

RM 202100002
CHAPTER 5
AGENCY RULE REPORT

From: [State Online Filing System](#)
To: [Amanda Payne](#)
Subject: [EXTERNAL] Your Filing has been submitted successfully (Corporation Commission, Oklahoma - OCC - Filing ID: 7868)
Date: Friday, March 26, 2021 2:45:34 PM
Attachments: [Cause No. RM 202100002 - Agency Rule Report - Final.pdf](#)
[APPENDIX B - RULE IMPACT STATEMENT.pdf](#)
[APPENDIX A - EN BANC HEARING SIGN IN SHEET.pdf](#)
[APPENDIX C - ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT.pdf](#)
[APPENDIX D - RULES ADOPTED AT EN BANC HEARING ON MARCH 18, 2021.pdf](#)
[Transmittal ARR 3-26-21 \(TNW Signed\).pdf](#)
[attestation Chapter 5 3-26-2021 - ARR \(ms\).pdf](#)

If you are encountering issues opening the attached files, please login to the filing system to view the documents: <https://www.ok.gov/state/filings/logout.php>

Filing ID: 7868

Submission Date: 03/26/2021 14:44:32 pm

Agency Name: Corporation Commission, Oklahoma - OCC

Mailing Address 1: 2101 N. Lincoln Blvd

Mailing Address 2: Jim Thorpe Bldg

City: Oklahoma City

State: OK

Zip: 73105

Type of Filing: Administrative Rules

Rule Type: Permanent

Adoption Date: 03/18/2021

Title Number: 165

Chapter Number: 5

Sub Chapters: 1, 7, 9, 11, 17, and 31

Public Comment: Comments were made and discussions held regarding proposed rules. Written comments filed with the Commission's Court Clerk are summarized in the Rule Report under Section 9. All comments were addressed and taken into account in the adopted rules.

Rule Impact: The persons most likely to be affected by the proposed rules include persons and regulated entities that appear before, and those that submit or file information with the Commission. Although the proposed rules could have an economic impact on entities regulated by the Commission, it is anticipated that the benefits obtained from the updates, increased efficiency, streamlining, and clarifications provided by such rules will outweigh any potential expenses associated with such proposed rules. It is not anticipated that the proposed rules will have an adverse economic impact upon political subdivisions or upon persons or entities regulated by the Commission.

Reason for Rule: The adopted rules are necessary to create processes and procedures for the



Corporation Commission's forthcoming Electronic Case Filing System, to explicitly allow for filing of documents by electronic mail, to clarify the computation of time for periods greater than and less than five days, to amend the process for dismissing cases, to create a discovery process for proceedings on the OSF (Oklahoma Universal Service Fund) docket, and to establish procedures for the Commission's Motor Carrier Citation Docket.

Statutory Authority to promulgate the rules: Article IX, Sections 18 and 19 of the Oklahoma Constitution and 47 O.S. Section 230.32.

Fee Increase? No

**AGENCY RULE REPORT
OKLAHOMA CORPORATION COMMISSION
PERMANENT RULEMAKING
OAC 165:5. RULES OF PRACTICE
CAUSE NO. RM 202100002**

Pursuant to the Oklahoma Administrative Procedures Act requirements in 75 O.S. §§ 303.1(A) and 308(A), the Oklahoma Corporation Commission ("Commission") hereby respectfully submits this Agency Rule Report to the Honorable J. Kevin Stitt, Governor of the State of Oklahoma, the Honorable Greg Treat, President Pro Tempore of the State Senate, and the Honorable Charles McCall, Speaker of the House of Representatives.

1. DATE OF THE PUBLICATION OF NOTICE OF PROPOSED RULEMAKING:

A. The Commission's Notice of Proposed Rulemaking was published in The Journal Record of Oklahoma City, Oklahoma on February 10, 2021.

B. 75 O.S. § 250.4 exempts the Commission from the requirements of 75 O.S. §§ 255, 303(A), and 303(B) respectively, to publish a Notice of Intended Rulemaking in The Oklahoma Register.

2. NAME AND ADDRESS OF THE AGENCY:

Oklahoma Corporation Commission
P.O. Box 52000
Oklahoma City, Oklahoma 73152-2000

3. TITLE AND NUMBER OF THE RULES:

Chapter 5. Rules of Practice
Subchapter 1. General Provisions
Part 1. General
165:5-1-1. Purpose [AMENDED]
165:5-1-3. Definitions [AMENDED]
165:5-1-4. Office location; office hours; records [AMENDED]
165:5-1-5. Filing of documents [AMENDED]
165:5-1-6. Time computations and extensions; effective date [AMENDED]
165:5-1-8. Place of hearing [AMENDED]
Part 2. Electronic Filing of Documents
165:5-1-11. Scope [AMENDED]
165:5-1-11.1. ECF System registration [NEW]
165:5-1-12. Time of filing [AMENDED]
165:5-1-12.1. Acceptance of filing [AMENDED]
165:5-1-13. Technical failures [AMENDED]

165:5-1-13.1. Correction of electronic filings [AMENDED]
165:5-1-14.1. Official ECF service list and certificate of service [AMENDED]
165:5-1-14.2. Documents subject to protective order and other confidential documents [AMENDED]
Subchapter 7. Commencement of a ~~Cause~~ Case [AMENDED]
Part 1. General
165:5-7-1. General application and notice requirements [AMENDED]
Part 5. Public Utilities
165:5-7-53. Certificate of convenience and necessity and service territory expansions for telephone lines providing telecommunications services [AMENDED]
Subchapter 9. Subsequent Pleadings
165:5-9-2. Subsequent Pleadings [AMENDED]
165:5-9-6. Continuances [AMENDED]
Subchapter 11. Prehearing procedures
165:5-11-1. Deposition and discovery [AMENDED]
Subchapter 17. Post Order Relief
165:5-17-1. Within 10 days; motion [AMENDED]
Subchapter 31. Procedures for the Motor Carrier Citation Docket [NEW]
165:5-31-1. General provisions [NEW]
165:5-31-3. Requesting a hearing [NEW]
165:5-31-5. Hearing procedures [NEW]

4. STATUTORY AUTHORITY FOR THE RULES:

Article IX, Sections 18 and 19 of the Oklahoma Constitution and 47 O.S. Section 230.32.

5. FEDERAL OR STATE LAW, COURT RULING, OR OTHER AUTHORITY REQUIRING THE RULES:

Please see response to item number 4.

6. STATEMENT OF THE GIST OF THE RULES AND BRIEF SUMMARY OF THE CONTENT OF THE ADOPTED RULES:

The adopted rules primarily relate to the forthcoming Electronic Case Filing ("ECF") System, including the authorization for the creation of an ECF User Manual. Additionally, the adopted rules remove the ability to file documents by fax and replace it with the ability to file by electronic mail, clarify the computation of time for periods greater than and less than five days, amend the process for dismissing applications or cases, create a discovery process for proceedings on the OSF (Oklahoma Universal Service Fund) docket, and establish procedures for the Motor Carrier Citation ("MCC") Docket.

7. STATEMENT EXPLAINING THE NEED FOR THE ADOPTED RULES:

The adopted rules are necessary to create processes and procedures for the forthcoming ECF System, explicitly allow for filing of documents by electronic mail, clarify the computation of time for periods greater than and less than five days, amend the process for dismissing applications or cases, create a discovery process for proceedings on the OSF (Oklahoma Universal Service Fund) docket, and establish procedures for the MCC Docket.

8. DATE AND LOCATION OF THE HEARING AT WHICH THE RULES WERE ADOPTED:

On March 18, 2021, the rules were adopted in a public hearing held in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Office Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105, before the Commission. The public hearing was also held via livestream, teleconference, and videoconference through Scopia to allow for remote participation.

9. SUMMARY OF COMMENTS AND EXPLANATION OF CHANGES OR LACK OF ANY CHANGES MADE IN THE ADOPTED RULES AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARINGS OR MEETINGS HELD OR SPONSORED BY THE AGENCY FOR THE PURPOSE OF PROVIDING THE PUBLIC AN OPPORTUNITY TO COMMENT ON THE RULES OR OF ANY COMMENTS RECEIVED PRIOR TO ADOPTION OF THE RULES:

Comments submitted in writing by persons or organizations may be viewed on the Commission's website at <https://imaging.occ.ok.gov/imaging/OAP.aspx>, by searching Cause No. RM 202100002.

Summary of Written Comments:

Written comments were provided by The Petroleum Alliance of Oklahoma. The comments generally supported the concept of using a robust ECF System and requested that the development of the user manual should be an open process, similar to a rulemaking.

Summary of Public Meeting Comments:

The first Technical Conference was held on February 19, 2021, at 9:30 a.m., at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma. It was also held via livestream, teleconference, and videoconference through Scopia, to afford the public an opportunity to appear, comment on, and suggest additions and/or revisions to the proposed rules.

During the first Technical Conference, oral comments were provided by a representative of the Oklahoma Attorney General's Office regarding OAC 165:5-1-6. The representative expressed concern about loss of response time when filings are made on weekends or during other

times when the Commission is closed. Commission staff revised its proposal such that when computing periods of time of five (5) calendar days or less, any period of time that would otherwise begin to run on a Saturday, Sunday, or legal holiday or official agency closing will begin to run on the next business day.

Matt Allen provided oral comments regarding OAC 165:5-9-2 and possible dismissal of causes on the Commission's Oil & Gas docket without notice to parties who have sought affirmative relief. In consideration of this concern, the proposed rule was revised to state that dismissal shall not dismiss the cause as to specifically stated affirmative relief. The proposal was further revised to state that a respondent requesting affirmative relief may pursue such relief by presenting evidence and may be granted any relief which an Administrative Law Judge or the Commission deems appropriate.

The second Technical Conference was held on March 4, 2021, at 9:30 a.m., at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma. It was also held via livestream, teleconference, and videoconference through Scopia, to afford the public an opportunity to appear, comment on, and suggest additions and/or revisions to the proposed rules.

During the second Technical Conference, oral comments were provided by Bill Bullard on OAC 165:5-1-5(d) regarding disputing the authenticity of electronic signatures and objecting thereto. Mr. Bullard suggested that "may" be replaced by "shall" in the proposed rule to make clear that filing an objection is the only means of disputing authenticity. Commission staff explained that permissive language is used in the proposed rule because the filing of an objection is not mandatory. It is required only if a person wishes to formally dispute the authenticity of an electronic signature.

Mr. Bullard also provided oral comments on OAC 165:5-1-5(h), which proposes that confidential documents not be electronically filed, but rather that such documents be mailed or provided in person to the Commission's Court Clerk within one (1) business day of the electronic filing of the cover page. Mr. Bullard's comment sought confirmation that confidential documents postmarked within one (1) business day of filing the cover page would be acceptable. Commission staff confirmed that this would be acceptable submission of confidential documents pursuant to the proposed rule.

Mr. Bullard also provided oral comments on OAC 165:5-1-12.1 by asking for clarification of the meaning of the "completion of filing" language. Commission staff explained that where a filing fee applies, a filing is not complete until proper payment has been received by the Commission.

Mr. Bullard provided oral comments on OAC 165:5-1-14.1. The proposed rule provides that service of notice through the ECF System is not effective if the person attempting service receives notice from the ECF System that the attempted service was not electronically delivered to the person to be served. Mr. Bullard inquired as to what should be done if the ECF System informs a person that attempted service was unsuccessful. Commission staff explained that service

would need to be accomplished by other means available pursuant to the Commission rules or by statute to be deemed effective.

A public hearing took place before the Commission on March 18, 2021, at 9:30 a.m., at the Oklahoma Corporation Commission, Jim Thorpe Office Building, Courtroom 301, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma. It was also held via livestream, teleconference, and videoconference through Scopia to afford the public an opportunity to make oral comments concerning the revised proposed rules.

During the public meeting, oral comments were provided by Howard L. (Bud) Ground of The Petroleum Alliance of Oklahoma. Mr. Ground stated support for the proposed rules, while urging that development and any changes to the user manual associated with the proposed rules should be made in a setting similar to a rulemaking.

The Commission considered the proposed rules filed on March 16, 2021. After acknowledging all written and oral comments, a majority of the Commission voted to approve the proposed rules filed on March 16, 2021, with the exception of OAC 165:5-7-53(d), which the majority voted to strike from the proposed rules. Oral comments were provided at the hearing by Commissioner Dana L. Murphy as the basis for her dissent and can be heard at <https://oklahoma.gov/content/dam/ok/en/occ/multimedia/ajls/03-18-2021-comm-murphy-chapter-5-rulemaking-vote.mp3>

10. LIST OF PERSONS OR ORGANIZATIONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE ADOPTED RULES AT PUBLIC HEARINGS HELD BY THE COMMISSION OR THOSE WHO COMMENTED IN WRITING BEFORE OR AFTER SAID HEARINGS:

Appendix "A" is a list of persons or organizations who appeared at the public hearing before the Commission, which took place on March 18, 2021, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

List of persons or organizations who submitted written comments for or against the adopted rules:

The Petroleum Alliance of Oklahoma
500 N.E. 4th Street
Oklahoma City, OK 73104

11. RULE IMPACT STATEMENT:

Appendix "B" is a copy of the Rule Impact Statement, filed with the Commission on February 24, 2021.

12. ECONOMIC IMPACT AND ENVIRONMENTAL BENEFIT STATEMENT:

Appendix "C" is a copy of the Economic Impact and Environmental Benefit Statement, filed with the Commission on February 24, 2021.

13. RULES INCORPORATED FROM A BODY OUTSIDE THE STATE:

N/A

14. RECORDED VOTE OF EACH COMMISSIONER REGARDING ADOPTION OF THE RULES:

On March 18, 2021, Commissioners J. Todd Hiatt and Bob Anthony voted to adopt the rules on a permanent basis and submit such rules to the Governor and the Legislature for their approval, pursuant to the Administrative Procedures Act, 75 O.S. §§ 250-323. Commissioner Dana L. Murphy voted against adoption of the rules.

15. PROPOSED EFFECTIVE DATE OF ADOPTED RULES:

The rules adopted by the Commission on March 18, 2021, are attached as **Appendix "D"**. The proposed effective date is July 1, 2021.

ATTESTATION

I, the undersigned, do hereby attest that the copy enclosed herewith is a true and correct copy of amendments to OAC 165:5, Rules of Practice, which were adopted by the Oklahoma Corporation Commission on March 18, 2021, under permanent rulemaking provisions of the Administrative Procedures Act, 75 O.S. §§ 250 *et seq.*

I, the undersigned, do hereby attest that such rules were adopted in substantial compliance with the Administrative Procedures Act.



Travis N. Weedn
Rules Liaison and Attestation Officer
OKLAHOMA CORPORATION COMMISSION
March 24, 2021

Name of Agency: Corporation Commission
Type of Document: Agency Rule Report

LIAISON VERIFICATION:

I verify that I have reviewed the attached document and that it substantially conforms to filing and format requirements of the Administrative Procedures Act and the rules of the Secretary of State. Additional information may be obtained by contacting me at (405) 521-4137.



Travis N. Weedn

Rules Liaison

OKLAHOMA CORPORATION COMMISSION

March 24, 2021