each utility generating electricity and having an approved cost of fuel adjustment clause in its tariff, subject to the Commission's jurisdiction, shall compensate for any variations in the average cost of fuel burned at the utility's thermal generating plant(s) above or below the cost of fuel used in each tariff on which the rate was based, by
adjusting the charges, either upward or downward per kWh, billed under its tariffs, approved agreements and special contracts by employing a method approved by the Commission in a public hearing process.

(B) The monthly average actual heat content of each fuel burned and thermal efficiency of each generating plant shall be reported in British Thermal Units (BTU) on a monthly basis to the Public Utility Division PUD. The actual fuel burned and generation for each generating plant shall be reported by fuel type in BTU content, tons, or gallons, as appropriate.

(C) Line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return. If line losses are allowed by the Commission, the utility will file submit a copy of the most recent applicable line loss study. Line losses will be evaluated for reasonableness on a case-by-case basis.

(2) Gas.

(A) Pressure base. For the purposes of calculations made in this paragraph, all volumes of gas will be adjusted to a pressure base of the pounds per square inch absolute on which the utility's rates are established and in accordance with gas measurement procedures standard in the industry. All reports to the Commission will be at 14.73 p.s.i.a. pressure base, detailing the conversion multipliers used.

(B) Determination of Mcf and price paid therefore upon initial receipt of gas. The total Mcf and the dollar amounts paid therefore shall be calculated for each accounting month on the basis of:

(i) The volumes of gas purchased by the utility or an affiliate from nonaffiliated producers, gatherers, processors, pipelines, and transporters, and the price paid for such gas, and

(ii) The volumes valued at the fair field price represented by gas received from wells owned by the utility or an affiliate and residue gas owned by the utility or an affiliate from gas processing plants, which gas is delivered into the utility's pipeline system, into the pipeline system of an affiliate of the utility, or directly to the utility's customers.

(C) Adjustments to calculations. Adjustments to the total Mcf and dollar amounts as determined pursuant to (B) of this paragraph shall be made for volumes of gas removed by treating or processing facilities and compression facilities located on the downstream side of any initial volume or value determination point. The total Mcf and associated value removed from the gas stream due to such treating, processing, and compression shall be subtracted from the total Mcf and dollar amounts as determined pursuant to (B) of this paragraph.

(D) Gas storage injections and withdrawals. Accurate records shall be kept to determine the total Mcf and associated value of gas injected into or withdrawn from storages. Each utility having gas in underground storage shall report to the Commission on or before the sixtieth (60th) calendar day following the last day of each month the amount and purchased cost of gas in storage as of the last day of the preceding month. This report shall be made on a form as approved by the Commission. Total Mcf and associated value shall be subtracted from the total amounts determined pursuant to (B) of this paragraph for any gas injected into storage during the accounting month for which the average cost of gas is being determined. Total Mcf and associated value for any gas
withdrawn from storage during the accounting month for which the cost of gas is being
determined shall be determined using the last-in, first-out method of inventory accounting
and shall be added to the total amounts determined pursuant to (B) of this paragraph.

(E) **Other provisions.** Special provisions which are approved by the utility tariffs.

(F) **Determination of the weighted average cost per Mcf.** The weighted average cost
per Mcf for each accounting month shall be calculated by totaling the Mcf and dollar
amounts as determined pursuant to the preceding subparagraphs and divided the total
dollar amount by the total Mcf.

(G) **Application of the average cost of purchased gas.** Whenever the average cost of
purchased gas, determined as provided in the preceding subsections, is less than the base
cost per Mcf as specified in the utility's approved tariff, the applicable rate per Mcf of gas
delivered will be reduced by an amount equal to the amount that the utility's average cost
of purchased gas is less than the base cost per Mcf as specified in the utility's approved
tariff. When the average cost of purchased gas is more than the base cost per Mcf as
specified in the utility's approved tariff, the applicable rate per Mcf of gas delivered will
be increased by an amount equal to the amount that the utility's average cost of purchased
gas is more than the base cost per Mcf as specified in the utility's approved tariff. The
purchased gas adjustment to be applied to any bill will be based on the average cost of
purchased gas for the latest gas purchase accounting month for which said cost has been
determined.

(H) **Credits.** Any credits, refunds, or allowances on previously purchased gas received
by the utility from any supplier shall be deducted from the cost of gas before
computations are made each month.

(I) **Average actual heat content.** Where available, monthly average actual heat
content of gas delivered to end users shall be provided in BTUs to the Public Utility
Division staff PUD during its annual fuel audit of the utility. The information shall be
supplied by utility-defined regions, if available.

(b) Variations from the standard provisions set forth in this Section must be sought pursuant to
applications for permission to use such clauses to be filed pursuant to 165:50-5-1.

**165:50-3-3. Standard purchased power adjustment clause provisions; electric
cooporatives**

(a) A Commission-approved purchased power adjustment provision may be adopted for use by
electric distribution cooperatives subject to the jurisdiction of the Commission. The method for
use by electric distribution cooperatives in compensating for change in the cost of purchased
power is as follows:

(1) Each electric distribution cooperative having an approved purchased power adjustment
clause in its tariffs designed to compensate for any variation in the cost of purchased power
above or below the base costs upon which the tariffs are based, by adjusting the charges,
either upward or downward per kWh, billed under its tariffs, agreements, and special
contracts approved by the Commission, shall employ the following formula to compensate
for such variation: P.A. = (A), where:

(A) P.A. = Power cost adjustment per kWh to be made, and
(B) A = the amount in cents or fraction thereof by which the average cost of power per
kWh paid to suppliers of power by the cooperative exceeds or is less than the cost of
power per kWh used in the tariffs as the cost of power on which the rate was based. Any
credits, refunds, or allowances on previously purchased power by the cooperative from any suppliers shall be deducted from the cost of purchased power before calculating "A" each month.

(2) The Commission shall include in a purchased power adjustment clause an allowance for line losses if a preponderance of evidence points to the probable conclusion that failure to do so will result in less than a reasonable rate of return for the cooperative. When line losses are included in the purchased power adjustment charge, the following formula shall be used: 

\[
P.A. = \frac{A}{1 - B}
\]

where:

(A) P.A. and A have the same meaning as in the formula in (a)(1) of this Section.

(B) B = The actual percentage of power losses expressed decimally.

(C) This power loss will be computed monthly based on the following formula:

(i) \(X\) = The total purchases in the twelve (12) month period ending one (1) month prior to the sales period.

(ii) \(Y\) = The total sales for the preceding twelve (12) month period.

(D) Then: \(B = \frac{(X - Y)}{X}\)

(3) Each electric distribution cooperative shall file monthly with the purchased power adjustment a rolling twelve (12) month average line loss schedule. Each electric distribution cooperative shall file annually each calendar year a five (5) year analysis of the line loss by month with the purchased power adjustment clause that coincides with the filing of the annual REA Form 7A. Submit the following to PUD, and other parties as directed by a Commission Order or tariff, on a monthly basis:

(A) The purchased power adjustment clause, including the factors enumerated in (2) above;

(B) A rolling twelve (12) month average line loss schedule.

(4) Each electric distribution cooperative shall file annually each calendar year a five (5) year analysis of the line loss by month with the purchased power adjustment clause that coincides with the filing of the annual Rural Utility Service (RUS) Form 7.

(4)(5) Line losses will be evaluated for reasonableness on a case-by-case basis.

(b) Variations from the standard provisions set forth in this Section must be sought pursuant to applications for permission to use such clauses, to be filed pursuant to 165:50-7-1.

**SUBCHAPTER 5. REQUIREMENTS AND PROCEDURES RELATING TO ADJUSTMENT CLAUSES EMPLOYED BY PUBLIC UTILITIES**

165:50-5-2. Monthly adjustments with respect to any approved fuel adjustment clause

(a) No proposed monthly fuel adjustment, purchased power adjustment, or purchased gas adjustment by any public utility shall become effective until after the Commission has had an opportunity, as provided in (c) of this Section, to determine that the adjustment is calculated in accordance with the terms and conditions of the applicable fuel adjustment clause.

(b) Prior to the effectiveness of any monthly fuel, purchased gas, or purchased power adjustment proposed by a public utility, such utility shall file with the Commission, by submitting the following to PUD and other parties as directed by a Commission Order or tariff:

(1) A statement of the items and costs making up the average cost of fuel per million Btu and associated costs in dollars and cents or fraction thereof.

(2) A summary of its fuel and gas purchase invoices and its computations of the proposed monthly fuel adjustment or purchased gas adjustment charges.
(3) A summary of inventory records of fuel and gas going into and taken out of stockpile or storage.

(4) A report containing the average unit price, the change in the average unit price, the volume purchased, and a brief explanation of such unit cost increase.

(5) Any other records which the Commission PUD may request, including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric public utilities and the actual capacity factor for each generating facility utilized to produce electric power.

(c) The records and computations submitted pursuant to (b) of this Section shall be open to public inspection at the Commission.

(d) The Commission PUD or any other affected party shall have five (5) business days after the records and computations prescribed in (b) of this Section have been filed submitted to determine the necessity of administrative proceeding request a hearing thereon. If the Commission does not determine that a hearing is required is not requested, the proposed adjustment charge shall become effective as filed submitted. In the event PUD or an affected party requests a hearing, and the Commission decides to hold a hearing on the information filed submitted, it shall notify the public utility within such five (5) business day period, set the matter for a public hearing to commence within thirty (30) calendar days thereafter, and give notice thereof at least three (3) business days prior to the commencement of such hearing by publication in a newspaper of general circulation in the area served by such utility. The issue to be determined at such hearing shall be either or both of the following determinations

(1) Whether charges or credits made under the fuel adjustment clauses are based upon the actual prices paid for fuel, purchased gas, or purchased power and are properly computed in accordance with the applicable adjustment clause.

(2) Whether the fuel adjustment clauses should be discontinued, amended, or suspended.

(e) In the event that the Commission determines that it is necessary to set any proposed adjustment charge for hearing, the proposed charge shall nevertheless become effective at the option of the utility following the expiration of the five (5) business day period after its records and computations have been filed submitted, pending the Commission's finding with respect to such charges. However, in the discretion of the Commission, the effectiveness of the proposed charge may be conditioned upon the filing submission by the utility with the Commission of an assurance satisfactory to the Commission, which may include a bond with surety of the utility's ability and willingness to refund to its customers any such amounts as the utility may collect from them in excess of the charge approved by the Commission in its finding. If the Commission has not approved, in whole or in part, or denied the proposed charge within a seven (7) day period business days subsequent to the commencement of such hearing, it shall promptly submit a written explanation of its failure to do so to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Office of the Governor.

165:50-5-3. Monitoring of fuel adjustment clauses

The Commission shall continually monitor and oversee the application of all fuel adjustment clauses. A general public hearing relating to the fuel, purchased gas, and purchased power adjustment clauses of all public utilities shall be held whenever the Commission deems it necessary, but no less frequently than once every twelve (12) months. The following procedure shall be followed with respect to such hearings:
(1) Upon application by the Commission staff PUD, an order shall be entered setting a hearing date, and notice shall be given in the form and manner prescribed by the Commission in such order.

(2) The Commission staff PUD, or any other person or entity objecting to the operation of a utility's fuel, purchased gas, or purchased power adjustment clause, shall, at or before such general hearing, file with the Commission a complaint in writing setting forth the reasons for such objection. Thereafter, a separate proceeding involving such utility shall be conducted, in accordance with the Commission's Rules of Practice [OAC 165:5].

   (A) If no complaint is filed before or at such general hearing with respect to the operation of the fuel, purchased gas, or purchased power adjustment clauses of a utility, no further proceedings shall be had thereon.

   (B) If a complaint is filed, the Commission shall at the general hearing set a date for a further hearing with respect to each utility against which a complaint has been filed. The issues to be determined at such further hearing shall be one or more of the following determinations:

      (i) Whether the charges or credits are based upon the actual prices paid for fuel, purchased power, or purchased gas.

      (ii) Whether the charges or credits are properly computed in accordance with the applicable fuel adjustment clause.

      (iii) Whether the fuel adjustment clause should be amended, discontinued, or suspended because of a change in circumstances since the fuel adjustment clause was approved.

(3) If the Commission finds that the charges or credits are not based upon the actual prices paid for fuel, purchased gas, or purchased power or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits and shall direct the public utility to take such action as may be required to insure that the charges or credits properly reflect the actual prices paid for fuel, purchased gas, or purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period.

165:50-5-5. Report of fuel adjustment clauses by the electric generation cooperatives
(a) Electric generation cooperatives which determine to utilize a fuel adjustment clause shall report such fuel adjustment clause to the Commission. Such cooperatives shall file monthly with the Commission PUD and other parties as directed by Commission Order or tariff by submitting the following:

   (1) A report of adjustments charged or credited to its wholesale electric customers on its current monthly billing.

   (2) A statement of the items and costs making up the average cost of fuel per million Btu and associated costs in dollars and cents or fraction thereof.

   (3) A summary of its fuel and gas purchase invoices and its computation of the proposed monthly fuel adjustment charges.

   (4) A summary of inventory records of fuel going into and taken out of stockpile or storage.

   (5) A report containing the average unit price, the change in the average unit price, the volume purchased, and a brief explanation of any change in such unit cost.

   (6) Any other records pertaining to fuel adjustment charges deemed necessary by the Commission including, but not limited to, the heat rate efficiency and delivery efficiency for
affected electric generating cooperatives and the actual capacity factor for each generating facility utilized to produce electric power.

(b) The records and computations provided for in this Chapter shall be open to public inspection at the office of the Commission.

165:50-5-6. Inapplicability of certain rules to electric distribution cooperatives

Sections 165:50-3-1, 165:50-3-2, and 165:50-5-1 through 165:50-5-5, 165:50-3-1, and 165:50-3-2 in this Chapter shall be inapplicable to electric distribution cooperatives, except as provided in this Chapter.

SUBCHAPTER 7. PURCHASED POWER ADJUSTMENT CLAUSES FOR ELECTRIC DISTRIBUTION COOPERATIVES

165:50-7-2. Monitoring of application of adjustment clauses

Whenever the Commission approves a purchased power adjustment clause pursuant to 165:50-3-3 and 165:50-7-1 and 165:50-3-3, the clause shall apply to all similar distribution cooperatives affected by such increased cost. In addition, the Commission shall continually monitor and oversee the application of the adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. The following procedure shall be followed with respect to such hearings:

(1) Upon application by the Commission staff, an order shall be entered setting a hearing date and notice thereof shall be given in the form and manner prescribed by the Commission in such order.

(2) The Commission staff, or any other person or entity objecting to the operation of an electric distribution cooperative's purchased power adjustment clause, shall, at or before such general hearing, file with the Commission a complaint in writing setting forth the reasons for such objection. Thereafter, an appropriate proceeding involving such electric distribution cooperative shall be conducted, in accordance with the Commission's Rules of Practice [OAC 165:5].

(A) If no complaint is filed before or at such general hearing with respect to the operation of the purchased power adjustment clause of an electric distribution cooperative, no further proceeding shall be had thereon.

(B) If a complaint is filed, the Commission shall at the general hearing set an appropriate time for the complaint to be heard, and the issues to be determined at such hearing shall be one or more of the following determinations:

(i) Whether the charges or credits made under the adjustment clauses are based upon the actual prices paid for purchased power.

(ii) Whether the charges or credits are properly computed in accordance with the applicable adjustment clause.

(iii) Whether that portion representing fuel adjustment charges made by an electric generation cooperative are fair, equitable, and properly computed.

(iv) Whether the purchased power adjustment clause should be amended, suspended, or discontinued because of a change in circumstances since the purchased power adjustment clause was approved.

(3) If the Commission finds that the charges or credits are not based upon the actual prices paid for purchased power or are not properly computed in accordance with the applicable
adjustment clause, it shall re-compute the charges or credits and shall direct the electric distribution cooperative to take such action as may be required to insure that the charges or credits properly reflect the actual price paid for purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period.
ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to OAC 165:50, Fuel, Purchased Gas, and Purchased Power Adjustment Clauses, which were considered finally adopted by the Oklahoma Corporation Commission on May 28, 2019, under permanent rulemaking provisions of the Administrative Procedures Act, 75 O.S., §§ 250 et seq.

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

__________________________
Lindsay LaFevers Archer
Rules Liaison
Oklahoma Corporation Commission
May 31, 2019
NAME OF AGENCY: Corporation Commission

TYPE OF DOCUMENT: Final Adoption of Permanent Rules

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

__________________________
Lindsay LaFevers Archer
Rules Liaison
Oklahoma Corporation Commission
May 31, 2019