

**TITLE 165. CORPORATION COMMISSION**

**CHAPTER 65. WATER 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 on file in the Office of the 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 65. WATER SERVICE UTILITIES**

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**[Authority:** OKLA. CONST. art. IX, § 18; 17 O.S. § 151 *et seq.*]

**[Source:** Codified 12/31/91; Amended at 23 Ok Reg 1681, eff 7-1-06, Amended at 25 Ok Reg 2218, eff 7-11-08; Amended at 31 Ok Reg 24, eff 9-12-2014]

## SUBCHAPTER 1. GENERAL PROVISIONS

### Section

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### **165:65-1-1. Purpose**

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

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-1-2. 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 a direction of 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.

**"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.

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

**"Complaint"** means an oral, electronic or written communication by an interested party requesting an investigation or corrective action regarding the provision of water services.

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

**"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 water service. Any reference to a "customer" or "end-user" contained in a tariff, or in

this Chapter, shall be deemed to mean a "consumer," unless the context clearly indicates otherwise.

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

**"DEQ"** means the Oklahoma Department of Environmental Quality.

**"Distribution" or "Distribution service"** means the transportation of water services through a utility's distribution facilities bundled with any one or more of the services of billing, metering, customer service and similar services.

**"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 water from any water supply source for service to one or more consumers.

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

**"Gallon"** means one U.S. Standard gallon, containing 231 cubic inches and weighing 8.333 pounds.

**"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 water services.

**"Legal holiday"** means only those days declared legal holidays by law or proclamation of the Governor of Oklahoma, or those days on which mail is not delivered or banks are closed, such as Columbus Day.

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

**"Pipe"** means any tubing used in the gathering, transmission or distribution of water which meets the specifications of the DEQ.

**"Premises"** means any piece of land or real estate, or any building or other structure or portion thereof, or any facility where water 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.

**"P.s.i.g."** means pounds per square inch gauge.

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

**"Regulator"** means a device used to reduce the water 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.

**"Service line"** means a line that branches off a distribution main or distribution line in order to transport water 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.

"**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.

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

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

"**Uniform System of Accounts (USOA)**" applicable to water utilities published by the National Association of Regulatory Utility Commissioners (NARUC) or other uniform system acceptable to the Commission may be adopted by a utility.

"**Utility**" means and includes any corporation, association, company, individual, and the trustees, lessees, or receivers, successors or assigns of any of them, (but shall not include a city, town or other body politic) that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, for the transmission and distribution of water by pipeline.

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2322, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-1-3. Commission authority**

The Commission has the authority to promulgate rules concerning the provision of water service to all consumers within the State of Oklahoma pursuant to Okla. Const. Art. IX §§18 and 34 and 17 O.S. §151 *et seq.*

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99]

### **165:65-1-4. Scope of rules**

(a) Every tariff filed by a water utility after the effective date hereof 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. Any tariff provision filed or approved by the Commission prior to the adoption of this Chapter which is in conflict herewith is superseded by and shall be deemed to be amended to conform to this Chapter.

(b) The adoption of this Chapter shall in no way preclude the Commission from altering or amending this Chapter in whole or in part after notice and hearing or from allowing or requiring additional or different service, equipment, facility, or standards than prescribed in this Chapter, either upon complaint or application or upon its own motion. Nothing provided in this Chapter shall relieve any utility from any duty prescribed by the laws of the state of Oklahoma.

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99]

**165:65-1-5. Relief from rules of this Chapter and rules by utilities**

(a) Whenever compliance with any of the rules requirement in this Chapter would result in unreasonable hardship or excessive expense to the utility or the consumer, the Commission may waive or modify the requirements of this Chapter, consistent with federal and/or state law, upon application of any interested 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) A utility may decline to serve a consumer or prospective consumer until such person has complied with all applicable state and municipal regulations governing water service and this Chapter.

(c) A utility may prescribe rules and regulations for furnishing service not inconsistent with this Chapter. No such rules shall be valid until filed with and approved by the Commission. A utility may refuse or discontinue service for noncompliance with its service rules only in cases where its rules as approved specifically so provide. Service shall not be refused to a consumer where a balance is owed by a previous consumer at the same location.

(d) For good cause shown, the Commission may grant temporary relief from the requirements of this Chapter pending hearing.

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2323, eff 7-15-2003; Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-1-6. 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, either the utility or any interested parties may file a written application with the Commission or complaint with CSD of 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 the Commission's Rules of Practice [OAC 165:5].

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99]

**165:65-1-7. Severability**

If any provision of this Chapter is held invalid, such invalidity shall not affect other provisions 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 16 Ok Reg 2380, eff 7-1-99]

**165:65-1-8. Violations**

A violation of a Commission order, rule or requirement directing compliance with this Chapter shall constitute contempt of the Commission pursuant to 17 O.S. §1 *et seq.*, after notice and hearing.

[Source: Added at 16 Ok Reg 2380, eff 7-1-99]

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

## Section

- 165:65-3-1. Construction and maintenance of plant, equipment, and facilities
- 165:65-3-2. Extent of system in which utility shall maintain service
- 165:65-3-3. Service pipes and meter sets
- 165:65-3-4. Extension of mains
- 165:65-3-5. Sale or disposal of facilities by utility [AMENDED]
- 165:65-3-5.1 Acquisition, control, or merger of domestic public water utilities [NEW]
- 165:65-3-6. Tampering with measuring or regulating equipment

**165:65-3-1. Construction and maintenance of plant, equipment, and facilities**

(a) **Water plant and system construction and maintenance.** Each utility shall construct and maintain its entire water plant and system in such condition as will enable it to furnish safe, adequate and reliable service subject only to emergency conditions beyond its control.

(b) **Construction, installation, and maintenance of systems.** Transmission and distribution systems, including transmission mains and pipe lines, distribution mains, pumps, valves, storage tanks, meters, equipment, etc., shall be constructed, installed, and maintained in accordance with all applicable rules and orders of the Commission and DEQ. Utilities must be able to locate water lines consistent with the requirements of 63 O.S. § 142.1 *et seq.*

(c) **Statement regarding plant, equipment, and facilities.** Each utility shall file with the Commission annually a statement regarding its plant, equipment, and facilities in such form as the Commission may require. Utilities other than those that purchase water shall provide appropriate authority for their use of water (U.S. Corps of Engineers, Oklahoma Water Resources Board, and/or other appropriate authority). All water service utilities that withdraw groundwater or divert stream water must hold a water right from the Oklahoma Water Resources Board before placing water to use.

(d) **Plans, surveys, and permits.** Each utility shall file with the Commission a certified copy of all plans and surveys of its waterworks which have been filed with the DEQ. A description of the source from which the water supply is derived shall be filed with the Commission, and no new or different source of supply shall be used until a certified copy of the certificate of the DEQ approving the use of the new or different supply has been filed with the Commission. No utility shall sell water or extend water service to a

consumer until certified copies of all permits required to be issued by the DEQ to the utility are filed with the Commission.

(e) **Depth of mains.** Water mains, except mains used exclusively for temporary or seasonal service, shall be installed below the normal frost line or otherwise protected to prevent freezing in accordance with DEQ.

(f) **Dead ends.** Insofar as practicable the utility shall design its distribution system so as to avoid dead ends on its mains. Where dead ends exist, under circumstances that adequate water circulation does not exist, the utility shall provide hydrants or valves for the purpose of flushing the mains. Mains without adequate circulation shall be flushed every ninety (90) days, or more often if necessary, to maintain the proper quality of the water. Records shall be kept of the date, place and duration of flushing mains; and such records shall be used as a guide to determine the necessary frequency of flushing of the same mains thereafter.

(g) **Segmentation of systems.** The design of water mains or systems hereafter constructed shall contain valves at intervals throughout the system to facilitate repairs and minimize interruptions of service to consumers.

(h) **Grid systems.** Whenever feasible, the distribution system shall be laid out in a properly segmented grid so that in case of breaks or repairs the interruption of service to the consumers can be kept at a minimum.

(i) **Fire protection service.** Specifications, location, installation, and the responsibility for the maintenance of fire hydrants, public and private fire protection facilities and connecting mains, and the ownership of such facilities shall be subject to negotiation between the utility and the municipality served. Fire hydrants and public and private fire protection facilities shall conform to the requirements of the city where installed or in the absence of city requirements, to the rules and orders of the Commission.

(j) **Valves.** Each utility shall inspect the principal mainline valves on its distribution system at least once every two (2) years. A record of each valve shall be kept showing the size, type, location, date of inspection and the results thereof.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2324, eff 7-15-03]

### **165:65-3-2. Extent of system in which utility shall maintain service**

(a) Each utility shall operate and maintain in safe, efficient, and proper condition all the facilities and instrumentalities used in connection with the transmission, distribution, regulation, measurement, and delivery of water to any consumer up to and including the point of delivery into the piping owned by the consumer.

(b) A water utility may operate and maintain any privately owned lines utilized by the utility for transmission and distribution of water, if granted such permission by the owner of the private line.

(c) No residential meter shall be installed inside a residence.

(d) The meter shall be set at the nearest feasible point to the property or curb line of the consumer.

(e) All mains, water lines, pipes, and equipment owned by the consumer from the outflow side of the meter shall be maintained in a 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 and the right to inspect an existing installation under reasonable conditions. Service may be refused or discontinued until the provisions of this Chapter are complied with.

(f) Each water utility, for each locality which it serves, shall provide contact information for an office or agent where the consumer may pay bills and conduct any other necessary business with a representative of the utility. Such office or agent shall be available to the consumer during reasonable business hours at least five (5) days per week.

(g) The utility shall provide in the telephone directory for each area it serves a telephone listing by which the utility personnel can be notified at any time during a twenty-four (24) hour day period of any utility service deficiency or emergency. If utility personnel are not available to accept the call and the call is recorded, the utility shall contact the consumer to confirm receipt of the call within two (2) hours.

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2324, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-3-3. Service pipes and meter sets**

(a) Upon application by any bona fide applicant for water service, the utility shall provide a tap and a corporation cock at the main, furnish and install a service pipe of suitable material and capacity, furnish and install a shut-off cock, a meter box, and all other fittings necessary to set a meter on the applicant's property abutting upon any public way in which the utility has an adjacent water distribution main.

(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 approved by and on file with the Commission.

(c) The utility may charge the residential applicant a tap-on charge specified in its tariff or rules of service on file with and approved by the Commission for furnishing and installing the necessary material and coupling devices, providing the meter setting and connecting the meter to the consumer's house service line. The charge shall be a non-recurring charge for the premises, notwithstanding later change in ownership or consumers there served. Subsequent consumers may be charged a service initiation fee, provided such fee is listed in the utility's approved tariff. The meter box, meter, and all other fittings used in connecting service and serving the meter shall remain the property of the utility. When it is necessary to make a tap-on of a size larger than required for a residential consumer, the tap-on and meter setting cost shall be charged the consumer as specified in the tariff or Rules of Service, or if no such charge is there stated, at the actual cost to the utility.

(d) Where the utility and the consumer cannot agree upon the location, dimensions and type of installation to be made, the utility shall advise the consumer of the CSD and provide the telephone number to the consumer to address the problem and seek resolution. If the problem remains unsolved, either the consumer or the utility may file an application with the Commission for hearing and final determination.

(e) Where circumstances require the meter to be set at a point other than the property or curb line, the proper service pipes shall be installed by the utility from the main to the meter. If the meter is located inside the property line at the consumer's request, the consumer shall pay the cost of the service pipe from the property or curb line to the meter and for installation thereof, under uniform rates to be adopted by the utility and approved by and on file with the Commission. The utility shall own and maintain all service lines and equipment up to the outflow side of the meter wherever installed.

(f) The utility shall provide each service connection with an individual shut-off cock. No tandem service shall be allowed.

(g) The size, design, material, and installation of the consumer's service pipe shall conform to any code, ordinances or requirements of the city or town where installed, or where no such requirements exist, to the rules and orders of the Commission and the Service Rules of the utility filed with and approved by the Commission. No service pipe shall be less than three-fourths inch (3/4") nominal size. All service pipes shall be laid underground at a depth sufficient to prevent freezing, except where service is not intended to be used during freezing weather and the pipes are actually drained during such periods.

(h) In the installation of a service pipe the consumer shall not install any tee or branch connection without consent of the utility. The consumer shall leave the trench open and pipe uncovered until it has been inspected by the utility or inspection waived. The service pipe shall be provided with a suitable shut-off cock by the consumer. The consumer is responsible for maintenance of all service pipes from the outflow side of the meter.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

#### **165:65-3-4. Extension of mains**

(a) **General.** A utility shall extend its distribution mains to serve the 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 extension.** A utility shall extend its distribution system, as needed, up to one hundred feet (100') per residence without cost to the one requesting service. In arriving at the length of such main extension necessary to render service to the consumer, 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 consumer 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 consumer 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 one 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 165:65-9-7

(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 water 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 person or entity 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) through (i) of this Section, a water 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 water 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 16 Ok Reg 2380, eff 7-1-99]

#### **165:65-3-5. Sale or disposal of facilities by utility**

(a) The parties to a transaction, the performance of which will result in the transfer of any portion of a water utility's jurisdictional plant or operating system or the transfer of some or all of a water 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 OAC 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 Department of Environmental Quality. Additionally, the person or entity receiving the facilities or customers shall, at the time of the filing, be providing water 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 water 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 water 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 water 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 OAC 165:65-11-3(o) and (q) and an affirmation that the records and reports required by OAC 165:65-9 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 OAC 165:65-9 and OAC 165:65-11-3(o) and (q), 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 water 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 OAC 165:65-9-7, 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 OAC 165:65-1-5.

(i) This section does not apply to transactions that involve discontinuance of service pursuant to OAC 165:65-11-10 or 165:65-11-11 or routine retirement or replacement of facilities.

[**Source:** Amended at 16 Ok Reg 2380, eff 7-1-99, Amended at 25 Ok Reg 2218, eff 7-11-08; Amended at 31 Ok Reg 1091, eff 9-12-2014]

#### **165:65-3-5.1. Acquisition, control, or merger of domestic public water utilities**

(a) An original and eight (8) copies of an application for approval, consistent with OAC 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:

- (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 Department of Environmental Quality. 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;

(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.

(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;

(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;

(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;

(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; and

(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.

(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 water 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 2220, eff 7-11-08; Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-3-6. Tampering with measuring or regulating equipment**

No shut-off valve, meter, meter box or other property or equipment owned by a utility wherever situated, whether upon 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; and official responsibility under a municipal government shall not constitute an exception to this Section.

**SUBCHAPTER 5. WATER QUALITY, TESTING, AND PRESSURE**

## Section

- 165:65-5-1. Purity of water supply
- 165:65-5-2. Water analyses and records
- 165:65-5-3. Pressure
- 165:65-5-4. Station meters and pressure gauges

**165:65-5-1. Purity of water supply**

All water furnished by any utility for human consumption or household purposes shall comply with all requirements and water quality standards of the DEQ.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

**165:65-5-2. Water analyses and records**

- (a) The result of all tests made by the DEQ and tests made by the utility shall be kept on file in the office of the utility and made available for public inspection for a period of at least three (3) years. These records shall show when, where, and by whom the test was made. The standard methods of testing specified by the DEQ shall govern the collection and examination of the water tested.
- (b) Whenever tests disclose the presence of bacillus coli, or any bacterial count, the utility must immediately take all steps necessary to make its water supply comply with the water quality standards prescribed by the DEQ.
- (c) The water supply system, including wells, pumping equipment, treatment works, mains, and service pipes shall be maintained at all times in a sanitary condition.
- (d) No physical connection between the water distribution system of a utility and that of any other water supply or system shall be permitted, unless each water supply and the inter-connection thereof is approved by the DEQ.
- (e) The growth of algae in the water at the source of supply in reservoirs or other basins, and in the water mains shall be controlled by proper treatment.
- (f) Any driven or drilled well furnishing water for domestic purposes shall be equipped with suitable casing and well head equipment, and the utility shall maintain the tightness of the well at the surface of the ground sufficient to prevent the infiltration of any water other than that produced from the water bearing strata tapped by the well in accordance with the rules of the DEQ.
- (g) The utility shall follow all DEQ rules, except where the Commission rules provide a higher standard.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2325, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-5-3. Pressure**

(a) A water utility shall maintain a pressure throughout its distribution system which will comply with the requirements of the National Board of Fire Underwriters and which shall not at any time fall below a minimum of thirty (30) pounds per square inch gauge (p.s.i.g.) or rise above a maximum of one hundred twenty-five (125) pounds per square inch gauge (p.s.i.g.) at the consumer's service connection except for temporary fluctuation in pressure over which the utility has no control.

(b) In order for the water utility to insure that water pressure is maintained within the Commission's specifications in (a), the utility shall be required to do one of the following things:

- (1) Place a pressure gauge on the outflow side of each meter that can easily be read by the utility, customer and/or Commission staff; or
- (2) Place a faucet at the outflow side of each meter in order to attach a water pressure gauge with a 3/4 inch fitting to read the pressure; or
- (3) Test the water pressure by utilizing the outside faucet at a customer's service point.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

### **165:65-5-4. Station meters and pressure gauges**

(a) **Station meters.** The utility shall install station meters and instruments necessary to keep a daily and monthly record of the total amounts of water delivered into the mains.

(b) **Pressure gauges.** Each utility shall provide itself with one (1) or more pressure gauges for the purpose of making pressure surveys as required by this Chapter. These gauges shall be suitable to record the pressure experienced on the utility's system and shall be able to record at least a twenty-four (24) hour continuous test. One recording pressure gauge shall be maintained in continuous service at some representative point on the utility's mains.

(c) **Pressure surveys.** Each utility required to have recording pressure gauges shall make frequent records during periods of maximum use, each covering intervals of at least twenty-four (24) hours duration of the water pressure at various points on the system. All records or charge made by these meters shall be identified, dated, and kept on file and available for inspection for at least two (2) years.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

## **SUBCHAPTER 7. METER REQUIREMENTS AND TESTING**

### **PART 1. GENERAL PROVISIONS**

## Section

- 165:65-7-1. Meter requirements and testing
- 165:65-7-2. Adjustment of bills
- 165:65-7-3. Prepayment meters
- 165:65-7-4. Information as to reading of meters

**PART 3. TESTING**

- 165:65-7-10. Meter testing facilities and equipment
- 165:65-7-11. Periodic and routine tests
- 165:60-7-12. Meter testing on request of consumer
- 165:65-7-13. Referee meter tests by Commission
- 165:65-7-14. Replacement meters

**PART 1. GENERAL PROVISIONS****165:65-7-1. Meter requirements and testing**

(a) No service water meter shall be allowed in service which has an incorrect gear ratio or dial train, or is in any way mechanically defective, or shows an average error in measurement in excess of two percent (2%), plus or minus, when registering water at stream flow equivalent to approximately one-tenth (1/10), one-half (1/2), and full normal rating under average service pressure. When adjustment is necessary, such adjustment shall be made as accurately as practicable for average rate of flow under actual conditions of installation.

(b) For purposes of application, the average error of a water meter is defined as one-third (1/3) of the algebraic sum of the errors when tested in accordance with (a) of this Section.

[Source: Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-7-2. Adjustment of bills**

(a) **Allowable error in adjustment of charges.** Whenever any water meter is tested by the Commission or the utility at the request of the consumer to determine the accuracy with which it has been registering in service, it may be considered correct if found to have an average error of no more than two percent (2%) and no adjustment of charges shall be required unless the error is greater than two percent (2%).

(b) **Fast meters.** Whenever any water 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 (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 overcharge shall be computed from that date.

(c) **Slow meters.** Whenever any water 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 water consumed, but not included in bills previously rendered, based upon the corrected meter reading for a period equal to one-half (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.

(d) **Non-registering meter.** If a meter is found not to register or to register intermittently for any period, the utility may charge for an estimated amount of water used, 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.

(e) **Incorrect register on meter.** If a meter is found to have an incorrect register, the error shall be corrected. Where the error is adverse to the consumer the utility shall refund to the consumer the excess charged for the water incorrectly metered for 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 water incorrectly metered for the period of time the meter was used in billing the consumer, and if necessary the utility may receive payment in installments over a reasonable period of time.

(f) **Inaccurate usage amount.** Bills rendered to the consumer by the utility with inaccurate usage shall be adjusted with the next succeeding bill. The utility shall advise the consumer of the error prior to the next bill being rendered. However, the utility may make a special reading without charge to the consumer and render a corrected bill to the consumer.

(g) **Exception.** This Section shall not apply to routine testing and replacement of meters pursuant to OAC 165:65-7-11.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-7-3. Prepayment meters**

No utility shall use prepayment meters geared or set as to cause a rate or amount higher than would be paid if a standard type meter were used, except under a special tariff for this class of service filed with and approved by the Commission.

### **165:65-7-4. Information as to reading of meters**

(a) **Meter reading records.** The meter reading records shall show:

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

(b) **Information to customers.** 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 by contacting the utility. Meter reading information shall be sent at least annually to each consumer.

(c) **Meter reading information.** Each service meter shall be read by the utility.

(1) **Information required.** Each service meter shall indicate clearly the number of gallons of water registered by the meter. Where water is measured in cubic feet 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.

(2) **Meter reading.** Each service meter shall be read by the utility at approximate monthly intervals at least ten (10) times a year on approximately the same day of each meter reading period. If for reasons beyond the control of the utility it is impossible to read a meter for two (2) successive monthly billing periods, it will be permissible for the utility to submit an estimated bill based upon past service records the amount of such estimated bill to be adjusted as necessary when access to the meter is obtained.

(3) **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 the consumer's premises for purpose of meter reading and maintenance. Refusal on the part of the consumer to provide reasonable access for the purpose of meter reading shall be deemed sufficient cause for discontinuance of service on the part of the utility, after notice as provided in this Chapter for discontinuance of service for nonpayment of bills. The utility shall provide its employees with a means of identification in order to claim the right of access.

(4) **Alternative reading periods.** Upon application of the utility and after notice and hearing, the Commission may authorize the reading of meters less frequently than monthly and prescribe conditions and procedures therefore.

(5) **Special meter reading request.** Whenever a special meter reading is required following a request by a consumer, the utility shall not make a charge for the special meter reading, whether or not its applicable tariff authorizes a charge for a special meter reading, unless the consumer has requested and received special meter reading within the previous twelve (12) month period.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2325, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### PART 3. TESTING

#### 165:65-7-10. Meter testing facilities and equipment

(a) **Test facilities.** Each utility furnishing metered water service shall provide the necessary standard facilities, instruments, and other equipment for testing its meters in compliance with this Chapter. Any utility may be excused from this requirement by the Commission provided that arrangements satisfactory to the Commission are made for

the test of its meters by another utility or agency equipped to test meters in compliance with this Chapter.

(b) **Shop equipment.** The utility's meter test shop shall insofar as practicable simulate the actual service conditions of temperature, inlet pressure, and outlet pressure. It shall be provided with all necessary fittings, including a quick acting valve for controlling the starting and stopping of the test and a device for regulating the flow of water through the meter under test within the requirements of this Chapter, and shall include the minimum test equipment as specified in the notes section of the appropriate AWWA Standard in effect for the type of meters to be tested. The overall accuracy of the test equipment and test procedures shall be sufficient to enable the test of service meters within the requirements of this Chapter. In any event, the inherent overall accuracy of the equipment shall permit tests with an overall accuracy of the equipment shall permit tests with an overall error of not greater than three tenths of one percent (.003).

(c) **Test measurement standards.**

(1) **Basic standards.** A measuring device for test of meters may consist of a calibrated tank for volumetric measurement or a tank mounted upon scales for weight measurement. If a volumetric standard is used, it shall be accompanied by a certificate of accuracy from any standard laboratory approved by the Commission. If a weight standard is used, the scales shall be tested and calibrated periodically by an approved laboratory and a record maintained of the results thereof.

(2) **Size of basic standards.** When basic standards are used for meter tests, they shall be of a capacity sufficient to insure adequate determination of accuracy and shall be subject to the approval of the Commission.

(3) **Standard meters.** A standard meter may be provided and used by any utility for the purpose of testing meters in place. A standard meter shall be tested and calibrated periodically to insure its accuracy within the limits required by this Chapter. In any event, such test shall be made at least once each week while the standard meter is in use and a record of all tests shall be kept by the utility.

#### **165:65-7-11. Periodic and routine tests**

(a) Each utility shall adopt the following periodic and routine test and repair schedule of its meters:

(1) 1 inch and smaller meters: 10-year interval between test years

(2) 1 ½ inch and 2 inch meters: 6-year interval between test years

(3) 3 inch meters: 4-year interval between test years

(4) 4 inch and larger meters: 2-year interval between test years

(b) If the meters of a utility are maintained in compliance with the provisions of the schedule in (a) of this Section, and if at least ninety percent (90%) of the meters tested register an accuracy of not less than ninety-eight percent (98%) nor more than one hundred two percent (102%) during a three (3) year period, the utility, upon application and after notice and hearing, may be granted an extension in the time interval between test years.

(c) If the water meter testing program of a utility does not meet the standards prescribed in subsection (b) of this Section over a three (3) year period, the time interval between test years may be reduced by the Commission after notice and hearing. Change in

ownership or assets of the water utility shall not change the requirements for periodic testing of active meters being utilized by the utility.

(d) All meters and/or associated metering devices, when tested, shall be adjusted as closely as practicable to the condition of zero (0) error.

(e) All tolerances of this Chapter are to be interpreted as maximum permissible variations from the condition of zero (0) error. In making adjustments no advantage shall be taken of the prescribed tolerance limits.

(f) The utility shall maintain a record of the most recent test of each meter.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2326, eff 7-15-03]

#### **165:65-7-12. Meter testing on request of consumer**

(a) Upon receipt of written request of a consumer, the utility shall within ten (10) days thereafter test the accuracy of the meter.

(b) No deposit or payment shall be required, whether or not there is an applicable charge in the utility's tariff, from the consumer for such meter test as requested by the consumer, unless the consumer has requested such meter test within the previous twelve (12) months. If the meter meets the accuracy standards of the Commission, and the consumer has not requested such a test in the previous twelve (12) month period, and the consumer was notified before such test of the tariff charge that might be applicable to such meter test, then the consumer should bear the expense of the test provided an approved charge is in the utility's tariff.

(c) Any charge made pursuant to subsection (b) of this Section shall be refunded to the consumer if the meter is found when tested to have an average error of more than two percent (2%).

(d) A consumer may make written request to be present when the utility conducts the test on his meter and may have an expert or other representative present at the time, in which case the utility shall conduct the test only in the presence of the persons requested.

(e) 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) days after the completion of the test.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

#### **165:65-7-13. Referee meter tests by Commission**

(a) Upon written request to the Commission by a consumer, a test will be made of the consumer's meter by a representative of the Commission. The test shall be made as soon as reasonably possible after the request.

(b) The consumer may make written request to be present or have a representative present to witness the testing of the meter by a representative of the Commission.

Upon receipt of such request, the Commission shall notify the utility to remove and seal the meter in the presence of the consumer and to keep the meter in the same condition with the seal unbroken until the test can be made in the presence of the consumer or his representative.

(c) Cost of the referee meter test shall be borne by the utility if the accuracy of the meter falls outside of the standards of the Commission. Cost of the test shall be borne by the consumer if the accuracy of the meter meets the standards of the Commission.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

#### **165:65-7-14. Replacement meters**

(a) 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 165:65-7-12.

(b) The utility shall make no charge for initial connection of water service for a consumer except the charges specified in the approved tariffs and rules of service of the utility; except that for each disconnection and reconnection of service for the same consumer at the same location within twelve (12) months after a previous connection of service, the utility may make a charge prescribed in its approved tariffs or Rules of Service.

[Source: Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **SUBCHAPTER 9. RECORDS, REPORTS, AND FILING REQUIREMENTS**

#### Section

165:65-9-1.	Retention, location and availability of records; contact persons
165:65-9-2.	Interruptions of service
165:65-9-2.1	Restoration of service
165:65-9-3.	Plant records
165:65-9-4.	Records of service complaints; investigation
165:65-9-5.	Record of meter and meter test
165:65-9-6.	Record of accidents [REVOKED]
165:65-9-7.	Filing of rate schedules, contracts, agreements, and rules
165:65-9-8.	Filing of maps
165:65-9-9.	Cost of services, material, or facilities for other types of business or subsidiaries
165:65-9-10.	Accounting

#### **165:65-9-1. Retention, location and availability of records; contact persons**

(a) **Record retention.** Unless otherwise specified herein, all records required by the rules in this Chapter shall be preserved by the utility in the form and for a period of time not less than two (2) years and shall be available for examination by the Commission or its representatives.

(b) **Record location.** All records required by this Chapter shall be kept within Oklahoma at the office or offices of the utility and shall be open for examination by the

Commission or its representatives; provided that if the general office of the utility is located outside of Oklahoma, the records may be kept at the general office. Each utility shall maintain records in such detail that the cost of property located and business done in the State of Oklahoma can be accurately and readily ascertained, and the utility shall make available any such records for examination by the Commission or its authorized representative. Each utility shall notify the Commission as to the location of the office or offices at which the various classes of records are kept and shall file with the Commission such reports as the Commission may from time to time require.

(c) **Submetering records.** In the event of the use of submetering, all submetering records shall be retained for a period of two (2) years and shall be available for inspection by the Commission, the affected consumer and/or duly interested person or entity at a location accessible to the consumer affected by submeters.

(d) **Contact persons.** Each utility shall report to the CSD the name, title, address, and telephone number of the person who should be contacted in connection with general management duties, consumer relations and complaints, engineering operations, meter tests and repairs and emergencies during non-business hours. This information shall be furnished applicable to each operating district, town or any segment of the utility so that the CSD will be able to reach the responsible person at any time. The utility shall report any changes in the above promptly.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-9-2. Interruptions of service**

Each utility shall make reasonable efforts to avoid interruption of service. When an interruption occurs service shall be re-established as soon as possible.

(1) Each utility shall keep a record of interruptions of service on its primary distribution system, including a statement of the time, duration and cause of each such interruption. The record shall be available to the Commission or its representative on request.

(2) The log for each unattended substation shall show interruptions which require attention to restore service with the estimated time and duration of interruption.

(3) Any planned interruption shall be made at a time that will not cause unreasonable inconvenience to consumers and shall be preceded by at least a two (2) day notice to consumers affected.

#### **165:65-9-2.1. 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 water 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. 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 water 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 water 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 water 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 below. The Commission notification process to the designated Consumer 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, may cause a high degree of public interest or concern, or which have a duration of four (4) hours or more and involve one percent (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 23 Ok Reg 1681, eff 7-1-06; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-9-3. Plant records**

Each utility shall keep a record of the input and output of its plant in gallons of water per month.

### **165:65-9-4. Records of service complaints; investigation**

(a) Each utility shall make a full and prompt investigation of every complaint made to it by a consumer, either directly or through the Commission. It shall keep a record of all such complaints received, which record shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof. This record shall be open at all times for inspection by the Commission or its representatives.

(b) In the event of a dispute between the consumer and the utility respecting 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 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 set assembly shall not be changed in any manner without prior authorization of the Commission. Violation of this provision will be considered as substantiation of the complainant's contentions.

(d) Whenever a special meter reading is required following a complaint by a consumer the utility shall not make a charge for the special meter reading whether or not its tariff authorizes a charge for a special meter reading.

(e) The utility shall provide each consumer a local telephone number and mailing address where either oral or written complaints may be received by the utility. If the utility utilizes electronic notification any such address(es) shall also be provided to all consumers of the utility.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 31 Ok Reg 1091, eff 9-12-2014]

### **165:65-9-5. Record of meter and meter test**

(a) Whenever any service meter is tested, the original tests records shall be preserved, including the information necessary for identifying the meter, the reason for making the test, the reading of the meter, the reason for making 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. On removal from service, only the record of the latest test need be preserved.

(b) A record shall be made for each meter owned or used by any utility, showing the date of acquisition, a record of the use, repairs, and the most recent test 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.

**165:65-9-6. Record of accidents [REVOKED]**

[Source: Revoked at 16 Ok Reg 2380, eff 7-1-99]

**165:65-9-7. Filing of rate schedules, contracts, agreements, and rules**

(a) It shall be unlawful for a utility to furnish, charge for, or receive payment for water service except strictly in accordance with a tariff or rate schedule on file with and approved by the Commission.

(b) No tariff or rate schedule shall be added, deleted, changed, closed or discontinued after the effective date of the rules in this Chapter except pursuant to order of the Commission upon application of the utility and after notice and hearing.

(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 water service is furnished to one or more consumers shall be deemed a tariff for purposes of this Section. From and after the effective date of the rules in this Chapter, 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 water service made after the effective date of the rules in this Chapter shall not become effective except after approval by order of the Commission.

(e) The utility shall maintain and furnish to a member of the public on request:

(1) A copy of every tariff and rate schedule under which water service is being furnished to consumers within the area serviced by that local office or agent.

(2) A copy of the approved Water Service Utilities rules.

(3) A copy of this Chapter, and all amendments thereto.

(f) A certified copy of every franchise, agreement or permit granted a utility by any municipality shall be filed with the Commission.

(g) A utility shall not sell water to any consumer for resale, except pursuant to a tariff on file with and approved by the Commission which authorizes resale and the consumer has on file with and approved by the Commission tariffs, rate schedules rules and regulations covering such resale or is exempt by law from such requirement.

[Source: Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-9-8. Filing of maps**

Each utility shall provide upon request within ten (10) business days to the Commission suitable, detailed maps, a size and media as agreed by the utility and the director of the Public Utility Division, of its general system and shall maintain suitable,

detailed maps of its entire system, which shall be made available to the Commission on request. The general system maps may be provided by sections or counties where necessary to meet size requirements. Such maps shall be brought up to date annually, not later than ninety (90) days after the end of the utility's fiscal year.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

**165:65-9-9. Cost of services, material, or facilities for other types of business or subsidiaries**

(a) When a utility is engaged in any type of non-utility business or operations, through subsidiaries or otherwise, or in any business not considered in the ratemaking process, and personnel, material, equipment, or 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 or allocation of all of the cost of personnel, services, material, equipment, or any facility between utility and non-utility operations. There shall be a written accounting thereof between utility and non-utility operations on a monthly basis.

(b) The cost of keeping the records and any other expense caused by furnishing such services, materials, or facilities shall be charged to the recipient thereof. "All of the cost" in this Section shall mean actual cost plus any direct or indirect charges related to the cost of services, materials, or facilities calculated on the same basis used in allocating direct and indirect charges to the utility operations.

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

**165:65-9-10. Accounting**

(a) The "Uniform System of Accounts" applicable to water utilities published by the National Association of Regulatory Utility Commissioners (NARUC) or other uniform system acceptable to the PUD shall be adopted by a utility.

(b) All water utilities have multi-state operations shall maintain records in such detail that the costs of property located and business done in the State of Oklahoma in accordance with geographic 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 after notice and hearing.

(d) Every water utility shall file with the PUD an annual report on a form furnished by the PUD, the amount of property, revenues, expenses, taxes, depreciation, etc., utilized in or incurred from the furnishing of utility service in the State of Oklahoma. Any cost allocations necessary in developing results of operations for the State of Oklahoma separately shall be accomplished on a basis acceptable to the PUD. The annual report form may be changed by the Director of the Public Utility Division or designee upon notice being given by posting on the Commission's website the proposed changes, provided such changes must be posted no later than December 31 of the year for which the proposed changes are to be effective.

(e) The results of operations reported by each water utility in its annual report to the PUD 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 PUD at the end of the utility's fiscal year, on summary sheets furnished or approved by the PUD, the book value of its utility plant. These reports and annual reports required by (d) of this Section shall be delivered to the PUD not later than one-hundred twenty (120) days after the end of the fiscal year, provided that the PUD may grant an extension for good cause shown.

(g) Each utility shall make special reports at such time and in such form as the PUD may from time to time require.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 31 Ok Reg 1091, eff 9-12-2014]

#### **165:65-9-11. Relief from rate increase requirements**

(a) Class C or D water utilities, having less than \$250,000 in annual gross revenue within the state, shall not be subject to the requirements of OAC 165:70-7-4 rate regulation as prescribed in Chapter 70, the general rate regulation requirements, unless a water utility proposes an increase in rates and charges which exceeds a fifteen percent (15%) annual increase in revenue, based on the previous twelve (12) months gross revenue generated by the existing water usage rates.

(b) A water utility may not submit more than two (2) consecutive annual submissions using the provisions of this Subchapter, nor may a water utility submit more than three (3) submissions within the most recent five (5) year period using the procedures set forth in this Subchapter.

(c) Each water utility desiring to increase its water rates pursuant to this section shall provide notice to its water customers in no less than two (2) billing cycles with the second notice being given at least sixty (60) days before the effective date of the proposed rate increase. Notice shall be made by regular mail or personal service and be included with each customer's regular bill. Notice to the water utility's customers shall include the following:

- (1) Existing rate and proposed rate;
- (2) Average dollar increase per customer per rate class;
- (3) Percentage of total company regulated revenues increase; and
- (4) The procedure necessary for a customer to petition the Commission to examine and determine the reasonableness of the proposed rate increase, pursuant to Section (h) of this Subchapter.

(d) Each water utility desiring to increase its water rates pursuant to this section shall notify the Commission at least seventy-five (75) days before the effective date of the proposed rate increase. Notice to the Commission shall include the following:

- (1) A copy of the notice to be provided to its customers;
- (2) Verified statement showing the total number of customers of the water utility as of the date of the most recent billing;
- (3) Verified statement showing the water utility's total gross revenue for the previous twelve (12) months;

- (4) The date of the water utility's last rate increase, the cause number and the final order number, if applicable;
  - (5) Any anticipated growth or decline in the water utility's customers which is expected to occur during the first twelve (12) months following the proposed rate increase;
  - (6) The types of customers the water utility serves;
  - (7) A copy of the water utility's approved tariff sheet showing the existing rates and proposed new rates;
  - (8) The date of the most recent annual report in accordance with OAC 165:65-9-10(d)-(g).
- (e) If, thirty (30) days prior to the effective date of this proposed increase in rates and charges, the Commission has received petitions from fewer than fifteen percent (15%) of the affected customers, requesting that the Commission examine the proposed increase in rates and charges, the Commission shall notify the water utility that the rate increase may be implemented on the proposed effective date and shall apply to all bills normally rendered on and after the effective date.
- (f) If, thirty (30) days prior to the effective date of the proposed increase in rates and charges, the Commission has received petitions from fifteen percent (15%) or more of the affected customers, then the Commission shall notify the water utility that it will examine and determine the reasonableness of the proposed increase in rates and charges and the rate increase may not be initiated until the Commission has completed its determination.
- (g) A water utility shall not increase its rates and charges under this Section more than once in any twelve (12) month period. If a water utility is eligible to increase its rates and/or charges pursuant to this Section and desires to increase its rates and/or charges above that which is allowed under this Section, it shall file an application pursuant to the Commission's applicable rules, unless otherwise allowed by law.
- (h) A petition submitted to the Director of the Public Utility Division requesting the Commission to examine and determine the reasonableness of a water utility's proposed increase in rates and charges shall be in substantially the following form:
- (1) Form: The petition shall be headed by a caption, which shall contain:
    - (A) The name of the utility seeking an increase in rates and charges; and
    - (B) The relief sought.
  - (2) Body: The body of the petition shall contain the following:
    - (A) All allegations of facts, without unnecessary detail, explaining why the customers oppose the increase in rates;
    - (B) A reference that the petition is submitted pursuant to OAC 165:65-9-11;
    - (C) The name, address, telephone number, and signature of each petitioning customer;
    - (D) A copy of the notice provided by the water utility and received by one of the customers signing the petition shall be attached to the petition.
- (i) Petitions may be signed only by the affected customers of the water utility. Only one signature per meter shall be counted to determine if the fifteen percent (15%) threshold has been met.

[Source: Added at 27 Ok Reg 914, eff 7-1-10; Amended at 31 Ok Reg 1091, eff 9-12-2014]

## **SUBCHAPTER 11. CUSTOMER SERVICE**

### **PART 1. DEPOSITS AND BILLING**

#### Section

- 165:65-11-1. Information on bills
- 165:65-11-2. Penalty or charge for late payment on bills
- 165:65-11-3. Deposits and interest

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

- 165:65-11-10. Disconnection of service by a consumer
- 165:65-11-11. Disconnection of service by a utility
- 165:65-11-12. Insufficient reasons for disconnection of service [REVOKED]
- 165:65-11-13. Notice of disconnection of service
- 165:65-11-14. Commission notification procedure for elderly and/or consumers with disabilities
- 165:65-11-15. Delays to disconnection of residential service
- 165:65-11-16. Reconnection of service
- 165:65-11-17. Mediation
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- 165:65-11-19. Utilities encouraged to keep current lists of utility assistance programs

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

- 165:65-11-20. Temporary service
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- 165:65-11-22. Change in character of service

### **PART 1. DEPOSITS AND BILLING**

#### **165:65-11-1. Information on bills**

The utility shall bill each consumer as promptly as possible following the reading of his meter. The consumers shall receive their bills by mail, or by electronic notification to consumers who make an affirmative election to receive electronic notification of such information. In no event shall there be a charge for providing a bill through the United States Mail or through different means. 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.
- (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 on request.
- (5) The total amount due for water 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. 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, or any calculations to determine billing units from recording or other devices, or any other factors used in determining the bill.

[Source: Amended at 31 Ok Reg 1091, eff 9-12-2014]

#### **165:65-11-2. Penalty or charge for late payment of bills**

- (a) A utility may make a penalty charge in an amount not to exceed one and one-half (1 1/2%) for delay in receipt of payment by the utility past the due date of the bill. The due date shall be stated on the face of the bill and shall not be earlier than ten (10) days after the bill was mailed, except that for residential consumers, it shall not be earlier than twenty (20) days after the bill is mailed.
- (b) A utility shall clearly state upon the face of its bills the amount of late payment penalty, and the date on or before which payment must be received in order to avoid paying the late payment penalty. In its billing, the utility shall not use the term "prompt payment discount" or other words of similar import which suggest that the consumer will receive a discount or reduction of charges for water service for payment prior to a certain date. The late payment penalty may be applied to any unpaid balance due at each monthly billing period.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

#### **165:65-11-3. Deposits and interest**

- (a) Each utility shall prepare and submit a plan containing criteria for deposits to the Commission for approval. The plan 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 (j).
- (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 more than one-sixth ( $1/6$ ) of 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.

(d) A utility may require an advance deposit as a condition of service for consumers other than those consumers addressed in (b).

(e) A present 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) of the last twelve (12) billing periods or if the consumer has had service disconnected during the last twelve (12) months or has presented a check that has been subsequently dishonored.

(f) Interest on cash deposits shall be paid 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 on 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 for 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 one (1) year Treasury Security, as referenced in (f)(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 (f)(1) and/or (2) 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 rate(s) as pursuant to (f)(1) and (2) of this Section, and shall mail notice to the utility company by December 15th of each year, only if a change in the rate(s) is/are necessary pursuant to subsection (f), otherwise the current interest rate(s) will remain in effect.

(g) If refund of deposits 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 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 of making the deposit or within the ten (10) days thereafter. When a consumer pays a deposit as a portion of a water service bill, payment of the bill shall serve as a receipt 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 deposit to which he/she is entitled, but who is unable to produce the original receipt may not be deprived of his/her 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. The utility plan shall provide for the review of all deposits at least annually and shall provide whether 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.

(l) The amount of the deposit, with accrued interest, shall be applied to any unpaid charges at the time of the discontinuance of service. The balance, if any, shall be returned to the consumer within thirty (30) days following the settlement of the consumer's account, either in person or by mailing it to the consumer's last known address.

(m) The utility shall provide payment of accrued interest for all consumers annually by negotiable instrument or by credit against current billing.

(n) The utility may withhold refund of return of the deposit, pending the resolution of a dispute with respect to charges secured by such deposit.

(o) 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.
- (3) Each transaction concerning the deposit.

(p) Such records shall be retained for two (2) years after deposit and/or interest is refunded or applied.

(q) Upon the sale or transfer of any public utility or operating units thereof, the seller shall file with the application for transfer a verified list of all consumers from 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.

(r) Deposits shall not include membership fees in cooperatives.

(s) The deposit made by the consumer with the utility at the time of application for water 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 2659, eff 6-25-93; Amended at 11 Ok Reg 3751, eff 7-11-94; Amended at 20 Ok Reg 2326, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

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

#### **165:65-11-10. Disconnection of service by a consumer**

A consumer may be required to give up to five (5) days written notice, excluding legal holidays, Saturdays and Sundays, 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 written 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 service fees, if any reconnection and or service fee applies pursuant to the utility's approved tariffs.

[Source: Amended at 12 Ok Reg 2167, eff 7-1-95; Amended at 20 Ok Reg 2327, eff 7-15-03]

#### **165:65-11-11. Disconnection of service by a utility**

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

- (1) Nonpayment of all or any portion of undisputed utility bills or a utility bill which is no longer disputed or for which the Commission's dispute process has been completed.
- (2) Failure to comply with the terms and conditions of a settlement agreement or any type of deferred payment agreement or a Commission order.
- (3) Failure to post a deposit as prescribed in OAC 165:65-11-3.
- (4) Failure to make application for service.
- (5) 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.
- (6) Violation of any rule or regulation of the Commission or Commission-approved rule of the utility.
- (7) 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.
- (8) Potential adverse effect of the service required by the consumer on the service of other consumers of the utility, provided the consumer has been notified and given a reasonable opportunity to correct the adverse effect.

(9) 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 or Commission notification procedure for elderly and/or handicapped consumers.

(10) Where negligent or wasteful use of water exists on a consumer's premises, which adversely affects the general service, the utility may discontinue the service if the conditions are not corrected. Where such waste threatens the supply to a substantial number of other consumers, service may be discontinued immediately after notice.

(11) Abandonment of the premises served.

(12) Upon request of the consumer pursuant to OAC 165:65-11-10.

(13) 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.

(14) 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.

(15) Violation of the utility's rules regarding the operation of nonstandard equipment or unauthorized attachments, if the consumer was notified first and given a reasonable opportunity to comply with the rules.

(16) Violation of federal, state, or local laws or regulations through use of the service.

(17) Causing damage to utility property.

(18) A condition exists which poses a health or safety hazard.

(19) Unauthorized use of water service accomplished through bypassing of the utility's measuring equipment or tampering with pipes, meters, or other utility equipment.

(20) The utility may disconnect service twenty-four (24) hours after providing notice for violations of (3) through (9) of this subsection.

**(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 from that requested.

(2) Failure to pay a bill correcting a previous under billing, due to misapplication of rates, unless the utility offers the consumer a deferred payment agreement as provided elsewhere in this Chapter.

(3) Failure of a previous owner or occupant at 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.

(5) If a current consumer in 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 for a previously unpaid account from a different utility beyond the boundaries of the utility's service territory.

(7) Pending verification, service cannot be withheld or 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 after noon (12:00 p.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 11 Ok Reg 3751, eff 7-11-94; Amended at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2328, eff 7-15-03]

#### **165:65-11-12. Insufficient reasons for disconnection of service [REVOKED]**

[Source: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Revoked at 20 Ok Reg 2329, eff 7-15-03]

#### **165:65-11-13. Notice of disconnection of service**

(a) **Twenty-four hour notice.** Except as otherwise specifically provided for in this Subchapter (OAC 165:65-11-11), 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 CSD.

(b) **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 mailed 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 written notice 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-fourth inch (1/4") 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 CSD.
  - (H) The address and telephone number of the Commission's CSD, in print size which is smaller than the print size used for the utility company's telephone number.
  - (I) A statement that advises the consumer of the availability of a deferred payment agreement.
  - (J) A statement that advises the consumer of the elderly/handicapped notification.
  - (K) A statement that advises the consumer of the availability of the 20-day financial aid assistance delay.
  - (L) A statement that advises the consumer there are agencies providing assistance to consumers for their utility bills as well as provide the location of pay agents upon the consumer's request.
- (3) The utility company shall notify the consumers in writing, at least annually, of the name and address of the authorized payment agencies, if other than the utility company's offices, where consumers may make payments.
- (c) **Commission as intermediary.** Unless otherwise directed by the CSD, the utility company shall not contact the consumer regarding the consumer's account after the Commission has notified the utility company of a complaint or inquiry from the consumer. The Commission shall be the intermediary between the utility and the consumer until the resolution of the problem has been completed.
- (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.** Service of nonresidential customers or other water systems shall be disconnected for nonpayment of all or any portion of an undisputed utility bill or failure to comply with the provisions of a deferred payment agreement 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: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2329, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-11-14. Commission notification procedure for 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 in writing that they wish to be included in the following Commission notification procedure:

(1) A utility shall notify the Commission's CSD by telephone at least five (5) days prior to disconnection.

(2) Such notification shall be confirmed in writing by the utility and mailed, e-mailed, or faxed to the Commission's CSD the same day as the telephone notification.

Written 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) The 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 days upon request of the Commission's CSD.

(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 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 notification procedure is in addition to the other requirements set forth in this Subchapter, which the utility shall meet prior to disconnection of service.

[Source: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2330, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-11-15. 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.

(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 water 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. The utility may continue to disconnect utility service for unauthorized use of the utility's measuring equipment or tampering with pipes, meters, or any other utility equipment or obtaining service without contract.

(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 must be 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 in (e) of this Section.

(5) Under no condition 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 for any bill or account balance in excess of fifty dollars (\$50.00) 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. If the terms of the deferred payment agreement are agreed to orally, the utility may send confirmation of such

agreement by mail or by electronic notification to consumers who make an affirmative election to receive electronic notification of such information. 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 one (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 less employer deductions.

(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 amount.

(3) The consumer shall initiate a renegotiation prior to breach of the deferred payment agreement. The deferred payment agreement shall be renegotiated if financial circumstances, 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 date on the first and second notice has not been passed. If the disconnection date 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 this Commission apply.

(f) **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, or Commission notification procedure for elderly and/or consumers with disabilities, the false information shall be grounds for disconnection of service by the utility.

(g) **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: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2330, eff 7-15-03; Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-11-16. Reconnection of service**

(a) A utility shall reconnect service upon the consumer's request as soon as the reason for disconnection of service has been eliminated. The utility shall give precedence to reconnection of service when disconnection was the fault of the utility; the utility shall reconnect service in the normal course of its reconnection workload, as soon as possible but no later than twenty-four (24) hours, after the consumer eliminates the reason for disconnection and requests reconnection when disconnection of service was the fault of the consumer. If the reason for disconnection is unauthorized use of water 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.

(b) When the disconnection of service was for nonpayment of service, and disconnection took place on a Friday morning, service shall be restored as soon as possible, but no later than twenty-four (24) hours from when the consumer eliminates the reason for disconnection and requests reconnection, subject to an intervening Act of God.

(c) Once the customer has remedied the disconnection problem, the company shall provide a written statement to the customer of the recommended procedures the customer should undertake to insure the customer has safe and reliable water.

(d) 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: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2331, eff 7-15-03]

**165:65-11-17. Mediation**

(a) Whenever there is a dispute between the utility and the consumer as to the following, the matter may be brought by either party to the Commission's CSD:

- (1) The existence of elderly or handicapped status.
- (2) The question of financial assistance or guarantee of payment by a federal, state or local social service agency.
- (3) The provisions of a deferred payment agreement.
- (4) The terms and conditions of payment of any part of a bill as rendered.
- (5) The proper interpretation of this Chapter.

(b) The CSD shall review the matter and issue an informal review decision in writing setting forth the terms and conditions for continued service, disconnection of service, or deferred payment plan agreement. If it is the desire of the consumer, they 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 CSD is unable to resolve the dispute to the mutual satisfaction of the parties, either party may file a complaint with the Commission for final determination.

(d) Whenever the consumer informs the utility that the consumer disputes a charge for service, the utility shall investigate the dispute promptly and thoroughly, and make a diligent effort to reach a mutually satisfactory settlement. If the consumer is dissatisfied with the decision of the utility, the consumer may report the dispute to the CSD. Upon written complaint by the consumer to the Commission, disconnection of service shall be held in abeyance provided the consumer pays the portion of the bill which is not in dispute.

[Source: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 16 Ok Reg 2380, eff 7-1-99; Amended at 20 Ok Reg 2332, eff 7-15-03]

#### **165:65-11-18. Commission review**

The utility's disconnect notice, service violation disconnection notice, and any notice or form used by the utility to comply with the requirements of this Subchapter 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: Added at 12 Ok Reg 2167, eff 7-1-95; Amended at 20 Ok Reg 2332, eff 7-15-2003]

#### **165:65-11-19. Utilities encouraged to keep current lists of utility 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 water assistance programs. The list should also include public/private charitable organizations offering or known to offer water payment assistance, which have given prior consent to their inclusion on this list. The utilities are encouraged to use due diligence in compiling 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, in order for the utility to better assist its consumers. Failure of the consumer to gain funding in full or in part, from any of the proffered resources under this Section shall not result in any liability to the utility.

[Source: Added at 20 Ok Reg 2332, eff 7-15-03]

## PART 5. CHARACTER OF SERVICE

### 165:65-11-20. Temporary service

A consumer requiring temporary service shall pay the regular rates applicable to the class or classes of service rendered for all. 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.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

### 165:65-11-21. Service to mobile or modular homes and parks

(a) No utility shall be required to furnish water 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.

(c) Mobile home parks shall be served under the same terms and conditions as residential subdivisions.

(d) Where mobile or modular homes or parks are being served in any manner other than provided in this Section upon the effective date of the rules in this Chapter, the utility shall immediately take whatever steps are necessary to comply with this Chapter.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

### 165:65-11-22. Change in character of service

(a) 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.

(b) No change in the characteristics of the water service which may impair the safe, efficient utilization of the water shall be made.

(c) In order to protect itself against serious and unnecessary waste or misuse of water, the utility may meter any flat rate service connection and apply the regularly established meter rates where the consumer continues to waste or misuse water two (2) days after the utility has notified him in writing to discontinue such practice.

(d) The utility may require water saving devices to be installed on air conditioning and refrigeration devices of over three (3) tons.

(e) 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.

[Source: Amended at 16 Ok Reg 2380, eff 7-1-99]

### **SUBCHAPTER 13. PROMOTIONAL POLICIES AND PRACTICES**

#### Section

- 165:65-13-1. Provisions governing promotional policies and practices [REVOKED]
- 165:65-13-2. Promotional practices prohibited
- 165:65-13-3. Promotional practices permitted
- 165:65-13-4. Advertising expenditures prohibited
- 165:65-13-5. Advertising expenditures permitted
- 165:65-13-6. Contributions
- 165:65-13-7. Filing of promotional practices
- 165:65-13-8. Exceptions; prior conditions and rules

#### **165:65-13-1. Provisions governing promotional policies and practices [REVOKED]**

[Source: Revoked at 16 Ok Reg 2380, eff 7-1-99]

#### **165:65-13-2. Promotional practices prohibited**

The following practices, whether or not commonly considered promotional practices, are specifically prohibited:

- (1) The furnishing of utility service, or the furnishing or installation of wiring, piping, appliances or equipment to any person at no cost, or at less than cost; or the furnishing of repair, modification, or maintenance of appliances, equipment, wiring, or piping to any person at no cost or at less than cost; except in accordance with the terms and conditions of service on file with an approved by the Commission and this Chapter governing the furnishing of utility service.
- (2) The guarantee of a maximum cost of utility service to any person or for any premises or installation.

#### **165:65-13-3. Promotional practices permitted**

The following practices, whether or not commonly considered as promotional practices, are specifically permitted:

- (1) Providing emergency service, inspection and adjustment of appliances, and repair and maintenance or similar benefits or services all in accordance with the terms and conditions of service on file with and approved by the Commission and in accordance with the Chapters of the Commission governing such services.
- (2) The installation of all pipes, lines, service, and equipment appropriate to provide adequate utility service to the consumer at the point of delivery.

- (3) Providing exhibitions, demonstrations, instruction, tests or experiments to schools, fairs, communities, religious, and charitable functions.
- (4) Normal sales and consumer relations activities, including:
  - (A) Contacting customers and potential customers.
  - (B) Advice and consultation with customers.
  - (C) Investigation and correction of complaints, and efforts to improve service.
  - (D) Collection of accounts.
  - (E) Securing compliance with terms and conditions of service.
  - (F) Technical, informational, and educational assistance (not otherwise prohibited by this Chapter) to customers on the use of energy, the planning or design of utility service to be offered, or the use of maintenance of appliances or equipment.

**165:65-13-4. Advertising expenditures prohibited**

- (a) Expenditures for advertising in support of or in opposition to governmental action of any kind; or in support of or in opposition to the selection or appointment of any person to a position in government is specifically prohibited.
- (b) For the purposes of this Subchapter, advertising shall include display, classified, and any other advertising in printed publications, broadcast advertising by radio or television, outdoor advertising, direct mail advertising, bill inserts, and personal contact or solicitation of conversion from one form of energy to another.

**165:65-13-5. Advertising expenditures permitted**

The following expenditures for advertising shall be permitted without limitation as to amount:

- (1) Consumer advertising, which is advertising designed primarily to inform the consumer of available rates for utility service, benefits for prompt payment, deposit and billing practices, safety inspection and meter reading practices, and similar terms and conditions of service to consumers; procedures to be followed in emergencies, proper use of equipment and appliances, safety precautions, and similar matters of benefit to customers; and other services and benefits available to the consumer in connection with utility service; provided that advertising designed to attract new customers, or to encourage greater consumption, or to encourage the use of one form of energy in preference to another, which advertising is prohibited by OAC 165:65-13-4 shall not be permitted by this Section.
- (2) Conservation advertising, which is advertising designed primarily to inform the consumer of means whereby energy may be conserved and energy consumption reduced, and urging the adoption of those means by consumers.

[Source: Amended at 31 Ok Reg 1091, eff 9-12-2014]

**165:65-13-6. Contributions**

(a) All gifts, donations, and contributions made by the regulated utility shall be treated as "below the line" expenses and excluded from operating expenses allowable for rate making purposes; including, but not limited to the following:

- (1) Contributions to charitable, religious, or educational institutions or associations.
- (2) Contributions to civic, community, social, or public welfare organizations or associations.
- (3) Payments to cities or towns in excess of franchise taxes or charges which the regulated utility is obligated to pay pursuant to an enforceable written contract or franchise.

(b) Dues and fees paid to industry, scientific, and professional organizations which in amount bear a reasonable relationship to benefits received from membership therein shall not be restricted in this Section.

**165:65-13-7. Filing of promotional practices**

(a) Each utility shall file with the Commission a complete and concise statement of every promotional practice not prohibited by this Chapter which it undertakes and offers for the purpose of encouraging the use of its service or appliances using its utility service on the effective date of this Chapter.

(b) The utility shall grant the same promotional benefits to every customer or other person falling within the same classification or meeting the same requirements as any person receiving the benefits.

(c) The utility shall not change, increase, decrease, or alter any promotional benefit or commence any new practice or benefit, except pursuant to order of the Commission upon application of the utility and after notice and hearing; or discontinue any allowance except after written notice to the Commission.

**165:65-13-8. Exceptions; prior conditions and rules**

(a) This Subchapter shall not apply to affiliated or subsidiary corporations except where a regulated utility, for its own purposes and benefit, undertakes to perform any act through an affiliated or subsidiary which would violate the provisions of this Subchapter if performed by the utility itself, the act will be deemed the act of the regulated utility.

(b) This subchapter shall supersede all previous orders and Chapters by the Commission to the extent in conflict herewith and shall supersede all promotional practices on file with and approved by the Commission to the extent in conflict herewith; except that this Subchapter shall not amend or supersede the terms and conditions of service of any utility on file with and approved by the Commission or prior rules of the Commission relating to terms and conditions of service except as to provisions thereof relating to promotional practices.

(c) For good cause shown, the Commission may grant an exception to this Subchapter upon application of the utility or an interested party and after notice and hearing.