

**TITLE 165. CORPORATION COMMISSION**

**CHAPTER 45. GAS SERVICE UTILITIES**

**PERMANENT RULES**

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Note: These rules are provided for the convenience of those who are affected by the jurisdiction of the Oklahoma Corporation Commission. Although the text of these rules is the same as the text of the rules on file in the Office of Administrative Rules, they are not the official version of the Oklahoma Administrative Code. Official rules are available from the Office of Administrative Rules of the Oklahoma Secretary of State.

**CHAPTER 45. GAS SERVICE UTILITIES**

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**[Authority:** 17 O.S. §§ 152 and 160.1]

**[Source:** Codified 12-31-91; Amended at 21 Ok Reg 2095, eff 7-1-04; Amended at 22 Ok Reg 708, eff 7-1-05; Amended at 23 Ok Reg 1678, eff 7-1-06, Amended at 25 Ok Reg 2215, eff 7-11-08, Amended at 26 Ok Reg 1856, eff 6-25-09; Amended at 31 Ok Reg 1067, eff 9-12-2014]

## SUBCHAPTER 1. GENERAL PROVISIONS

### Section

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### **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 fairness to the public and to the utility.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

### **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.

**"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.

**"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.

[**Source:** Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98; Amended at 21 Ok Reg 2095, eff 7-1-04, Amended at 26 Ok Reg 1857, eff 6-25-09; Amended at 31 Ok Reg 1067, eff 9-12-2014]

### **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.

[**Source:** Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98]

### **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) 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) 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.

[**Source:** Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98]

**165:45-1-4.1. Interpretation of rules of this Chapter**

(a) The word contained in this Chapter shall be given their ordinary and customary meanings, with technical terms and words being construed as generally understood in the gas industry, except where otherwise expressly provided.

(b) This Chapter shall not be construed so as to enlarge, diminish, modify, or alter the jurisdiction, powers, or authority of the Commission or the substantive rights of any person.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-1-4.2. Relief from rules of this Chapter**

(a) Whenever compliance with any requirement of this Chapter would result in unreasonable hardship upon or excessive expense to a party or parties subject to the requirements of this Chapter, or for other good cause shown, the Commission may waive or modify the requirements of this Chapter consistent with Federal and/or State law, upon application of an affected party and after notice and hearing. Such application shall set forth the specific rule or rules sought to be waived and the reasons for requesting such waiver.

(b) If relief from Subchapter 17 is requested, a copy of the application requesting a waiver shall be served on all parties who participated in the rulemaking docket in which Subchapter 17 was promulgated by the Commission. The Commission may determine, after notice and hearing, whether to grant such waiver.

(c) The Commission may grant temporary relief from the requirements of this Chapter pending hearing.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-1-4.3. Controversy over rules of this Chapter**

Whenever a controversy exists in connection with the interpretation of this Chapter and the applicability of the requirements set forth herein, or any right or duty imposed thereby, the Commission, upon application of any interested party and after notice and hearing, will enter such order thereon as it may deem appropriate.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-1-4.4. Severability**

If any provision of this Chapter is held invalid, such invalidity shall not affect other provision or applications of this Chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this Chapter are declared to be severable.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-1-5. Exceptions or variances**

(a) A utility shall not prescribe terms and conditions for furnishing service that are inconsistent with this Chapter. Utility-prescribed terms and conditions shall not be valid until filed with and approved by the Commission.

(b) A utility may refuse or discontinue service for noncompliance with its service terms and conditions only in cases where its terms and conditions, as approved by the Commission, specifically so provide.

(c) If a utility seeks an exception or variance from this Chapter in its rates or terms and conditions of service, such exception or variance shall be clearly shown by a footnote on each respective page of the tariff. The footnote must be sufficient to plainly bring to the Commission's attention the exact nature of the requested exception or variance. Any exception or variance not so marked or identified in the tariff shall be superseded by this Chapter to the extent that said exception or variance is in conflict therewith. Such waiver or modification shall apply only to the party seeking such waiver or modification unless otherwise stated in the order approving the variance. Upon approval by the Commission, the tariff shall state the Commission order number approving the variance.

(d) The provisions of this Chapter shall in no way preclude the Commission from allowing or requiring additional or different terms and conditions of service, service, equipment, facilities, or standards other than those prescribed by this Chapter.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98]

**165:45-1-6. Violations**

A violation of this Chapter shall constitute contempt of the Commission pursuant to 17 O.S. § 1 *et seq.*

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**SUBCHAPTER 3. PLANT, EQUIPMENT, AND FACILITIES**

## Section

- 165:45-3-1. Maintenance of plant, equipment, and facilities
- 165:45-3-2. Extent of system in which utility shall maintain service
- 165:45-3-3. Service lines
- 165:45-3-4. Extension of distribution mains
- 165:45-3-5. Sale or disposal of jurisdictional facilities by utility
- 165:45-3-5.1 Acquisition, control, or merger of domestic public gas utilities
- 165:45-3-6. Tampering with measuring or regulating equipment
- 165:45-3-7. Supply of gas and pipeline capacity

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

(a) Each utility shall install 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**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 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, and venting shall comply with the International Gas Code, dated 2003, and future amendments or supplements thereto.

(c) House 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 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.

[Source: Amended at 22 Ok Reg 1809, eff 7-1-05]

**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.

#### **165:45-3-4. Extension of distribution mains**

(a) **General.** A utility shall extend its distribution mains to serve consumers within the corporate limits of a municipality served by the utility, or any recorded addition thereof, or within a reasonable distance from the utility's existing distribution system in accordance with the provisions of this Chapter.

(b) **Free extensions.** A utility shall extend its distribution system, as needed, up to one hundred feet (100') per residence without cost to the "party" requesting service. In arriving at the length of such main extension necessary to render service to the party, the distance shall be measured along lines of proper construction from the nearest distribution main with adequate capacity.

(c) **Extension above free limit - advance.** If the extension necessary to furnish service is greater than allowed as a free extension under subsection (b) of this Section, a utility may require an advance of the cost of the main extension over the free limit. However, the utility shall not arbitrarily or with disparity impose the obligation of requiring an advance, but rather shall determine whether to require an advance and the amount thereof on a case-by-case basis. Whenever such advance is made, the utility shall be required to refund to the party who made the advance an amount equal to the cost of one hundred feet (100') of free extension for each additional consumer whose service line is connected to such main within a period of ten (10) years from the making of the extension. No refunds shall be made for consumers connected to future extensions tied into such an extension. This refund will cease after ten (10) years from the making of the extension but the total of all refunds shall not exceed the original advance. The advance shall not draw interest.

(d) **Extensions above free limit - revenue basis.** The Commission may authorize a utility to make extensions above the free limit upon receipt of a lesser advance, or no advance, when the gross anticipated annual revenue from an extension will provide the utility with an adequate return on its investment pursuant to a formula or other method approved by the Commission. After such authorization, the utility shall make extensions when requested by the party pursuant to such approved formula or method.

(e) **Extension above free limit - special contract.** In lieu of making an extension pursuant to subsections (c) or (d) of this Section, a utility may make an extension above the free limit with a lesser advance or no advance, when the utility has entered into an agreement whereby the party proposing to provide the advance guarantees a minimum

annual revenue from the extension to the utility. Such an agreement shall be deemed a special contract governed by OAC 165:45-15-2.

(f) **Determining cost of extension.** In determining the amount of advance, if any, which shall be made for an extension pursuant to this Section, the total construction cost of the extension shall first be determined in accordance with the approved system of accounts for gas utilities and from such total construction cost there shall be deducted:

(1) Costs incident to any increase in size of the main in excess of that required to adequately and satisfactorily provide service, costs incident to future expansion or to continue a construction plan of the utility, and costs necessary to correct inadequate capacity.

(2) The total construction cost of that portion of the extension constituting a free extension, which includes meters, service regulators, stopcocks, and service connections.

(g) **Extensions applicable in prospective real estate subdivisions.** In lieu of an extension pursuant to other provisions of this Section, a utility may require a developer desiring an extension to a prospective real estate subdivision to make an advance equal to the estimated cost of the extension before construction is started, and such advance shall not draw interest. At least annually for a period not to exceed ten (10) years, the utility shall refund to the developer a sum equivalent to the cost of the free extension under subsection (b) of this Section for each consumer connected to the extension during the calendar year. In no case will the total amount refunded exceed the amount advanced to the utility. Consumers locating on an extension made pursuant to this Section will not be required to make an advance for an extension.

(h) **Extension above free limit.** If the extension above the free limit is of such length and the future anticipated revenues therefrom so small that it is doubtful that the extension would ever make a fair return on the investment, the utility or any interested party may apply to the Commission for an appropriate order after notice and hearing.

(i) **Property of extension.** Every extension shall at all times be the property of the utility regardless of whether an advance or contribution is made for its construction. Any unrefunded portion of an advance shall become the property of the utility.

(j) **Filing an extension policy.** In lieu of the extension provisions described in subsections (b)-(i) of this Section, a gas utility may file with the Commission an Extension of Facilities Policy governing reasonable extensions of facilities to consumers. This plan must be approved by the Commission.

(k) **Other extensions of facilities.** A utility may implement a policy whereby consumers who request gas service requiring the installation of new distribution mains may apply to the utility for service in compliance with Commission-approved tariffs, and may negotiate with the utility to perform some of the work necessary to install the new mains. If a mutually acceptable agreement is reached, the utility and the consumer shall enter a written agreement which conforms with the requirements provided in the utility's Commission-approved tariff. The utility shall own any distribution main installed pursuant to this subsection, and shall be responsible for proper maintenance and operation of the line.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**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) 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 and the Consumer Services Division 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) 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) 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) 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 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.

**[Source:** Added at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98, Amended at 25 Ok Reg 2215, eff. 7-11-08]

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

(a) An original and eight (8) 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) 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) 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) days after the application is filed and shall be concluded within thirty (30) 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) days after the conclusion of such hearing, entered its order approving the merger or other acquisition.

[Source: Added at 25 Ok Reg 2217, eff 7-11-08]

### **165:45-3-6. Tampering with measuring or regulating equipment**

(a) No regulator, regulator station, meter, meter house, or other property or equipment owned by a utility wherever situated, whether upon the consumer's premises or elsewhere, shall be tampered with or interfered with, either for the purpose of adjustment or otherwise, except by representatives of the utility owning the same. Official responsibility under authority of a municipal government shall not constitute an exception to this Section.

(b) If the customer tampers with the utility's equipment or receives the benefit of the tampered service, the utility may:

- (1) Disconnect service.
- (2) Charge a tampering fee in accordance with the utility's tariff.
- (3) Charge a reconnect fee in accordance with the utility's tariff.
- (4) Charge a deposit in accordance with OAC 165:45-11-1.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 22 Ok Reg 1809, eff 7-1-05]

**165:45-3-7. Supply of gas and pipeline capacity**

The supply of gas and the pipeline capacity to transport this supply must be sufficient to meet all normal peak day demands for service and provide a reasonable reserve for emergencies. This subsection is not applicable to curtailable or interruptible gas service contracts, to less than full requirements gas supply and/or transmission service contracts, whether firm or interruptible, to stand-by gas supply and/or transmission service contracts, whether firm or interruptible, to service under interruptible tariffs or to where gas supply is obtained from or furnished by a third-party supplier.

[Source: Added at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98]

**SUBCHAPTER 5. METERS AND REGULATORS****PART 1. GENERAL PROVISIONS**

## Section

- 165:45-5-1. Installation
- 165:45-5-2. Adjustment of bills for meter error
- 165:45-5-3. Information as to reading of meters

**PART 3. TESTING**

- 165:45-5-10. Meter testing facilities and equipment
- 165:45-5-11. Place and methods for meters and test equipment
- 165:45-5-12. Meter accuracy requirements
- 165:45-5-13. Periodic testing of meters and test equipment
- 165:45-5-14. Meter testing on request of consumer
- 165:45-5-15. Meter tests monitored by the Commission
- 165:45-5-16. Replacement of meters

**PART 1. GENERAL PROVISIONS****165:45-5-1. Installation**

- (a) Each utility shall provide and install, at its own expense, and shall continue to own, maintain, and operate sufficient equipment for the regulation and accurate measurement of gas delivered to each consumer.
- (b) Where additional meters are furnished by the utility for the convenience of the consumer, a charge for such meters may be made in accordance with a schedule filed with and approved by the Commission.
- (c) No residential meter shall be installed inside a residence after the effective date of this Chapter.
- (d) Every meter shall be installed at the nearest feasible point to the property line or curb line of the premises of the consumer except where the utility and consumer agree upon a different location.

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

(a) **Fast meters.** Whenever any meter tested by the Commission 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 ( $\frac{1}{2}$ ) 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 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 ( $\frac{1}{2}$ ) 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.

(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.

(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 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.

(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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**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 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 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, the amount of such estimated bill 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 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98; Amended at 22 Ok Reg 1810, eff 7-1-05]

### 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 of one 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 of one 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**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 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 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 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

#### **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 percent in error on check proof, and the open proof shall be within plus or minus one 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 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 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 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

### **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 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-5-14. Meter testing on request of consumer**

(a) If a written request of a consumer is received at an office of a utility, the utility shall, within twenty (20) calendar days, test the accuracy of the meter through which the consumer is being served.

(b) A charge may be made for a meter test requested by the consumer if it is found to test within limits of accuracy prescribed by OAC 165:45-5-12. The utility may make the charge if prescribed in the utility's Commission-approved tariffs.

(c) A consumer may make a written request to be present when the utility conducts the test on the meter, and may have an expert or other representative present at that time. The utility shall conduct the test in the presence of the persons requested during regular working hours of the utility.

(d) A written report stating the name of the consumer requesting the test, the date of the request, the location of the premises where the meter has been installed, the type, make, size, and serial number of the meter, the date of removal, the date tested, and the result of the test shall be supplied to such consumer within ten (10) business days after the completion of the test.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-5-15. Meter tests monitored by the Commission**

(a) Upon request to the Commission by a consumer, a test may be made of the meter through which the consumer is being served by the utility in the presence of a representative of the Commission. The test shall be made within twenty (20) calendar days after receipt of the request, during regular working hours of the utility and the Commission. The consumer shall be notified of the scheduled test and be invited to attend or have a representative present to witness the testing of the meter.

(b) Upon receipt of such request, the Commission shall either notify the utility to remove and seal the meter in the presence of the consumer for the purpose of testing the meter at a meter testing facility, or shall notify the utility to perform the meter test at the consumer's premises if feasible. If directed to seal the meter, the utility shall keep the meter in the same condition with the seal unbroken until the test can be made in the presence of the consumer and/or his representative and the representative of the Commission.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 22 Ok Reg 1810, eff 7-1-05]

**165:45-5-16. Replacement of meters**

A request from a consumer for replacement of the service meter on his premises shall be deemed a request for the test of the meter pursuant to OAC 165:45-5-14. If such meter tests within the tolerances set forth in this Subchapter, the meter may be left in place. Any meter which cannot be repaired to operate within the tolerances set forth in this Subchapter shall be replaced by the utility at no cost to the consumer.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

## **SUBCHAPTER 7. GAS PRESSURE, MEASUREMENT, AND ODORIZATION**

### **PART 1. GAS PRESSURE**

Section

- 165:45-7-1. Gas pressure limits
- 165:45-7-2. Allowable variations
- 165:45-7-3. Pressure testing equipment
- 165:45-7-4. Pressure surveys

### **PART 3. GAS MEASUREMENT**

- 165:45-7-10. Definition of a cubic foot of gas
- 165:45-7-11. Gas measurement requirements
- 165:45-7-12. Measurement of gas under high pressure
- 165:45-7-13. Calorimeter equipment and heating value requirements

### **PART 5. ODORIZATION AND PURITY OF GAS**

- 165:45-7-20. Odorization and purity of gas

### **PART 1. GAS PRESSURE**

#### **165:45-7-1. Gas pressure limits**

As a safety measure, the pressure of gas as measured at the outlet of the utility's service pipe to any consumer, or in the case of high pressure system, at the outlet of the utility's service regulator, shall be maintained as uniformly as practicable. It shall not be less than one-half nor more than twice the pressure at which the regulator is set, provided, however, that such limit may be exceeded by 2 p.s.i.g. if the regulator fails.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

#### **165:45-7-2. Allowable variations**

(a) The maximum pressure of gas at the outlet of the utility's service supply or regulator on any day to any consumer shall not be greater than twice the minimum set pressure on that day at that outlet.

(b) The utility shall not be deemed to have violated (a) of this Section if the variations in gas pressure were due to documented temporary conditions beyond the control of the utility.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-7-3. Pressure testing equipment**

Each utility shall comply with the pressure control, testing and other requirements imposed by the U.S.D.O.T., Regulations for Transportation of Natural and other Gas by Pipeline - Title 49 C.F.R. §§ 192.195, 192.197, 192.199, 192.739, 192.741, and 192.743.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-7-4. Pressure surveys**

Each utility shall comply with the pressure survey, recording, and other requirements imposed by the U.S.D.O.T., Regulations for Transportation of Natural and other Gas by Pipeline - Title 49 C.F.R. §§192.195, 192.197, 192.199, 192.739, 192.741, and 192.743. Each utility shall regularly record the pressures in various parts of its distribution system. The charts or records thus obtained shall bear the date and place where the pressure was taken and shall be retained for a period of at least two (2) years.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**PART 3. GAS MEASUREMENT****165:45-7-10. Definition of a cubic foot of gas**

(a) For the purpose of determining heating value of gas under this Chapter, a cubic foot of gas means that amount of gas having a gross heating value of at least nine hundred (900) British thermal units, which when saturated with water vapor at a temperature of sixty degrees Fahrenheit (60°F) and subjected to an absolute pressure equivalent to 14.73 p.s.i.a. and occupies a volume of one (1) cubic foot.

(b) For the purpose of measurement of gas to a consumer, a cubic foot of gas shall contain no less than the heating value prescribed in subsection (a) of this Section, and shall be that amount of gas occupying one (1) cubic foot at a pressure base which shall be stated in the utility's tariffs on file with and approved by the Commission.

(c) No gas regulator shall be adjusted to allow gas to be metered to a consumer at less than the pressure base stated in the utility's tariffs on file with and approved by the Commission.

(d) Where gas delivered to the consumer is measured at a pressure greater than the pressure base upon which it is computed, the volume registered by the meter shall be corrected by a multiplier accepted by industry standards.

(e) Where a utility has a contract or a tariff in effect on the effective date of this Chapter specifying a pressure base other than 14.73 p.s.i.a., the pressure base so specified may continue to be used for billing purposes. However, all reports to the Commission will be at 14.73 p.s.i.a. pressure base, detailing the conversion multipliers used.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-7-11. Gas measurement requirements**

(a) All gas transmitted by any utility shall be measured accurately by proper apparatus prior to entering the pipe line, and all gas consumed for light, heat or power in connection with its transmission shall be measured accurately in order that the "lost and unaccounted for" gas may be accurately determined.

(b) All gas transmitted by any utility shall be measured accurately by proper apparatus, and all gas consumed for light, heat, or power in connection with its distribution shall be measured in order that the "lost and unaccounted for" gas in distribution may be accurately determined.

(c) Each utility shall keep a record of the monthly input and output of its system.

(d) All the measurements required by this Section shall be recorded and the totals of the input and output measurements shall be reported each month to the Commission on its Forms G.D. and G.T., "Comparative Monthly Report of Revenues and Expenses." The measurements shall be reported on the 14.73 (p.s.i.a.) pressure base. Sales to consumers may be reported as billed when the pressure at which the gas is delivered is at standard delivery pressure.

(e) The utility shall treat each point of delivery as a separate consumer, or contract, and shall separately meter and charge accordingly. The utility shall not combine meter readings for the purpose of giving the consumer a lower rate, except as otherwise authorized by the Commission. More than one point of delivery to a single consumer at a single location will be permitted only if required by the physical characteristics of the facilities served. In such cases, total usage at multiple points of delivery shall be combined for billing purposes.

(f) All gas service rendered by a utility shall be subject to meter measurement, except as otherwise authorized by the Commission.

(g) Service to newly-constructed multiple residences, apartment complexes or similar residential units shall be individually metered, one meter per residence, and billed under the applicable rate schedule.

(h) Where four (4) or fewer rooms are rented to the public, for strictly residential purposes, within a residence with a single meter, the residential rate shall be applied to service for the entire residence.

(i) Exceptions to the standard set forth in subsection (g) of this Section for service to multiple residences may be granted by the Commission with respect to newly-constructed multiple residence units. A utility or the owner of such a multiple residence unit may submit an application seeking authorization to furnish service at one or more points of delivery. While the Commission may deny authorization for safety and other reasons, the Commission shall grant such authorization only if it determines that providing service in the manner requested will encourage:

(1) Conservation of energy;

(2) The efficient use of facilities and resources by the utility providing such service; and,

(3) Equitable rates to the consumers of such service.

(j) Except as provided in this subsection, no consumer shall separately meter or submeter and separately bill another consumer for gas. A landlord or innkeeper may include the cost of gas in rent. A landlord may utilize any formula in computing the

energy component of rent, provided that component is not separately metered and billed as "gas." A consumer violating this Section is subject to termination of service by the utility. This Section shall not apply to the sales of natural gas to or by a distributor for use as a vehicular fuel.

(k) Service to previously constructed multiple residences, apartment complexes or similar residential units may continue to be provided with a single or multiple meters. At the option of the utility, individual consumers may be served with individual meters at the applicable rate schedule.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

#### **165:45-7-12. Measurement of gas under high pressure**

(a) When gas is measured through positive or linear meters at a pressure greater than the pressure base used for measurement, such meters shall either be equipped with reliable pressure-volume recording gauges or compensating devices, as necessary or as otherwise required by the Commission, for accurately determining, in accordance with contracts or other tariff provisions, the quantity of gas that has passed through the meter, or the dial reading of the meter shall be multiplied by a correction factor.

(b) In computing the volume of gas on a given pressure base from a pressure volume chart, the multiplier shall be obtained by the weighted average method, which method consists of determining the average pressure for each unit volume indicated on the chart.

(c) In computing the volume of gas on a given pressure base from an orifice meter chart or charts, the average static pressure and the average differential pressure shall be determined for periods not exceeding one (1) hour. Where pressure variations are extreme during the hour, such average should be based on measurements taken at no more than fifteen (15) minute intervals.

(d) The calculation of volume shall be made in accordance with the Ideal Gas Law and may be corrected for deviations from Boyle's Law, all in accordance with methods and tables generally recognized by and commonly used in the natural gas industry.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

#### **165:45-7-13. Calorimeter equipment and heating value requirements**

(a) **Method of determining heat content.** Each utility shall maintain or have access to an approved type calorimeter or other accurate method of determining heat content, and shall periodically test representative samples of gas being distributed in its system.

(1) A recording calorimeter shall be checked at least once a month with an approved standard calorimeter or by some other accurate means.

(2) Whenever the utility materially changes its operations or source of gas, a new test will be made of the heating content of gas furnished.

(3) Both calorimeter and method of testing shall be subject to inspection and approval by a representative of the Commission.

(4) The results of all tests shall be kept on file by the utility for a period of three (3) years.

(b) **Standard of heating value.** Each gas utility shall establish its own minimum heating value for the gas it furnishes the consumer, provided the standard it establishes shall not be less than nine hundred (900) British thermal units per cubic foot at 14.73 p.s.i.a. and sixty degrees Fahrenheit (60°F).

(c) **Daily average heating value.** At no time shall the daily average heating value be less than the utility's minimum provided in subsection (b) of this Section.

(d) **Adopted heating value.** The minimum adopted heating value by the utility shall be stated in its Commission-approved tariffs.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

## PART 5. ODORIZATION AND PURITY OF GAS

### 165:45-7-20. Odorization and purity of gas

(a) Odorization of gas will comply with the U.S. Department of Transportation Regulations for Transportation of Natural and Other Gas By Pipeline - Title 49 C.F.R. 192.625.

(b) The purity of all gas distributed shall be substantially free from dangerous or objectionable quantities of impurities such as hydrogen sulphide, nitrogen, or other combustible or noncombustible constituents which, if the gas is completely burned, yield noxious or toxic products of combustion.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

## SUBCHAPTER 9. RECORDS AND REPORTS

### Section

165:45-9-1.	Preservation and availability of records; reporting contact persons
165:45-9-2.	Interruptions of service
165:45-9-2.1.	Restoration of service
165:45-9-3.	Records of service complaints; investigations
165:45-9-4.	Record of meter and meter test
165:45-9-5.	Record of accidents [REVOKED]
165:45-9-6.	Filing of maps
165:45-9-7.	Reporting of storage gas
165:45-9-8.	Reporting of nonutility operations or subsidiaries
165:45-9-9.	Reporting of purchased gas for adjustment purposes
165:45-9-10.	Accounting

## 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 Court Clerk of the Commission such reports as the Commission may from time to time require.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

### **165:45-9-2. Interruptions of service**

(a) It shall be the duty and responsibility of the utility to make reasonable effort to notify all affected consumers when the gas supply is to be turned off, or turned on after having been turned off.

(b) Whenever service is interrupted, other than under emergency conditions, the interruption shall be made whenever possible at a time which will cause the least inconvenience to consumers. Where feasible, the utility shall give advance notice to consumers who will be affected (including hospitals, police, fire, schools and other public buildings responsible for public health and safety).

(c) Each utility shall keep a record of any condition resulting in an interruption of service affecting its entire system, or major division thereof, including a statement of the time, duration, and cause of any such interruption and such record shall be available to the Commission or its authorized representative upon request. Class C and D utilities shall be required to keep records should an interruption of service occur affecting fifty (50) or more consumers, of the time and nature of the interruption of service, the time and method of restoration of service, and the approximate number of consumers affected and areas of the system affected. Class A and B utilities shall be required to keep records should an interruption of service occur affecting two hundred or more consumers, of the time and nature of the interruption of service, the time and method of restoration of service, and the approximate number of consumers affected and areas of the system affected. These records shall be retained for five (5) years.

(d) A utility may cause emergency interruption of service without notice when required by failure of equipment, unexpected and prolonged increase in load, fire, storm, strike, or other cause beyond its control. Each utility shall establish and train employees in

emergency procedures designed to prevent or shorten service interruption where conditions require interruption of service. The utility may in good faith select the areas or consumers whose service is to be interrupted as emergency conditions require.

(e) Each utility shall prepare and maintain a plan for scheduled interruptions, emergency interruptions, and restoration of service which is consistent with this Section.

**[Source:** Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 19 Ok Reg 1978, eff 7-1-2002]

#### **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, 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. 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 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) 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.

**[Source:** Added at 19 Ok Reg 1979, eff 7-1-2002; Amended at 22 Ok Reg 1811, eff 7-1-05; Amended at 23 Ok Reg 1678, eff 7-1-2006]

### **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 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.

**[Source:** Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-9-4. Record of meter and meter test**

(a) Whenever any service meter is tested, the original test record shall be preserved, including the information necessary for identifying the meter, the reason for making the test, the reading of the meter before and after the test, together with all data taken at the time of the test in sufficiently complete form as to permit the convenient checking of the method employed and the calculations. After removal from service, only the record of the latest test need be preserved.

(b) A record shall be made for each meter used by any utility showing the date of acquisition, the most recent test and/or repair to which it has been subjected, and its present location. The record shall be retained until six (6) months after the meter is permanently retired from service.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-9-5. Record of accidents [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

**165:45-9-6. Filing of maps**

Each utility shall maintain suitable detailed maps of its entire system, which shall be made available to the Commission upon request. The general system maps shall be filed with the Commission when a utility files its original application for approval of its rate schedules.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-9-7. Reporting of storage gas**

Each utility having gas in underground storage shall report to the Commission on or before the last day of each month the amount and purchased cost of gas in storage as of the last day of the preceding accounting month. The report shall be made on a form prescribed by the Commission.

[Source: Amended at 12 Ok Reg 2127, eff 7-1-95]

**165:45-9-8. Reporting of nonutility operations or subsidiaries**

(a) When a utility is engaged in any type of nonutility operations through subsidiaries or otherwise, or in any business not considered in the ratemaking process, and personnel, services, material, equipment, or the use of any facility of the utility is supplied for the operation of such other type of business or subsidiary, the utility shall keep an accurate account of the allocation of all such costs between utility and nonutility operations. All such costs shall mean actual cost plus any direct or indirect charges related to the cost of personnel, services, material, equipment or facilities calculated on the same basis

used in allocating direct and indirect charges to the utility operations. There shall be a written accounting of the allocation of these costs between utility and nonutility operations on a monthly basis.

(b) The cost of keeping records and any other expense caused by furnishing such personnel, services, material, equipment or facilities shall be charged to the recipient thereof. Such costs shall be calculated as set forth in subsection (a) of this Section.

(c) Records of and reports on personnel, services, material, or facilities allocated to other types of business or subsidiaries referred to in this Section shall be available to the Commission or its representatives.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

#### **165:45-9-9. Reporting of purchased gas for adjustment purposes**

A utility having an "adjustment for cost of purchased gas" clause in its approved tariffs shall file periodically and detailed reports of its gas purchases in such form as the Commission may require.

[Source: Amended at 12 Ok Reg 2127, eff 7-1-95]

#### **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) 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

## **SUBCHAPTER 11. CUSTOMER SERVICE**

### **PART 1. INITIATION OF SERVICE**

Section

- 165:45-11-1. Deposits and interest
- 165:45-11-2. Right to refuse service
- 165:45-11-3. Connection, disconnection, and reconnection charges
- 165:45-11-4. Consumer information
- 165:45-11-5. Identification of class of service

### **PART 3. DISCONNECTION OF SERVICE**

- 165:45-11-10. Disconnection of service by a consumer
- 165:45-11-11. Physical disconnection of service by a utility
- 165:45-11-12. Utilities encouraged to keep current lists of energy assistance programs
- 165:45-11-13. Commission notification procedures for the elderly and/or consumers with disabilities
- 165:45-11-14. Delays to disconnection of residential service
- 165:45-11-15. [RESERVED]
- 165:45-11-16. Notice of disconnection of service
- 165:45-11-17. Manner of disconnection of service
- 165:45-11-18. Exceptions to Section regarding discontinuance of service
- 165:45-11-19. Reconnection of service
- 165:45-11-20. Mediation
- 165:45-11-21. Commission review

### **PART 5. CHARACTER OF SERVICE**

- 165:45-11-30. Service to irrigation consumers
- 165:45-11-31. Temporary service
- 165:45-11-32. Service to mobile homes and mobile home parks
- 165:45-11-33. Service from other than distribution system
- 165:45-11-34. Free service; service to consumer's appliances
- 165:45-11-35. Change in character of service

### **PART 7. BILLS**

- 165:45-11-40. Office location and telephone listing
- 165:45-11-41. Information on bills

- 165:45-11-42. Penalty or charge for late payment and payment by negotiable instrument
- 165:45-11-43. Equalized Monthly Payment Plan (EMP)

## 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 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) days of receipt of deposit, no interest payment is required. If the utility retains the deposit more than thirty (30) 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) 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) 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.

**[Source:** Amended at 10 Ok Reg 2643, eff 6-25-93; Amended at 11 Ok Reg 3747, eff 7-11-94; Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98; Amended at 22 Ok Reg 1811, eff 7-1-05]

### **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) 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 license or state identification card.
- (2) Military identification.
- (3) Employment identification.
- (4) Social security card.
- (5) Current student identification card.
- (6) Passport.
- (7) Birth certificate.
- (8) Any other 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.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95]

**165:45-11-3. Connection, disconnection, and reconnection charges**

The utility shall make no charge for connection, disconnection or reconnection of gas service for a consumer except the charges specified in the approved tariffs and terms and conditions of service of the utility.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 15 Ok Reg 2177, eff 7-1-98]

**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 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;

(6) Average Monthly payment plans;

(7) The address and telephone number of the Commission's Consumer Services Division;

(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.

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

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

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

[Source: Added at 13 Ok Reg 3259, eff 7-25-96; Amended at 19 Ok Reg 1979, eff 7-1-2002; Amended at 21 Ok Reg 2098, eff 7-1-04]

**165:45-11-5. Identification of class of service**

(a) Upon application for service by the consumer, it is the responsibility of the utility to provide each consumer, orally or in writing, if requested, with the proper tariff and the identity of the consumer's respective class of service. The utility may rely upon the information supplied by the consumer to the utility for purposes of identifying the proper class of service and appropriate tariff rate. Upon notice from the consumer or upon discovery by the utility in the normal course of business of an alleged incorrect service classification, tariff rate or apparent change in the consumer's type of service, the utility shall make a prompt review and, when appropriate, change the consumer's account to the appropriate service classification, tariff rate or any other service modifications which are necessary to ensure future service is delivered under the proper service classification and tariff rate.

(b) If the consumer has not been charged the appropriate tariff rate for that consumer's class of service, the utility shall be responsible for correcting the billings that have occurred since the last notification of available rates by the utility as set forth in OAC 165:45-11-4(a)(2). In the absence of such notification, the period of time for which billing corrections shall be made shall not exceed three (3) years from the date of discovery. When the billing corrections result in a credit account balance for the consumer, the utility shall apply the credit to future billings or, at the consumer's request, refund the credit account balance to the consumer.

(c) Utilities that have volumetric tariffs that do not classify consumer accounts by type of service shall not be subject to the retroactive billing corrections as stated in subsection (b) of this Section, except in the following circumstances:

(1) The consumer's volumetric billing rate was changed without written notification to the affected consumer and the utility had available to it historical volume usage levels which contradict the volumetric rate applied to the consumer's billing; or

(2) The utility failed to complete reasonable investigation of consumer-supplied estimates of volume usage used to identify the tariff for billing purposes.

(d) The utility shall annually notify consumers in billing inserts that the consumer must advise the utility if there has been a change in usage necessitating a change of service classification.

[Source: Added at 13 Ok Reg 3259, eff 7-25-96]

**PART 3. DISCONNECTION OF SERVICE****165:45-11-10. Discontinuance of service by a consumer**

A consumer may be required to give up to five (5) business days notice of intention to have service disconnected or to have the account closed and shall be responsible for all charges for service until the expiration thereof. This 5-day notice provision may be waived by the utility. Such disconnection or closing of the account does not relieve the consumer of obligations incurred prior to disconnection. At the time the consumer requests disconnection or closing of the account, the utility will advise the consumer of

any reconnection and or service fees, if any reconnection and or service fee applies pursuant to the utility's approved tariff.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 15 Ok Reg 2177, eff 7-1-98; Amended at 31 Ok Reg 1067, eff 9-12-2014]

**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) 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.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 15 Ok Reg 2177, eff 7-1-98; Amended at 22 Ok Reg 1813, eff 7-1-05]

#### **165:45-11-12. Utilities encouraged to keep current lists of energy assistance programs**

(a) **Compilation.** The utilities are strongly encouraged to compile a list with the names, addresses, and phone numbers of known payment assistance programs, including information regarding any bilingual services offered, that are applicable to each service area within the utility's areas of operation. The list should include but is not limited to: local, state, federal, and tribal energy assistance programs and public/private charitable

organizations offering or known to offer energy payment assistance, which have given prior consent to their inclusion on this list. The utilities are encouraged to use due diligence in compiling this information and updating this information, with updates to occur on an annual basis. However, the Commission encourages the addition of new assistance programs to the list, as the information becomes available.

(b) **Availability.** The utility shall give a copy of this list to any consumer who asks for such assistance.

(c) **Liability.** The offer of any such list under this Section is meant as an informative resource only, for the utility to better assist its consumers. Failure of the consumer to gain funding in full or part, from any of the proffered resources under this Section shall not result in any liability to the utility.

[Source: Added at 19 Ok Reg 1980, eff 7-1-2002; Amended at 31 Ok Reg 1067, eff 9-12-2014]

**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) 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.

(4) 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.

[**Source:** Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 19 Ok Reg 1980, eff 7-1-2002; Amended at 22 Ok Reg 1813, eff 7-1-05; Amended at 31 Ok Reg 1067, eff 9-12-2014]

**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, 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.

(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.

(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) 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 monitory, 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) 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) 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) 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.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 19 Ok Reg 1981, eff 7-1-2002; Amended at 22 Ok Reg 1815, eff 7-1-05; Amended at 23 Ok Reg 1679, eff 7-1-06; Amended at 31 Ok Reg 1067, eff 9-12-2014]

#### **165:45-11-15. [RESERVED]**

#### **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.

(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) 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) 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 ( $\frac{1}{2}$ ") 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.
- (H) The address and telephone number of the Commission's Consumer Services Division, 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 ( $\frac{1}{2}$ ") 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.
- (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.
- (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, 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) 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) 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.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 19 Ok Reg 1982, eff 7-1-2002; Amended at 22 Ok Reg 1816, eff 7-1-05]

#### **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, cashier's check, money order, or a check from a social service agency.

(3) 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.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 19 Ok Reg 1984, eff 7-1-2002; Amended at 22 Ok Reg 1817, eff 7-1-05]

**165:45-11-18. Exceptions to Section regarding discontinuance of service**

Notwithstanding any other Section regarding disconnection of service, a utility may at any time disconnect service without notice and without delaying disconnection of service as prescribed in other Sections of this Part, if:

(1) It reasonably believes that such action is necessary to correct a condition that poses a health or safety hazard to the consumer, the general public, or the equipment of the utility. Prior to or immediately upon disconnection of service, the utility shall make a good faith effort to notify the consumer of the reason for disconnection either by telephone, electronic notification to customers who make an affirmative election to receive electronic notification of such information, personal contact, or notice left at the premises.

(2) For the purpose of essential repair, maintenance, or testing of utility equipment, the utility shall make such efforts as are reasonable under the circumstances to minimize the adverse effects of disconnection of service and to inform affected consumers prior to disconnection of service.

(3) The utility may disconnect for unauthorized use of gas accomplished through bypassing of the utility's measuring equipment or tampering with pipes, meters, or any other utility equipment or obtaining service without a contract. Prior to or immediately upon disconnection of service, the utility shall make a good faith effort to notify the consumer of the reason for disconnection either by telephone, electronic notification to customers who make an affirmative election to receive electronic notification of such information, personal contact, or notice left at the premises. If service is disconnected under this paragraph, the utility may require the consumer to pay the following applicable charges before service is restored:

(A) The applicable charges for reconnecting service prescribed in the utility's approved tariffs.

(B) The amount due for unmetered or unpaid usage, when such usage can be determined exactly. If the exact usage cannot be determined, the utility may compute the charge for the estimated usage based on historical usage from the date the consumer became an occupant or user or began unauthorized use.

(C) The cost associated with the disconnection, testing, repair, or replacement of any damaged equipment.

**[Source:** Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 22 Ok Reg 1818, eff 7-1-05; Amended at 31 Ok Reg 1067, eff 9-12-2014]

**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 business days, not to exceed three 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.

**[Source:** Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 19 Ok Reg 1984, eff 7-1-2002; Amended at 22 Ok Reg 1818, eff 7-1-05]

### **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:

- (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 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 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. 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.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95; Amended at 15 Ok Reg 2177, eff 7-1-98; Amended at 23 Ok Reg 1680, eff 7-1-06]

#### **165:45-11-21. Commission review**

The utility's disconnect notice, service violation disconnection notice, life-threatening certificate, and any notice or form used by the utility to comply with the requirements of this Part shall be submitted to the Commission for approval. Upon approval, the forms or notice shall become a part of the utility's approved tariff.

[Source: Amended at 12 Ok Reg 2129, eff 7-1-95]

### **PART 5. CHARACTER OF SERVICE**

#### **165:45-11-30. Service to irrigation consumers**

(a) Irrigation consumers are to be served pursuant to tariffs on file for irrigation consumers.

(b) Irrigation consumers being served under special contracts, which are on file with this Commission, shall continue to be served under such contracts.

(c) The utility may adopt a policy for extensions to be made for the purpose of serving irrigation wells and for deposits for payment of all or part of the cost thereof by the consumer, which policy shall be prescribed in its approved tariffs.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

#### **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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-11-32. Service to mobile homes and mobile home parks**

(a) No utility shall be required to furnish gas service to a mobile home park until the utility has been furnished, at no cost to the utility, the necessary easements. Such easements may terminate when the property ceases to be used as a mobile home park if the utility no longer needs the easement to maintain service to other consumers adjacent to or beyond the park.

(b) A mobile home shall be served by an individual meter under the same terms as a single residence. Service to mobile home parks existing on or before the effective date of this Chapter may continue to be provided with a single or multiple meter.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**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) 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-11-34. Free service; service to consumer's appliances**

(a) Each gas utility shall have on file with the Commission a detailed statement of all free service of any nature furnished or offered to any consumer or class of consumers. The utility shall offer the same free service to all consumers of the same class. The utility shall not discontinue, change or amend its policy, or offer any new free service or type of free service to any consumer or class of consumers except upon order of the Commission made upon application, and such notice and hearing as the Commission shall direct.

(b) A utility may, with approval of the Commission, service or repair gas appliances or gas piping owned by its consumers and make a charge for such service. The Commission, upon application of the utility and after notice and hearing, may grant the utility authority to service and repair all specified types of gas appliances or gas installations of consumers in the State of Oklahoma or in a specified town, city, or locality. Each utility shall maintain books and records with regard to service and repair of consumer appliances pursuant to 17 O.S. (1991) § 154. Any authority granted pursuant to this Section shall not supersede any federal, state, or local requirements for licensing of service providers.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-11-35. Change in character of service**

(a) If a change in service to a consumer is required for the convenience or benefit of the utility, the utility shall pay such part of the cost of changing the consumer's equipment as determined by mutual agreement, or by the Commission in the absence of such an agreement, including the cost of making the necessary change in consumer piping. This subsection shall not apply to discontinuance of service because of abandonment of nondistribution piping.

(b) Each utility shall, upon request, give its consumers such information and assistance as is reasonable in order that consumers may secure safe and efficient service. Upon request, the utility shall render every reasonable assistance in securing appliances properly adapted and adjusted to the service furnished. This Section shall not be interpreted to authorize servicing or repair of appliances of a consumer by a utility.

(c) Any change in the heating value or the characteristics of the gas service which may impair safe operation or materially affect the utilization of the gas in the consumer's appliances shall not be made without the approval of the Commission and adequate

notice to all consumers affected. In such event, the gas utility shall make any necessary adjustments to the consumer's appliances without charge and shall conduct the adjustment program with a minimum of inconvenience to the consumers.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

## PART 7. BILLS

### **165:45-11-40. Office location and telephone listing**

(a) Where economically feasible, each gas utility shall provide an office or agent in or convenient to each municipality served by it where the consumer may pay bills, which office or agency shall be open for business during posted business hours.

(b) The utility shall provide in each directory published by the telephone company in any areas the utility 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

### **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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 19 Ok Reg 1985, eff 7-1-2002]

**165:45-11-42. Penalty or charge for late payment and payment by negotiable instrument**

(a) **Late payment penalty.** A utility may make a penalty charge in an amount not to exceed one and one-half percent of the charges for gas service for delay in receipt of payment by the utility past the due date of the bill. If a utility, prior to the effective date of the 1996 amendments to this Section, is charging a penalty in excess of one and one-half percent of the charges for gas service, such utility will be allowed to continue to collect the previously approved percentage until such time as its rates are next reviewed by the Commission. The due date shall be stated on the face of the bill and shall not be earlier than ten (10) calendar days after the bill was mailed or provided electronically to customers who had made an affirmative election to receive electronic notification of such information, except that for residential consumers, the due date shall not be earlier than twenty (20) calendar days after the bill is mailed, or provided electronically to customers who had made an affirmative election to receive electronic notification of such information. If no late charge is imposed, the due date of a bill shall not be less than fourteen (14) calendar days after the date a bill is mailed. The late payment penalty may be applied at any time after the due date to any unpaid balance due at the time of assessment.

(b) **Delay of monthly bill.** Utilities offering billing programs that delay issuing the monthly bill (i.e., summary billing, preferred due date billing, etc.) may request an earlier due date.

(c) **Payment by negotiable instrument.** The utility shall not refuse to accept payment by check from any consumer unless the utility has, within the preceding twelve (12) months, received as tendered payment of the consumer's account two (2) or more negotiable instruments which were dishonored by the financial institution on which they were drawn. If payment by a negotiable instrument is given in response to a disconnect notice, the utility 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, the utility may reject the offered negotiable instrument. The utility may make a charge outlined in its tariffs for negotiable instruments which are dishonored.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 31 Ok Reg 1067, eff 9-12-2014]

**165:45-11-43. Equalized Monthly Payment Plan (EMP)**

(a) Each utility shall offer to its residential consumers the option of being billed on an Equalized (Average, Budget, Equal, Levelized, etc.) Monthly Payment Plan. Each utility's plan shall be submitted to the Commission for approval and shall then become a part of that utility's approved tariffs.

(b) At least once a year, and consistent with OAC 165:45-11-4(b) above, the utility shall give written notice to its residential consumers of the availability of an Equalized Monthly Payment Plan.

[Source: Added at 13 Ok Reg 3259, eff 7-25-96; Amended at 19 Ok Reg 1985, eff 7-1-2002]

**SUBCHAPTER 13. PROMOTIONAL POLICIES AND PRACTICES**

Section

- 165:45-13-1. Provisions governing promotional policies and practices
- 165:45-13-2. Promotional practices prohibited [REVOKED]
- 165:45-13-3. Promotional practices permitted [REVOKED]
- 165:45-13-4. Advertising expenditures prohibited [REVOKED]
- 165:45-13-5. Advertising expenditures permitted [REVOKED]
- 165:45-13-6. Contributions [REVOKED]
- 165:45-13-7. Filing of promotional practices
- 165:45-13-8. Exceptions; prior conditions and rules [REVOKED]

**165:45-13-1. Provisions governing promotional policies and practices**

The promotional policies and practices of each utility shall be governed by 17 O.S. (1991) §§180.1 et seq., and future amendments or supplements thereto.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-13-2. Promotional practices prohibited [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

**165:45-13-3. Promotional practices permitted [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

**165:45-13-4. Advertising expenditures prohibited [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

**165:45-13-5. Advertising expenditures permitted [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

**165:45-13-6. Contributions [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

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

The utility shall submit, to the Public Utility Division, an annual submission of promotional practices. Although submission by the utility shall not assume approval by the Public Utility Division, it will allow the Public Utility Division 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**165:45-13-8. Exceptions; prior conditions and rules [REVOKED]**

[Source: Revoked at 13 Ok Reg 3259, eff 7-25-96]

**SUBCHAPTER 15. MISCELLANEOUS PROVISIONS**

## Section

- 165:45-15-1. Resale of gas prohibited
- 165:45-15-2. Filing of rate schedules, contracts, agreements, and terms and conditions
- 165:45-15-3. Municipal fees, taxes, and other exactions
- 165:45-15-4. Settlement of disputes

**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 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 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.

**[Source:** Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 22 Ok Reg 1818, eff 7-1-05]

**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) 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) 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) 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) 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.

**[Source:** Amended at 10 Ok Reg 2645, eff 6-25-93; Amended at 13 Ok Reg 3259, eff 7-25-96; Amended at 15 Ok Reg 2177, eff 7-1-98]

**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 shall be separately stated as a line item on the regular billings to consumers as a dollar amount.

[Source: Amended at 14 Ok Reg 2561, eff 7-1-97]

**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 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.

[Source: Amended at 13 Ok Reg 3259, eff 7-25-96]

**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**

## Section

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#### **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) days prior to implementation of those processes in nonemergency situations. In emergency situations, the utility must notify the Commission within thirty (30) 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.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **165:45-17-2. Scope of Subchapter**

(a) The competitive bidding, affiliate transactions and financial transactions rules (such as stock, bond, derivatives, and any financing instrument issuance) are promulgated to establish enforcement, reporting and monitoring provisions of utilities regarding these transactions.

(b) The intention of this Subchapter includes [but is not limited to]:

- (1) The establishment of standards for transactions between utilities and their affiliates for purposes of determining fair, just and reasonable rates and charges;
- (2) The prevention of subsidization of an affiliate by a utility;
- (3) The support of fair and clear cost allocations; and
- (4) The protection of customers of a utility from being subjected to any unreasonable financial obligations or costs of an affiliate.

[Source: Added at 21 Ok Reg 2098, eff 7-1-04]

**165:45-17-3. Application of Subchapter**

(a) This Subchapter is applicable to all natural gas utilities operating within the State of Oklahoma.

(b) All services rendered by natural gas utilities shall remain subject to Commission rate regulation pursuant to this Subchapter until or unless the Commission, after notice and hearing, makes an affirmative determination that rate regulation as to a customer, citygate, or aggregation point of natural gas service at a particular location is no longer required and further makes a finding that effective competition exists upstream of each citygate for each individual service. Accordingly, there shall be no presumption of effective competition upstream of any citygate for any service prior to a Commission order reflecting the same.

(c) To the extent that any entity seeks to competitively bid to provide the natural gas services of gas supply, gathering, transmission and storage to natural gas utilities upstream of the citygate, the Commission shall impose reasonable standards of conduct to establish and preserve a fair competitive bid process.

(d) **Required Information.** Upon request by the Commission, affiliate information shall be provided pursuant to this Subchapter and shall contain records and work papers which provide, at a minimum, the following information and such other information that the Commission shall request:

(1) Consolidated Companies and Subsidiaries Balance Sheet.

(2) Income Statements.

(3) Cost Allocation Basis, if applicable.

(4) Affiliate/Subsidiary General Data: Narrative(s) providing:

(A) The date of establishment of each affiliate and/or subsidiary;

(B) A statement of each affiliate and/or subsidiary's core businesses;

(C) The utility company resources used in establishment of each affiliate and/or subsidiary; and

(D) The utility company resources currently being used by each affiliate and/or subsidiary, either directly or indirectly.

(5) Affiliate/Subsidiary Contracts: Copies of any and all contracts with affiliates and/or subsidiaries.

(6) Assets Sold/Transferred to Affiliates/Subsidiaries: A listing, by asset category and net book value, of assets sold or transferred to any affiliate and/or subsidiary since the utility's last rate case.

(7) Services/Products from Affiliates/Subsidiaries: A listing and description of the services and/or products (and related costs) provided by each affiliated and/or subsidiary company to the utility for the required period.

(8) Services/Products to Affiliates/Subsidiaries: A listing of any significant utility company facilities and/or resources, whether plant, other assets or personnel that were used during the required period, by each affiliate and/or subsidiary. The cost of the resources shall be indicated.

(9) Cost of Debt or Financing: A listing of debt instruments bearing any cost of financing transactions, in part or in full, or any debt, equity, trading activity, or derivative which has a direct or indirect financial or cost impact upon the utility.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98; Amended at 21 Ok Reg 2098, eff 7-1-04]

**165:45-17-4. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-5. Confidential information**

(a) If a utility or any entity that seeks to competitively bid to provide the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate, is required by this Subchapter to submit information to the Commission that is alleged to be confidential, a motion for a protective order concerning said confidential information may be filed requesting a determination be made by the Commission to protect said information pursuant to 51 O.S. § 24A.22.

(b) A bid which is determined to be a successful bid, pursuant to the competitive bidding process of OAC 165:45-17-13, must be publicly disclosed and shall not be subject to the confidentiality provisions of this Subchapter, unless otherwise ordered by the Commission.

(c) Pending a determination regarding approval of any protective order by the Commission, the Staff may, at its option, review the information claimed to be confidential at a mutually agreed upon location.

(d) In the absence of a protective order, all information considered by the Commission in establishing utility unbundled tariffs shall not be maintained in confidence by the Commission.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-6. Exemption for corporate and shared services**

Corporate and support services are exempt from asymmetrical pricing, to the extent that the affiliate information requirements in Chapter 70 and 165:45-17(d)(3) are satisfied.

[Source: Added at 21 Ok Reg 2099, eff 7-1-04]

**165:45-17-7. Unbundling of natural gas services of gas supply, gathering, transmission and storage of all natural gas utilities upstream of citygates and proposed aggregation points**

(a) To establish a fair and reasonable process, wherein, the natural gas 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 natural gas and to effectuate the policy of the Commission that a competitive bidding process is among the most effective means to

achieve these objectives, the natural gas services of gas supply, gathering, transmission and storage of all natural gas utilities shall be unbundled upstream of the citygate or proposed aggregation points. Any entity, including an intrastate pipeline, an interstate pipeline, a utility owned transmission pipeline and, where applicable, any marketer, gas producer or natural gas aggregator, may seek to competitively bid to provide these natural gas services. Gas supply, gathering, transmission and storage of all natural gas utilities upstream of the citygate shall be provided and priced on a separate and individual basis. All customers of a gas utility located upstream of a citygate and/or proposed aggregation point shall have the opportunity to purchase these services on an unbundled basis. Any customer which is subject to an existing pipeline tariff agreement or other tariff agreement shall not have the opportunity to purchase these services on an unbundled basis until the expiration or termination of such tariff agreement except upon order of the Commission. The Commission shall consider an application to modify any tariff agreement upon good cause shown as a result of the change in circumstances due to the restructuring of the natural gas service industry as reflected in this Subchapter, or for such other reason as the Commission may determine.

(b) Customers shall have the choice of what services to purchase and can pay for only the services which they need or desire:

(1) Each natural gas service offered on an unbundled basis by a gas utility shall be identified and provided under a separate tariff and available on a separate basis from other natural gas services offered by such utility.

(2) The rates to be charged by a gas utility for any unbundled natural gas service shall be based upon the cost of providing that service. In determining the costs of providing a specific unbundled service, no costs of providing any other natural gas service shall be charged or allocated to such specific unbundled service. These rates shall be system-wide rates by customer class or a sub-group of a customer class applicable to the particular unbundled service subject to subsection (a).

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **165:45-17-8. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **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 Director of the Public Utility Division, within sixty (60) 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 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 Director of the Public Utility Division of such intention within sixty (60) 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 Director of the Public Utility Division of such intention within sixty (60) 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 Director of the Public Utility Division, within sixty (60) 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 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.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **165:45-17-10. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **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) 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) days from the date of the Commission's order, unless otherwise ordered by the Commission

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

### **165:45-17-12. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

### **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) 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) 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) days, except upon order of the Commission.
- (h) Any interested person may, within a period of fifteen (15) 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) 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) 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) 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) 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) 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.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **165:45-17-14. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

#### **165:45-17-15. How effective competition is to be determined**

(a) Upon application by an interested party, the Commission may commence an investigation to determine whether the provision of one or more natural gas services is subject to effective competition. Such determination may only be made on an unbundled and citygate by citygate or other Commission approved geographic area basis.

(b) In determining whether a natural gas service is subject to effective competition, factors which the Commission may consider include, but are not limited to:

- (1) The number and size of competing providers operating in the relevant geographic area;
- (2) The extent to which comparable natural gas services are available from competing providers in the relevant market;
- (3) The ability of competing providers to provide equivalent natural gas services quantity and reliability at competitive rates, terms and conditions;
- (4) Market barriers;
- (5) Public interest consideration; and

(6) Other indicators of market power with respect to the subject service, which may include market share, growth in market share, and whether the competing providers of natural gas services are affiliated with the natural gas utility.

(c) In considering these or other factors, the Commission is not required to give equal weight to each factor in subsection (b), but has discretion to give more weight to a particular factor or factors, based on the evidence.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-16. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**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) days from the effective date of this Subchapter, the transmission pipeline shall submit a good faith statement of operation to the 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 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 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.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-18. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-19. Utility stranded costs**

It is recognized that a utility, as a result of the restructuring and unbundling of its natural gas services pursuant to this Subchapter, may have stranded costs. After the Commission has approved the utility's unbundling plan, any utility may seek to recover its prudent and verifiable stranded costs through the filing of a general rate cause or through an application for recovery of its stranded costs. If the utility elects to file an application for recovery of its stranded costs outside of a general rate cause, the utility shall provide information and data comparable to the information and data required pursuant to OAC 165:70, unless otherwise ordered by the Commission. The Commission shall conduct a hearing and the utility shall have the burden of identifying proposed stranded costs, the amount of such costs and proposed methods for recovery of its stranded and/or transitional costs. When reviewing the utility's request to recover said costs, the Commission may consider mitigation strategies of the utility. Following notice and hearing, the Commission shall determine the amount of any stranded cost which may be recovered from the utilities' customers and the manner in which such recovery shall occur. The Commission recognizes that after the initial hearing process there may be a need to allow for additional hearings for "true-up" purposes.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-20. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-21. Transitional costs**

Transitional costs, upon application, after notice and hearing and order of the Commission, shall be entitled to immediate recovery to the extent that such transition costs are incurred as a result of the restructuring of the natural gas service industry. Further the Commission recognizes that small utilities may need to seek recovery of transitional costs earlier in the unbundling process.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-22. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-23. Standards of conduct between utilities and affiliate(s)**

Natural gas utilities upstream of the citygate, including those utilities which have customers subject to pipeline tariff agreements downstream of the citygate or aggregation point, must conduct their business to conform to the following standards:

- (1) Natural gas utilities must apply any tariff provision in the same manner to the same or similarly situated persons if there is discretion in the application of the provision.
- (2) Natural gas utilities must strictly enforce a tariff provision for which there is no discretion in the application of the provision.
- (3) Except as necessary for physical operational reasons, natural gas utilities may not, through a tariff provision or otherwise, give their affiliates or knowingly give customers of their affiliates preference over shippers or other utility customers in matters relating to any service offered to shippers including, but not limited to: scheduling, balancing, metering, storage, standby service or curtailment policy.
- (4) Unless such disclosure is simultaneously made public, natural gas utilities shall not disclose to their affiliates any information which they receive from, a non-affiliated customer, shipper or supplier, a potential customer, shipper or supplier, any agent of such customer, or potential customer, or shipper, or supplier, or a marketer or other entity seeking to supply gas to a customer or potential customer.
- (5) A natural gas utility's operating employees and the operating employees of its marketing affiliate must function independently of each other, and shall be employed by separate corporate entities to the maximum extent practicable.
- (6) Natural gas utilities and their affiliates shall keep separate books of accounts and records.
- (7) Natural gas utilities shall establish a complaint procedure. In the event the natural gas utility and the complainant are unable to resolve a complaint, the complainant may address the complaint to the Commission.
- (8) With respect to any transaction or agreement relating in any way to gas sales, supply, transmission, storage, distribution or marketing, a natural gas utility shall conduct all such transactions with any of its affiliates on an arm's length basis.
- (9) The Commission shall resolve affiliate transaction disputes or abuses on a case-by-case basis. Any aggrieved party may file a complaint with the Commission

alleging the particulars giving rise to the alleged dispute or abuse. The Commission shall consider at a minimum the following issues when hearing a complaint:

(A) Whether or not the information or data furnished to the affiliate was generally available to other market participants.

(B) Whether or not the natural gas utility conducted business in such a manner that actual or expected expenses were shifted from the non-regulated subsidiary to the regulated entity.

(C) Whether or not the natural gas utility conducted business in such a manner that actual or expected revenues were shifted from the regulated entity to the non-regulated entity.

(D) Whether or not the regulated entity offered terms, condition or rates for the provision of natural gas services to the affiliate that it refused to provide to other customers or whether such provision resulted in the affiliate having an unfair advantage.

(10) Natural gas utilities must process all similar requests for natural gas services in the same manner and within the same period of time.

(11) Natural gas utilities shall not provide leads to upstream affiliates and shall refrain from giving any appearance that the natural gas utility speaks on behalf of its affiliate(s). Nor shall the affiliate trade upon, promote or advertise its affiliation or suggest that it receives preferential treatment as a result of its affiliation. The use of a common corporate or parent holding company name shall not be a violation of this provision so long as the regulated utility and the affiliate entities can be distinguished.

(12) Natural gas utilities, except for billing and collection services and customer service, or by order of the Commission, shall not share their customer list or related customer information with affiliates unless the information is simultaneously shared with non-affiliate entities.

(13) The natural gas utility shall not communicate with any third party that any advantage may accrue to such third party in the use of the natural gas utility's upstream services as a result of that third party dealing with the upstream natural gas utility's affiliates unless the information is simultaneously shared with non-affiliated entities.

[**Source:** Added at 15 Ok Reg 2177, eff 7-1-98; Amended at 21 Ok Reg 2099, eff 7-1-04]

**165:45-17-24. Sales of services, products, assets between regulated and unregulated affiliates**

(a) **Transactions between a utility and its affiliates.** A utility shall not cross-subsidize the business activities of any affiliate with revenues from a regulated service. A utility cannot recover more than its reasonable fair share of the fully allocated costs for any transaction or shared services.

(b) **Contemporaneous record requirement.** A utility shall maintain a contemporaneous written record of all individual transactions with a value equal to or over one million dollars with its affiliates, excluding those involving shared services or

corporate support services, those transactions governed by tariffs or special contracts and daily scheduling of gas supply. Such records, which shall include at a minimum, the date of the transaction, name of affiliate(s) involved, name of a utility employee knowledgeable about the transaction, and a detailed description of the transaction with appropriate support documentation for review purposes, shall be maintained by the utility for three years.

(c) **Transfers of assets.** Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract, or as otherwise ordered by the Commission; cost recovery for property transferred from a utility to its affiliate shall be priced at the "higher of cost or fair market value." Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; asset valuation and transfers of property transferred from an affiliate to its utility shall be priced at the "lower of cost or fair market value." No matter the origin of the transaction, all transfers between a utility and an affiliate will be individually scrutinized by the Commission on a case-by-case basis.

(d) **Sale of products or services.** Except as otherwise required by federal or state statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; any sale of products and services provided from the affiliate to the utility shall be priced at the "lower of cost or fair market value." Except as otherwise required by federal statute or regulation, or pursuant to Commission authorized competitive bidding, tariffs, special contract or as otherwise ordered by the Commission; any sale of jurisdictional products and services provided from the utility to the affiliate shall be priced at the "higher of cost or fair market value."

(e) **Joint purchases.** A utility may make a joint purchase with its affiliates of goods and services involving goods and/or services necessary for utility operations. The utility must ensure that all joint purchases are priced, reported, and conducted in a manner that permits clear identification of the utility's and the affiliate's allocations of such purchases.

(f) **Tying arrangements prohibited.** Unless otherwise allowed by the Commission through a rule, order or tariff, a utility shall not condition the provision of any product, service, pricing benefit, waivers or alternative terms or conditions upon the purchase of any other good or service from the utility's affiliate.

[Source: Added at 21 Ok Reg 2100, eff 7-1-04]

#### **165:45-17-24.1. Financial transactions by utilities or their affiliate(s)**

(a) **Financial transactions.** Financial transactions include, but are not limited to, stock, bond, derivatives, and any financing instrument issuance as well any debt, equity, derivative or related transaction.

(b) **Separate books and records.** A utility shall keep separate books of accounts and records from its affiliates. The Commission may review records relating to any transaction between a utility and an affiliate to ensure compliance with this Subchapter including the records of both the utility and the affiliate relating to that transaction.

(1) In accordance with generally accepted accounting principles, a utility shall record all transactions with its affiliates, whether they involve direct or indirect expenses.

(2) A utility shall prepare non-GAAP financial statements that are not consolidated with those of its affiliates.

(3) A utility shall have a cost allocation manual or upon Commission request, be able to provide its cost allocation methodology in written form with supporting documentation. Such records shall reflect the transaction and the allocated costs, with supporting documentation, to justify the valuation.

(c) **Limited credit, investment or financing support by a utility.** A utility may share credit, investment, or financing arrangements with its affiliates if it complies with paragraphs (1) and (2) of this Subsection.

(1) The utility shall implement adequate safeguards precluding employees of an affiliate from gaining access to information in a manner that would allow or provide a means to transfer confidential information from a utility to an affiliate, create an opportunity for preferential treatment or unfair competitive advantage, lead to customer confusion, or create opportunities for subsidization of affiliates.

(2) Where an affiliate obtains credit under any arrangement that would include a pledge of any assets in the rate base of the utility or a pledge of cash necessary for utility operations the transactions shall be reviewed by the Commission on a case-by-case basis.

(d) **Cost of financing transactions of any affiliate.** The cost of any financial transactions, in part or in full, or any debt, equity, trading activity, or derivative, of any parent company, holding company or any affiliate, which has a direct or indirect financial or cost impact upon the utility shall be reviewed by the Commission on a case-by-case basis.

[Source: Added at 21 Ok Reg 2101, eff 7-1-04]

#### **165:45-17-25. Standards of conduct for competitive bidders**

(a) Any entity shall have the opportunity to competitively bid to provide the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate.

(b) The successful competitive bidder must sign a contract with the utility detailing the terms for providing natural gas services to each citygate or Commission approved aggregation point for which it is the successful bidder, such contract will govern all the terms and conditions of service. The Commission may review all contracts between the utility and the competitive bidder. Competitive bidders must agree to abide by the Commission's standards of conduct. The Commission may arbitrate disputes regarding compliance with the requirements of this Subchapter.

(c) Both the gas utility and any competitive bidder(s) shall not engage in marketing, advertising or public display which is discriminatory, predatory, deceptive or which impedes fair competitive bidding.

(d) The competitive bidder must apply any tariff or contract provision for transportation services which provides for discretion in the application of the provision, in a similar manner to similarly situated shippers.

- (e) The competitive bidder must enforce any tariff or contract provision for transportation services, if there is no discretion stated in the tariff or contract in the application of the provision, in a similar manner to similarly-situated shippers.
- (f) The competitive bidder must not give any shipper preference in the provision of transportation services over any other similarly-situated shippers.
- (g) The competitive bidder must process requests for transportation services from any shipper in a similar manner and within a similar period of time as it does for any other similarly-situated shipper; and maintain its books of account in such a fashion that transportation services provided to an affiliate can be identified and segregated.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-26. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-27. Remedies and enforcement for violation of the standards of conduct**

- (a) Pursuant to OAC 165:45-17-29 below, a complaint may be brought to the Commission at any time. The Commission encourages informal resolutions. Whenever a controversy does exist in connection with the interpretation of this Subchapter, the applicability of the requirements set forth herein, or any right or duty imposed thereby; the Commission, upon application of any interested party and after notice and hearing, will enter such order thereon as it may deem appropriate.
- (b) Each violation of this Subchapter shall be considered to be a separate occurrence.
- (c) If the Commission determines, after investigation and an evidentiary hearing, that the natural gas utility has violated these affiliate rules, the Commission may assess a fine against the utility as set forth in OAC 165:45-1-6; for contempt and may order such further action as may be fair, just and reasonable under the circumstances of the proceeding.
- (d) The Commission may act upon any violation of these standards including but not limited to the following:
  - (1) Prospective limitation or restriction of the amount, percentage or value of transactions entered into between a utility and any entity that seeks to competitively bid to supply the natural gas services of gas supply, gathering, transmission and storage upstream of the citygate;
  - (2) Denial of recovery of costs – all or in part – for business transactions between the utility and the affiliate; or
  - (3) Application of any other remedy available to the Commission, including financial penalties.
- (e) **No immunity from state law.** Nothing in this subchapter shall relieve any utility from any duty prescribed by the laws of the State of Oklahoma.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98; Amended at 21 Ok Reg 2101, eff 7-1-04]

**165:45-17-28. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**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 Director of the Public Utility Division, along with all supporting documentation. The Public Utility Division 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.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**165:45-17-30. [RESERVED]**

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

**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 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.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

## **SUBCHAPTER 19. DOWNSTREAM SERVICES**

### Section

165:45-19-1.	Purpose of the Subchapter
165:45-19-2.	[RESERVED]
165:45-19-3.	Downstream service unbundling plan

### **165:45-19-1. Purpose of this Subchapter**

The purpose of this Subchapter is to establish an orderly unbundling of natural gas services. Accordingly, this Subchapter anticipates that natural gas services downstream at the retail or merchant level will be provided pursuant to a utility downstream unbundling plan with service to commence by October 1, 1999.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98]

### **165:45-19-2. [RESERVED]**

### **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, 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 Director of the Public Utility Division.

[Source: Added at 15 Ok Reg 2177, eff 7-1-98; Amended at 31 Ok Reg 1067, eff 9-12-2014]

## SUBCHAPTER 21. HOMELAND SECURITY AND CRITICAL INFRASTRUCTURE

### Section

165:45-21-1.	Purpose and scope
165:45-21-2.	[RESERVED]
165:45-21-3.	Definitions
165:45-21-4.	[RESERVED]
165:45-21-5.	Utility Security Plan
165:45-21-6.	[RESERVED]
165:45-21-7.	Reporting Requirements
165:45-21-8.	[RESERVED]
165:45-21-9.	Cost Recovery
165:45-21-10.	Commission authorized participation
165:45-21-11.	Confidentiality

### **165:45-21-1. Purpose and scope**

(a) The purpose of this Subchapter is to encourage 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 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 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"), 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.

[Source: Added at 22 Ok Reg 709, eff 7-1-2005]

### **165:45-21-2. [RESERVED]**

[Source: Added at 22 Ok Reg 709, eff 7-1-2005]

### **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 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.

[Source: Added at 22 Ok Reg 709, eff 7-1-2005]

#### **165:45-21-4. [RESERVED]**

[Source: Added at 22 Ok Reg 710, eff 7-1-2005]

#### **165:45-21-5. Utility Security Plan**

(a) Each gas utility is encouraged 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.

(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.

[Source: Added at 22 Ok Reg 710, eff 7-1-2005]

#### **165:45-21-6. [RESERVED]**

[Source: Added at 22 Ok Reg 710, eff 7-1-2005]

#### **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) For those security measures previously reported that have not yet been completed, revised estimated costs and estimated completion dates shall be provided.

(d) 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) 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) Beginning August 1, 2005 and by March 1 of every year thereafter, each utility shall submit a Certification Letter to the 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) 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.

[Source: Added at 22 Ok Reg 710, eff 7-1-2005]

#### **165:45-21-8. [RESERVED]**

[Source: Added at 22 Ok Reg 711, eff 7-1-2005]

#### **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 Court Clerk at the Commission.

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

[Source: Added at 22 Ok Reg 711, eff 7-1-2005]

#### **165:45-21-10. Commission authorized participation**

(a) **Commission Staff.** Only those Commission Staff and Staff's designees authorized by the Commission shall participate in a cause before the Commission regarding a utility's Plan, and then shall do so only after meeting all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis. All Commission Staff and Staff's designees authorized to participate in a security cause shall comply with the requirements for protecting information obtained under the "Highly

Sensitive Confidential" designation.

(b) **Attorney General.** Only those Attorney General personnel who have formally entered an appearance pursuant to Oklahoma Statute and the Commission's Rules of Practice and that entity's Commission authorized designees shall be granted review of a utility's Plan and/or Plan Update Reports. All Attorney General personnel and their designees authorized to participate in a security cause shall meet all applicable requirements for Commission authorization, to be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(c) **Intervenors.**

(1) For the purposes of this Subchapter, all intervenors, including but not limited to counsel and experts for intervenors, shall be deemed "Authorized Participants" in accordance with OAC 165:45-21-3 above. All Authorized Participants wishing to participate in a security-related cause before the Commission shall meet all applicable requirements for Commission authorization, which shall be determined on a case-by-case basis, and shall comply with the protections afforded information obtained under the "Highly Sensitive Confidential" designation.

(2) In addition to acquiring "Authorized Participant" status from the Commission, each intervenor and its designees desiring to participate in a cause before the Commission regarding a utility's Plan shall post a bond or other security acceptable to the Commission, in an amount to be determined by the Commission, to protect the utility from harm in the event the Authorized Participant breaches the confidentiality terms established under this Subchapter or as may otherwise be established by the Commission. A copy of such bond or other security shall be filed with the Commission's Court Clerk. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(3) Any Authorized Participant found in violation of a Commission issued Protective Order and Proprietary Agreement, shall be liable for contempt penalties pursuant to the penalty provisions found in Article IX, § 19 of the Oklahoma Constitution, Title 17 of the Oklahoma Statutes and the Commission's Rules of Practice at OAC 165:5. This subsection shall not apply to the Attorney General of the State of Oklahoma or the Oklahoma Corporation Commission Commissioners and Staff.

(4) In addition to the above protections, all Authorized Participants may be required by the Commission to enter into a separate non-disclosure agreement as a pre-requisite to being granted intervention and "Authorized Participant" status.

[Source: Added at 22 Ok Reg 711, eff 7-1-2005]

#### **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.

[Source: Added at 22 Ok Reg 712, eff 7-1-2005]

## SUBCHAPTER 23. DEMAND PROGRAMS

Section

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### **165:45-23-1. Purpose**

The purpose of this subchapter is to establish fair and reasonable rules for planning and implementing energy efficiency programs that may receive cost-recovery treatment from the Commission.

[Source: Added at 26 Ok Reg 1859, eff 6-25-09]

### **165:45-23-2. Goals**

(a) The goal of energy efficiency programs is to minimize the long-term cost of utility service.

(b) As a part of the hearing process for approval of a utility's energy efficiency programs, the Commission may set specific savings goals for each utility to reduce natural gas usage and/or the rate of growth of natural gas usage generally, 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.

[Source: Added at 26 Ok Reg 1859, eff 6-25-09]

### **165:45-23-3. Definitions**

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

**"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 energy efficiency programs. Barriers may include but are not limited to language, physical or mental disability, 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 an energy efficiency program designed to affect particular uses and trends.

**"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 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 is 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.

**"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"** means a systematic, objective study conducted periodically to authenticate, assess, and report how well a program is achieving its objectives, including identification and quantification of inputs, outputs, outcomes, and unintended effects.

**"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.

**"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 energy efficiency 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 lost net revenues, which sum is designed to reward the utility for successful and appropriate energy efficiency and demand response program performance.

**"Inducement"** means any thing of value offered by a utility to encourage natural gas users or trade allies to engage in an energy efficiency 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.

**"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 decision-making to create 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 an energy efficiency program that result 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.

**"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 incurred by a utility to achieve natural gas savings through energy efficiency 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 program costs are all labor, equipment, inducement, marketing, monitoring, measurement and evaluation, and other expenditures incurred by the utility for operation of the energy efficiency programs, regardless of whether the costs are expensed or capitalized.

**"Program implementer"** means the person who puts an energy efficiency program into practical effect.

**"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.

**"Standard offer"** means an energy efficiency 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 energy efficiency 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.

[Source: Added at 26 Ok Reg 1860, eff 6-25-09]

**165:45-23-4. Demand portfolio submission and implementation**

(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 energy efficiency programs within their service territories. Such proposals shall be made by filing an application with the Commission on or before April 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 program;
- (3) A description and quantification of the target market of each 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 program and the ways each 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 program;
- (7) A report of the cost-effectiveness of each program and the demand portfolio, including supporting data;
- (8) A description of how each 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;
- (9) 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;
- (10) A plan for evaluation of the market effects of each program or applicable group of programs;
- (11) A plan for evaluation of administration and implementation of each program or applicable group of programs;
- (12) A plan for ending a program, if applicable;
- (13) A process for amending a program;
- (14) An annual budget for each program, providing detail for program costs, and differentiating evaluation, measurement, and verification costs from other program costs;
- (15) A report on how the demand portfolio is expected to affect rates, sales, average bills and total revenue requirement for each customer sector;
- (16) 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;
- (17) 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;

- (18) 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;
- (19) 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 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 energy efficiency 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 that would lead to effective energy efficiency 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 energy efficiency programs and the Commission finds the cost-effectiveness for the demand portfolio remains sufficient;
  - (2) Allow utility cooperation in state, regional and national programs that have the potential to save natural gas in Oklahoma; and
  - (3) Allow 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.
- (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 programs that are economically feasible to implement; and
  - (2) The target market of each program.

(e) Transportation customers shall not be subject to energy efficiency programs and related program costs implemented pursuant to this Subchapter.

[Source: Added at 26 Ok Reg 1861, eff 6-25-09]

**165:45-23-5. Commission consideration**

- (a) In reviewing demand portfolios, the Commission will consider:
- (1) The quality of the 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;
  - (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;
  - (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 costs other than for inducement shall not exceed ten percent of program costs and all program costs shall not add more than \$1.33 to the residential sector's monthly average customer bill.
- (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.

[Source: Added at 26 Ok Reg 1862, eff 6-25-09]

**165:45-23-6. Evaluation, measurement, and verification**

- (a) Utilities are responsible for timely evaluation, measurement, and verification of their energy efficiency programs.
- (b) The intent of the evaluation, measurement, and verification process is:
  - (1) To provide a reliable calculation of the net savings produced by energy efficiency programs;
  - (2) To assess the effects of programs on the market for energy efficient products and services; and
  - (3) To assess the effectiveness of the administration and implementation of energy efficiency 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 energy efficiency 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.

[Source: Added at 26 Ok Reg 1863, eff 6-25-09]

**165:45-23-7. Reporting**

- (a) Each utility shall report by April 1 of each year on the performance of energy efficiency programs for the preceding program year and cumulative program performance.
- (b) The report shall contain detail for a program reflecting the scale of the program as a part of the demand portfolio and shall include the following:
  - (1) A list of all programs and the date each program started;
  - (2) A list of savings realized for each program and the methods used to measure and verify these savings;
  - (3) The utility's annual growth or reduction in metered natural gas for the previous three years, with a calculation of the average growth or reduction rate over that entire period;
  - (4) The most current information available comparing projected savings to reported savings for each of the utility's programs;
  - (5) The most current information available comparing reported savings and verified achieved savings and an explanation of how each was measured;

- (6) The most current information available comparing the base line and milestones to be achieved under market transformation programs with actual conditions in the market;
  - (7) A statement of funds expended by the utility for program administration, including evaluation, measurement, and verification;
  - (8) A statement of any funds that were committed but not spent during the year, by program, with an explanation for non-spending;
  - (9) A list of programs or program categories by customer sector stating:
    - (A) The number of customers served by each program or program category;
    - (B) The program or program category expenditures;
    - (C) The verified energy savings achieved by the program or program category, when available;
    - (D) A description of proposed changes in the program plans; and
    - (E) Any other information prescribed by the Commission;
  - (10) 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 energy efficiency programs;
  - (11) Identification of program implementers, including names, job titles, business postal addresses, business electronic mail addresses, and business telephone numbers; and
  - (12) Identification of instances in new construction or renovation when an electric furnace or water heater could have been installed but the customer installed a natural gas device and a natural gas utility inducement was provided.
- (c) 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; and
  - (2) Will endeavor to act on the report within sixty days by accepting the report, rejecting the report, or opening an investigation to inquire further into the report.
- (d) 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 program administration, delivery or planning.

**[Source:** Added at 26 Ok Reg 1863, eff 6-25-09]

**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) days from the initial notification. After the initial thirty (30) days, normal collection action will resume.

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

[Source: Added at 13 Ok Reg 3259, eff 7-25-96]