BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT RULEMAKING OF THE OKLAHOMA CORPORATION COMMISSION AMENDING **OAC 165:5, RULES OF PRACTICE**	**CASE NO. RM2023-000007**

PROPOSED RULES AMENDING CHAPTER 5
(As of December 19, 2023)
(Changes since November 9, 2023, are highlighted in yellow)

TITLE 165. CORPORATION COMMISSION
CHAPTER 5. RULES OF PRACTICE

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. GENERAL

165:5-1-5. Filing of documents

(a) **Document form.** All persons filing documents with the Court Clerk shall file through the ECF System, unless otherwise authorized, directed, or instructed by the Court Clerk, the Commission rules, the User Manual, or Commission order. Documents presented in paper to the Court Clerk will only be accepted and filed if such documents are submitted by a pro se filer ~~or contain confidential information as set forth in subsection (h),~~ or applications and subsequent pleadings filed in confidential motor carrier taxpayer/registrant protests pursuant to OAC 165:5-25-1, or otherwise authorized, directed, or instructed by the Court Clerk, the Commission rules, the User Manual, or Commission Order.

(b) **Document Format.** Documents filed with the Court Clerk through the ECF System shall be in portable document format ("PDF"), or another format stated in the User Manual. Documents filed in paper format may be printed, typewritten or reproduced by any legible method. All documents filed in paper format must be single-sided on 8 1/2" x 11" paper and ready for digital processing and uploading to the ECF System by the Court Clerk. Exceptions to the required document size may be allowed by the Court Clerk for good cause shown. Quotations shall be indented. Subsequent to the filing of the original application, every page of documents filed with the Court Clerk shall contain a page number, the applicable subject matter docket listed in OAC 165:5-5-1(a), the case number assigned by the Court Clerk, and document type, e.g., application, motion, response, or brief. All filed documents must have a continuous pagination for the entire document, including exhibits and attachments. The original application shall include all this information, except the case number, on each page. No document may be altered after filing; pages may not be otherwise inserted and no interlineations, additions or deletions may be made. If a filing error is made, the correct document or information, as appropriate, shall be submitted as a separate filing to the Court Clerk as soon as possible.

(c) **Filing stricken by motion.** Upon the motion of the Commission or Administrative Law Judge, or the filing of a motion pursuant to OAC 165:5-9-2(b), the Administrative Law Judge is authorized to recommend to the Commission an order to strike the filing of any document containing defamatory, scurrilous or improper language, or otherwise in violation of any of the

rules of this Chapter. In case of such recommendation to grant a motion to strike a filed document, the subject document shall be presented to the Commission for ruling on acceptability for filing.

(d) **Required information.** The requirements of this subsection shall not be jurisdictional. All documents shall include the party's or attorney's actual or electronic signature, typed name, business mailing address, telephone number, and electronic mail address. All documents signed by an attorney shall contain the name of the State Bar Association to which the attorney belongs and his/her State Bar Association number. Anyone who disputes the authenticity of any electronic signature may file an objection to the document within five (5) business days of service.

(e) **Requirement conflicts.** Wherever any provision of the Constitution or laws of Oklahoma makes a requirement as to notice or procedure which exceeds or conflicts with any provision of the rules of this Chapter, the former shall govern.

(f) **Informal communications.** Nothing in the rules of this Chapter shall prohibit informal inquiry or complaint to the Commission by mail, electronic mail, or in person, which matters shall be handled administratively by the staff in an effort to secure amicable adjustment or agreement among affected persons. No official order shall be issued as a result of any informal proceedings.

(g) **Electronic Mail transfers.** This subsection only applies if needed and if circumstances warrant as an alternative, supplement, or complement to filing through the ECF system and only pursuant to authorization, instructions, or directions by or of the Court Clerk, the Commission rules, the User Manual, or Commission order.

(1) The Court Clerk shall accept pleadings submitted by electronic mail, at an address posted to the Commission's website, pending payment of the appropriate filing fees. A new case filing must be sent to the Court Clerk by electronic mail before 3:30 p.m. of each business day, otherwise it will have a file stamp reflecting the next regular business day.

(2) Unless otherwise delivered the same day, if an application for emergency relief in a spacing, location exception, increased density or multiunit horizontal well proceeding is submitted by electronic mail, a copy of such emergency application shall be sent by electronic mail to the Technical Services Department of the Commission at an electronic mail address to be designated by the Director of the Conservation Division, on the date of the filing.

(3) A CD case number may be requested by sending an electronic mail to the Court Clerk with the entire caption of the proposed application, a statement that only a case number is being requested, and contact information for the party requesting the case number. This will not be considered an electronic mail filing of the application and the date of filing the application will be the date the complete application is received in the Court Clerk's office or filed via ECF. In order to minimize gaps in the numbering of cases, the case number requested by electronic mail must be followed by filing original documents containing the exact same caption within three (3) business days of the request, or the case number will be cancelled and may not be reused for any purpose.

(h) **Confidential documents.** All documents and information subject to a protective order or otherwise considered to be confidential by statute or Commission rule, must be clearly marked ~~as such~~"confidential" on a separate cover or identification page ~~of~~for the document~~. Until such time as the ECF System provides for the electronic filing of documents subject to a protective order or otherwise considered confidential, unredacted documents which contain materials subject to a protective order, or otherwise considered confidential, shall not be filed electronically, but rather submitted in person or by mail to the Court Clerk within one (1) business day of the electronic filing of the cover page.~~ which contains a brief description of the document. With the exception of applications and subsequent pleadings filed by pro se filers opting to file in paper, or of applications

and subsequent pleadings filed in confidential motor carrier taxpayer/registrant protests pursuant to OAC 165:5-25-1, confidential documents shall be filed in the ECF System using the "Mark as Confidential" option on the Upload Document screen. All documents deemed and marked as confidential shall be docketed and retained by the Court Clerk. Until the Commission determines otherwise, the cover page only of such filings will be viewable by the public for identification purposes. The responsibility for following these rules concerning confidential documents and information rests solely with counsel, the parties, or any other filer. The Court Clerk does not have any duty to review documents for compliance with this rule. ~~Paper copies of confidential documents may be returned to the party, or destroyed by agreement of the party, following the issuance of a final order and the expiration of the appeal period.~~

(i) **Personal Identifier Information.** If a filer includes personal identifier information such as Social Security numbers, tax identification numbers, financial account numbers, driver's license numbers, dates of birth, addresses or other sensitive information, in any document filed with the Court Clerk, electronically or otherwise, the document becomes a public record as filed, unless otherwise ordered by the Commission. Further, unless otherwise ordered or as otherwise provided by law, every filer, whether filing electronically or otherwise, shall redact the following information, except the last four digits, in documents prior to filing with the Court Clerk, including but not limited to:

(1) Social Security numbers;
(2) Taxpayer identification numbers;
(3) Financial account numbers; and/or
(4) Driver's license numbers.

PART 2. ELECTRONIC FILING OF DOCUMENTS

165:5-1-14.2. Documents subject to protective order and other confidential documents

With the exception of applications and related documents filed in confidential motor carrier taxpayer/registrant protests pursuant to OAC 165:5-25-1, ~~U~~unredacted documents which contain materials subject to a protective order, or otherwise considered confidential, shall be filed in accordance with OAC 165:5-1-5(h).

SUBCHAPTER 3. FEES

PART 1. GENERAL PROVISIONS

165:5-3-1. Fees, fines and bonds

(a) **General.**

(1) **Exceptions to filing fees.** For each initial application in each category listed in (b) of this Section, a filing fee shall be paid by the person seeking to file or submit the document, unless the document is filed under authorization of and in the name of an instrumentality of the State of Oklahoma.

(A) Filing fees shall not apply to any subsequent pleading or amended application except a Form 1000 required in OAC 165:10-3-1(b)(1)(A) through (E) and OAC 165:10-3-1(c).

(B) No filing fee shall be required for any application filed pursuant to OAC 165:10-3-31, Use of vacuum at the well head.

(C) No filing fee applicable to the conservation docket shall be required for any Notice of Intent to Mediate filed with the Commission pursuant to OAC 165:5- 23-1 et seq. A per participant fee provided in OAC 165:5-3-1(b)(1)(L) shall be charged for any informal dispute resolution procedure that commences.

(D) No filing fee shall be paid by a party filing a protest to an adverse action of the Commission pursuant to the International Fuel Tax Agreement ("IFTA") or the International Registration Plan ("IRP").

(E) No filing fee shall be paid by a customer filing a Consumer Services docket application against a public utility.

(F) No filing fee shall be required for any application filed on the Oklahoma Universal Service Fund ("OSF") docket.

(G) No filing fee shall be paid by a party filing a protest to a nonconsensual towing Violation Notification issued by the Transportation Division.

(H) No filing fee shall be paid by a small business requesting the Commission to review its rules to determine whether or not the rules in question should be amended, repealed, or redrafted, pursuant to 75 O.S. § 250.10

(2) **Filing fees.** Any filing fee assessed by this Section shall be due and paid at the time of filing of the document. Neither the Court Clerk's Office nor any division of the Commission shall accept an application subject to a filing fee until the required fee is paid. No filing fee shall be refundable. For documents that are being filed in paper form, all associated filing fees must be paid and the documents submitted to the Court Clerk's Office for filing prior to 3:30 p.m. to allow for document processing within established hours of operation.

(3) **Other fees.** Any other fee assessed by this Section shall be due and payable at the time the service is requested. No service shall be rendered before payment of the prescribed fee. No such other fee shall be refundable.

(4) **Negotiable instruments.** Fees paid by negotiable instruments shall be made payable to the "Oklahoma Corporation Commission." Negotiable instruments include personal checks, cashier checks, certified checks, and money orders. Foreign checks must be payable through a United States bank in United States funds.

(5) **Returned payments**. In accordance with 62 O.S. § 34.57, a fee shall be assessed on each payment, either physical or electronic, returned to the Commission as a result of the refusal of the bank upon which the payment was drawn to honor the same. In the event that a payment transaction for any fee, fine or bond fails, the Commission reserves the right to require payment of that fee, fine or bond, and any future fee, fine or bond owed to the Commission by the same individual or entity, to be made by cash, cashier check, certified check, money order or another secured form of payment.

(b) **Schedule of filing fees.**

(1) **Oil and gas fees.**

(A) Commercial disposal well application - $1,500.00

(B) Commercial earthen pit application - $1,250.00

(C) Commercial soil farming site application - $1,250.00

(D) Commercial recycling facility application - $1,000.00

(E) Noncommercial injection or disposal well application – Form 1015 - $250.00

(F) Commercial facilities annual fee due on October 1 of each year:

(i) Commercial earthen pit facility - $750.00

(ii) Commercial soil farming facility - $750.00

(iii) Commercial recycling facility - $750.00

(G) Conservation docket, pollution docket, and gas gathering base applications - $200.00

(H) Emergency application on the conservation or pollution docket - $250.00

(I) Permit to drill – Form 1000:
- (i) Directional well - $350.00
- (ii) Horizontal well - $400.00
- (iii) Multiunit well - $600.00
- (iv) Vertical well - $350.00

(J) Expedited permit to drill - Form 1000:
- (i) Directional well - $600.00
- (ii) Horizontal well - $600.00
- (iii) Multiunit well - $800.00
- (iv) Vertical well - $600.00

(K) Temporary permit to drill – Form 1000:
- (i) Directional well - $350.00
- (ii) Horizontal well - $350.00
- (iii) Multiunit well - $350.00
- (iv) Vertical well - $350.00

(L) Notice of Intent to Mediate pursuant to Chapter 23 of this Chapter - $5.00 per participant

(M) Permit for one-time land application of materials – Form 1014S - $150.00

(N) Expedited permit for one-time land application of materials – Form 1014S - $250.00

(O) Tax exemption application filed pursuant to OAC 165:10-21 - $100.00

(P) Transfers of well operatorship - Forms 1073 and 1073I – single well - $25.00

(Q) Transfers of well operatorship - Forms 1073IMW and 1073MW – multiple wells - $250.00

(R) Notification of intent to plug – Form 1001 - $100.00

(S) Operator agreement–annual fee-Form 1006B-based on the number of unplugged wells for which the operator is responsible according to Commission records:
- (i) No wells being operated - $100.00
- (ii) From 1-25 wells - $250.00
- (iii) From 26-100 wells - $500.00
- (iv) From 101-500 wells - $750.00
- (v) Over 500 wells - $1,000.00

(T) Fluid disposal/injection reports:
- (i) Commercial disposal well fluid disposal report–Form 1012C–semiannual per well-$500.00
- (ii) Noncommercial disposal and injection well and LPG storage well report–Form 1012–annual per well-$25.00
- (iii) Noncommercial disposal and injection well and LPG storage well report–Form 1012–more than 100 wells–annual fee-$2,500.00

(U) Permit to use earthen pit, noncommercial disposal or enhanced recovery well pit for temporary storage of saltwater, and pit associated with commercial disposal well surface facility-Form 1014:
- (i) Capacity of pit less than or equal to 10,000 barrels-$250.00
- (ii) Capacity of pit greater than 10,000 barrels-$1,000.00

(V) Permit for seismic operations-Form 1000S-$100.00

(W) Application for temporary exemption from well plugging-Form 1003A-$100.00

(X) Permit to vent or flare gas from well-Form 1022-$50.00

(Y) Application for multiple zone well completion, production of well through a multiple choke assembly, and commingling of well production-Form 1023-$50.00

(2) Transportation fees.

(A) Transportation docket application - $500.00

(B) Other transportation fees:

(i) Intrastate license.

(I) Original application filing fee - $100.00

(II) Sub application filing fee - $100.00

(III) Renewal application filing fee - $50.00

(IV) Reinstatement application filing fee - $100.00

(V) Name change application filing fee - $50.00

(VI) Identification device or per vehicle fee - $7.00

(ii) Deleterious Substance License Permit application filing fee - $350.00

(iii) International Fuel Tax Agreement (IFTA) fees.

(I) IFTA decal - $2.00 per vehicle per decal set

(II) IFTA reinstatement fee - $100.00

(III) IFTA manual application processing fee for fleet size over 25 vehicles - $100.00 per application. No fee is applicable if filed electronically.

(iv) Trailer registration processing fee per trailer registered through the IRP System - $2.00

(v) Temporary registration and fuel permit fees (a $10.00 services fee is added to each permit in this unit):

(I) Temporary registration (72 hour trip permit) - $12.00

(II) Temporary fuel permit (120 hours) - $25.00

(III) Unladen or hunters permit (45 days) - $25.00

(vi) Harvest permit fees (power units only).

(I) Thirty day permit - $20.00 per axle

(II) Sixty day permit - $35.00 per axle

(III) 15 day extension - $8.75 per axle

(vii) Transportation Network Company annual permit fee - $5,000.00

(viii) Household goods certificate fees:

(I) Original application filing fee - $350.00

(II) Sub application filing fee - $300.00

(III) Renewal application filing fee - $300.00

(IV) Reinstatement application filing fee - $250.00

(V) Name change application filing fee - $50.00

(VI) Identification device or per vehicle fee - $7.00

(ix) Apportioned commercial motor vehicle registration services fee - $100.00 per vehicle (apportioned)

(x) Apportioned commercial motor vehicle registration application reprocessing fee - $100.00 per application

(xi) Apportioned commercial motor vehicle registration manual processing fee for fleet sizes over 25 vehicles - $25.00 per vehicle. No fee is applicable if filed electronically.

(xii) Application for lawful fence - $500.00. If the Transportation Division determines

a lawful fence is required to be constructed by the railroad, the railroad shall have sixty (60) days from the date of notice to refund the application filing fee to the landowner

(3) **Utility fee.** Public utility docket application - $100.00

(4) **Enforcement fee.** Enforcement docket application - $100.00

(5) **Petroleum storage tank fees.**

(A) **Application fee.** The fee to file an application on the Petroleum Storage Tank/Indemnity Fund docket is $100.00, unless the document is filed under authorization of and in the name of an instrumentality of the State of Oklahoma. Filing fees shall not apply to any subsequent pleading or amended application.

(B) **Variance review fee.** The fee for administrative review of a Petroleum Storage Tank Division variance application is $250.00.

(C) **Annual storage tank permit fee.** Owners of regulated petroleum storage tanks, whether in use or not, are required to pay an annual permit fee as follows:

(i) For petroleum storage tanks - $25.00 per tank or tank compartment.

(ii) For noncommercial agricultural underground storage tanks containing petroleum products - $10.00 per tank.

(iii) For any tank installed or permanently closed during a calendar year, the full yearly fee shall be assessed.

(iv) Invoices will be mailed out approximately 60 days in advance of the due date as noted on the invoice.

(v) If invoices are unpaid after the due date, a second invoice is mailed out which includes a failure to pay penalty, as found in 17 O.S. § 308.1, and provides 30 days to pay the invoice balance.

(vi) If the invoice balance is unpaid after the 30 days, a letter is mailed to the Owner with the outstanding fees and informing the Owner that the permit is expired.

(vii) If the invoice balance remains unpaid, a Fuel Specialist may shut down the regulated petroleum storage tank.

(D) **UST Installer License**. The fees for an Underground Storage Tank Installer License are:

(i) Application fee - $50.00

(ii) License fee - $100.00

(iii) Annual License renewal fee - $100.00

(E) **Environmental Consultant License.** The fees for an Environmental Consultant License are:

(i) Application fee - $50.00

(ii) License fee - $100.00

(iii) Annual License renewal fee - $100.00

(F) **UST Remover License.** The fees for an Underground Storage Tank Remover License are:

(i) Application fee - $50.00

(ii) License fee - $100.00

(iii) Annual License renewal fee - $100.00

(G) **AST Installer License.** The fees for an Aboveground Storage Tank Installer License are:

(i) Application fee - $50.00

(ii) License fee - $100.00

(iii) Annual License renewal fee - $100.00

(H) **AST Remover License.** The fees for an Aboveground Storage Tank Remover License are:

(i) Application fee - $50.00
(ii) License fee - $100.00
(iii) Annual license renewal fee - $100.00

(I) **Vapor Monitor Well Technician License.** The fees for a Vapor Monitor Well Technician License are:

(i) Application fee - $50.00
(ii) Examination fee- $25.00
(iii) License fee - $100.00
(iv) Annual License renewal fee - $100.00

(J) **Groundwater Monitor Well Technician License.** The fees for a Groundwater Monitor Well Technician License are:

(i) Application fee - $50.00
(ii) License fee - $100.00
(iii) Annual License renewal fee - $100.00

(K) **OCC Licensed Tester.** The fees for an OCC Licensed Tester are:

(i) Application fee - $50.00
(ii) License fee - $100.00
(iii) Annual License renewal fee -$100.00

~~(K)~~ (L) **Antifreeze Permit.** The manufacturer of any antifreeze displayed, distributed, manufactured, marketed, produced, sold, used and/or offered for sale or resale, held with intent to sell, or transported within the State of Oklahoma is required to pay the following fees:

(i) Application fee - $100.00 per brand per type
(ii) Annual permit renewal fee - $100.00 per brand per type

(c) **Certified copies.** A fee of $1.00 per copied page is charged for each copy of an order or other document on file with the Commission certified by the Secretary, in addition to the fees specified in (d) of this Section.

(d) **Other fees.** The following fees shall be charged and collected at the time of request for same; none of which shall ever be refundable:

(1) Certificate of non-development (maximum of one quarter section) - $10.00
(2) Copies of any file or order -
  (A) Non-certified copies - $0.25 per page; certified copies $1.00 per page
  (B) Postage - actual cost
(3) Batch reproduction on continuing basis (per page) - $0.25
(4) Copy of any document prepared in OCC offices (per page) - $0.25
(5) Current ownership/lienholder information - $1.00 per vehicle record page
(6) Computer generated title history - $5.00 per vehicle
(7) Manual title history - $7.50 per vehicle
(8) Copy of lien release - $7.50 per vehicle
(9) Certified copy of lien release - $10.00 per vehicle
(10) Certified copy of title history - $10.00 per vehicle
(11) Preparation of the record on appeal to the Oklahoma Supreme Court - $200.00

(e) **Computer data processing documents.** Reproduction of documents or informational searches

involving computer data processing services will be in accordance with 51 O.S. § 24A.5.

(f) **Document search fee.** Except where provided otherwise by law, where the request for document copying and/or mechanical reproduction is solely for commercial purpose or clearly would cause excessive disruption of the Commission's essential functions, then a fee of ~~$10.00~~$25.00 per hour (minimum of one hour) shall be charged to recover the direct cost of document search.

(g) **Copy fees waived.** Copy fees for non-certified documents listed above, that are less than ten (10) pages will be waived.

(h) **Electronic payments.**

(1) "Nationally recognized" credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in lieu of a check, as defined by 12A Oklahoma Statute § 3-104(f), in obtaining goods, services or anything else of value or for the use of the cardholder in obtaining such goods, services, or anything else of value on credit and which, in either case, is accepted by over one thousand merchants in this state. The Commission shall determine which nationally recognized credit card will be accepted for any payments due and owing to the Commission.

(2) Implementation of payment by nationally recognized credit card and other means of electronic payments will be phased in over a period of time as determined by the Commission.

(3) The Commission will verify that sufficient credit is available before acceptance of credit card to ensure that no loss of state revenue will occur by the use of such card. If a person is at a designated receiving point and credit is not available, the person then has the opportunity to pay by other methods accepted by the Commission.

(4) The Commission may add an amount equal to the amount of the service charge incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such nationally recognized card.

(5) Persons wishing to pay by credit card must be willing to submit normally required credit card information to the Commission. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, card holder name as shown, and three digit security personal identification number (PIN). The Commission assumes no liability for unauthorized use of this information.

(6) "Electronic payment" refers to any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through electronic means, as to order, instruct, or authorize a financial institution to debit or credit an account.

(7) "Electronic terminal" means an electronic device, other than a telephone operated by a person, through which a person may initiate an electronic payment.

(8) "Financial institution" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to another person.

(9) "State" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

SUBCHAPTER 7. COMMENCEMENT OF A CASE

PART 3. OIL AND GAS

165:5-7-9. Well location exception

(a) The application, which shall be limited to a single well, and notice of hearing for an order granting a well location exception for a well drilled or to be drilled for oil or gas into any common source of supply at a location other than that authorized by a rule or order of the Commission shall be served by the applicant no less than fifteen (15) days prior to the date of the hearing, by regular mail, upon the operator of each well located in an adjoining or cornering tract of land or drilling and spacing unit, currently producing from the same common source of supply, toward which tract or unit the well location has been or is proposed to be moved. The application and notice of hearing shall specify the name(s) of the well(s) and operator(s) of the well(s) towards which the location exception well is moving, provided if the well is part of a multiunit horizontal well only the name(s) of the well(s) and operator(s) of the well(s) producing from the targeted common source(s) of supply shall be specified. The application and notice of hearing also shall be served, in the manner required above, upon the operator of any well located in an adjoining or cornering tract of land or drilling and spacing unit currently producing from the same common source of supply, if the requested well location is closer to the offsetting well than would be permitted under the applicable well location tolerances or requirements. Provided, however, if the applicant, or any other entity to be authorized to drill or otherwise operate the subject well, is the operator of any of the wells identified above, then the application and notice of hearing shall be served, in the manner required above, upon each working interest owner in any such well. This Section shall apply to any location exception for any completion in a non-horizontal well, for any completion interval in the lateral of any horizontal well, and for the completion in the non-horizontal portion of a horizontal well.

(b) An application and notice of hearing for an order granting a well location exception pursuant to this Section may also include a request for an exception to OAC 165:10-3-28(c)(2). The application and notice of hearing shall be served in the manner required in subsection (a) of this Section, and shall contain the information required in such subsection. Where an application includes requested relief for both a location exception and exception to OAC 165:10-3-28(c)(2), such application shall separately identify respondents for the location exception and respondents for the exception to OAC 165:10-3-28(c)(2).

(c) For any well other than a directionally drilled well or a horizontal well, the application and notice of hearing for a location exception shall specify the proposed or actual surface location of the well expressed in feet from the two nearest boundaries of the drilling and spacing unit, or, if no drilling and spacing unit has been established, from the two nearest boundaries of the mineral estate(s) upon which the well will be or has been drilled.

(d) For a directionally drilled well, the application and notice of hearing for a location exception shall specify the proposed or actual subsurface location of the well's entry into and the proposed or actual subsurface location of the well's exit from the common source of supply for which the location exception is requested, expressed in feet from the two nearest boundaries of the drilling and spacing unit or, if no drilling and spacing unit has been established, from the two nearest boundaries of the mineral estate(s) upon which the well will be or has been drilled. For purposes of this section, a directionally drilled well does not include a horizontal well.

(e) For a horizontal well, the application and notice of hearing for a location exception shall specify the proposed or actual subsurface location of the completion interval, as defined by OAC 165:10-3-28, within the common source of supply for which the location exception is requested, expressed as the distance in feet from the nearest boundaries of the drilling and spacing unit or, if no drilling and spacing unit has been established, from the nearest boundaries of the mineral estate(s) upon

which the well will be or has been drilled.
(f) The proposed subsurface location for a directionally drilled well or a horizontal well may be described in the application and notice of hearing as no closer than specified footages from the nearest boundaries of the drilling and spacing unit or, if no drilling and spacing unit has been established, from the nearest boundaries of the mineral estate(s) upon which the well will be drilled.
(g) At the time of hearing, a well's location, as set out in the application and notice of hearing, may be changed to another location that is not closer to the boundaries of the drilling and spacing unit or mineral estate(s) described in the application and notice of hearing, that is not closer to any offsetting well the operator of which, or any working interest owner in which, was required to be notified under this section, and that does not require notice to additional operators or working interest owners under this section.
(h) If at the time of the hearing on an application for a directionally drilled well or a horizontal well, the applicant does not have the results of the well survey required by OAC 165:10-3-27, then the Administrative Law Judge may recommend the issuance of an interim order granting the application and, if so, shall consider whether to adjust the allowable based on the potential locations of the well in each common source of supply for which the order is sought. All potential locations shall be considered in the interim order. If the directionally drilled well or the horizontal well is drilled and completed in compliance with the interim order, the well shall be assigned the allowable as set out in the interim order.
(i) If a directionally drilled or horizontal well is drilled and completed in compliance with an interim order approving a location exception, and no party of record has requested a hearing, the Commission may issue a final order approving the location exception, without further hearing, based on an administrative review by the Commission's Technical Services Department of the following documents, which the applicant must file with the Court Clerk for the record: the directional survey, the well completion report, and an "as drilled" plat constructed from the results of the directional survey. The applicant must also submit a proposed final order to the Commission's Technical Services Department in any case handled through the administrative review process. In the event the directional survey shows that a directionally drilled or horizontal well was not drilled and completed in compliance with the interim location exception order, the applicant shall notify the Commission and all of the parties entitled to notice in the original hearing establishing the interim order by filing an amended application in the case setting forth the actual subsurface locations of the well and by giving proper notice thereof. The actual subsurface locations of the well will be considered at a hearing conducted on the date specified in the interim location exception order, or on such date to which the hearing is continued.
(j) Notice of hearing on an application for an order granting a well location exception for a well drilled or to be drilled for oil or gas at a location other than that authorized by a rule or order of the Commission shall be published pursuant to OAC 165:5-7-1(n)(2).
(k) An application for an exception to the minimum distance requirements specified by OAC 165:10-3-28 (c)(2) and (c)(3) for the completion interval of a horizontal well, the notice of hearing for such exception proceeding and any resulting order in such proceeding shall include the API numbers of the existing well or wells being encroached upon by such horizontal well requiring such exception. Such application shall set forth the proposed subsurface location tolerance area or if available, the actual subsurface locations of the completion interval of such horizontal well requiring such exception. The proposed or actual subsurface locations, as applicable, of the completion interval of the horizontal well requiring such exception may be amended at the hearing

on any such application. If the results of the well survey required by OAC 165:10-3-28(c)(1) are not available at the time of the hearing on such an application, the Administrative Law Judge may recommend the issuance of an order granting the application on an interim basis. Any final order issuing in such a proceeding shall specify the distance in feet between the completion interval of the subject horizontal well and the well or wells being encroached upon by such horizontal well requiring such exception.

(l) At the hearing, except for good cause shown, and if requested, submitted to the Technical Services Department for review prior to such hearing, a twelve section or otherwise appropriately sized production plat depicting offset wells located in units adjoining or cornering the units which are the subjects of the application, and a data sheet containing the legal locations, API numbers, operator names, total depths, completion dates, names of producing zones, cumulative production, status, and names of such offset wells, and the plugging dates of such wells, if applicable, and any other exhibits necessary to support the requested relief (e.g. isopach map or structure of the target zone(s), and cross section) shall be provided.

(m) The Commission may request that the record be reopened to receive additional information from the applicant prior to issuance of an order.

165:5-7-12. Applications; determination of allowables

(a) **Scope.** Any applicant seeking relief under 165:10-13-5, 165:10-13-8, 165:10-15-1(g), 165:10-15-1(h), 165:10-15-16, and 165:10-15-18 shall have the option to proceed under either (b) through (i) of this Section or 165:5-7-1 and other applicable rules of practice.

(b) **Application.** The application shall be submitted on Form 1030 to the Technical Department of the Oil and Gas Conservation Division at an address posted on the Commission's website, for filing with the Commission.

(c) **Exhibits.** The applicants shall submit at the time of filing of the application all exhibits and data.

(d) **Notice of application.**

(1) **Contents.** The notice of the application shall contain the following information:

(A) A brief description of the relief sought.

(B) The terms of the protest period.

(C) The name, address, and telephone number of the applicant or its representative, whom anyone may contact for additional information concerning the application.

(2) **Form.** The applicant shall prepare the notice of application to substantially comply with the example shown in Appendix H to this Chapter.

(3) **Persons to whom notice shall be given.** The applicant shall serve a copy of the application and notice of the application upon:

(A) The operator of the well subject to the application if the applicant is not the operator of the subject well.

(B) All operators of wells offsetting the well for which the relief is requested.

(C) All working interest owners of all offset wells operated by the applicant, if the applicant is the operator of the subject well.

(4) **Publication of notice.** The applicant shall have the notice of application published pursuant to 165:5-7-1(n)(2).

(5) **Proof of notice.** The applicant shall file a certificate of mailing and an affidavit of publication to show compliance with the requirements of this Section.

(e) **Protests.**

(1) **Timely protests.** Any person objecting to the granting of the application shall file a written protest within the appropriate protest period. If a protest is filed after filing of the application but before commencement of the protest period, said protest shall be deemed to have been timely filed.

(2) **Late protests.**

(A) Failure to file a protest within the prescribed time period shall be deemed a waiver of protest.

(B) The Commission may reinstate a late filed protest upon motion for good cause shown.

(3) **Form of protest.** The protestant shall file with the Court Clerk of the Commission its protest which shall be entitled "Protest" and which shall contain the following information:

(A) Caption from application.

(B) Title - Protest.

(C) Name, address, and telephone number of protesting parties.

(D) Reasons for protest.

(4) **Notice to applicant of protest.** The Protestant shall serve the applicant with a copy of his protest within five (5) days after filing of the protest.

(f) **Protest periods.**

(1) **Initial protest period.** Any person objecting to the granting of the application shall file a written protest during the protest period, which shall run for fifteen (15) days from the date of the latest of the following events:

(A) Filing of the application.

(B) Filing of all required exhibits.

(C) The date on which the last publication was made.

(D) The date of completion of service of process on all respondents in the case.

(2) **Additional protest period.** After expiration of the protest period, an additional fifteen (15) day protest shall run if:

(A) The applicant amends the application to change the location or nature of the requested relief; or

(B) The applicant files amended applications in order to re-notice original parties, or initially notice new parties to the application.

(C) The additional protest period shall run from the date of completion of service of the amendment on the respondents in the case.

(g) **Unprotested applications.**

(1) **Administrative review.** If the application is unprotested, the Oil and Gas Conservation Division shall review the application without a hearing, and it shall report its finding to the Commission concerning what relief, if any, should be granted.

(2) **Remedies after denial or modification.** If the Oil and Gas Conservation Division recommends denial or modification of the relief requested by the application, the applicant may move for a hearing de novo or file exceptions to the report pursuant to 165:5-13-5.

(h) **Withdrawal of protest.** If all protests are withdrawn, the application shall be remanded for administrative review under (g) of this Section.

(i) **Protested applications.**

(1) **Hearing required.**

(A) A hearing shall be required on each timely protested application ~~and shall be scheduled within four weeks of the protest, otherwise it will be denied absent leave of court,~~ except as provided in (h) of this Section.

(B) A hearing may also be requested by the subject operator upon denial of the administrative application by the Technical Department of the Oil and Gas Conservation Division of the Commission.

(2) **Notice of hearing.** The applicant shall obtain a hearing date from the Court Clerk. The applicant shall send a copy of the notice of hearing to each party of record not later than fifteen (15) days before the hearing date.

(3) **Contents of notice.** The notice of hearing shall contain the date, time, and place of hearing.

(4) **Form.** The applicant shall prepare the notice of hearing to comply substantially with the form shown in Appendix I to this Chapter.

SUBCHAPTER 9. SUBSEQUENT PLEADINGS

165:5-9-2. Subsequent pleadings

(a) **Reply.** No documents shall be required other than the application and responses thereto. Reply to a response shall be permitted but shall not be required.

(b) **Motions.** All other objections to or requests for action or relief shall be by motion, with service to all persons entitled to notice. Service of the motion shall be made through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person as provided in this subsection, unless otherwise provided by statute. The motion shall state in concise language the action or relief sought and the facts and circumstances upon which the right thereto is based.

(1) All motions shall be set on a regularly scheduled motion docket by a separately filed Notice of Hearing to be heard by an Administrative Law Judge unless determined otherwise by a prehearing/scheduling agreement or a prehearing/scheduling order. All motions filed after a case has been set before the Commission or assigned to an Administrative Law Judge on the merits shall be set as directed by the Commission or the assigned Administrative Law Judge. The filing of a motion may not automatically delay the hearing on the merits.

(A) Prior to the record being opened on the merits or a prehearing/scheduling agreement filed or a prehearing/scheduling order issued, notice shall be given to all persons entitled to notice by the movant by serving at least five (5) business days prior to the date set for hearing. Service of the notice shall be made through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person, unless otherwise provided by statute. A copy of the motion and notice of hearing shall be provided to each respondent.

(B) After the record in the case has been opened on the merits or a prehearing/scheduling agreement has been filed or a prehearing/scheduling order has been issued, notice shall be given to all persons entitled to notice by the movant by serving, at least five (5) business days prior to the date set for hearing. Service of the notice shall be made through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person, unless otherwise provided by statute. A copy of the motion and notice of hearing shall be provided to all parties of record.

(2) Exceptions to such motions may be lodged in accordance with the provisions of OAC 165:5-13-5(a)(1) except as provided in (A) and (B) of this paragraph.

(A) In oil and gas related matters, all decisions on motions filed after the case has been assigned to an Administrative Law Judge shall be considered in the Report of the Administrative Law Judge unless the Administrative Law Judge directs otherwise.

(B) In all other matters, the decisions on motions filed after a scheduling agreement has

been filed or a scheduling order has been issued in a case shall be considered in the Report of the Administrative Law Judge unless the Commission or Administrative Law Judge directs otherwise.

(c) **Response/objection to motions.** Any person may file and serve a response or objection to any motion at any time before the motion is heard. The title of the response or objection shall refer to the motion being considered. Responses or objections filed to motions which already have been set for hearing shall not require a Notice of Hearing.

(d) **Amendment.** Amendment of a document may be permitted at any time upon such terms as are just. An amendment may take the form of a substitute document, an amendment or supplement, deletion of language, or correction by interlineation. Response may be made to an amended document, but shall not be required. An amended application is acceptable where notice is given according to the statutes or rules under which the original application was filed. Provided, however, no amended application shall be filed which changes the applicant's name, the type of relief requested, the legal description of the lands involved or the caption in the original application; instead, any such changes from the original application shall require the filing of a new application in accordance with Subchapter 5 of this Chapter.

(e) **Dismissal.** The applicant may dismiss the application with or without prejudice at any time prior to the record being opened at the hearing on the merits in said case by submitting a proposed order dismissing the case to the Administrative Law Judge assigned to the case or, if no Administrative Law Judge has been assigned, to the chief Administrative Law Judge and all parties of record. Such dismissal shall not dismiss the case as to specifically stated affirmative relief sought by any respondent and, upon the appearance at the time of hearing of any respondent who has not received notice of the dismissal or who has requested specific affirmative relief, such respondent may enter any evidence into the record and may be granted any relief which the Commission or Administrative Law Judge deems appropriate.

(1) At any time prior to the record being opened at the hearing on the merits in a case, a respondent may file a motion to dismiss in the same manner as provided in (b) of this Section.

(2) After the record has been opened at the hearing on the merits in a case, the case may be dismissed by agreement of all parties of record or recommended for dismissal with or without prejudice by the Commission or Administrative Law Judge upon the Commission's or Administrative Law Judge's own motion or upon motion of any party of record. A motion to dismiss filed hereunder shall comply with the provisions of (b) of this Section; provided that, in a case where a motion to dismiss has been filed, notice shall be served on each respondent in the case.

(3) Upon five (5) business days' notice to parties of record, the Commission may entertain motions to dismiss for any of the following reasons:

(A) Failure to prosecute.

(B) Unnecessary duplication of proceedings or res judicata.

(C) Withdrawal.

(D) Moot question or obsolete applications.

(E) Lack of jurisdiction.

(F) Failure to submit a proposed order in a timely manner.

(G) For other good cause shown.

(4) Upon providing fifteen (15) business days' notice on a posted disposition docket, and upon emailing notice to all parties of record to a case, the Commission may dismiss cases for any of the following reasons:

(A) Failure to submit a proposed order to the Administrative Law Judge or the Commission within thirty (30) days after the recommendation date or as directed by the Administrative Law Judge or the Commission.
(B) Failure to set a case on a day certain.

SUBCHAPTER 13. INITIAL AND SUBSEQUENT PROCEEDINGS

165:5-13-3.1. Optional procedure for spacing related applications

(a) If no protest to ~~a spacing related~~an application is filed prior to the docket call or is announced at docket call, an applicant ~~for spacing, despacing, increased well density, or location exception~~, with the exception of pooling, may elect for consideration of the merits of the cause without a full evidentiary hearing. Such review of the cause shall be referred to as the optional procedure. After electing the optional procedure, the applicant shall provide the Administrative Law Judge with a proposed order and documentation supporting the application. With respect to documentation, any written testimony shall be presented in the form of a sworn, notarized affidavit which shall be marked as exhibits and entered into the record.
(b) The Administrative Law Judge shall prescribe the time period for completing the record and may request additional evidence as deemed appropriate.
(c) After closing the record, the Administrative Law Judge shall have seven (7) business days in which to make a recommendation to the Commission concerning disposition of the application.
(d) If the Administrative Law Judge's recommendation is unfavorable, the matter will be automatically set for a full evidentiary hearing before the same Administrative Law Judge. Any exceptions from the report issuing after the full evidentiary hearing will proceed pursuant to OAC 165:5-13-5.

SUBCHAPTER 17. POST ORDER RELIEF

165:5-17-1. Within 10 days; motion

(a) Within ten (10) days after an order of the Commission is entered, any person may file a motion for rehearing, or a motion to set aside or to modify the order, or for any other form of relief from the order. However, a motion to reopen the record after an order has been entered shall not be considered a proper motion to seek relief from the order. The motion shall specifically state:
(1) The parts or provisions of the order sought to be set aside or modified or from which relief is sought.
(2) The specific modifications or other relief sought by the motion.
(3) The specific grounds relied upon for relief.
(b) Such motion shall be set for hearing before the Commission, unless referred. The movant is required to serve copies of the motion and separately filed notice of hearing on all respondents and parties of record at least five (5) business days prior to the hearing date. The motion and notice of hearing shall be served through the ECF System to those on the Official ECF service list, by regular mail, electronic mail, or in person.

SUBCHAPTER 25. MOTOR CARRIER TAX AND REGISTRATION PROTESTS

165:5-25-2. Filing confidential applications and subsequent pleadings for hearing

(a) Until such time as the ECF System provides for the electronic filing of cases which are

confidential ~~documents,~~in their entirety, taxpayer or registrant applications for hearing pursuant to this subchapter, and any subsequent pleadings, shall be filed in paper with the Court Clerk in person or by mail, unless otherwise directed by the Court Clerk. Accordingly, and notwithstanding OAC 165:5-1-5(h), to maintain the confidentiality of the taxpayer's identity, a coversheet for the application shall not be filed via the ECF System, and pursuant to 47 O.S. § 1170, all filings in the case are to be filed in paper with the Court Clerk in person or by mail ~~instead of through the ECF System~~unless otherwise directed by the Court Clerk. Applications and filings shall be marked "CONFIDENTIAL TAXPAYER/REGISTRANT PROTEST," signed by the taxpayer or registrant or an authorized representative thereof, and shall set out therein:

(1) The name, mailing address, physical address, telephone number, and e-mail address of the taxpayer or registrant;

(2) A statement of the amount of the deficiency as determined by the Transportation Division in the proposed assessment, the nature of the tax or fee and the amount thereof in controversy, or the denial of base state registration;

(3) A clear and concise statement of each item in dispute;

(4) The argument and any legal authority upon which each item in dispute is made; provided, that the taxpayer or registrant shall not be bound or restricted in such hearing, except on exceptions, to the arguments and legal authorities contained and cited in said applications or presented in the initial hearing;

(5) A statement of the relief sought by the taxpayer or registrant;

(6) A verification by the taxpayer or registrant or his duly authorized agent that the statements and facts contained therein are true; and

(7) In a refund claim, a statement as to whether the basis for the claim request is due to a mistake of law or a mistake of fact with a brief explanation of the mistake.

(b) Pursuant to 47 O.S. § 1170, the Commission is required to keep all reports, records, and files of the Commission concerning the administration of the IFTA/IRP are confidential. All information classified as confidential shall remain confidential unless otherwise provided by law.

(c) The taxpayer or registrant may authorize the disclosure of information to any person pursuant to a written waiver of confidentiality.

SUBCHAPTER 31. PROCEDURES FOR THE MOTOR CARRIER CITATION DOCKET

165:5-31-5. Hearing procedures

(a) The primary method of conducting MCC hearings shall be by telephone and/or videoconference. Testimony may be offered only by telephone or videoconference, unless the Commission or an Administrative Law Judge determines that the presence of the witnesses in the courtroom is necessary for the effective and efficient presentation of evidence or argument.

(b) MCC hearings shall be conducted in accordance with OAC 165:5-1-9(d)-(l); however, the witness affidavit identified in OAC 165:5-1-9(m) shall not be required.

(c) ~~During the hearing, the Administrative Law Judge shall call both the Transportation Division's attorney and the party or the party's attorney, if any, at the telephone number provided by the party. If the party requesting the hearing, or the party's attorney, fails to answer or participate in the hearing after two (2) attempts by the Administrative Law Judge to contact the party by telephone, the Administrative Law Judge may continue the hearing to a date certain, conduct the hearing without the party present, or find the party "guilty" by default.~~Notwithstanding any requirement of OAC 165:5, notice of a motor carrier citation hearing shall be deemed proper by providing the

date, time, and contact information for the telephone or videoconference hearing to the motor carrier via the email address provided on the hearing request form.

~~(d) The Administrative Law Judge shall call the witnesses, if any, at the telephone number provided by the party requesting the hearing. If the witness fails to answer or participate in the hearing after two (2) attempts by the Administrative Law Judge to contact the witness by telephone, the Administrative Law Judge may exclude the witness and continue with the hearing.~~

~~(e)~~(d) A hearing may be continued at the discretion of the Administrative Law Judge pursuant to OAC 165:5-9-6, without a Commission order. Emergencies may be considered by the Administrative Law Judge on a case-by-case basis. If the Commission is closed, continuances shall be resolved in accordance with OAC 165:5-9-6(e).

~~(f)~~(e) At the conclusion of the hearing, the Administrative Law Judge will issue a recommendation in accordance with OAC 165:5-13-4(f). Exceptions to the recommendation may be taken in accordance with OAC 165:5-13-5(a)(3).