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Office of Administrative Rules



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## TITLE 165. CORPORATION COMMISSION CHAPTER 40. STANDARD TERMS OF PURCHASES FROM PURCHASERS OF ~~100~~ 300 KW OR LESS

[OAR Docket #19-493]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Subchapter 1. General Provisions

165:40-1-1. Purpose [AMENDED]

165:40-1-2. Definitions [AMENDED]

Subchapter 5. Installation and Parallel Operation

Part 1. Producer's Wiring and Interconnection

165:40-5-1. Producer's wiring and apparatus [AMENDED]

Subchapter 7. Standard Purchase Rate Schedule for Power Producers of  
~~100-300~~ KW or Less [AMENDED]

165:40-7-1. Area affected [AMENDED]

165:40-7-2. Availability [AMENDED]

Subchapter 9. Optional Net Energy Billing Purchase Rate

165:40-9-2. Availability [AMENDED]

165:40-9-3. Purchase rate [AMENDED]

### AUTHORITY:

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

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 8, 2019.

### COMMENT PERIOD:

October 19, 2018 through December 3, 2018

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May 28, 2019

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July 25, 2019

### SUPERSEDED EMERGENCY ACTIONS:

n/a

### INCORPORATIONS BY REFERENCE:

n/a

### GIST/ANALYSIS:

The adopted rules change the title of the chapter from 100 kW to 300 kW, and as needed, reflect throughout the chapter; modify the definition of Small Power Producer and cogenerator; add the definition of "NEC" to mean the National Electrical Code issued by the National Fire Protection Association, and updates the term throughout; shortens "Public Utility Division" to "PUD" throughout; changes the availability limit for Standard Purchases to 300 kW; removes the 25,000 kWh limit; and removes the reference to wind purchases. Additionally, the adopted rules create a framework for net-metering that allows customers to recover net excess generation when self-generating power, and allows for billing credits to be carried-over to the next billing period for power producing customers; limits recovery to 125% of the customer's peak load; and requires the utility to file a tariff.

### CONTACT PERSON:

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN,  
THE FOLLOWING RULES ARE CONSIDERED

FINALLY ADOPTED AS SET FORTH IN 75 O.S.,  
SECTIONS 250.3(5) AND 308(E), WITH AN EFFECTIVE  
DATE OF JULY 25, 2019:

## SUBCHAPTER 1. GENERAL PROVISIONS

### 165:40-1-1. Purpose

These terms and conditions of purchase of this Chapter were adopted by the Oklahoma Corporation Commission through Cause No. 27208, Order No. 326195, May 23, 1988, pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) and Order No. 69 of the Federal Energy Regulatory Commission (FERC) as amended. This Chapter shall govern the supplying and delivering of power to the cooperative/utility's electric system by a small power producer or cogenerator (producer) of ~~100-kw~~ 300 kW or less who:

- (1) Is qualified under an approved purchase rate schedule.
- (2) Has made a proper purchase application.
- (3) Has executed a purchase agreement with the cooperative/utility.

### 165:40-1-2. Definitions

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

"Cogenerator" means a producer qualified under Section 201 of the Public Utility Regulatory Policies Act of 1978 as a cogeneration facility. A facility's power production capacity:

- (A) Must be used to produce both electrical and useful thermal energy for industrial commercial, heating or cooling purposes, through the sequential use of energy.
- (B) Must meet the applicable standards as to fuel use and efficiencies.
- (C) ~~May not be owned by a person primarily engaged in the generation or sale of electrical power.~~
- (D) Shall be qualified by FERC.

"Commission" means the Oklahoma Corporation Commission.

"Consumer" means any person, firm, corporation, municipality, or agency or any political subdivision of the United States or the State of Oklahoma receiving electric service of any nature from the cooperative/utility. (Where or when it becomes necessary to designate the particular party who is the consumer/producer for any reason, the person who contracts for electric service or in whose name it is received shall be considered the consumer/producer.)

"Cooperative/utility" means the electric distributive cooperative/utility or the investor owned utility.

"Electricity" means electric power and energy produced, transmitted, distributed, or furnished by or delivered to the cooperative/utility.

"Force majeure" means a cause reasonably beyond the control of the party affected, such as, but without limitation

to, injunction, strike of the party's employees, war, invasion, fire, accident, floods, backwater caused by floods, acts of God, or inability to obtain or ship essential services, materials, or equipment because of the effect of similar causes on the party's suppliers or carriers.

"**Fraudulent use or sale of electricity**" means any unauthorized use of the cooperative/utility electric service by the producer, or unauthorized use of producer generated electricity.

"**Meter**" means any device or devices used to measure or register electric power and energy.

"**NEC**" means the National Electrical Code issued by the National Fire Protection Association.

"**Premises**" means any piece of land or real estate, or any building or other structure or portion thereof or any facility where electric energy is furnished to or delivered by a producer.

"**Producer**" means a small power producer or cogenerator.

"**Prudent utility practices**" means the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts (including but not limited to the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry prior thereto) known at the time the decision was made, would have been expended to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety, and expedition, taking into account the facts that the term "prudent utility practice" is not intended to be limited to the optimum practice, methods, or acts to the exclusion of all others, but rather to be a spectrum of possible practices, methods, or acts which could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety, and expedition. "Prudent utility practice" includes due regard for manufacturer's warranties and requirements of governmental agencies of competent jurisdiction.

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

"**Small power producer**" means a facility qualified under Section 201 of the Public Utility Regulatory Policies Act of 1978 as a small power production facility. ~~A facility's power production capacity must be owned by the same person at the same location and be less than eighty (80) megawatts, must derive more than fifty percent (50%) of its total energy input from biomass, wastes, renewable resources, or any combination, may not derive more than twenty five percent (25%) of its total energy from oil, natural gas, and/or coal, and the facility may not be owned by a person primarily engaged in the generation or sale of electrical power.~~

"**Tariff**" shall include every rate schedule, purchase rate schedule or provision thereof, service agreement, purchase agreement and all terms, conditions, rules, and regulations for furnishing electric service or purchasing electric energy.

## SUBCHAPTER 5. INSTALLATION AND PARALLEL OPERATION

## PART 1. PRODUCER'S WIRING AND INTERCONNECTION

### 165:40-5-1. Producer's wiring and apparatus

(a) Interconnection agreements between an electric utility and a producer must include provisions which address subsections (b), (c) and (d) below:

(b) All apparatus and electrical wiring connected or to be connected to the cooperative/utility's distribution system point of delivery shall be at the producer's expense, and shall be installed and maintained in accordance with the requirements of the ~~2014 National Electrical Code-NEC~~, as adopted by the Commission in OAC 165:35, to the extent consistent with law, including state and federal statutes, orders, and regulations, and applicable municipal regulations, and with all requirements prescribed by governmental authority having jurisdiction thereof. In the event of a conflict between the ~~National Electrical Code-NEC~~ and an applicable municipal code, the latter shall govern. The cooperative/utility reserves the right to refuse to connect at the point of delivery to any wiring or apparatus which does not meet the requirements in (b) of this Section, and the cooperative/utility may, without advance notice, discontinue purchase from any producer when a defective condition of wiring or equipment upon the premises of the producer is discovered. In the event a producer desires to change the size of his electrical equipment and maintain his status, he shall notify the cooperative/utility in writing sufficiently in advance so that its meter and other equipment may be enlarged to properly handle the increased load or generation.

(c) Power inverter based apparatus utilized in the system to be connected to the cooperative/utility's distribution system point of delivery shall be ~~UL-Underwriters Laboratory ("UL") 1741 listed or certified by a nationally recognized testing laboratory as being compliant with Underwriters Laboratory (UL)-UL 1741, 2<sup>nd</sup> Revision standards before the system is connected to the cooperative/utility's distribution system point of delivery.~~ Proof of this certification must be provided at the producer's expense. The cooperative/utility reserves the right to refuse to connect at the point of delivery to any apparatus which does not meet the requirements in (c) of this Section, and the cooperative/utility may, without advance notice, discontinue connection with any producer when a defective condition of equipment upon the premises of the producer is discovered.

(d) All relevant apparatus utilized in the system to be connected with the cooperative/utility's distribution system point of delivery shall be certified by a nationally recognized testing laboratory as compliant with the Institute of Electrical and Electronics Engineers (IEEE) 1547 *Standard for Interconnecting Distributed Resources with Electric Power Systems* before the system is connected to the cooperative/utility's distribution system point of delivery. Proof of this certification must be provided at the producer's expense. The cooperative/utility reserves the right to refuse to connect at the point of delivery to any apparatus which does not meet the requirements in (d) of this Section, and the cooperative/utility may, without advance notice, discontinue connection with any producer when a defective condition of equipment upon the premises of the producer is discovered.

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(c) Beginning December 31, 2014, and annually thereafter, each utility shall submit a Certification Letter to the PUD Director of the Public Utility Division certifying that as of the date of the Certification Letter, the utility's interconnection agreements meet the requirements in (b), (c) and (d) of this Section, or if the interconnection agreements do not meet the requirements in (b), (c) and (d) the reason therefor.

## SUBCHAPTER 7. STANDARD PURCHASE RATE SCHEDULE FOR POWER PRODUCERS OF 100 300 KW OR LESS

### 165:40-7-1. Area affected

Standard purchase rate schedule for power producers of ~~100 Kw~~ 300 kW or less is effective in all territories served.

### 165:40-7-2. Availability

Standard purchase rate schedule for power producers of ~~100 kw~~ 300 kW or less is available to cogenerators or small power producers who:

- (1) Have a maximum rated capacity of ~~100 kw~~ 300 kW or less.
- (2) Employ equipment compatible with the particular line segment of the cooperative/utility.
- (3) Sign a purchase agreement with the cooperative/utility.

## SUBCHAPTER 9. OPTIONAL NET ENERGY BILLING PURCHASE RATE

### 165:40-9-2. Availability

Optional net energy billing purchase rate is available to cogenerators or small power producers who:

- (1) Have a maximum rated capacity of 300 kW or less. Have an annual energy output of 25,000 kWh or less. In the case of a wind power producer, the estimated annual energy output of 25,000 kWh or less shall be determined using the American Wind Energy Association (AWEA) Annual Energy output formula (AWEA standard 1.1-1985, Section IV, paragraph 2) and a wind speed of 12 miles per hour.
- (2) Employ equipment compatible with the particular line segment of the cooperative/utility.
- (3) Sign a purchase agreement with the cooperative/utility.

### 165:40-9-3. Purchase rate

(a) For power produced in excess of on-site requirements, subject to OAC 165:40-9-2, the producer will be compensated by the retail purchase meter running in reverse. The cooperative/utility shall bill the producer for the excess of energy supplied by the cooperative/utility over and above the energy supplied by the producer during each billing period according to the cooperative/utility's applicable retail rate schedule.

(b) When the energy supplied by the producer exceeds the energy supplied by the cooperative/utility during a billing period, the monthly charge and/or minimum bill of the retail rate schedule shall be billed by the cooperative/utility; ~~the excess energy shall be provided at no charge to the cooperative/utility~~ any net excess energy for the billing period shall be credited, or paid, in dollars in the next billing period(s), at the utility's avoided energy cost.

(c) The billing period shall be considered the monthly bill period associated with the monthly meter reading.

(d) Systems with an installed capacity greater than 125% of the customer's peak load may be excluded from the net-metering provision, and shall be paid under the small power producer or qualifying facilities tariff, subject to Subchapter 11 herein.

(e) The utility shall file a tariff with the Commission to enact the provisions of this rule.

[OAR Docket #19-493; filed 5-31-19]

## TITLE 165. CORPORATION COMMISSION CHAPTER 45. GAS SERVICE UTILITIES

[OAR Docket #19-494]

### RULEMAKING ACTION:

PERMANENT final adoption

### RULES:

Chapter 45. Gas Service Utilities [AMENDED]

### AUTHORITY:

Corporation Commission; Article IX, Section 18 of the Oklahoma Constitution; 17 O.S. § 152(A); and 17 O.S. §§ 160.1.

### SUBMISSION OF PROPOSED RULES TO GOVERNOR AND CABINET SECRETARY:

Although the Oklahoma Corporation Commission is not subject to the requirements of Executive Order No. 2019-11, the proposed rules were submitted to the Governor and Cabinet Secretary on February 8, 2019.

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### GIST/ANALYSIS:

The adopted rules add general grammatical, formatting, and spelling changes; shorten defined terms, and/or other clarifying language; clarifies business day or calendar day; add definitions; clarify reporting requirements; change references in the rule from "filing" of information with the Commission to "submitting" information to the Commission; require the utility to provide evidence of completion of work when issues are reported; add a requirement for installation of service lines and marking of trenches for public safety; add a provision concerning events beyond the utility's control; requires the utility to provide an email address to the Commission's Public Utility Division through which a representative of the utility may be contacted; establish requirements