

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

CAUSE NO. RM 202200001

FILED
FEB 23 2022

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

RULE IMPACT STATEMENT

Pursuant to 75 O.S. § 303(D) of the Oklahoma Administrative Procedures Act, the Administrative, Judicial, and Legal Services Division ("AJLS Division") of the Oklahoma Corporation Commission ("Commission") submits the following Rule Impact Statement for its proposed rules regarding Oklahoma Administrative Code ("OAC") 165:5.

I. Brief description of the purpose of the proposed rules:

The primary purpose of the proposed rules is to add requirements and rules relating to the forthcoming Electronic Case Filing ("ECF") System. Additionally, the proposed rules amend and add definitions, clean up language throughout to accurately reflect current terms and processes, reorganize sections of the rules, clarify docket types, clarify notice requirements, give priority status to hearings on the OSF (Oklahoma Universal Services Fund) docket, and allow consent decree agreements in contempt cases. Additionally, the proposed rules require the submission of an "as drilled" plat constructed from the results of the directional survey in connection with proposed location exception orders regarding directionally drilled or horizontal wells, clarify procedures for obtaining changes of operator designation regarding pooling, location exception, and increased density orders, require submission of secondary recovery unit certificates of dissolution to the Managers of the Commission's Technical Services and Underground Injection Control Departments, require submission of brine and associated solution gas unit certificates of dissolution to the Managers of the Commission's Technical Services and Underground Injection Control Departments, strike language in the rule and refer to OAC 165:10-11-1 regarding applications for approval of licenses for pulling casing and plugging wells, and eliminate forms regarding the use of state funds to conduct remedial action, and to clarify procedures concerning requests for the use and authorization of such state funds. Finally, the proposed rules increase or remove fees, and assess a new fee of \$20.00 per electric vehicle ("EV") charging station port.

II. Description of the classes of persons who most likely will be affected by the proposed rules, including classes that will bear the costs of the proposed rules, and any information on cost impacts received by the agency from any private or public entities:

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. Owners of public EV charging stations will be affected by the proposed rules because those owners will be assessed a new fee of \$20.00 per port at each charging station. Additionally, persons requesting the Commission to search for documents where the request is solely for commercial purpose or

clearly would cause excessive disruption of the Commission’s essential functions will be assessed a fee of \$25.00 per hour instead of \$10.00 per hour.

Further, in its Notice of Proposed Rulemaking, the AJLS Division invited public comment and requested business entities which may be impacted by the proposed rules to provide written comments stating any such cost impacts. To date, no information regarding any cost impacts has been received from any private or public entity in this proceeding. In Cause No. RM 202100005, a rulemaking proceeding to establish the EV Charging Station rules, Francis Energy submitted written comments on January 10, 2022, describing the effect of an annual fee of \$20.00 per port. In its comments, Francis Energy stated that “...its existing 118 stations have 627 ports, so the cost would be \$12,540, and that cost will grow.”¹

III. Classes of persons who will benefit from the proposed rules:

The classes of persons benefiting from the proposed rules are primarily entities and persons that appear before and are regulated by the Commission.

IV. Description of the probable economic impact of the proposed rules upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:

Except for the below listed fee changes, it is not anticipated that the proposed rules will have an economic impact on entities and persons that appear before and are regulated by the Commission, or other political subdivisions.

OAC 165:5-3-1(b)(5) is amended to move fees already established in OAC 165:5-3-2. The only new fee proposed in this subsection permits a filing fee of \$100.00 for emergency applications, which were previously not assessed a filing fee. This fee is consistent with other similar filing fees and will affect owners of petroleum storage tanks needing to file emergency applications. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(a)(5) is amended to change the returned payment fee from \$20.00, to instead conform to the fee permitted in 62 O.S. § 34.57, which is \$25.00. While this is a fee increase, the proposed rule will align the fee to the amount permitted by statute. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(d)(3) is amended to remove the fee charged for microfilmed images from coin operated microfilm reader (coin box), which is currently \$0.25. The AJLS Division determined that the cost to process the fee exceeded the revenue received. The elimination of this fee will benefit the Commission and the entities and persons that request this information from the Commission. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(d)(6) is amended to remove the fee charged for obtaining a printed copy of any chapter of Commission rules and regulations, which is currently \$10.00. The AJLS Division

¹ Cause No. RM 202100005, Joint Parties Comments on Draft Permanent Rules for Electric Vehicle Charging Stations – Cost Impact, filed on January 10, 2022, p. 7.

proposed to remove this fee because the rules are available for free on the Commission's website. The elimination of this fee will benefit the Commission and the entities and persons requesting these documents from the Commission due to saved printing costs and free accessibility online. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(d)(7) is amended to remove the fee charged for obtaining a printed copy of the Oil and Gas Conservation rules, which is currently \$20.00. The AJLS Division proposed to remove this fee because the rules are available for free on the Commission's website. The elimination of this fee will benefit the Commission and the entities and persons requesting these documents from the Commission due to saved printing costs and free accessibility online. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(f) is amended to increase the document search fee, when allowed by law, from \$10.00 per hour to \$25.00 per hour. This fee increase will affect persons requesting the Commission search for documents where the request is solely for commercial purpose or clearly would cause excessive disruption of the Commission's essential functions. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(g) is amended to remove fax service charges, which includes a service charge of \$5.00 plus \$1.00 per page for all outgoing faxes, and a fee of \$0.25 per page for all incoming faxes. The AJLS Division no longer accepts or sends faxes due to the cost-savings of electronic mail; therefore, this fee is no longer necessary. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-1(g) replaces the prior deleted language and is added to state that the Commission will waive fees for providing copies of non-certified documents that are less than ten pages. Including this statement will benefit the Commission and the entities and persons requesting non-certified documents from the Commission. It is not anticipated that this fee change will affect any political subdivisions.

OAC 165:5-3-51 is added to assess an annual fee of \$20.00 on each publicly available EV charging station port located in the State of Oklahoma. This fee will provide funding to the Commission and Public Utility Division ("PUD") to assist in the execution of duties and responsibilities required by the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021 ("DRIVE Act"), 68 O.S. § 6509. The Commission is authorized, pursuant to 68 O.S. § 6509, to set fees necessary to carry out its duties and responsibilities pursuant to the DRIVE Act. It is not anticipated that this fee proposal will affect any political subdivisions and will be paid by persons owning publicly available EV charging stations.

V. Probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rules, the source of revenue to be used for implementation and enforcement of the proposed rules, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency:

Revenue from proposed rules regarding new, increased, and eliminated fees should assist in meeting costs associated with operation of the various Divisions. The proposed EV charging station fee will provide funding to the Commission and PUD to assist in the execution of duties and responsibilities required by the DRIVE Act. It is not anticipated that implementation and enforcement of the proposed rules will result in increased costs for any other agency. If the EV charging station fee is not adopted, the Commission and PUD may need to secure additional funding from general appropriations. Aside from the need for the EV charging station fee there is no anticipated effect on State revenue.

VI. Determination of whether implementation of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules:

It is not anticipated that implementation and enforcement of the proposed rules will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rules.

VII. Determination of whether implementation of the proposed rules may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:

The proposed rules regarding new, increased, and eliminated fees could have an economic impact on small business. Specifically, as stated earlier, in Cause No. RM 202100005, Francis Energy filed written comments describing the economic effect the proposed EV charging station fee will have on its business. As such, the proposed EV charging station fee could have an adverse economic effect on small businesses that own publicly available EV charging stations. However, when determining the fee amount, the AJLS and PUD attempted to keep the proposed fee as low as possible to recover its costs to carry out its duties and responsibilities pursuant to the DRIVE Act. Further, in its Notice of Proposed Rulemaking, the Commission invited small businesses to submit input regarding the potential impact of the proposed rules.

VIII. Explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules:

The proposed rules do not increase compliance costs, and there are no nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rules.

IX. Determination of the effect of the proposed rules on the public health, safety and environment and, if the proposed rules are designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rules will reduce the risk:

It is anticipated that the proposed rules will not have an adverse effect on the public health, safety, and environment.

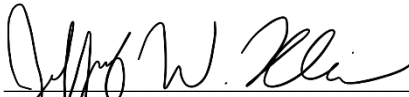
X. Determination of any detrimental effect on the public health, safety and environment if the proposed rules are not implemented:

It is anticipated that there will be no detrimental effect on the public health, safety, and environment if the proposed rules are not implemented.

XI. Date of preparation of Rule Impact Statement:

This Rule Impact Statement was prepared on the 23rd day of February, 2022.

Prepared by:



Jeff W. Kline, OBA #31119
Attorney and Agency Rules Liaison
Administrative, Judicial & Legal Services Division
OKLAHOMA CORPORATION COMMISSION
P.O. Box 52000
Oklahoma City, Oklahoma 73152
Ph: (405) 521-2308; Fax: (405) 521-4150
Email: Jeff.Kline@occ.ok.gov
Attorney for the AJLS Division