

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

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

CAUSE NO. RM 201800009

PUD'S PROPOSED EMERGENCY RULES FOR PRESENTATION ON 11/27/2018

Changes made since 11/08/2018 are highlighted in yellow

TITLE 165: OKLAHOMA CORPORATION COMMISSION
CHAPTER 35. ELECTRIC UTILITY RULES
SUBCHAPTER 45. WIND ENERGY

165:35-45-1. Purpose of this subchapter

[Notes: PUD is not recommending any changes to this section.]

165:35-45-2. Definitions

In addition to terms defined in the Oklahoma Wind Energy Development Act, 17 O.S. § 160.11 et seq., the following word(s) or term(s), when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Determination of No Hazard" means a document issued by the Federal Aviation Administration.

"FAA" means the Federal Aviation Administration.

"Mitigation plan" means a document issued by the Military Aviation and Installation Assurance Siting Clearinghouse.

"Project description" means a graphic depiction of a wind energy facility's outer boundary, which should adequately demonstrate the project's outer perimeter, inclusive of all wind turbines.

165:35-45-3. Annual reporting requirements

[Notes: PUD is not recommending any changes to this section.]

165:35-45-4. Notification of intent to build a wind energy facility **and other notices**

(a) The owner of a wind energy facility shall submit notification of intent to build a facility to the Corporation Commission within six (6) months of the initial filing pertaining to commencement of construction with the Federal Aviation Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace. Such notification shall be submitted to the Director of the Public Utility Division of the Corporation Commission.

(b) The Public Utility Division shall provide the owner of a wind energy facility with affirmation of submission of the notification of intent to build by either providing proof of receipt stamp or confirmation of receipt if submission is made electronically.

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(c) In the event that an owner of a wind energy facility submits notification of intent to build a facility with the Corporation Commission and files subsequent forms with the FAA, the owner is not required to submit amended or additional notification of intent to build a wind energy facility unless the project layout is expanded beyond the original project description. Movement within the original description will not require the notice process to start over. However, subsequent to submissions under (a) above, copies of FAA submissions for individual turbine modifications, additional turbines, or renewals shall be submitted to PUD within thirty (30) calendar days of submission to the FAA.

(d) The owner of the wind energy facility shall submit copies of the notification with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of filing with the Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be submitted to the governing body of the municipality within twenty-four (24) hours of filing with the Commission.

(e) Within thirty (30) calendar days of submitting the notification, as described above in (a), to the PUD Director, the owner of the wind energy facility shall cause a copy of the notification to be submitted to the Oklahoma Strategic Military Planning Commission. Subsequent updates to the FAA shall also cause a copy of the update notifications to be submitted to the Oklahoma Strategic Military Planning Commission at the same time as submission to the PUD Director. When the Oklahoma Strategic Military Planning Commission submits its letter to the Military Aviation and Installation Assurance Siting Clearinghouse, such letter shall be submitted at the same time to the PUD Director and the owner of the wind energy facility.

~~(e)~~(f) Within six (6) months of submitting the notification with the Commission as provided for in subsection (a) of this section, the owner of the wind energy facility shall cause a copy of the notification to be published in a newspaper of general circulation in the county or counties in which all or a portion of the wind energy facility is to be located. Proof of publication shall be submitted to the Director of the Public Utility Division of the Corporation Commission.

~~(f)~~(g) Within sixty (60) days of publishing the notification in a newspaper as provided for in subsection ~~(e)~~(f) of this section, the owner of the wind energy facility shall hold a public meeting. Notice of the public meeting shall be published in a newspaper of general circulation and submitted to the board of county commissioners in the county or counties in which all or a portion of the wind energy facility is to be located. The notice shall contain the place, date and time of the public meeting. Proof of publication of the notice shall be submitted to the Director of the Public Utility Division of the Corporation Commission. The public meeting shall be held in one of the counties in which all or a portion of the wind energy facility is to be located.

~~(g)~~(h) The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information with the Commission as required in this section, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars (\$1,500) per day following hearing and issuance of a final order of the Commission.

(i) Subsequent to submitting the notification, as described above in (a), Determinations of No Hazard issued by the FAA, or, approved mitigation plans issued by the Military Aviation and Installation Assurance Siting Clearinghouse shall be submitted to the PUD Director by the owner of a wind energy facility as follows:

(1) Within thirty (30) calendar days of receipt of an active Determination of No Hazard issued by the FAA; or

(2) Within thirty (30) calendar days of receipt of an approved mitigation plan from the Military Aviation and Installation Assurance Siting Clearinghouse.

(3) Any Determination of No Hazard or mitigation plan issued prior to the initial submission of the notification described above in (a) shall be submitted to the PUD Director by the owner of a wind energy facility within thirty (30) calendar days of such initial notification submission.

(j) The owner of a wind energy facility shall electronically provide notice to the PUD Director prior to beginning expected construction on individual turbine sites.

(k) In the event a wind energy facility is constructed and/or expanded prior to receiving either the requisite active Determination of No Hazard issued by the FAA or an approved mitigation plan is obtained from the Military Aviation and Installation Assurance Siting Clearinghouse, the Commission or PUD may initiate proceeding(s) to determine and enforce compliance, if necessary.

(l) Electronic submission is preferred; however, all forms of submission will be accepted.

165:35-45-5. Commission consideration

(a) The Public Utility Division shall review and may investigate all wind energy facility information reported or submitted for compliance with the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or with the notice requirements in this Subchapter or in [17 O.S. § 160.20](#) or 17 O.S. § 160.21.

(b) After receiving a report or submission from a wind energy facility pursuant to the annual reporting requirements in this Subchapter or in 17 O.S. § 160.18 or the notice requirements in this Subchapter or in 17 O.S. § 160.21, the Public Utility Division:

(1) Will determine whether the report or submission is compliant with the annual reporting or notice requirements; and

(2) Will inform the wind energy facility owner or operator of the Public Utility Division's determination within thirty (30) calendar days of receipt of the report or submission. In the event the Public Utility Division determines the wind energy facility's report or submission is not in compliance, the Public Utility Division shall contact the owner or operator to require additional information and such information shall be provided within fifteen (15) calendar days of such notice. If the facility owner fails to correct such non-compliance, the Public Utility Division may reject the report or submission and may open an investigation to inquire further into the reported or submitted information.

165:35-45-6. Determining assessment of fees

[Notes: PUD is not recommending any changes to this section.]

165:35-45-7. Decommissioning of wind energy facilities

[Notes: PUD is not recommending any changes to this section.]