OKLAHOMA STATUTES
TITLE 17. CORPORATION COMMISSION

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§17-1. Violating rules, orders or other requirements of Commission - Switching service provider without consent of customer - Fines.

A. 1. Upon a determination by the Corporation Commission of violation of any of its rules, orders or other requirements, a corporation, person or firm may be fined by the Commission, a sum not to exceed Five Hundred Dollars ($500.00), as the Commission may deem proper. Each day's continuance of such violation, after due service upon such corporation, person or firm, of the order or requirement of the Commission shall be a separate offense.

2. If the operation of such order or requirement is suspended, pending an appeal, the period of such suspension shall not be computed against the corporation, person or firm, with regard to its liability for fines and penalties.

B. Any corporation, person or firm that switches the local or long distance telephone, electrical energy, or natural gas service provider of a customer without the consent of the customer may be fined by the Commission a sum not to exceed Ten Thousand Dollars ($10,000.00) per occurrence, as the Commission may deem proper after notice and opportunity for hearing.

R.L. 1910, § 1192. Amended by Laws 1998, c. 48, § 1, eff. Nov. 1, 1998; Laws 2000, c. 178, § 1, eff. Nov. 1, 2000.

§17-2. Contempt proceedings - When authorized - Institution of prosecution - Notice.

In case of failure of any corporation, person or firm to obey or comply with any order or requirement of the Corporation Commission, the Commission may punish such corporation, person or firm, as for contempt. Such contempt proceedings may be instituted by any citizen of this state, or other parties affected by such order, by filing an affidavit with the Corporation Commission, setting forth the acts of

omission or failure to comply with such order or requirement. Upon the filing of such affidavit or information above mentioned, it shall be the duty of the Commission to forward to such offending corporation, person or firm a copy of such affidavit or information, and shall also issue citation to such corporation, person or firm to answer at a time to be fixed in the citation, not less than ten (10) days, nor more than twenty (20) days from the date of the service of said citation.
R.L.1910, § 1193.

§17-3. Pleadings, trial, judgment and appeal.

If the defendant shall fail to appear or file answer on the day mentioned in the citation, such failure to appear or file answer shall be deemed an admission of the truth of each and every material allegation in such affidavit, or information, and the Commission may render judgment without further hearing or testimony; or the Commission may in its discretion require additional evidence before rendering judgment in any case of default. Upon the appearance and filing of answer of the defendant, such appearance may be by plea, demurrer or answer, and when the issue shall have been settled, the Commission may hear evidence as to the matters and facts in reference to the alleged violation of the order or requirement, and may continue the hearing from time to time, and the defendant shall be given ample opportunity to introduce proper evidence and be fully heard in the premises. Upon the conclusion of the evidence and arguments of counsel, the Commission shall render judgment, a copy of which shall be delivered to the defendant, and the defendant shall have five (5) days from the receipt of copy of the judgment to file its exceptions thereto, and shall be allowed to appeal from the judgment of the Commission, to the Supreme Court, as provided in other cases, upon its filing a bond with the Commission in double the amount of such fine or judgment, with such security as may be required by the Commission. Upon the filing of such bond with the commission and allowing of the appeal, the same shall operate a suspension of the fine and judgment appealed from.
R.L.1910, § 1194.

§17-4. Suspension bond.

If the order violated for which such fine or judgment is imposed shall have been an order promulgating or fixing rates, to be charged by public service corporations, persons or firms, it shall be necessary in appealing from such fine or judgment for the defendant to give a suspending bond, executed and filed with and approved by the Commission, payable to the state, and sufficient in amount and security to insure the prompt refunding by the appealing corporation, person or firm, to the parties entitled thereto, of all charges which such company may collect or receive, pending the appeal, in excess of

those fixed or authorized by the order of the Commission violated or disregarded by such corporation, person or firm. Such bond shall be conditioned to require such corporation, person or firm to keep such accounts and to make to the Commission from time to time such report, verified by oath, as may in the judgment of the Commission suffice to show the amount being charged or received by the company pending the appeal, in excess of the charge prescribed by the Commission in the order violated, together with the names and addresses of persons to whom such overcharges will be refunded in case the charges made by the company pending the appeal be not sustained on the final judgment, and the commission may at any time require such corporation, person or firm to give additional security or to increase the suspending bond when the same may appear to the Commission to be necessary to insure the prompt refunding of the overcharges aforesaid. Upon the final judgment, if the order violated is sustained in the Supreme Court, the Commission shall distribute such overcharges to the persons to whom the same are due, as provided in Section twenty-one, Article nine, of the Constitution: Provided, that if the order violated is one fixing or establishing rates and the corporation, person or firm shall obey such order and carry its provisions into effect pending such appeal, the last above-mentioned bond shall not be required.
R.L.1910, § 1195.

§17-5. Supreme Court to give precedence to such appeals.

All cases appealed to the Supreme Court from the judgment of the Corporation Commission as herein provided, shall have precedence therein, except as provided in the Constitution, and it shall be the duty of the Supreme Court to advance the same on the docket for immediate consideration and proceed to final judgment without any unnecessary delay.
R.L.1910, § 1196.

§17-6. Judgment lien - Execution.

All judgments or fines assessed against any corporation, person or firm, for the violation of any order or regulation, as herein provided, shall be a first lien on all property of such corporation, person or firm within this state, and it shall be the duty of the Corporation Commission, if such judgment or fine is not paid within thirty (30) days after the rendition of such judgment or fine, to issue an execution, directed to the marshal of the Corporation Commission, commanding him to seize sufficient property of such corporation, person or firm, to satisfy the fine or judgment. And it shall be the duty of the Marshal to sell or dispose of properties levied on by reason of an execution issued by the Commission, in like manner as now required by sheriffs of this state, for the sale of

property levied on by virtue of an execution issued on a judgment of a district court.
R.L.1910, § 1197.

§17-6.1. Penalties - Willfully and knowingly injuring or destroying pipeline transportation system.

A. Any person who has been determined by the Commission to have violated any provision of any rule, regulation, or order issued pursuant to the provisions of the Commission related to pipeline safety shall be liable for a civil penalty of not more than One Hundred Thousand Dollars ($100,000.00) for each day that said violation continues. The maximum civil penalty shall not exceed One Million Dollars ($1,000,000.00) for any related series of violations.

B. The amount of the penalty shall be assessed by the Commission pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the penalty, the Commission shall include but not be limited to consideration of the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the rules and regulations of the Commission.

All penalties collected pursuant to the provisions of this section shall be deposited into the Pipeline Enforcement Fund.

C. Any person who willfully and knowingly injures or destroys, or attempts to injure or destroy, any pipeline transportation system, upon conviction, shall be guilty of a felony and shall be subject for each offense to a fine of not more than Twenty-five Thousand Dollars ($25,000.00) or imprisonment for a term not to exceed fifteen (15) years or both such fine and imprisonment.
Added by Laws 1992, c. 271, § 2, emerg. eff. May 25, 1992. Amended by Laws 1997, c. 133, § 136, eff. July 1, 1999; Laws 1999, 1st Ex. Sess., c. 5, § 62, eff. July 1, 1999; Laws 2016, c. 185, § 1, eff. July 1, 2016.
NOTE: Laws 1998, 1st Ex. Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 136 from July 1, 1998, to July 1, 1999.

§17-7. Judgment of Supreme Court on appeal.

In cases appealed to the Supreme Court, as provided in this article, if the judgment of the Commission is affirmed, it shall be the duty of the Supreme Court, upon entering such judgment, to direct the Clerk of the Court to deliver to the Commission a certified copy of such judgment, and upon receipt of such certified judgment, the Corporation Commission shall within ten (10) days, if such judgment and costs shall not have been paid, enter judgment against the sureties on the appeal bond without further notice or hearing, and

shall within thirty (30) days from the rendition of such judgment against the sureties of said appeal or suspending bonds, if the same shall not have been paid, issue an execution against the corporation, person or firm, and the sureties of said appeal or suspending bonds as provided in the preceding section. If the judgment of the Commission is reversed or modified by the Supreme Court, the same shall be remanded to the Commission with instruction to change or modify the former judgment of the Commission to conform to the opinion of the Supreme Court. The Supreme Court may remand any case for additional evidence or rehearing, and make such final order or judgment in the case as the Court may deem proper.
R.L.1910, § 1198.

§17-8. Moneys to be paid into state treasury.

All moneys collected by the Corporation Commission, under this article, shall be paid into the treasury of the state.
R.L.1910, § 1199.

§17-9. Taxation of costs and fees.

In all cases where fines or judgments are assessed against an offending corporation, person or firm for the violation of any order or requirement of the Commission, as provided in this article, judgment shall be rendered against the defendant for all costs, which shall include the following: Witness fees at One Dollar and fifty cents ($1.50) per day, with necessary mileage at five cents ($0.05) per mile, to and from the place of hearing to the residence of the witness; the fees of the Marshal to the Commission, the same as now allowed to sheriffs for like services in this state; Ten Dollars ($10.00) docket fee, including all fees for filing and certifying papers and documents, except necessary fee for transcribing the record, ten cents ($0.10) for each folio of one hundred words; and in the Supreme Court, the same fees as are charged in cases appealed from the district courts of this state to the Supreme Court.
Laws 1919, c. 54, p. 89, § 1.

§17-10. Attorney General to prosecute.

It shall be the duty of the Attorney General to prosecute to final judgment all proceedings instituted under the provisions of this article, for the violation of any of the orders of the Corporation Commission.
R.L.1910, § 1201.

§17-11. Proceedings when no quorum present.

At any time a cause is set for hearing and a quorum of the Commission is not present at the time set for said hearing, any member thereof may adjourn the hearing to some future time or said Commissioner present may proceed to take the testimony, which shall

be transcribed and submitted to the Commission before consideration thereof; said testimony so taken shall be submitted to the Commission at a time and place fixed by the Commissioner taking the same.
R.L.1910, § 1202.

§17-12. Depositions.

The Commission is authorized to have depositions taken upon the application of either party to any cause pending before it, or upon its own motion; and it is further authorized to designate a person to take depositions under such rules and regulations as may be prescribed by the Commission: Provided, that any party to a proceeding before the Commission may take depositions in the same manner as in actions pending in the courts of the state.
R.L.1910, § 1203.

§17-13. Admission of evidence.

The Corporation Commission shall in the trial of cases and all special proceedings and hearings admit in evidence only such balance sheets, operating statements and other financial exhibits and schedules as shall have been compiled and authenticated by the treasurer or other regularly acting financial officer or employee of such person, firm, association or corporation as may be a party to the proceeding, action or cause pending before or being tried by said Commission; provided, that if otherwise relevant and admissible, reports of audit, balance sheets, operating statements and financial exhibits and schedules prepared by employees of said Commission and by public accountants as defined in Section 15.1 et seq. of Title 59 of the Oklahoma Statutes or certified public accountants under the laws of the state, shall be admissible and accepted in evidence in all cases.
Laws 1923, c. 93, p. 159, § 1; Laws 1994, c. 50, § 1, emerg. eff. April 11, 1994.

§17-14. Penalty for refusing examination of books in violation of Constitution, Article IX, Section 28.

If any officer of any railroad company or other public service corporation, or of any other corporation or any other person, in violation of the provisions of Article 9, Section 28, of the Constitution of the State of Oklahoma, shall refuse to permit the Corporation Commissioners, or any person authorized thereto, to examine its books and papers, such officer or other person so refusing shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Twenty-Five Dollars ($25.00), nor more than Five Hundred Dollars ($500.00), and by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year; and each day such officers or other

person shall fail or refuse to permit such examination or investigation, shall constitute a separate offense.
R.L.1910, § 1204.

§17-15. Penalty for refusing examination of books in violation of Constitution, Article II, Section 28.

If any officer of any corporation in violation of Article 2, Section 28 of the Constitution of the State of Oklahoma shall refuse to permit any person authorized by the state, to examine its papers, books and files, such officer or other person so refusing shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than Twenty-Five Dollars ($25.00), nor more than Five Hundred Dollars ($500.00), and by imprisonment in the county jail for not less than thirty (30) days nor more than one (1) year; and each day such officer or other person shall fail or refuse to permit such investigation or examination shall constitute a separate offense.
R.L.1910, § 1205.

§17-16. Penalty for destroying records.

Any person who shall conceal, destroy, or mutilate or attempt to conceal, destroy, or mutilate any records, books, or files of any corporation transacting business in this state for the purpose of defeating, hindering or delaying any investigation, prosecution or suit at law or equity, or any cause of action in any vested rights of any citizen of this state, shall be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for not less than one (1) year nor more than five (5) years.
R.L. 1910, § 1206. Amended by Laws 1997, c. 133, § 137, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 63, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 137 from July 1, 1998, to July 1, 1999.

§17-17. Penalties cumulative.

Nothing herein contained shall be construed to cancel or alter the penalty now prescribed by the Constitution against such corporations for refusing to permit an investigation and examination of its books, records and files.
R.L.1910, § 1207.

§17-18. Expert witnesses - Documentation of justification.

The Corporation Commission is authorized to employ expert witnesses to prepare and present testimony in matters pending before the Commission or in matters concerning the Commission pending in other state or federal forums. The selection and compensation of expert witnesses by the Corporation Commission shall be exempt from

the Oklahoma Central Purchasing Act. For expert witnesses selected pursuant to this section, the Commission shall document, in writing, the justification for choosing the person selected. The justification shall include the number of expert witnesses considered and the cost to the state. Such documentation shall be available for public inspection and maintained for a period of not less than five (5) years.
Added by Laws 1998, c. 180, § 1, eff. July 1, 1998.

§17-31. Senior Utility Rate Analysts - Salary - Qualifications.

The Corporation Commission shall employ two Senior Utility Rate Analysts. Said positions shall be in the unclassified service and shall have a maximum annual salary, payable monthly, which shall be specified in the Commission's annual appropriation bill. Any person filling said position shall possess either:

1. A bachelor's degree or advanced degree in the area of accounting, business administration, economics, engineering, finance, law, or equivalent and a minimum of two (2) years' experience in utility regulation on behalf of utility applicants, commission staff, or intervenors; or

2. A minimum of five (5) years' experience in utility regulation on behalf of utility applicants, commission staff, or intervenors.
Added by Laws 1980, c. 298, § 5, emerg. eff. June 13, 1980. Amended by Laws 1998, c. 180, § 2, eff. July 1, 1998.

§17-32. Director of Administration - Qualifications - Duties.

A. The Corporation Commission shall employ one (1) Director of Administration. Said position shall be in the unclassified service.

B. The Director of Administration shall be required to hold at least a bachelor's degree in marketing, business administration, accounting, personnel management, public administration, counseling, political science, related fields or experience equivalent thereto, or shall hold a juris doctorate degree, and shall have experience in a supervisory capacity in administrative or personnel management work.

C. The Director of Administration shall perform duties as directed by the Commission.

D. The Director of Administration shall not be an owner, stockholder, employee or officer of, nor have any other business relationship with or receive compensation from, any corporation, partnership, or other business or entity which is subject to regulation by the Commission.
Added by Laws 1980, c. 298, § 6, emerg. eff. June 13, 1980. Amended by Laws 1990, c. 266, § 55, operative July 1, 1990; Laws 1994, c. 315, § 1, eff. July 1, 1994; Laws 2004, c. 262, § 11.

§17-33. Administrative Aide - Salary - Powers and duties - Office location.

Each Corporation Commissioner is hereby authorized to employ one (1) Administrative Aide. Said positions shall be in the unclassified service and each shall have a maximum annual salary, payable monthly, which shall be specified in the Commission's annual appropriation bill. Each Administrative Aide shall have such powers and perform such duties as are assigned to him by the Corporation Commissioner. Such Administrative Aide shall office in the State Capitol Complex in Oklahoma City.
Laws 1980, c. 298, § 7, emerg. eff. June 13, 1980.

§17-34.1. Implementation and administration of Public Utility Regulatory Policies Act and Residential Energy Conservation Program.

The Oklahoma Corporation Commission shall have the power to implement and administer the Public Utility Regulatory Policies Act (P.L. 95-617) and the Residential Energy Conservation Program, 42 U.S.C., Sections 8211 through 8235i. The Public Utility Division of the Corporation Commission shall be responsible for assisting the Commission in the performance of these duties.

The Corporation Commission shall adopt such rules and regulations as are necessary to implement the purpose of all federal laws which are administered or enforced by the Corporation Commission.
Amended by Laws 1987, c. 236, § 80, emerg. eff. July 20, 1987.

§17-34.2. Employees under Federal Underground Injection Control Project.

A. Prior to July 1, 1991, full-time-equivalent employee positions filled contingent upon the procurement of funding provided under the Federal Underground Injection Control Program shall be in the unclassified service and not subject to the provisions of the Oklahoma Personnel Act. Said full-time-equivalent employee positions funded by the Federal Underground Injection Control Program shall terminate upon the exhaustion of said federal funding.

B. On and after July 1, 1991, full-time-equivalent employees positions filled pursuant to subsection A of this section shall be in the classified service and subject to the provisions of the Oklahoma Personnel Act.
Added by Laws 1987, c. 208, § 62, operative July 1, 1987; Laws 1987, c. 236, § 84, emerg. eff. July 20, 1987; Laws 1991, c. 332, § 5, eff. July 1, 1991.

§17-35. Data Processing Division - Responsibilities - Support services - Director.

There is hereby created within the Corporation Commission a Data Processing Division. The Division shall be responsible for all data processing requirements of the Commission and shall be funded from

any monies available to the Commission. The Director of the Data Processing Division shall be in the unclassified service.
Added by Laws 1980, c. 298, § 9, emerg. eff. June 13, 1980. Amended by Laws 1985, c. 325, § 4, emerg. eff. July 29, 1985; Laws 2002, c. 347, § 1, emerg. eff. May 30, 2002.

§17-36. Repealed by Laws 1997, c. 275, § 14, eff. July 1, 1997.

§17-37. Certain federal rules and regulations not to be enforced - Exceptions.

The Corporation Commission shall not enforce any federal administrative rule or regulation prior to its effective date unless the administrative rule or regulation can be demonstrated to be economically beneficial to the State of Oklahoma or the people of Oklahoma.
Laws 1981, c. 318, § 14, emerg. eff. June 30, 1981.

§17-39. Petty cash fund – Maximum amount - Administration.

There is hereby created a petty cash fund for the Corporation Commission to be used for the purpose of supplying small change. The Corporation Commission working in conjunction with the Director of the Office of Management and Enterprise Services shall fix the maximum amount of the petty cash fund. The Office of Management and Enterprise Services shall prescribe all forms, systems, and procedures for administering the petty cash fund.
Added by Laws 1983, c. 263, § 12, operative July 1, 1983. Amended by Laws 1987, c. 163, § 2, eff. Nov. 1, 1987; Laws 2007, c. 27, § 1, emerg. eff. April 18, 2007; Laws 2012, c. 304, § 56.

§17-39.2. Remittances of taxes and fees – Service charges - Receipts - Deposit of money.

A. All remittances of taxes and fees required to be paid to the Corporation Commission pursuant to state law, shall be made to the Commission by bank draft, check, cashier’s check, money order, cash, or nationally recognized credit card or debit card. If payment is made by credit or debit card, the Commission may add an amount equal to the amount of the service charge incurred by the Commission, not to exceed four percent (4%) of the amount of the payment, as a convenience fee for the acceptance of the credit or debit card. For purposes of this subsection “nationally recognized credit or debit 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 obtaining goods, service, or anything of value on credit which is accepted by over one thousand merchants in this state. The Commission shall promulgate rules to allow for the implementation of payment of taxes and fees by credit or debit card.

B. All remittances by bank draft, check, cashier's check, or money order, collected pursuant to any law, Commission rule, or order, shall be made payable to the Corporation Commission. The Commission shall issue its receipt, for cash or money payment to the remitter. No remittance other than cash shall be in full discharge of liability due the Corporation Commission unless and until it shall have been paid in cash. All money collected, including service or convenience fees, shall be deposited with the State Treasurer of this state.

C. There shall be assessed, in addition to any other penalties provided for by law, an administrative service fee of Twenty Dollars ($20.00) on each check returned to the Corporation Commission or any agent by reason of the refusal of the bank upon which the check was drawn to honor the same.

D. Upon the return of any check by reason of the refusal of the bank upon which the check was drawn to honor the same, the Corporation Commission may file a bogus check complaint with the appropriate district attorney who shall refer the complaint to the Bogus Check Restitution Program established by Section 111 of Title 22 of the Oklahoma Statutes. Funds collected by the program, after collection of the fee authorized by Section 114 of Title 22 of the Oklahoma Statutes, shall be transmitted to the Corporation Commission and credited to the liability for which the returned check was drawn and to the administrative service fee provided by this section.
Added by Laws 1991, c. 103, § 2, eff. July 1, 1991. Amended by Laws 2007, c. 27, § 2, emerg. eff. April 18, 2007.

§17-40. Transportation Division.

There is hereby created within the Oklahoma Corporation Commission a division to be known as the Transportation Division. The Division shall be comprised of a Director and shall include special motor carrier enforcement officers created by Section 171.1 of Title 47 of the Oklahoma Statutes, motor carrier enforcement officers created by Section 172 of Title 47 of the Oklahoma Statutes, and such other persons as the Commission may find necessary to carry out the responsibilities prescribed by law and to enforce the orders, rules, regulations and judgments of the Commission.
Added by Laws 1984, c. 284, § 18, operative July 1, 1984. Amended by Laws 1985, c. 325, § 6, emerg. eff. July 29, 1985; Laws 1988, c. 322, § 1.

§17-40.1. Regional service areas - Regional service offices - Services provided - Staffing - Reports - Telephonic communication services.

A. For the purpose of accepting, processing and hearing applications for oil and gas well development, administrative applications, and for any other related matters, the Corporation

Commission shall divide the state into two regional service areas. By September 1, 1990, the Corporation Commission shall establish and maintain in each regional service area, a regional service office located within the corporate limits of any municipality having a population of more than two hundred fifty thousand (250,000) inhabitants according to the last Federal Decennial Census to implement their duties pursuant to law. The State Office of the Corporation Commission located in Oklahoma City shall serve as the regional service office for the regional service area in which Oklahoma City is located. The regional service office shall service the regional service area in which such office is located or as otherwise provided by the Corporation Commission for public convenience.

B. 1. Applications for oil and gas well development, administrative applications and any other related matters may be filed in any regional service office.

2. The central record of all filings with all regional service offices shall be maintained in the State Office of the Corporation Commission located in Oklahoma City and all initial dockets shall be simultaneously announced in Oklahoma City and transmitted to regional offices.

3. All hearings on any application including but not limited to appellate hearings shall be held in the regional service office where the application is filed unless:

a. in the case of an application protested by a respondent mineral owner, or surface owner having standing to protest by statute or by Rule of the Corporation Commission, holding the hearing in the regional service office would not be at the convenience of such respondent mineral owner, or surface owner, or

b. the applicant and all protestants agree to have the Commission proceed to hear any case, or any portion thereof, during any stage of the proceedings, at any regional service office, or by telecommunication hearings, or

c. the applicant, all protestants and the Commission agree to have the Commission proceed to hear any case, or any portion thereof, during any stage of the proceedings, at another location other than a regional service office.

C. 1. The Corporation Commission shall provide for an adequately staffed regional service office in each regional service area to conduct the business of the regional service office as herein provided.

2. In order to implement the provisions of this subsection for the regional service office located within the corporate limits of a municipality having a population of more than two hundred fifty

thousand (250,000) inhabitants, the Commission shall utilize the following positions from existing FTE for such service office:

POSITION	MINIMUM FTE
Office Administrator	1.0
Hearing Officers	2.0
Court Reporters	2.0
Docket Clerks	2.5
Secretary	1.0

3. The Corporation Commission shall maintain electronic data equipment capable of retrieving and printing information by cause number, applicant name, relief requested, or by county.

D. The Corporation Commission shall submit a report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate by February 1 of each year detailing the number of applications filed by county, hearings held and other activities performed by each regional service office.

E. The Corporation Commission shall promulgate rules, pursuant to the Administrative Procedures Act, to implement the provisions of this section.

F. The Corporation Commission shall develop and maintain a system for providing telephonic communication service for hearings related to oil and gas matters in municipalities having a population of more than eighty-five thousand (85,000) inhabitants according to the last Federal Decennial Census. In order to implement the provisions of this subsection, the Commission shall utilize from existing FTE the following position for such telephonic communication service:

POSITION	FTE
Docket Clerk	.5

Added by Laws 1990, c. 289, § 1. Amended by Laws 1992, c. 352, § 1, emerg. eff. June 4, 1992.

§17-41. Cotton gins declared public utilities.

Cotton gins maintained and operated for the purpose of ginning seed cotton of the general public, or of persons other than the person or persons, or the stockholders of the corporation maintaining and operating said gin, or maintained and operated for the purpose of ginning seed cotton not produced and owned by the person or persons, or the stockholders of the corporation, maintaining and operating said gin, are hereby declared to be public utilities, and the operation of same for the purpose of ginning seed cotton is declared to be a public business.

Laws 1915, c. 176, § 1; Laws 1929, c. 240, p. 301, § 1.

§17-42. License from Corporation Commission - Necessity - Showing - Fee.

No person or persons, or corporation, in this state shall be permitted to maintain and operate a gin for the purpose of ginning seed cotton of the general public, or of ginning seed cotton not produced and owned by the person or persons, or the stockholders of the corporation maintaining and operating said gin, without first having secured a license for such purpose from the State Corporation Commission, said license to be issued upon proper showing to be made as prescribed by the rules and regulations promulgated by the Commission. The fee for said license issued by the Corporation Commission is hereby fixed at three cents ($0.03) per bale, based on the number of bales ginned the previous year as shown by the final report of said gin, on file, with the Corporation Commission. In case of a new plant or gin that did not operate the preceding year, a license fee of Five Dollars ($5.00) per gin stand will be charged; which sum shall be converted into the State Treasury of the State of Oklahoma.
Laws 1915, c. 176, § 2; Laws 1923, c. 191, p. 340, § 1; Laws 1929, c. 240, p. 301, § 2.

§17-43. Matters considered in issuing license - Existing gins - Showing to obtain license - Cooperative gins - Inspectors.

The Corporation Commission in issuing such license shall have the right to take into consideration the necessity for the operation of a gin for such purpose at the place of its location; provided nothing herein shall operate to prevent the licensing of gins now established, except for violation of the provisions of this act or of the rules, regulations, and requirements of the Corporation Commission made and promulgated pursuant to this act. No new gin plants shall be constructed, installed, or licensed, or any old gin removed from one point to another until satisfactory showing shall have been made to the Corporation Commission setting forth that such gin is a needed utility and that the proposed corporation, company, firm or individual is a competent and desirable corporation, company, firm or individual to establish and operate said gin as may appear in the discretion of said commission; provided, that on the presentation of a petition for the establishment of a gin to be run cooperatively, signed by one hundred (100) citizens and tax payers of the community where the gin is to be located, the Corporation Commission shall issue a license for said gin. The commission shall have the right to take into consideration the responsibility and reliability and qualifications as well as the capacity of the person or persons or corporation to do such ginning business so far as to afford all reasonable facilities, conveniences and services to the public and shall have the power and authority to require such facilities, conveniences and services to be afforded the public. The inspectors provided herein shall be men who have served at least three (3) years in practical and actual gin operation and shall be appointed by the

Corporation Commission; that said inspectors shall have the power to make recommendations to the commission as to the opening or closing of any gin or gins as well as to the affording by such gins of the reasonable facilities, conveniences and services to the public hereinbefore authorized to be required, as well as to make such other reports and recommendations to the Corporation Commission as may to said inspectors appear necessary, reasonable and just.
Laws 1915, c. 176, § 3; Laws 1923, c. 191, p. 341, § 2; Laws 1925, c. 109, p. 157, § 1.

§17-44. Powers and authority of Corporation Commission - Rates - Department of Cotton Gin Utilities - Fiscal year and reports of cotton gins.

The Corporation Commission shall have the same power and authority and be charged with the duty of regulating and controlling such cotton gins in all matters relating to the performance of public duties and the charges therefor and correcting abuses and preventing unjust discrimination and extortion, as is exercised by said Commission as to transportation and transmission companies and shall have the same power to fix rates, rules, charges and regulations to be observed by such person or persons or corporation operating gins and the affording of all reasonable conveniences, facilities and services as it may impose as to transportation or transmission companies. For the purpose of carrying into effect the provisions of this act, there is hereby created a Department of Cotton Gin Utilities under the Corporation Commission. The Commission shall appoint inspectors of cotton gins, whose functions, duties and term of office shall be regulated by the Commission. It shall be the duty of each and every corporation, company, firm or individual owning or operating a cotton gin to file a final report for the preceding year not later than ninety (90) days following the expiration of the fiscal year of the cotton gin utility. Failure to file said report shall constitute a forfeiture of license and is hereby declared to be a misdemeanor and may be prosecuted as such, said report to be in accordance with rules and regulations promulgated by the Commission from time to time.
Laws 1915, c. 176, § 4; Laws 1923, c. 191, p. 341, § 3; Laws 1991, c. 118, § 1, emerg. eff. April 29, 1991.

§17-45. Appeals to Supreme Court.

Section 45. The orders made by said Commission fixing rates, charges, rules andregulations as to any person, persons, or corporation operating any gin or gins may be reviewed on appeal by the Supreme Court in the same manner, form, jurisdiction and procedure as apply to such orders made relative to transportation and transmission companies.
Laws 1915, c. 176, § 5.

§17-46. Regulations - Enforcement of orders.

Section 46. In all matters pertaining to the regulation and control of gins andginning and the business of such, the Commission shall have the same power and authority as is now exercised by it under the law as to any matter pertaining to the public visitation, regulation or control of transportation and transmission companies, and may enforce its orders against any person, firm, company, or corporation maintaining or operating a gin or gins, by imposing a fine against them, or either of them, not exceeding One Hundred Dollars ($100.00) for the violation of any of its orders.
Laws 1915, c. 176, § 6.

§17-47. Partial invalidity.

If it shall be held that any section or part of a section contained in this act is void by reason of it being repugnant to the Constitution, the failure of such portion shall not be held to defeat the remaining portions of this act.
Laws 1915, c. 176, § 7.

§17-48. Transportation, presents, or gratuities to Corporation Commissioners or employees prohibited - Exceptions - Penalty.

A. No person who is subject to the regulations of the Corporation Commission, or has interests in any firm, corporation or business which is subject to regulation by the Corporation Commission shall furnish transportation, presents, or gratuities other than as provided by the Rules of the Ethics Commission to any member of the Corporation Commission or any employee thereof; provided, however, during a period beginning one hundred twenty (120) days prior to a primary election, through one hundred twenty (120) days following the general election, any person may make contributions not otherwise prohibited by the Rules of the Ethics Commission to the cost of any current candidate's political campaign. It shall be unlawful for any such member or employee to knowingly accept any such transportation, presents or gratuities from any such person, firm or association.

B. A violation of the provisions of this section shall, upon conviction, be punishable as a misdemeanor.
Added by Laws 1995, c. 343, § 42, eff. July 1, 1995.

§17-51. Oil and gas department established.

The Corporation Commission is hereby empowered and authorized to create and establish an Oil and Gas Department under the jurisdiction and supervision of the Corporation Commission, and is hereby authorized to appoint with the approval and consent of the Governor, a Chief Oil and Gas Conservation Agent who shall have charge of the Oil and Gas Department herein authorized.
Laws 1917, c. 207, p. 385, § 1.

§17-52. Corporation Commission - Jurisdiction, power and authority - Environmental jurisdiction of Department of Environmental Quality.

A. 1. Except as otherwise provided by this section, the Corporation Commission is hereby vested with exclusive jurisdiction, power and authority with reference to:

a. the conservation of oil and gas,
b. field operations for geologic and geophysical exploration for oil, gas and brine, including seismic survey wells, stratigraphic test wells and core test wells,
c. the exploration, drilling, development, producing or processing for oil and gas on the lease site,
d. the exploration, drilling, development, production and operation of wells used in connection with the recovery, injection or disposal of mineral brines,
e. reclaiming facilities only for the processing of salt water, crude oil, natural gas condensate and tank bottoms or basic sediment from crude oil tanks, pipelines, pits and equipment associated with the exploration, drilling, development, producing or transportation of oil or gas,
f. injection wells known as Class II wells under the federal Underground Injection Control Program, and any aspect of any CO2 sequestration facility, including any associated CO2 injection well, over which the Commission is given jurisdiction pursuant to the Oklahoma Carbon Capture and Geologic Sequestration Act. Any substance that the United States Environmental Protection Agency allows to be injected into a Class II well may continue to be so injected,
g. tank farms for storage of crude oil and petroleum products which are located outside the boundaries of refineries, petrochemical manufacturing plants, natural gas liquid extraction plants, or other facilities which are subject to the jurisdiction of the Department of Environmental Quality with regard to point source discharges,
h. the construction and operation of pipelines and associated rights-of-way, equipment, facilities or

buildings used in the transportation of oil, gas, petroleum, petroleum products, anhydrous ammonia or mineral brine, or in the treatment of oil, gas or mineral brine during the course of transportation but not including line pipes in any:
(1) natural gas liquids extraction plant,
(2) refinery,
(3) reclaiming facility other than for those specified within subparagraph e of this subsection,
(4) mineral brine processing plant, and
(5) petrochemical manufacturing plant,

i. the handling, transportation, storage and disposition of saltwater, mineral brines, waste oil and other deleterious substances produced from or obtained or used in connection with the drilling, development, producing and operating of oil and gas wells, at:
(1) any facility or activity specifically listed in paragraphs 1 and 2 of this subsection as being subject to the jurisdiction of the Commission, and
(2) other oil and gas extraction facilities and activities,

j. spills of deleterious substances associated with facilities and activities specified in paragraph 1 of this subsection or associated with other oil and gas extraction facilities and activities, and

k. subsurface storage of oil, natural gas and liquefied petroleum gas in geologic strata.

2. The exclusive jurisdiction, power and authority of the Corporation Commission shall also extend to the construction, operation, maintenance, site remediation, closure and abandonment of the facilities and activities described in paragraph 1 of this subsection.

3. When a deleterious substance from a Commission-regulated facility or activity enters a point source discharge of pollutants or storm water from a facility or activity regulated by the Department of Environmental Quality, the Department shall have sole jurisdiction over the point source discharge of the commingled pollutants and storm water from the two facilities or activities insofar as Department-regulated facilities and activities are concerned.

4. For purposes of the Federal Clean Water Act, any facility or activity which is subject to the jurisdiction of the Corporation Commission pursuant to paragraph 1 of this subsection and any other oil and gas extraction facility or activity which requires a permit for the discharge of a pollutant or storm water to waters of the United States shall be subject to the direct jurisdiction of the United States Environmental Protection Agency and shall not be

required to be permitted by the Department of Environmental Quality or the Corporation Commission for such discharge.

5. The Corporation Commission shall have jurisdiction over:

a. underground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality,

b. aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment associated with the tanks, whether above the ground or below; provided that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality, and

c. the Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund and Program and the Leaking Underground Storage Tank Trust Fund.

6. The Department of Environmental Quality shall have sole jurisdiction to regulate the transportation, discharge or release of deleterious substances or hazardous or solid waste or other pollutants from rolling stock and rail facilities. The Department of Environmental Quality shall not have any jurisdiction with respect to pipeline transportation of carbon dioxide.

7. The Department of Environmental Quality shall have sole environmental jurisdiction for point and nonpoint source discharges of pollutants and storm water to waters of the state from:

a. refineries, petrochemical manufacturing plants and natural gas liquid extraction plants,

b. manufacturing of oil and gas related equipment and products,
c. bulk terminals, aboveground and underground storage tanks not subject to the jurisdiction of the Commission pursuant to this subsection, and
d. other facilities, activities and sources not subject to the jurisdiction of the Corporation Commission or Department of Agriculture as specified by this section.

8. The Department of Environmental Quality shall have sole environmental jurisdiction to regulate air emissions from all facilities and sources subject to operating permit requirements under Title V of the Federal Clean Air Act as amended.

B. The Corporation Commission and incorporated cities and towns shall have exclusive jurisdiction over permit fees for the drilling and operation of oil and gas wells.

C. The Corporation Commission shall comply with and enforce the Oklahoma Water Quality Standards.

D. For purposes of immediately responding to emergency situations having potentially critical environmental or public safety impact and resulting from activities within its jurisdiction, the Corporation Commission may take whatever action is necessary, without notice and hearing, including without limitation the issuance or execution of administrative agreements by the Oil and Gas Conservation Division of the Corporation Commission, to promptly respond to the emergency.

Added by Laws 1917, c. 207, p. 385, § 2. Amended by Laws 1986, c. 250, § 13, emerg. eff. June 13, 1986; Laws 1993, c. 145, § 252, eff. July 1, 1993; Laws 1993, c. 324, § 48, eff. July 1, 1993; Laws 2000, c. 364, § 5, emerg. eff. June 6, 2000; Laws 2009, c. 429, § 7, emerg. eff. June 1, 2009; Laws 2016, c. 77, § 1, emerg. eff. April 18, 2016.

§17-53. Promulgation of rules - Plugging wells.

The Corporation Commission is hereby authorized to promulgate rules for the plugging of all abandoned oil and gas wells. Abandoned wells shall be plugged under the direction and supervision of Commission employees as may be prescribed by the Commission. Provided, however, the Commission shall not order any oil or gas well to be plugged or closed if the well is located on an otherwise producing oil or gas lease as defined by the Commission, unless such well poses an imminent threat to the public health and safety which shall be determined by the Commission after conducting a public hearing on the matter.

Added by Laws 1917, c. 207, p. 385, § 3. Amended by Laws 1998, c. 340, § 1, emerg. eff. June 3, 1998; Laws 2000, c. 315, § 1, eff. July 1, 2000.

§17-53.1. Removal of surface trash and debris - Rules and regulations.

A. The Corporation Commission shall prescribe and promulgate rules and regulations to require all operators of oil and gas wells or leases upon which oil and gas wells are located to remove all surface trash and debris, occasioned by their operations, from the vicinity of their operations and to keep such premises free and clear of such trash and debris.

B. For the purposes of this act, "surface trash and debris" means all discarded material directly connected with the drilling or producing of or exploration for hydrocarbons including, but not limited to, garbage, rubbish, junk or scrap.

Amended by Laws 1982, c. 205, § 1, emerg. eff. April 27, 1982.

§17-53.2. Removal of operating equipment, production and storage structures, supplies and equipment, surface debris, abutment or obstacle - Filling of certain pits - Grading or terracing certain disturbed land - Release - Extension of time.

A. The Corporation Commission shall prescribe and promulgate rules and regulations which require the lease operator to remove all unnecessary operating equipment, structures, surface debris, abutment or obstacles used in the operation of the well from the land upon which the well is located, and shall grade or terrace the surface of the soil as required in this section unless the owner of the land and the lease operator have entered into a contract providing otherwise. Provided, however, the provisions of this section shall not apply to Osage County.

B. Within twelve (12) months after the completion of a producing well, the operator shall fill all the pits for containing muds, cuttings, salt water or oil that are not needed for production purposes or are not required by state or federal law or regulation and shall remove all concrete bases, drilling supplies and drilling equipment and all other equipment not necessary for producing said well, excluding guy line anchors. Within such period, the operator shall grade or terrace the land surface within the area disturbed in siting, drilling, completing and producing the well which land is not required in production of the well.

C. Within twelve (12) months after a well that has produced oil or gas is plugged or after the plugging of a dry hole, the operator shall remove all production and storage structures, supplies and equipment and any oil, salt water and debris and fill any remaining excavations. Within such period, the operator shall grade or terrace the area disturbed.

D. The operator shall be released from responsibility to perform any or all requirements of this section on any part or all of the area disturbed upon the filing of a request for a waiver with and obtaining the written approval of the Commission, which request shall

be signed by the surface owner to certify the approval of the surface owner of the release sought. The Commission shall approve such requests unless it finds upon inspection that the waiver would be likely to result in substantial damage to adjoining property, substantial contamination of surface or underground water or substantial erosion or sedimentation. If the Commission refuses to approve a request for waiver, it shall do so by order.

E. This act shall also apply to the operators of a secondary or enhanced oil recovery unit that is or has been operated under a plan of unitization approved by order of the Oklahoma Corporation Commission and established by a proper certificate of effectiveness. Nothing herein contained shall be construed to repeal the statutes governing the establishment and operation of such secondary or enhanced recovery unit.

F. The Commission may, upon written application by an operator showing reasonable cause, extend the period within which restoration shall be completed, but not to exceed a further six-month period, except under extraordinarily adverse weather conditions or when essential equipment, fuel or labor is unavailable to the operator. If the Commission refuses to approve a request for waiver or extension, it shall do so by order.

G. The provisions of this section shall also apply to the drilling of or conversion to a saltwater disposal or injection well and to any operation in connection with reentering or reworking any oil and gas well or saltwater injection or disposal well.
Amended by Laws 1982, c. 205, § 2, emerg. eff. April 27, 1982.

§17-53.3. Abandoned oil and gas well-site equipment - State lien.

A. The State of Oklahoma shall have a lien upon any abandoned oil and gas well-site equipment situated upon a lease site, including but not limited to production and storage structures, along with their contents, in an amount equal to the cost of plugging all wells associated with said lease and restoring the site. The lien created by this act shall attach only to abandoned oil and gas well-site equipment located on or affixed to an oil or gas well which has been or is required to be plugged, replugged or repaired by rules of the Commission.

B. Well-site equipment is presumed abandoned if:

1. For longer than one (1) year, the well has shown no activity in terms of production, injection, disposal or testing, and has not otherwise been maintained in compliance with plugging rules; and

2. a. the last operator of record is without valid surety as required by Section 318.1 of Title 52 of the Oklahoma Statutes and cannot be located by the Corporation Commission after diligent search, or

b. the last operator of record has plugging liability in excess of the amount of such operator's surety as filed with the Corporation Commission.

The presumption of abandonment shall apply only for purposes of the lien created herein and shall have no effect upon the term, duration, or continued existence of any property or contract right in the premises.

C. The lien created by this section shall be perfected against the equipment when notice of the lien is filed in the office of the county clerk of the county or counties where the equipment is situated. Upon receipt, the county clerk shall record the notice in the tract index and in the mechanic's lien journal. The notice shall contain a description of each item upon which a lien is claimed, and a legal description of the site upon which the equipment is situated.

D. The lien provided for in this section shall be subject to all prior perfected liens.

E. The lien created by this section shall be assignable by the Corporation Commission.

For purposes of this act the term "abandoned well" shall mean those wells that are described and listed in a report published by the Corporation Commission identifying oil or gas wells which have been determined to be abandoned or orphaned by the Corporation Commission as a result of bankruptcy, inability to find the owner, or for other reasons.

Added by Laws 1992, c. 362, § 1, emerg. eff. June 4, 1992. Amended by Laws 1995, c. 328, § 3, eff. July 1, 1995.

§17-54. Definitions.

As used in this act:

1. "Frac tank" means any portable or stationary, high volume holding vessel designed and constructed for use in separating, storing or temporarily holding materials used in or resulting from fracturing techniques in oil and gas exploration;

2. "Fracturing" means any processes, chemicals or other materials used to enhance an oil and gas well recovery operation;

3. "Manway" means any opening on a frac tank allowing a person ingress into or egress from the interior of the vessel; and

4. "Unprotected" means a manway without grates, bars or other means of halting unexpected ingress into or egress from the interior of the vessel.

Laws 1981, c. 153, § 1.

§17-55. Use of frac tanks with unprotected manways prohibited.

No employer in this state shall use any frac tanks with unprotected manways into which a person could fall.

Laws 1981, c. 153, § 2.

§17-56. Inspections - Devices complying with act - Injunctions.

The Oklahoma Corporation Commission shall make periodic inspections to insure compliance with the provisions of this act. Any device which will halt unexpected ingress or egress from the interior of a frac tank shall be deemed to comply with this act. The Corporation Commission may institute, in the name of the State of Oklahoma, upon the relation of the Commission, any necessary action or proceeding to enjoin such persons, firm, association or corporation from continuing operations until such time when there exists compliance with the provisions of this act, and in all proper cases injunction shall be issued without a bond being required from the state.

Laws 1981, c. 153, § 3.

§17-57. Oil and Gas Division Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Corporation Commission, to be designated the "Oil and Gas Division Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies designated for deposit to said fund. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and shall be expended by the Corporation Commission for the purposes of expeditious prevention and abatement of oil and gas pollution, the protection of correlative rights and the prevention of waste. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. No money shall be transferred or expended by the Corporation Commission for any other purpose than that authorized by this section.

Added by Laws 1992, c. 398, § 21, emerg. eff. June 12, 1992. Amended by Laws 1992, c. 401, § 2, eff. July 1, 1992; Laws 2012, c. 304, § 57.

§17-61. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-62. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-63. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-71. Passenger rate regulation - Power conferred upon commission.

The Corporation Commission shall have the power and authority to prescribe and enforce against any railroad or transportation company, operated in whole or in part within this state, such rates and charges for the transportation of passengers between points within this state as may be found to be reasonable and just after due notice

and hearing, as now provided by the Constitution for prescribing freight rates and regulations.
Laws 1913, c. 130, p. 286, § 1.

§17-72. Effect of act - Amendment of Constitution - Vested rights.
This act shall have the effect of amending Section 37, Article IX of the Constitution prescribing and fixing passenger rates at two cents ($0.02) per mile, by conferring upon the Corporation Commission the power to promulgate and fix other than two cents ($0.02) per mile for passenger fare upon railroads and transportation companies within the state, after due notice and hearing; provided, that any orders issued by the Corporation Commission hereunder shall not have the effect of interfering with any right vested and accrued under the existing law.
Laws 1913, c. 130, p. 286, § 2.

§17-73. Right of appeal.
From any action of the Commission prescribing rates and charges for the transportation of passengers between points within this state, any party aggrieved may appeal to the Supreme Court in the manner now provided by law for appealing cases from the Corporation Commission to the Supreme Court.
Laws 1913, c. 130, p. 287, § 3.

§17-74. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-81. Jurisdiction of Corporation Commission over crossings.
The Corporation Commission is given full jurisdiction over all public highway crossings, where same cross steam or electric railroads or railways within the State of Oklahoma.
Added by Laws 1919, c. 53, p. 88, § 1.

§17-82. Expense of crossings.
The expense of construction and the maintenance of public highway grade crossings shall be borne by the railroad or railway company involved. For overgrade or undergrade public highway crossings over or under steam or electric railroad or railway, the assignment of cost and maintenance shall be left to the discretion of the Corporation Commission; but in no event shall the city, town or municipality be assessed with more than fifty percent (50%) of the actual costs of such overgrade or undergrade crossings.
Laws 1919, c. 53, p. 88, § 2.

§17-83. Procedure before Commission - Appeals.
In all actions arising before the Corporation Commission the same rules as to procedure, notice of hearing and trial, and as to appeals to the Supreme Court, shall be applicable as are prescribed for said

Commission, as to transportation companies generally; and the same rules applicable to the enforcement of other orders of the Corporation Commission as to transportation companies shall be applicable to the enforcement of any order or orders made hereunder. Added by Laws 1919, c. 53, p. 88, § 3.

§17-84. Location and kind of crossing.

The Corporation Commission shall have exclusive jurisdiction to determine and prescribe the particular location of highway crossings, for steam or electric railways, the protection required, to order the removal of all obstructions as to view of such crossings, to alter or abolish any such crossings, and to require, where practicable, a separation of grade at any such crossing, heretofore or hereafter established.
Laws 1919, c. 53 p. 88, § 4.

§17-85. Partial invalidity.

The invalidity of any section, subdivision, clause or sentence of this act shall not in any manner affect the validity of the remaining portions thereof.
Laws 1919, c. 53, p. 88, § 5.

§17-86. Extra hazardous crossings - Protective devices - Costs.

The Oklahoma Corporation Commission shall have the authority, after having made proper investigations, to designate those grade crossings which are extra hazardous. At all such crossings so designated, the Commission shall have the authority to order the installation of appropriate protective devices. All such installations to be performed by the railroad. The Commission shall have the authority to determine the number, type, and location of such signs, signals, gates or other protective devices, which, however, shall conform as near as may be with generally-recognized national standards, and said Commission shall have authority to prescribe the division of the cost of the installation of such signs, signals, gates or other protective devices between the public utility and the state or its political subdivisions; provided, however, that the cost to the utility shall be not less than ten percent (10%) or more than twenty-five percent (25%) of the total costs. The railroads shall be responsible for all subsequent maintenance and cost thereof. Provided, however, that the results of investigation or investigations, findings, determinations, or orders of the Corporation Commission shall not be admissible in any civil action.
Laws 1965, c. 388, § 1, emerg. eff. June 30, 1965.

§17-87. Payment of state costs.

All such division of costs that become an obligation of the state shall be paid from funds accruing to the credit of the State Highway

Construction and Maintenance Fund under 68 O.S.1963, Supp., § 5-504(b), and all such division of costs that become an obligation of a municipal corporation or other political subdivision of the state shall be paid from the funds accruing to the various counties of the state under 68 O.S.1963 Supp., § 5-504(d).
Added by Laws 1965, c. 388, § 2, emerg. eff. June 30, 1965.

§17-91. Power of Corporation Commission respecting fences.

Where application is made to the Corporation Commission for fence or repairs to fence along a railroad or railway right-of-way by a landowner whose property adjoins said right-of-way, the Corporation Commission is hereby vested with power to enforce the installation of such fence or its repairs.
Laws 1919, c. 54, p. 89, § 1.

§17-92. Procedure - Appeals.

In all actions arising before the Corporation Commission, the same rules as to procedure, notice of hearing and trial, and as to appeals to the Supreme Court, shall be applicable as are prescribed for said Commission as to transportation companies generally and the same rules applicable to the enforcement of other orders of the Corporation Commission, as to transportation companies shall be applicable to the enforcement of any order or orders made hereunder.
Added by Laws 1919, c. 54, p. 89, § 2, emerg. eff. April 2, 1919.

§17-101. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-102. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-103. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-104. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-105.1. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-105.2. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-105.3. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-105.4. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-105.5. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-111. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-112. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-113. Repealed by Laws 1997, c. 29, § 3, eff. Nov. 1, 1997.

§17-115. Rules and regulations relating to safety, sanitation and shelter.

The Oklahoma State Corporation Commission is hereby authorized to promulgate and enforce reasonable rules and regulations relating to safety, sanitation and adequate shelter as affecting the welfare and health of railroad trainmen, enginemen, yardmen, signal men, maintenance of way employees, highway crossing watchmen, and clerical employees of railroads.
Laws 1963, c. 186, § 1, emerg. eff. June 10, 1963.

§17-116.1. Definitions.

As used in this act, unless the context requires otherwise:

(1) "Commission" means the Oklahoma Corporation Commission.

(2) "Common carrier by rail" means a railroad company operating any part of its system within this state.

(3) "Motor vehicle" means any vehicle which is self-propelled.

(4) "Owner" means any person having the lawful use or control of a motor vehicle as holder of the legal title of the motor vehicle or under contract or lease or otherwise.

(5) "Place of employment" means that location where one or more workers are actually performing the labor incident to their employment.

(6) "Worker" means an individual employed for any period in any work for which he is compensated, whether full or part time.
Laws 1965, c. 385, § 1, emerg. eff. June 30, 1965.

§17-116.2. Railroad company motor vehicles used to transport workers - Safe condition and operation.

Every motor vehicle provided by a railroad company and used to transport one or more workers to and from their places of employment or during the course of their employment shall be maintained in a safe condition and operated in a safe manner at all times, whether or not used upon a public highway.
Laws 1965, c. 385, § 2, emerg. eff. June 30, 1965.

§17-116.3. Rules and regulations establishing minimum standards.

The Commission shall make and enforce reasonable rules and regulations relating to motor vehicles used to transport workers to and from their places of employment or during the course of their employment. These rules and regulations shall establish minimum standards:

(1) For the construction and mechanical equipment of a motor vehicle, including its coupling devices, lighting devices and reflectors, motor exhaust system, rear-vision mirrors, service and

parking brakes, steering mechanism, tires, warning and signaling devices and windshield wipers.

(2) For the transportation of gasoline and explosives.

(3) For the safety of passengers in a motor vehicle, including emergency exits, fire extinguishers, first-aid kits, means of ingress and egress, side walls and a tailgate or other means of retaining freight and passengers within the motor vehicle.

Laws 1965, c. 385, § 3, emerg. eff. June 30, 1965.

§17-116.4. Hearings - Suggestions.

Before formulating such rules and regulations, the Commission shall conduct hearings and invite the participation of interested groups. These groups may make suggestions relating to the minimum standards to be embodied in the rules and regulations. The Commission shall consider the suggestions prior to the issuance of any rules and regulations.

Laws 1965, c. 385, § 4, emerg. eff. June 30, 1965.

§17-116.5. Amendment of rules and regulations.

The Commission may amend the rules and regulations at any time upon its own motion or upon complaint by any individual or group, in the same manner as it adopts other rules and regulations.

Added by Laws 1965, c. 385, § 5, emerg. eff. June 30, 1965.

§17-116.6. Inspections.

The Commission may, in enforcing the rules and regulations, inspect any motor vehicle used to transport workers to and from their places of employment or during the course of their employment. Upon request, the Highway Patrol shall assist the Commission in these inspections.

Laws 1965, c. 385, § 6, emerg. eff. June 30, 1965.

§17-116.7. Orders of commission.

Whenever the Commission finds that a motor vehicle used to transport workers to and from their places of employment or during the course of their employment violates any provision of the rules and regulations or any amendment thereto, the Commission shall make, enter and serve upon the owner of the motor vehicle such order as may be necessary to protect the safety of workers transported in the motor vehicle. The Commission may direct in the order, as a condition to the continued use of the motor vehicle for transporting workers to and from their places of employment or during the course of their employment, that such additions, repairs, improvements or changes be made and such safety devices and safeguards be furnished and used as are reasonably required to satisfy the requirements of the rules and regulations, in the manner and within the time specified in the order. The order may also require that any driver

of the motor vehicle satisfy the minimum standards for a driver under the rules and regulations.
Laws 1965, c. 385, § 7, emerg. eff. June 30, 1965.

§17-116.8. Enforcement.
The Commission shall have jurisdiction to enforce rules and regulations promulgated under this act relating to motor vehicles used to transport railroad workers to and from their place of employment or during the course of their employment.
Laws 1965, c. 385, § 8, emerg. eff. June 30, 1965.

§17-116.9. Penalties.
Violation by the owner of a motor vehicle of any rule or regulation or any amendment thereto promulgated pursuant to this act or any order issued by the commission under Section 7 of this act, or willful failure to comply with such an order, is a misdemeanor, and upon conviction thereof, the owner shall be punished by confinement in the county jail for not more than one (1) year, or to pay a fine not exceeding Five Hundred Dollars ($500.00) or by both such confinement and fine.
Laws 1965, c. 385, § 9, emerg. eff. June 30, 1965.

§17-121. Commission has power of court of record regarding refunds.
The Corporation Commission is hereby vested with the power of a court of record to determine: First, the amount of refund due and any interest owing upon such refund in all cases where any public service corporation, person, or firm, as defined by the Constitution, charges an amount for any service rendered by such public service corporation, person, or firm, in excess of the lawful rate in force at the time such charge was made, or may thereafter be declared to be the legal rate which should have been applied to the service rendered if no legal rate was in force at the time such charge was made; and, second, to whom the overcharge should be paid.
Laws 1913, c. 10, p. 10, § 1; Laws 1991, c. 332, § 1, eff. July 1, 1991.

§17-122. Judgment for overcharge - Lien - Collection.
Upon ascertaining the amount of overcharge due from any public service corporation, person or firm, the Corporation Commission shall have authority to render judgment against such public service corporation, person, or firm, for the amount of such overcharge that may have been collected from the public in violation of any legal rate, or order of the Dommission, if necessary to insure the prompt payment of the same to the Commission. Such judgment shall be a lien upon the property of the public service corporation, person, or firm, and shall be collected in the same manner that fines and penalties imposed by the Corporation Commission are now authorized to be

collected by law, and, when collected, shall be paid immediately by the Commission to the parties to whom it is due.
Laws 1913, c. 10, p. 10, § 2.

§17-123. Appealed orders - Additional judgment for expenses of commission.

In all cases where an order fixing rates to be charged by any public service corporation, person or firm, has been appealed from and a supersedeas issued, the Corporation Commission, in making all orders requiring a refund of overcharges during the time the rates or charges were suspended, shall require such public service corporation, person, or firm, to pay, in addition to such refund, all expenses incurred by the Corporation Commission in checking such refund, determinating to whom the same belongs, and in delivering the same to the party lawfully entitled thereto.
Laws 1913, c. 10, p. 11, § 3.

§17-124. Appeal regarding refunds.

Any party in interest shall have a right to appeal from any action of the Commission to determine the amount of refund due, or to whom such refund shall be made, or from any order or judgment rendered by the Commission pertaining to the subject matter set forth in any of the above sections of this act, in the same manner as appeals are now taken from the Corporation Commission to the Supreme Court.
Laws 1913, c. 10, p. 11, § 4.

§17-125. Unclaimed refunds - Administrations.

All refunds not paid out by the Commission, or unclaimed, shall be administered in accordance with the Uniform Unclaimed Property Act (1981).
Laws 1913, c. 10, p. 11, § 5; Laws 1991, c. 331, § 48, eff. Sept. 1, 1991.

§17-131. Certificate of convenience and necessity – Notice by new providers – Availability of emergency telephone services - Fines.

A. No person, firm, association, corporation or cooperative shall provide telecommunications services, as defined by the rules of the Corporation Commission, to any end-user in this state without having first obtained from the Corporation Commission a Certificate of Convenience and Necessity. This section shall not be construed to require any incumbent exchange carrier to secure such a certificate for any extension within or to any territory already served by it or for any extension into a territory contiguous to a territory already served by it on which it has heretofore filed with the Commission an exchange area map showing the territory professed to be served by such incumbent exchange carrier.

B. Prior to obtaining a Certificate of Convenience and Necessity, each provider of telecommunications services, as defined by the rules of the Commission, making application for such Certificate shall be required to demonstrate its financial, managerial, and technical ability to provide the requested telecommunications services in this state. Before commencing to provide local exchange telecommunications services in any service area, a new provider shall give notice by mail or personal service to each regional council, as defined in the Local and Regional Capital Improvement Planning Process Act, in whose district any portion of the provider's intended service area lies and provide actual notice by mail or personal service to all political subdivisions with jurisdictional boundaries that include all or portions of the service area outlined in the application for the Certificate of Convenience and Necessity. The notice shall confirm that the provider is a local exchange telephone company as defined in the Nine-One-One Emergency Number Act, and shall attest that the provider shall make emergency telephone services available to its customers in accordance with the Nine-One-One Emergency Number Act. The new provider shall also forward a copy of the notice to the Corporation Commission. The regional council shall, within fifteen (15) days of receipt of the notice, forward the notice by mail to the chief executive officer of every governing body located in the regional council district that has responsibility for operation of an emergency telephone system serving any part of the provider's intended service area.

C. Any corporation, firm, or person who fails to provide notice as required pursuant to the provisions of subsection B of this section may be fined by the Commission a sum of up to Five Hundred Dollars ($500.00) as the Commission may deem proper after notice and opportunity for hearing. Each day's continuance of such violation, after due service upon such corporation, firm, or person, of the requirement shall be a separate offense.

Added by Laws 1917, c. 270, p. 490, § 1, emerg. eff. March 29, 1917. Amended by Laws 1957, p. 88, § 1; Laws 1959, p. 85, § 1, emerg. eff. June 22, 1959; Laws 1993, c. 365, § 1, emerg. eff. June 11, 1993; Laws 1996, c. 331, § 1, emerg. eff. June 12, 1996; Laws 2000, c. 207, § 1, eff. Nov. 1, 2000; Laws 2001, c. 30, § 1, eff. July 1, 2001; Laws 2019, c. 132, § 1, eff. Nov. 1, 2019.

§17-132. Application for certificate - Notice.

The application for a Certificate of Convenience and Necessity pursuant to Section 131 of this title shall be under such rules as the Corporation Commission may, from time to time, prescribe. Upon receipt of any such application for such certificate, the Commission shall cause notice thereof to be published once a week for two (2) consecutive weeks in some newspaper of general circulation in each territory affected, and provide actual notice by mail or personal

service to all political subdivisions with jurisdictional boundaries that include all or portions of the service area outlined in the application for the Certificate of Convenience and Necessity.
Added by Laws 1917, c. 270, p. 491, § 2, emerg. eff. March 29, 1917. Amended by Laws 1957, p. 88, § 2; Laws 1996, c. 331, § 2, emerg. eff. June 12, 1996; Laws 2019, c. 132, § 2, eff. Nov. 1, 2019.

§17-133. Grant or refusal of certificate - Protests.
The Commission shall have power to issue said certificate as prayed for or to refuse to issue the same or to issue it for the construction, operation or acquisition of a portion only of the contemplated territory. No certificate shall be issued until the expiration of thirty (30) days from the date of the first publication of notice, nor shall any certificate be issued without hearing unless no protest is filed to the granting of the certificate by any interested party within such thirty-day period. In the event such protest is filed, then the Commission shall set the matter for public hearing; however, in the event no protest is filed the Commission may, at its discretion, forthwith issue the certificate as prayed for or set the matter for public hearing on its own motion.
Laws 1917, c. 270, p. 491, § 3; Laws 1957, p. 88, § 3.

§17-134. Repair, maintenance or reconstruction - Injury to or interference with shade trees.
Nothing in this act shall prevent the repair, maintenance or reconstruction of existing telephone properties, or the addition of necessary circuits to existing lines, to accomodate increase in business of the same character. Provided that it is hereby declared unlawful for any telephone company in building, repairing or maintaining any telephone line to cut down, trim, disturb or injure any shade tree on any public road or highway, or on any parkage on any street in any city or town, without first obtaining the consent of the abutting property owner so to do, and in the maintenance of telephone line it is hereby declared unlawful for any telephone company to construct their lines so that the wires or cables shall injure any such shade trees on such road or highway or on any parkage within any city or town.
Laws 1917, c. 270, p. 492, § 5.

§17-136. Extension of telephone service to open territories - Petition - Notice and hearing.
Upon the petition of any citizens residing in territory which is open territory, requesting telephone service from an adjacent telephone exchange, the Commission may cause the same to be set for hearing and give due and proper notice in writing, at least ten (10) days prior to the date of hearing, to all persons, firms or corporations holding certificates to furnish service in adjacent

territory or furnishing service in adjacent territory and to the municipal officials of all municipalities in said affected territories, and by publication for one (1) week in a newspaper of general circulation in the territory affected. If, at such hearing, the Commission finds from competent evidence that the public convenience and necessity requires the furnishing of telephone service in the affected territory, it shall have the further power to order and direct the person, firm, association, corporation or cooperative which can most economically extend its service so as to furnish efficient telephone service in the affected territory to so extend its service, provided that it shall not make an order so requiring unless it finds, from substantial evidence, that the person, firm or corporation so ordered to serve is earning a fair return on the fair value of its property devoted by it to the public service in this state and that the rendition of service in the affected territory will not prevent the person, firm or corporation so ordered to serve from earning a fair return on the fair value of its property devoted to the public service in this state.
Laws 1959, p. 85, § 2.

§17-137. Rates - Telephone companies not subject to local exchange rate regulation.

A. Except as otherwise hereafter provided, any proceeding under Section 136 of this title and in any other proceeding to regulate the rates of a telephone utility subject to the jurisdiction of the Corporation Commission, said Commission shall prescribe and enforce rates to provide a fair return on the fair value of the property devoted to public service in this state.

B. Telephone companies which serve less than fifteen thousand (15,000) subscribers within the state and telephone cooperatives shall not be subject to local exchange rate regulation by the Corporation Commission unless:

1. The company elects by action of its board of directors to be subject to such local exchange rate regulation by the Commission;

2. The proposed local exchange rate increase exceeds Two Dollars ($2.00) per access line per month in any one (1) year;

3. Fifteen percent (15%) of the subscribers petition the Commission to regulate local exchange rates pursuant to subsections, D, E and F of this section; or

4. The Commission declares that the company shall be subject to local exchange rate regulation by the Commission pursuant to subsection G of this section.

C. Each telephone company, which serves more than five percent (5%) but less than fifteen percent (15%) of the subscribers of telephone service within the state, that increases its local exchange rates in accordance with this section shall invest an amount equivalent to the annual revenues produced from such rate increase to

upgrade its facilities used for the provision of services to subscribers served within the exchange from which revenues from such rate increase are generated.

D. Each such telephone company not subject to local exchange rate regulations, at least sixty (60) days before the effective date of any proposed rate change, shall notify the Commission and each of the subscribers of such company of the proposed local exchange rate change. Notice to the Commission shall include a list of the published subscribers of such company. Notice by the company to all subscribers shall:

1. Be in a form prescribed by the Commission;

2. Be by regular mail and may be included in regular subscriber billings; and

3. Include a schedule of the proposed local exchange rates, the effective date of the said rates, and the procedure necessary for the subscribers to petition the Commission to examine and determine the reasonableness of the proposed rates. If the telephone directory published by the company for its subscribers sets forth the procedure for petitioning the Commission, a reference to the location in the directory shall be adequate notice of the procedure.

E. The subscribers of a telephone company not subject to the Commission's local exchange rate regulation may petition the Commission to examine and determine the reasonableness of the local exchange rate change proposed by the company pursuant to subsection C of this section. The Commission shall adopt and promulgate rules and regulations governing the form of such petitions. A petition substantially in compliance with such rules and regulations shall not be deemed invalid due to minor errors in its form.

F. If, by the effective date of the proposed local exchange rate change, the Commission has received petitions from fewer than fifteen percent (15%) of the subscribers requesting that the Commission examine the proposed local exchange rate change, the Commission shall immediately certify such fact to the company and the proposed local exchange rates shall become effective as published in the notice to subscribers. If, on or before the effective date of the proposed local exchange rate change, the Commission has received petitions from fifteen percent (15%) or more of the subscribers requesting that the Commission examine and determine the reasonableness of the proposed local exchange rates, the Commission shall notify the company that it will examine and determine the reasonableness of the proposed local exchange rate change. Local exchange rates and charges established by the Commission or by a telephone company pursuant to this subsection and subsection D of this section shall be in force for not less than one (1) year.

G. In addition to the procedure for petition prior to any proposed local exchange rate change pursuant to subsections D through F of this section, the subscribers of a telephone company not subject

to the Commission's local exchange rate regulation may at any time petition the Commission to declare the company be subject to such rate regulation. If the Commission determines that at least fifty-one percent (51%) of the subscribers of a company have properly petitioned that the company be subject to the Commission's rate regulation, the Commission shall certify such fact to the company and thereafter the company shall be subject to rate regulation by the Commission until at least fifty-one percent (51%) of the subscribers of the company properly petition that the company no longer shall be subject to the Commission's local exchange rate regulation. The Commission shall adopt and promulgate rules and regulations governing the petition procedure and the form of such petitions and a petition substantially in compliance with such rules and regulations shall not be deemed invalid due to minor errors in its form.

H. Subsections A through G of this section apply only to local exchange rates and charges and shall have no effect on the Oklahoma Corporation Commission's jurisdiction over, and regulation of, intrastate toll and access rates and charges.

I. The Commission shall have the right to investigate and determine the reasonableness of the increase in local exchange rates and charges of each telephone company or cooperative not subject to local exchange rate regulation within one (1) year of the time local exchange rates or charges are increased. If the Commission determines such rate or charge increases are unreasonable, the Commission shall have the authority to order a rate hearing and, after such hearing, shall have the authority to rescind all or any portion of the increases found to be unreasonable.

J. When any telephone utility subject to the jurisdiction of the Corporation Commission shall file with the Commission a request for review of its rates and charges, such request shall be conducted in accordance with the provisions of subsection B of Section 152 of this title.

K. It is the intention of the Legislature that this entire section is an amendment to, and alteration of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35, Article IX of said Constitution.

Added by Laws 1959, p. 86, § 3, emerg. eff. June 22, 1959. Amended by Laws 1986, c. 97, § 1, eff. Jan. 1, 1987; Laws 1993, c. 365, § 2, emerg. eff. June 11, 1993; Laws 1994, c. 315, § 18, eff. July 1, 1994; Laws 2004, c. 240, § 1, emerg. eff. May 5, 2004.

§17-137.1. Repealed by Laws 1997, c. 408, § 12, eff. July 1, 1997.

§17-137.2. Repealed by Laws 1996, c. 331, § 6, emerg. eff. June 12, 1996.

§17-137.3. Universal service fee.

The Corporation Commission may, after notice and hearing, assess a universal service fee upon all contributing providers as defined in Section 139.102 of this title to support state and federal universal service objectives.

Added by Laws 1996, c. 331, § 3, emerg. eff. June 12, 1996. Amended by Laws 2016, c. 270, § 1, emerg. eff. May 9, 2016.

§17-138. Enforcement.

In addition to the power to punish for contempt already vested in the Commission, it shall have the power to vacate and declare open any and all territory of any telephone utility which refuses to extend service which might be ordered under Section 2 of this act.

Laws 1959, p. 86, § 4.

§17-139.1. Coin-activated and credit card-activated telephones - Operating requirements.

The Corporation Commission shall, by rule or order, promulgate and enforce operating requirements for coin-activated and credit card-activated telephones available for public use owned or operated by corporations or persons other than telephone corporations authorized by the Commission to operate within service areas. These requirements shall include, but are not limited to a requirement that every telephone permit a caller to be connected with the operator personnel of any telephone corporation authorized by the Commission to operate within a service area through the Commission authorized access method chosen by the operator service provider with exception of those coin operated or credit card-activated telephones made available to inmates at state, federal, local and county jails and correctional facilities.

Added by Laws 1990, c. 285, § 1, operative July 1, 1990.

§17-139.2. Operator-assisted services - Operating requirements - Inclusion of law in directories of subscribers.

A. The Corporation Commission shall, by rule or order, promulgate and enforce operating requirements for every corporation or person, other than a telephone corporation authorized by the Commission to operate within a service area, which, for a charge, furnishes operator-assisted services. These requirements shall include, but not be limited to:

1. A requirement that furnishing these operator-assisted services for telephone calls within a service area is prohibited unless the Commission, after instituting a proceeding for the purpose, finds and determines that to permit these operator-assisted services is in the public interest; provided, state, federal, local and county jails and correctional facilities may utilize operator-

assisted services in conjunction with collect call only telephones, if intended for exclusive use by prisoners;

2. A requirement that the charges for these operator-assisted services be disclosed to users of the services upon request; and

3. The provider of operator services, upon accessing a call, shall audibly and distinctly identify the company to the user of any telephone before any charges are incurred and shall permit the consumer to terminate the telephone call at no charge.

B. The Commission shall require every telephone corporation which publishes a directory of subscribers to include in that directory information comprising the substance of this section and the rules and orders of the Commission promulgated pursuant to this section.

Added by Laws 1990, c. 285, § 2, operative July 1, 1990.

§17-139.101. Short title - Oklahoma Telecommunications Act of 1997.

This act shall be known and may be cited as the "Oklahoma Telecommunications Act of 1997".

Added by Laws 1997, c. 408, § 1, eff. July 1, 1997. Amended by Laws 2002, c. 80, § 1, eff. July 1, 2002; Laws 2016, c. 270, § 2, emerg. eff. May 9, 2016.

§17-139.102. Definitions.

As used in the Oklahoma Telecommunications Act of 1997:

1. "Access line" means the facilities provided and maintained by a telecommunications service provider which permit access to or from the public switched network or its functional equivalent regardless of the technology or medium used;

2. "Administrative process" means an administrative application process which allows eligible local exchange telecommunications providers and eligible providers to request funding and an administrative submission process that allows Oklahoma Universal Service Fund Beneficiaries to submit a preapproval request directly with the Administrator. Both of the administrative processes shall not require an order from the Commission to determine eligibility for, allocate or disburse funds unless a request for reconsideration is filed;

3. "Administrator" means the Director of the Public Utility Division of the Corporation Commission;

4. "Commission" means the Corporation Commission of this state;

5. "Competitive local exchange carrier" or "CLEC" means, with respect to an area or exchange, a telecommunications service provider that is certificated by the Commission to provide local exchange services in that area or exchange within the state after July 1, 1995;

6. "Competitively neutral" means not advantaging or favoring one person or technology over another;

7. "Consortium" means, as used in Section 6 of this act, two or more Oklahoma Universal Service Fund Beneficiaries that choose to request support under the Federal Universal Service Support Mechanism or successor program or programs as a single entity;

8. "Contributing providers" means providers, including but not limited to providers of intrastate telecommunications, providers of intrastate telecommunications for a fee on a non-common-carrier basis, providers of wireless telephone service and providers of interconnected Voice over Internet Protocol (VoIP). Contributing providers shall contribute to the Oklahoma Universal Service Fund and Oklahoma Lifeline Fund. VoIP providers shall be assessed only as provided for in the decision of the Federal Communications Commission, FCC 10-185, released November 5, 2010, or such other assessment methodology that is not inconsistent with federal law. Entities exempt from contributing to the Federal Universal Service Support Mechanisms are also exempt from contributing to the Oklahoma Universal Service Fund and Oklahoma Lifeline Fund consistent with 47 C.F.R., Section 54.706(d). The term "contributing providers" may be modified to conform to the definition of contributors as defined by the FCC if adopted by the Commission, after notice and hearing;

9. "Eligible healthcare entity" means a not-for-profit hospital, county health department, city-county health department, not-for-profit mental health and substance abuse facility or Federally Qualified Health Center in Oklahoma. Eligible healthcare entity shall also include telemedicine services provided by the Oklahoma Department of Corrections at facilities identified in Section 509 of Title 57 of the Oklahoma Statutes;

10. "Eligible local exchange telecommunications service provider" means ILEC, CLEC and commercial radio mobile service provider as those terms are used in the Oklahoma Telecommunications Act of 1997;

11. "Eligible provider" means, for purposes of Special Universal Services, providers of telecommunications services which hold a certificate of convenience and necessity and OneNet;

12. "End User Common Line Charge" means the flat-rate monthly interstate access charge required by the Federal Communications Commission that contributes to the cost of local service;

13. "Enhanced service" means a service that is delivered over communications transmission facilities and that uses computer processing applications to:

a. change the content, format, code, or protocol of transmitted information,

b. provide the customer new or restructured information, or

c. involve end-user interaction with information stored in a computer;

14. "Exchange" means a geographic area established by an incumbent local exchange telecommunications provider as filed with or approved by the Commission for the administration of local telecommunications service in a specified area which usually embraces a city, town, or village and its environs and which may consist of one or more central offices together with associated plant used in furnishing telecommunications service in that area;

15. "Facilities" means all the plant and equipment of a telecommunications service provider, including all tangible and intangible real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished, or supplied for, by, or in connection with the business of any telecommunications service provider;

16. "Federally Qualified Health Center" or "(FQHC)" means an entity which:

a. is receiving a grant under Section 330 of the Public Health Service (PHS) Act, 42 U.S.C., Section 254b, or is receiving funding from a grant under a contract with the recipient of such a grant and meets the requirements to receive a grant under Section 330 of the PHS Act,

b. based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary of the Department of Health and Human Services to meet the requirements for receiving a grant as described in subparagraph a of this paragraph,

c. was treated by the Secretary of the Department of Health and Human Services, for purposes of part B of Section 330 of the PHS Act, as a comprehensive federally funded health center as of January 1, 1990, or

d. is an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act, 25 U.S.C., Section 450f et seq., or by an urban Indian organization receiving funds under Title V of the Indian Health Care Improvement Act, 25 U.S.C., Section 1651 et seq.;

17. "Federal Universal Service Support Mechanism" is the support program established by the Telecommunications Act of 1996, 47 U.S.C., Section 254(h). The program includes support for schools, libraries and healthcare providers;

18. "Funding year" means, for purposes of administering the Oklahoma Universal Service Fund, the period of July 1 through June 30;

19. "High speed Internet access service" or "broadband service" means, as used in Section 139.110 of this title, those services and underlying facilities that provide upstream, from customer to provider, or downstream, from provider to customer, transmission to or from the Internet in excess of one hundred fifty (150) kilobits per second, regardless of the technology or medium used including, but not limited to, wireless, copper wire, fiber optic cable, or coaxial cable, to provide such service;

20. "Hospital" means a healthcare entity that has been granted a license as a hospital by the Oklahoma Department of Health for that particular location;

21. "Incumbent local exchange telecommunications service provider" or "ILEC" means, with respect to an area or exchanges, any telecommunications service provider furnishing local exchange service in such area or exchanges within this state on July 1, 1995, pursuant to a certificate of convenience and necessity or grandfathered authority;

22. "Installation charge" means any charge for a nonrecurring service charged by an eligible provider necessary to initiate Special Universal Services. Installation charges may not exceed the cost which would be charged for installation, if the cost were not being paid for by the OUSF;

23. "Interexchange telecommunications carrier" or "IXC" means any person, firm, partnership, corporation or other entity, except an incumbent local exchange telecommunications service provider, engaged in furnishing regulated interexchange telecommunications services under the jurisdiction of the Commission;

24. "Internet" means the international research-oriented network comprised of business, government, academic and other networks;

25. "Local exchange telecommunications service" means a regulated switched or dedicated telecommunications service which originates and terminates within an exchange or an exchange service territory. Local exchange telecommunications service may be terminated by a telecommunications service provider other than the telecommunications service provider on whose network the call originated. The local exchange service territory defined in the originating provider's tariff shall determine whether the call is local exchange service;

26. "Local exchange telecommunications service provider" means a company holding a certificate of convenience and necessity from the Commission to provide local exchange telecommunications service;

27. "Not-for-profit hospital" means:

a. a hospital located in this state which has been licensed as a hospital at that location pursuant to Section 1-701 et seq. of Title 63 of the Oklahoma Statutes for the diagnosis, treatment, or care of patients in order to obtain medical care, surgical care

or obstetrical care and which is established as exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or

b. a hospital located in this state which is licensed as a hospital at that location pursuant to Section 1-701 et seq. of Title 63 of the Oklahoma Statutes and is owned by a municipality, county, the state or a public trust for the diagnosis, treatment, or care of patients in order to obtain medical care, surgical care, or obstetrical care;

28. "Not-for-profit mental health and substance abuse facility" means a facility, not for the sole purpose of administration, which is operated by the Department of Mental Health and Substance Abuse Services or a facility certified by the Department of Mental Health and Substance Abuse Services as a Community Mental Health Care Center, a Community-Based Structured Crisis Center or a Community Comprehensive Addiction Recovery Center;

29. "Oklahoma High Cost Fund" means the fund established by the Commission in Cause Nos. PUD 950000117 and 950000119;

30. "Oklahoma Lifeline Fund" or "(OLF)" means the fund established and required to be implemented by the Commission pursuant to Section 139.105 of this title;

31. "Oklahoma Universal Service Fund" or "(OUSF)" means the fund established and required to be implemented by the Commission pursuant to Section 139.106 of this title;

32. "Oklahoma Universal Service Fund Beneficiary" means an entity eligible to receive Special Universal Services support as provided for in subsection A of Section 6 of this act;

33. "Prediscount amount" means the total cost of Special Universal Services, selected pursuant to the procedures set out in subparagraph 5 of subsection B of Section 6 of this act, before charges are reduced by federal or state funding support. The prediscount amount shall not include fees or taxes;

34. "Person" means any individual, partnership, association, corporation, governmental entity, public or private organization of any character, or any other entity;

35. "Primary universal service" means an access line and dial tone provided to the premises of residential or business customers which provides access to other lines for the transmission of two-way switched or dedicated communication in the local calling area without additional, usage-sensitive charges, including:

a. a primary directory listing,

b. dual-tone multifrequency signaling,

c. access to operator services,

d. access to directory assistance services,

e. access to telecommunications relay services for the deaf or hard-of-hearing,

f. access to nine-one-one service where provided by a local governmental authority or multijurisdictional authority, and

g. access to interexchange long distance services;

36. "Public library" means a library or library system that is freely open to all persons under identical conditions and which is supported in whole or in part by public funds. Public library shall not include libraries operated as part of any university, college, school museum, the Oklahoma Historical Society or county law libraries;

37. "Public school" means all free schools supported by public taxation, and shall include grades prekindergarten through twelve and technology center schools that provide vocational and technical instruction for high school students who attend the technology center school on a tuition-free basis. Public school shall not include private schools, home schools or virtual schools;

38. "Regulated telecommunications service" means the offering of telecommunications for a fee directly to the public where the rates for such service are regulated by the Commission. Regulated telecommunications service does not include the provision of nontelecommunications services, including, but not limited to, the printing, distribution, or sale of advertising in telephone directories, maintenance of inside wire, customer premises equipment, and billing and collection service, nor does it include the provision of wireless telephone service, enhanced service, and other unregulated services, including services not under the jurisdiction of the Commission, and services determined by the Commission to be competitive;

39. "Special Universal Services" means the telecommunications services supported by the OUSF which are furnished to public schools, public libraries and eligible health care entities as provided for in Section 6 of this act;

40. "Tariff" means all or any part of the body of rates, tolls, charges, classifications, and terms and conditions of service relating to regulated services offered, the conditions under which offered, and the charges therefor, which have been filed with the Commission and have become effective;

41. "Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received;

42. "Telecommunications carrier" means a person that provides telecommunications service in this state;

43. "Telecommunications service" means the offering of telecommunications for a fee;

44. "Telemedicine service" means the practice of health care delivery, diagnosis, consultation and treatment, including but not

limited to the transfer of medical data or exchange of medical education information by means of audio, video or data communications. Telemedicine service shall not mean a consultation provided by telephone or facsimile machine;

45. "Universal service area" has the same meaning as the term "service area" as defined in 47 U.S.C., Section 214(e)(5);

46. "WAN" means a wide-area network that exists over a large-scale geographical area. A WAN connects different smaller networks, including local area networks and metro area networks, which ensures that computers and users in one location can communicate with computers and users in other locations;

47. "Wire center" means a geographic area normally served by a central office; and

48. "Wireless telephone service" means radio communication service carried on between mobile stations or receivers and land stations and by mobile stations communicating among themselves and which permits a user generally to receive a call that originates or terminates on the public switched network or its functional equivalent regardless of the radio frequencies used.

Added by Laws 1997, c. 408, § 2, eff. July 1, 1997. Amended by Laws 1998, c. 246, § 9, eff. Nov. 1, 1998; Laws 2001, c. 98, § 1, emerg. eff. April 16, 2001; Laws 2002, c. 80, § 2, eff. July 1, 2002; Laws 2014, c. 182, § 1, eff. Nov. 1, 2014; Laws 2014, c. 245, § 1, emerg. eff. May 9, 2014; Laws 2016, c. 270, § 3, emerg. eff. May 9, 2016.

§17-139.103. Commission approval of changes in regulated telecommunications service rates required - Charges for basic local exchange service rates limited - Application and effect of act - Alternative form of regulation - Enforcement of quality of service standards - Jurisdiction over access services and rates.

A. Except as provided as follows, no company shall increase or decrease any regulated telecommunications service rate without approval of the Corporation Commission, consistent with Commission rules. The Commission shall promulgate rules, to be effective no later than January 1, 1999, eliminating any regulatory disparities between the CLECs and ILECs with respect to the process of reviewing and approving tariffs.

B. Unless approved by the Legislature, no local exchange telecommunications service provider may charge a basic local exchange service rate that exceeds a basic local exchange service rate previously approved by the Commission and in effect on March 20, 1997, unless the local exchange telecommunications service provider is regulated under traditional rate base, rate of return regulation. Provided, companies serving less than fifteen percent (15%) of the total access lines in the state or which are subject to subsection B of Section 137 of this title may adjust local exchange rates in the manner provided for in subsection B of Section 137 of this title.

C. Nothing in this act shall be construed as modifying, affecting, or nullifying the responsibilities of the Commission or any telecommunications carrier as required pursuant to the National Labor Relations Act, the Communications Act of 1934 as amended by the Telecommunications Act of 1996, or the provisions relating to refund liability for overcharges pursuant to Section 121 et seq. of this title.

D. Except as otherwise provided for in this subsection, nothing in this act shall be construed as abrogating any rate case settlement agreement approved by the Corporation Commission prior to the effective date of this act. With respect to local exchange telecommunications service providers serving fifteen percent (15%) or more of the access lines in the state:

1. The company shall not request and the Commission shall not approve an increase in basic local exchange service rates before February 5, 2001;

2. The Commission shall not initiate or conduct a traditional rate base, rate of return or earnings proceeding for any such company before February 5, 2001, unless such company proposes and the Commission approves an increase in a service rate that results in an increase in overall revenues of more than five percent (5%) on an annual basis for that company, excluding rate changes made pursuant to subsection E of Section 139.106 of this title and rate changes required or authorized by federal or state law, rules, orders or policies;

3. Notwithstanding any other provision of this act, no later than July 15, 1997, each such company shall submit to the Commission, and the Commission shall approve tariff changes reducing the intrastate access rates of that company by an amount necessary to generate a reduction in the annual intrastate access revenues of that company of Five Million Dollars ($5,000,000.00). The company may seek recovery from the OUSF of only that portion of the annual five-million-dollar revenue reduction taken as directed in this paragraph that exceeds that amount necessary to achieve parity with the interstate access rates of that company in effect on May 30, 1997. Thereafter the Commission shall continue to adjust the intrastate access rates of such company as necessary to keep such rates in parity with the interstate access rates of that company, until the intrastate access revenues of that company have been reduced by a cumulative annual amount of Eleven Million Five Hundred Thousand Dollars ($11,500,000.00), in addition to the five-million-dollar annual reduction taken as directed in this paragraph. The company may seek recovery of all or part of the eleven-million-five-hundred-thousand-dollar annual revenue reduction from the OUSF. If the company seeks recovery from the OUSF of such access revenue reductions described in this paragraph, the Commission shall, after notice and hearing, make a determination of the portion, if any, of

the amounts requested that the company is eligible to receive from the OUSF;

4. No later than July 15, 1997, each such company shall submit to the Commission, and the Commission shall approve revised tariffs amending the terms and conditions provisions of the intrastate access tariffs of that company so that those tariffs are in parity with the terms and conditions provisions of the interstate access tariffs of that company. Thereafter, on an ongoing basis, such company shall maintain the terms and conditions provisions of the intrastate access tariffs of that company so that they are in parity with the terms and conditions provisions of the interstate access tariffs of that company; and

5. All reductions in access rates provided for in paragraph 3 of this subsection shall be flowed through to customers, consistent with the Commission's Order No. 282453, as issued by the Commission in Cause No. 29217.

E. Upon application of a provider of regulated telecommunications services, the Commission may implement an alternative form of regulation other than traditional rate base, rate of return regulation. In determining whether to approve an alternative form of regulation or whether to continue regulation as established in paragraph 2 of subsection D of this section beyond February 5, 2001, the Commission shall consider the compliance of the company with the federal Telecommunications Act of 1996 in opening its network to local competition and implementing the interconnection and access provisions of such act.

F. Nothing in this section shall be construed as restricting any right of a consumer to complain to the Commission regarding quality of service or the authority of the Commission to enforce quality of service standards through the Commission's contempt powers or authority to revoke or rescind a certificate of convenience and necessity if the provider fails to provide adequate service. A certificate shall not be revoked or rescinded without notice, hearing, and a reasonable opportunity to correct any inadequacy.

G. The rules of the Corporation Commission governing quality of service shall apply equally to all local exchange telecommunications service providers.

H. In a manner consistent with the provisions of this act and rules promulgated by the Commission, the Commission shall retain jurisdiction over access services and rates.

Added by Laws 1997, c. 408, § 3, eff. July 1, 1997. Amended by Laws 2004, c. 240, § 2, emerg. eff. May 5, 2004.

§17-139.104. Compensation of Attorney General for enforcement duties - Oversight by Consumer Services Division.

A. For the exercise of duties and performance of responsibilities relating to telecommunications fraud pursuant to the

Oklahoma Consumer Protection Act, Section 751 et seq. of Title 15 of the Oklahoma Statutes, and for representation in telecommunications matters as established in Section 18b of Title 74 of the Oklahoma Statutes, the Attorney General shall receive Two Hundred Fifty Thousand Dollars ($250,000.00) per fiscal year to be paid from the Oklahoma Universal Service Fund established in Section 6 of this act. For the 1998 fiscal year, the total amount of the monies shall be paid to the Attorney General in one payment. For each fiscal year thereafter, the monies shall be paid to the Attorney General in equal monthly payments. All monies shall be deposited in the Attorney General's Revolving Fund created pursuant to Section 20 of Title 74 of the Oklahoma Statutes.

B. In addition to any other duties prescribed by law or by Corporation Commission rules, the Commission, through its Consumer Services Division, shall mediate grievances between consumers and telecommunications carriers and ensure compliance with quality of service standards adopted for local exchange telecommunications service providers and other telecommunications carriers which operate in this state.

Added by Laws 1997, c. 408, § 4, eff. July 1, 1997.

§17-139.105. Credit of End User Common Line Charge for qualifying customers - Oklahoma Lifeline Fund - Documentation.

A. Each local exchange telecommunications service provider who receives funding from the Oklahoma Lifeline Fund shall file tariffs with the Corporation Commission implementing a program to provide a full waiver of the End User Common Line Charge on the monthly basic service rate of qualifying customers. Eligibility criteria for this program shall comply with the provisions of 47 C.F.R., Section 69.104(k)(1) and shall be limited to customers who:

1. Are eligible for or receive assistance or benefits, as certified by the Department of Human Services, under programs providing:
   a. Temporary Assistance to Needy Families,
   b. Food Stamps,
   c. Medical Assistance, or
   d. Supplemental Security Income;

2. Are eligible for or receive assistance or benefits, as certified by the State Department of Rehabilitation Services, under programs providing vocational rehabilitation, including, but not limited to, aid to the deaf or hard-of-hearing; or

3. Are eligible for or receive assistance or benefits, as certified by the Oklahoma Tax Commission, pursuant to the Sales Tax Relief Act.

B. There is hereby created within the Corporation Commission the "Oklahoma Lifeline Fund". The Commission shall administer and maintain the Oklahoma Lifeline Fund to help ensure that low-income

Oklahomans are provided financial assistance in maintaining basic local exchange telecommunications service. Proceeds from the Oklahoma Lifeline Fund shall be distributed to all local exchange telecommunications service providers who are required to file lifeline tariffs.

C. The Oklahoma Lifeline Fund charges shall be levied, collected, and administered pursuant to Section 139.107 of this title. Telecommunications carriers may, at their option, recover from their retail customers who are not eligible for lifeline assistance, on an equitable basis, the amount of the lifeline charges paid by the carrier. The Oklahoma Lifeline Fund charges shall not be subject to state or local taxes or franchise fees.

D. An eligible telecommunications carrier may not receive reimbursements from the Oklahoma Lifeline Fund unless it demonstrates that its rates have been reduced by an amount equal to the amount of the Lifeline payments which have been previously included in the rate structure of the carrier. A carrier shall be eligible for support from the Oklahoma Lifeline Fund for any amount which is greater than the amount which has been previously included in the rate structure of the carrier.

E. After May 16, 2013, an eligible telecommunications carrier shall not receive reimbursements from the Oklahoma Lifeline Fund until it provides documentation in the approved format to the Director of the Public Utility Division of the Corporation Commission confirming its compliance with federal and state guidelines and rules and establishes an ongoing process for providing documentation in the approved format to the Director of the Public Utility Division of the Corporation Commission demonstrating that the eligible telecommunications carrier:

1. Is collecting and maintaining reliable records regarding the verification of initial and continued eligibility for Lifeline services; and

2. Is in compliance with the Corporation Commission and Federal Communications Commission rules and regulations for Lifeline services.

F. In order to satisfy the provisions of paragraph 1 of subsection E of this section, an eligible telecommunications carrier shall obtain in writing the following information from the customer seeking Lifeline service:

1. The customer's name;

2. The last four digits of the customer's social security number or tribal identification number if the customer does not have a social security number;

3. The customer's date of birth; and

4. The customer's billing address.

G. Additionally, an eligible telecommunications carrier seeking reimbursement from the Oklahoma Universal Service Fund for the

provisioning of Lifeline service must obtain a certified statement in writing from the customer at the time Lifeline services are initially requested and on an annual basis thereafter that:

1. The customer seeking Lifeline services participates in one of the programs listed in subsection A of this section;

2. The telephone service location to which the certification applies is the customer's primary residential service address rather than a second home or business;

3. If in the future the customer no longer participates in or qualifies for at least one of the programs listed in subsection A of this section, the customer will notify the eligible telecommunications carrier within thirty (30) days;

4. The telephone service which is being requested is listed in the customer's legal name;

5. The customer is eighteen (18) years of age or older and is not claimed as a dependent on another person's tax return; and

6. The customer's residence will only receive one Lifeline service benefit and, to the best of the customer's knowledge, is not already receiving Lifeline service.

H. If the customer seeking Lifeline service does not have a primary residential address, the eligible telecommunications carrier seeking reimbursement from the Oklahoma Universal Service Fund for the provision of Lifeline service must obtain a certified statement in writing from the customer that the address provided is temporary and that the customer will recertify his or her temporary address every ninety (90) days.

I. In order to obtain reimbursement from the Oklahoma Universal Service Fund, the eligible telecommunications carrier must also obtain a certified statement in writing from the customer, at the time Lifeline services are initially requested and on an annual basis thereafter, that the customer has read, understands and acknowledges the following:

1. The eligible telecommunications carrier or its duly appointed representative has authorization to access any records required to verify the statements made by the customer in order to confirm continued participation in any of the programs listed in subsection A of this section, and authorizes representatives of those programs to discuss with and/or provide copies to the eligible telecommunications carrier or its duly appointed representative to verify the customer's eligibility for and participation in any of the programs listed in subsection A of this section; and

2. The eligible telecommunications carrier is authorized to transmit to any governmental entity or its designee handling a Lifeline accountability database the customer's full name, full residential address, date of birth, and the last four digits of the customer's social security number or tribal identification number if the customer does not have a social security number, the telephone

number associated with the Lifeline service provided, the date on which Lifeline service will or has begun, the date on which the Lifeline service ends, the amount of support sought by the company and the means through which one qualifies for program benefits. The customer must also acknowledge that transmission of this information is required to ensure the proper administration of the Lifeline program and that if the customer refuses to have this information transmitted to the administrator, he or she will be denied Lifeline service; and

3. The eligible telecommunications carrier seeking reimbursement from the Oklahoma Universal Service Fund for the provisioning of Lifeline services shall also note on the certified written statement obtained from the customer the name of the employee or representative who verified the customer's eligibility for Lifeline service and the type of documentation reviewed.

I. The Corporation Commission is authorized to promulgate rules necessary to implement the provisions of this section, including the establishment of fines of up to Ten Thousand Dollars ($10,000.00) per day per violation. A telecommunications carrier may be fined by the Corporation Commission for marketing practices determined by an administrative law judge to be in violation of the Corporation Commission's rules and noncompliance with other provisions of the Oklahoma Lifeline Fund program rules, as the Corporation Commission may deem proper after notice and opportunity for hearing.

J. The amount reimbursed from the Oklahoma Lifeline Fund for the provision of Lifeline service shall not exceed two cents ($0.02) per month per Lifeline subscriber.

Added by Laws 1997, c. 408, § 5, eff. July 1, 1997. Amended by Laws 1998, c. 246, § 10, eff. Nov. 1, 1998; Laws 2013, c. 304, § 1, emerg. eff. May 16, 2013; Laws 2014, c. 94, § 1, eff. Nov. 1, 2014.

§17-139.106. Oklahoma Universal Service Fund.

A. There is hereby created within the Corporation Commission the "Oklahoma Universal Service Fund" (OUSF). Not later than January 31, 1998, the Corporation Commission shall promulgate rules implementing the OUSF so that, consistent with the provisions of this section, funds can be made available to eligible local exchange telecommunications service providers and, consistent with Section 6 of this act, funds can be made available to eligible providers.

B. The OUSF shall be funded and administered to promote and ensure the availability of primary universal services, at rates that are reasonable and affordable and Special Universal Services, and to provide for reasonably comparable services at affordable rates in rural areas as in urban areas. The OUSF shall provide funding to local exchange telecommunications service providers that meet the eligibility criteria established in this section and to eligible

providers that meet the eligibility criteria established in Section 6 of this act for the provision of Special Universal Services.

C. The OUSF shall be funded by a charge paid by all contributing providers as provided for in Section 139.107 of this title, at a level sufficient to maintain universal service.

D. 1. The procedure for eligible local exchange telecommunications service providers and eligible providers to seek and obtain OUSF and Oklahoma Lifeline Fund (OLF) funding shall be as set forth in this subsection.

2. Within ninety (90) days after receipt of a request for funds from an eligible local exchange telecommunications service provider or an eligible provider, the Administrator as defined pursuant to Section 139.102 of this title shall independently review and determine the accuracy of the request and advise the eligible local exchange telecommunications service provider or eligible provider requesting the funds of the determination of eligibility made by the Administrator. The determination shall detail the amount of funding recoverable from the OUSF and OLF. Failure by the Administrator to issue a determination within the ninety-day period means the request for OUSF or OLF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph 5 of this subsection, the determination shall be deemed final on the sixteenth day following the date of the determination. The OUSF funding as provided in the determination of the Administrator shall be paid to the eligible local exchange telecommunications service provider or eligible provider within forty-five (45) days without an order of the Commission.

3. For requests seeking OUSF funds pursuant to Section 6 of this act, provided that an OUSF approval funding letter has been issued as otherwise provided for in the Oklahoma Telecommunications Act of 1997, the eligible provider shall, within sixty (60) days of the start of service, submit to the Administrator a request for reimbursement from the OUSF. The Administrator shall have sixty (60) days to issue a determination to the Oklahoma Universal Service Fund Beneficiary and eligible provider detailing the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination within the sixty-day period means the request for OUSF reimbursement is approved as submitted. The determination shall detail the amount of funding recoverable from the OUSF. Failure by the Administrator to issue a determination shall mean the request for OUSF reimbursement is deemed approved on a permanent basis, and funding shall be paid within forty-five (45) days without an order of the Commission. If a request for reconsideration of the determination of the Administrator is not filed as provided for in paragraph 5 of this subsection, the determination shall be deemed

final on the sixteenth day following the date of the determination. The OUSF funding as provided in the determination of the Administrator shall be paid to the eligible provider within forty-five (45) days without an order of the Commission.

4. A request for reimbursement as provided for in paragraph 3 of this subsection shall be in the form as determined by the Administrator. The form shall be posted by the Administrator no later than one hundred twenty (120) days prior to the start of the funding year to become effective July 1 for reimbursement requests submitted for eligible services provided during the funding year. Any party may file an objection to a posted form with the Commission within fifteen (15) days of the posting. The Commission shall have thirty (30) days to issue a final order on the objection to the form. If the Commission does not issue a final order on the objection within thirty (30) days, the objection shall be deemed approved.

5. Any affected party, meaning the eligible local exchange telecommunications service provider, the eligible provider, any service provider that pays into the OUSF, the Oklahoma Universal Service Fund Beneficiary or the Attorney General, shall have fifteen (15) days to file a request for reconsideration by the Commission of the determination made by the Administrator. If the Commission does not issue a final order within thirty (30) days from the date the request for reconsideration is filed, the request shall be deemed approved on an interim basis subject to refund with interest. The interest rate on a refund shall be at a rate of not more than the interest rate established by the Commission on customer deposits and shall accrue for a period not to exceed ninety (90) days from the date the funds were received by the requesting eligible local exchange telecommunications service provider or eligible provider. If the Commission does not issue a final order within one hundred twenty (120) days of the filing of the request for reconsideration, then the request for OUSF or OLF funding as filed shall be deemed approved on a permanent basis without order of the Commission, and the OUSF and OLF funding shall be paid without an order of the Commission within forty-five (45) days.

6. The term "final order" as used in this subsection shall mean an order which resolves all issues associated with the request for OUSF or OLF funding.

E. Contributing providers may, at their option, recover from their retail customers the OUSF charges paid by the contributing provider. The OUSF charges shall not be subject to state or local taxes or franchise fees.

F. The Commission shall not, prior to implementation and the availability of funds from the OUSF, require local exchange telecommunications service providers to reduce rates for intrastate access services.

G. Any eligible local exchange telecommunications service provider may request funding from the OUSF as necessary to maintain rates for primary universal services that are reasonable and affordable. OUSF funding shall be provided to eligible local exchange telecommunications service providers for the following:

1. To reimburse eligible local exchange telecommunications service providers for the reasonable investments and expenses not recovered from the federal universal service fund or any other state or federal government fund incurred in providing universal services;

2. Infrastructure expenditures or costs incurred in response to facility or service requirements established by a legislative, regulatory, or judicial authority or other governmental entity mandate;

3. For reimbursement of the Lifeline Service Program credits as set forth in Section 139.105 of this title;

4. To reimburse eligible local exchange telecommunications service providers for providing the Special Universal Services as set forth in Section 6 of this act;

5. To defray the costs of administering the OUSF, including the costs of administration, processing, and an annual independent audit. The annual audit shall not be performed by the Commission staff; and

6. For other purposes deemed necessary by the Commission to preserve and advance universal service.

H. In identifying and measuring the costs of providing primary universal services, exclusively for the purpose of determining OUSF funding levels under this section, the eligible local exchange telecommunications service provider serving less than seventy-five thousand access lines shall, at its option:

1. Calculate such costs by including all embedded investments and expenses incurred by the eligible local exchange telecommunications service provider in the provision of primary universal service, and may identify high-cost areas within the local exchange area it serves and perform a fully distributed allocation of embedded costs and identification of associated primary universal service revenue. Such calculation may be made using fully distributed Federal Communications Commission parts 32, 36 and 64 costs, if such parts are applicable. The high-cost area shall be no smaller than a single exchange, wire center, or census block group, chosen at the option of the eligible local exchange telecommunications service provider;

2. Adopt the cost studies approved by the Commission for a local exchange telecommunications service provider that serves seventy-five thousand or more access lines; or

3. Adopt such other costing or measurement methodology as may be established for such purpose by the Federal Communications Commission pursuant to Section 254 of the federal Telecommunications Act of 1996.

I. In identifying and measuring the cost of providing primary universal services, and exclusively for the purpose of determining OUSF funding levels pursuant to this section, each ILEC which serves seventy-five thousand or more access lines and each CLEC shall identify high-cost areas within the local exchange and perform a cost study using a Commission-approved methodology from those identified in subsection H of this section. The high-cost area shall be no smaller than a single exchange, wire center or census block group chosen at the option of the eligible ILEC or CLEC. If the Commission fails to approve the selected methodology within one hundred twenty (120) days of the filing of the selection, the selected methodology shall be deemed approved.

J. The Commission may by rule expand primary universal services to be supported by the OUSF, after notice and hearing. The Administrator, upon approval of the Commission, shall determine the level of additional OUSF funding to be made available to an eligible local exchange telecommunications service provider which is required to recover the cost of any expansion of universal services.

K. 1. Each request for OUSF funding by an eligible ILEC serving less than seventy-five thousand access lines shall be premised upon the occurrence of one or more of the following:

a. in the event of a Federal Communications Commission order, rule or policy, the effect of which is to decrease the federal universal service fund revenues of an eligible local exchange telecommunications service provider, the eligible local exchange telecommunications service provider shall recover the decreases in revenues from the OUSF,

b. if, as a result of changes required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in revenues or an increase in costs, it shall recover the revenue reductions or cost increases from the OUSF, the recovered amounts being limited to the net reduction in revenues or cost increases, or

c. if, as a result of changes made as required by existing or future federal or state regulatory rules, orders, or policies or by federal or state law, an eligible local exchange telecommunications service provider experiences a reduction in costs, upon approval by the Commission, the provider shall reduce the level of OUSF funding it receives to a level sufficient to account for the reduction in costs.

2. The receipt of OUSF funds for any of the changes referred to in this subsection shall not be conditioned upon any rate case or

earnings investigation by the Commission. The Commission shall, pursuant to subsection D of this section, approve the request for payment or adjustment of payment from the OUSF based on a comparison of the total annual revenues received from the sources affected by the changes described in paragraph 1 of this subsection by the requesting eligible local exchange telecommunications service provider during the most recent twelve (12) months preceding the request, and the reasonable calculation of total annual revenues or cost increases which will be experienced after the changes are implemented by the requesting eligible local exchange telecommunications service provider.

L. Upon request for OUSF funding by an ILEC serving seventy-five thousand or more access lines or a CLEC, the Commission shall after notice and hearing make a determination of the level of OUSF funds, if any, that the provider is eligible to receive for the purposes contained in subsection K of this section. If the Commission fails to make a determination within one hundred twenty (120) days of the filing of the request, the request for funding shall be deemed approved.

M. The incumbent local exchange telecommunications service provider, its successors and assigns, which owned, maintained and provided facilities for universal service within a local exchange area on January 1, 1996, shall be the local exchange telecommunications service provider eligible for OUSF funding within the local exchange area, except as otherwise provided for in this act.

N. 1. Where the incumbent local exchange telecommunications service provider receives or is eligible to receive monies from the OUSF, except as otherwise provided in this section, the Commission, after notice and hearing, may designate other local exchange telecommunications service providers to be eligible for the funding, provided:

a. the other local exchange telecommunications service provider is certificated by the Commission to provide and offers the primary universal services supported by the OUSF to all customers in the universal service area designated by the Commission, using its own facilities, or a combination of its own facilities and the resale of the services or facilities of another. Universal service support under this subsection shall not begin until the other local exchange telecommunications service provider has facilities in place,

b. the other local exchange telecommunications service provider may only receive funding for the portion of the facilities that it owns, maintains, and uses for regulated services,

c. the other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area; provided, the cost of any cost studies required to be performed shall be borne by the party requesting such studies, unless the party performing the study utilizes the study for its own benefit,

d. the other local exchange telecommunications service provider advertises the availability and charges for services it provides through a medium of general distribution, and

e. it is determined by the Commission that the designation is in the public interest and the other local exchange telecommunications service provider is in compliance with all Commission rules for which a waiver has not been granted.

2. Notwithstanding the criteria set forth in this section for designation as an eligible local exchange telecommunications service provider, a commercial mobile radio service provider may, after notice and hearing, seek reimbursement from the OUSF for the provision of services supported by the OUSF, and any telecommunications carrier may seek reimbursement from the OUSF for the provision of Lifeline Service consistent with Section 139.105 of this title and for the provision of Special Universal Services consistent with Section 6 of this act.

O. In exchanges or wire centers where the Commission has designated more than one local exchange telecommunications service provider as eligible for OUSF funding, the Commission shall permit one or more of the local exchange telecommunications service providers in the area to relinquish the designation as a local exchange telecommunications service provider eligible for OUSF funding in a manner consistent with Section 214(e)(4) of the federal Telecommunications Act of 1996, upon a finding that at least one eligible local exchange telecommunications service provider shall continue to assume the carrier-of-last-resort obligations throughout the area.

P. For any area served by an incumbent local exchange telecommunications service provider which serves less than seventy-five thousand access lines within the state, only the incumbent local exchange telecommunications service provider shall be eligible for OUSF funding except:

1. Other eligible telecommunications carriers which provide Special Universal Services or Lifeline Service shall be eligible to

request and receive OUSF funds in the same manner as the incumbent local exchange telecommunications service provider in the same area pursuant to the Oklahoma Telecommunications Act of 1997;

2. The incumbent local exchange telecommunications service provider may elect to waive the right to be the only eligible local exchange telecommunications service provider within the local exchange area by filing notice with the Commission; or

3. When the Commission, after notice and hearing, makes a determination that it is in the public interest that another local exchange telecommunications service provider should also be deemed a carrier of last resort and be eligible to receive OUSF funding in addition to the incumbent local exchange telecommunications service provider. It shall not be in the public interest to designate another local exchange telecommunications service provider as being a carrier of last resort and eligible to receive OUSF funding if such designation would cause a significant adverse economic impact on users of telecommunications services generally or if the other carrier refuses to seek and accept carrier-of-last-resort obligations throughout the universal service area as designated by the Commission. The other local exchange telecommunications service provider shall not receive OUSF funding at a level higher than the level of funding the incumbent local exchange telecommunications service provider is eligible to receive for the same area if the incumbent local exchange telecommunications service provider is also providing service in the same area and the other local exchange telecommunications service provider meets the requirements of subparagraphs a, b, d and e of paragraph 1 of subsection N of this section.

Added by Laws 1997, c. 408, § 6, eff. July 1, 1997. Amended by Laws 2016, c. 270, § 4, emerg. eff. May 9, 2016.

§17-139.107. Administration of funds.

A. The Oklahoma Lifeline Fund (OLF) and the Oklahoma Universal Service Fund (OUSF) shall be funded in a competitively neutral manner not inconsistent with federal law by all contributing providers. The funding from each contributing provider shall be based on the total intrastate retail Oklahoma Voice over Internet Protocol (VoIP) revenues and intrastate telecommunications revenues, from both regulated and unregulated services, of the contributing provider, hereinafter referred to as assessed revenues, as a percentage of all assessed revenues of the contributing providers, or such other assessment methodology not inconsistent with federal law. VoIP services shall be assessed only as provided for in the decision of the Federal Communications Commission, FCC 10-185, released November 5, 2010, or such other assessment methodology that is not inconsistent with federal law. The Commission may after notice and

hearing modify the contribution methodology for the OUSF and OLF, provided the new methodology is not inconsistent with federal law.

B. The Corporation Commission shall establish the OLF assessment and the OUSF assessment at a level sufficient to recover costs of administration and payments for OUSF and OLF requests for funding as provided for in the Oklahoma Telecommunications Act of 1997. The administration of the OLF and OUSF shall be provided by the Public Utility Division of the Commission. The administrative function shall be headed by the Administrator as defined in Section 139.102 of this title. The Administrator shall be an independent evaluator. The Administrator may enter into contracts to assist with the administration of the OLF and OUSF.

C. If the Commission determines after notice and hearing that a contributing provider has acted in violation of this section, in addition to the other enforcement powers of the Commission, including its contempt powers and authority to revoke a telecommunications service provider's certificate of convenience and necessity, the Commission may bring an action on behalf of the OLF or the OUSF, in a court of competent jurisdiction that the Commission deems appropriate, to recover any unpaid fees and assessments the Commission has determined are due and payable, including interest, administrative and adjudicative costs, and attorney fees. Upon collection of the assessments, fees and costs, the Administrator shall pay the costs of the actions and deposit the remaining funds in the OLF or the OUSF as appropriate.

D. The monies deposited in the OLF, the OUSF and the Oklahoma High Cost Fund shall at no time become monies of the state and shall not become part of the general budget of the Corporation Commission or any other state agency. Except as otherwise authorized by the Oklahoma Telecommunications Act of 1997, no monies from the OLF, the OUSF, or the Oklahoma High Cost Fund shall be transferred for any purpose to any other state agency or any account of the Corporation Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense. Payments from the OLF, the OUSF, and the Oklahoma High Cost Fund shall not become or be construed to be an obligation of this state. No claims for reimbursement from the OLF, the OUSF or the Oklahoma High Cost Fund shall be paid with state monies.

Added by Laws 1997, c. 408, § 7, eff. July 1, 1997. Amended by Laws 2016, c. 270, § 5, emerg. eff. May 9, 2016.

§17-139.108. Provisions applicable to OneNet and the Oklahoma Government Telecommunications Network.

A. Except for the provisions of this section, nothing in this act shall be construed as applicable to the telecommunications network known as OneNet or to any other component of the Oklahoma Government Telecommunications Network. Neither OneNet nor any other

component of the Oklahoma Government Telecommunications Network shall be assessed any fee or other charge for the support of universal service.

B. No provider of Internet service or any company providing telecommunications services or its affiliate or subsidiary, may price such Internet service in an anticompetitive, discriminatory, or predatory manner or subsidize the price of Internet service with revenues received from other services. No governmental agency or entity using or being eligible to use OneNet facilities may price such Internet services in an anticompetitive or predatory manner. Any governmental agency or entity using OneNet facilities is hereby prohibited from reselling OneNet access directly to the general public at any nonpublic site. Any company or individual damaged from a violation of this subsection by a private company or individual shall be entitled to treble damages. The Attorney General shall be responsible for bringing an action for violation of this section against a private company or individual.

C. The Corporation Commission shall not approve, endorse, forward or file any application for reimbursement submitted pursuant to subsection (h) of Section 254 of the Communications Act of 1934, as amended, for transmission services requiring a circuit of T-1 or greater capacity unless OneNet is the circuit provider. For purposes of this subsection, "T-1" means a digital, one-million-five-hundred-forty-four-thousand-bit (1.544 Mbit) circuit with capacity sufficient to simultaneously transmit twenty-four (24) voice or data channels at sixty-four thousand bits per second (64 Kbits/sec).
Added by Laws 1997, c. 408, § 8, eff. July 1, 1997.

§17-139.109. Repealed by Laws 2016, c. 270, § 7, emerg. eff. May 9, 2016.

§17-139.109.1. Special Universal Services – Eligibility – Competitive bidding - Funding.

A. The following services are hereby declared to be Special Universal Services:

1. Each eligible healthcare entity in this state as defined in Section 139.102 of Title 17 of the Oklahoma Statutes shall be eligible to receive Special Universal Services for telemedicine providers. Special Universal Services for telemedicine providers shall include the provision of bandwidth per standards as recommended by the Federal Communications Commission sufficient for providing telemedicine services including the telemedicine line, reasonable installation and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible telemedicine service;

2. Each public school as defined in Section 139.102 of Title 17 of the Oklahoma Statutes shall be eligible to receive Special

Universal Services for schools. Special Universal Services for schools shall include the E-rate Eligible Services List (ESL) for Category One services as determined by the FCC for the applicable funding year or, in the absence of such a list, as published by the Universal Services Administrative Company. In the event no ESL is available from the FCC or USAC for the applicable funding year, eligible services will be those on the ESL for the last funding year for which an ESL was available. Special Universal Services shall include the provision of bandwidth sufficient for providing educational services not to exceed, without good cause shown, the standards established for the relevant funding year by the State Educational Technology Directors Association (SETDA) or successor educational broadband standard including Internet access lines, WAN connections, reasonable installation, and network termination equipment owned and operated by the eligible provider as defined by the ESL that is necessary to provide the eligible service. Student counts as reported to the State Department of Education in October of the year prior to the relevant funding year shall be utilized for the purpose of determining bandwidth recommendations established by SETDA for purposes of this paragraph. In the absence of standards prescribed for the applicable funding year, the standards for the next prescribed funding year shall be used. Special Universal Services shall not include voice services that use separate lines or have allocated bandwidth. The Commission may modify the service considered to be Special Universal Services pursuant to rule, after notice and hearing; and

3. Each public library as defined in Section 139.102 of Title 17 of the Oklahoma Statutes shall be eligible to receive Special Universal Services for libraries. Special Universal Services for libraries shall include the E-rate Eligible Services List ("ESL") for Category One services as determined by the Federal Communications Commission for the applicable funding year or, in the absence of such a list, as published by the Universal Services Administrative Company. In the event no ESL is available from the FCC or USAC for the applicable funding year, eligible services will be those on the ESL for the last funding year for which an ESL was available. Special Universal Services shall include the provision of bandwidth sufficient for providing library services per standards as recommended by the Federal Communications Commission including Internet access lines, reasonable installation and network termination equipment owned and operated by the eligible provider that is necessary to provide the eligible service. Special Universal Services shall not include voice services that use separate lines or have allocated bandwidth. The Commission may modify the services considered to be Special Universal Services pursuant to rule, after notice and hearing.

B. 1. Eligible services that are exempt from competitive bidding pursuant to state law or the rules of the Federal Universal Service Support Mechanisms or successor program or programs shall be exempt from the Special Universal Services competitive bidding requirements set forth in this subsection, and the Oklahoma Universal Service Fund Beneficiary must provide evidence of such exemption as part of the funding request.

2. An OUSF Beneficiary may be eligible to receive funding from both the OUSF and other state or federal funds; however, in no instance shall there be a double recovery. The OUSF Beneficiary shall make every reasonable effort to obtain funding from another state and/or federal fund designed to support Special Universal Services. The OUSF Beneficiary shall provide the OUSF Administrator with information regarding the recipient's request for funding from government sources designed to support the provisioning of Special Universal Services, or an explanation of why such funding is not available or why the recipient of the Special Universal Services did not request such funding. Failure to provide such documentation may result in the OUSF Administrator denying in whole or in part, a request for Special Universal Services funding from the OUSF. If an OUSF Beneficiary is not eligible to receive funding from other state or federal funds per the program rules of the other state or federal funds, the OUSF Beneficiary shall be exempt from the requirement to obtain funding from another state and/or federal fund designed to support Special Universal Services set forth in this subsection. The OUSF Beneficiary must provide evidence of such exemption as part of the funding request.

3. The credit amount for the provision of Special Universal Services as provided for in subsection A of this section shall be determined as provided for in this subsection.

4. An eligible provider shall be entitled to reimbursement from the Oklahoma Universal Service Fund (OUSF) for providing Special Universal Services as described in subsection A of this section. In no case shall the reimbursement from the OUSF be made for an Internet subscriber fee or charges incurred as a result of services accessed via the Internet.

5. Oklahoma Universal Service Fund Beneficiaries shall conduct a fair and open competitive bidding process to select the services and carrier eligible for support. The competitive bidding process shall meet the following standards:

a. the solicitation of bids shall clearly identify the bandwidth range requested by the Oklahoma Universal Service Fund Beneficiary or consortium,

b. the Oklahoma Universal Service Fund Beneficiary shall not limit bidders based upon technology,

c. the bidding shall be open to all carriers authorized to receive OUSF funding in the telephone exchange where

the Oklahoma Universal Service Fund Beneficiary is located or where the members of the consortium are located, and

d. the bidding shall not be structured in a manner to exclude carriers eligible to receive OUSF funding in the telephone exchange where the Oklahoma Universal Services Fund Beneficiary is located.

6. For Special Universal Services that are competitively bid in compliance with this act, the credit amount shall be not more than twenty-five percent (25%) greater than the lowest cost reasonable qualifying bid of the total prediscount amount of eligible services plus installation charges, less federal funding support for the same services including installation charges issued in a funding commitment letter or similar approval document for the Federal Universal Service Support Mechanism or successor program or programs for the applicable funding year.

7. For purposes of this act, "lowest cost reasonable qualifying bid" means a bid that:

a. represents the lowest total cost proposal including monthly recurring and nonrecurring charges for eligible services,

b. is reasonable to meet the needs of the Oklahoma Universal Service Fund Beneficiary as listed in the request for bids,

c. is submitted during the same competitive bidding period as the awarded bid,

d. is for a bandwidth within the range requested for bid and selected by the Oklahoma Universal Service Fund Beneficiary,

e. is for the same contract term as the bid that was selected by the Oklahoma Universal Service Fund Beneficiary,

f. meets the requirements specified in the request for bid by the Oklahoma Universal Service Fund Beneficiary, and

g. was the result of a fair and open competitive bidding process as defined in this act.

8. If a long-term contract includes change clauses for changes in sites or services, the Oklahoma Universal Service Fund Beneficiary shall not be required to conduct a new competitive bid during the life of the original contract, which may not exceed five (5) years.

9. For eligible services associated with an Oklahoma Universal Service Fund Beneficiary that does not competitively bid in compliance with this act, the credit amount shall be determined at the discretion of the Administrator.

C. 1. Special Universal Services shall not be sold, resold or transferred in consideration for money or any other thing of value.

2. The OUSF shall not fund more than one eligible provider for the same service at the same location for the same time period, except during a transition period from one eligible provider to another. Funding during a transition period shall not exceed thirty (30) days.

D. The Administrator shall have the authority to investigate each request for OUSF funding for Special Universal Services in order to ensure that the OUSF pays only for the Special Universal Services authorized in this section. The Administrator shall deny requests for OUSF funding in excess of the credit amounts authorized in subsection B of this section unless good cause is shown.

E. The Corporation Commission shall have authority to investigate and modify or reject in whole or part a Special Universal Service request under subsection A of this section if the request does not meet the specified criteria, if the Corporation Commission's investigation determines that the entity has not provided sufficient documentation for the requested services, or if the Corporation Commission determines that granting the request is not in the public interest due to fraud.

F. 1. The Special Universal Services preapproval and reimbursement procedures as set forth in this subsection shall be effective and shall apply for each applicable funding year beginning July 1, 2017.

2. The Oklahoma Universal Service Fund Beneficiary administrative preapproval submission process shall be as follows:

a. the Administrator shall establish an administrative approval process to be initiated by the Oklahoma Universal Service Fund Beneficiary in a timely fashion for the purpose of determining eligible services and credit amounts for the upcoming funding year. The administrative preapproval submission process shall include all necessary forms and instructions, hereinafter referred to as the "OUSF administrative preapproval request". The Administrator shall determine the form for the OUSF administrative preapproval requests. The form shall be posted on the Commission website no later than June 30 of each year to become effective for any OUSF administrative preapproval requests submitted after August 31 of that year. Any party may file an objection to the form with the Commission within fifteen (15) days of posting. The Commission shall issue a final order on the objection to the form within thirty (30) days,

b. the Administrator shall issue an approval funding letter to the Oklahoma Universal Service Fund Beneficiary and the eligible provider within ninety (90) days of receipt of a properly completed OUSF

administrative preapproval request. Failure by the Administrator to issue an approval funding letter within the ninety-day period means the OUSF administrative preapproval request submitted by the Oklahoma Universal Service Fund Beneficiary is approved as submitted and the subsequent request for reimbursement submitted by the eligible provider which is consistent with the information submitted in the OUSF administrative preapproval request shall be approved as submitted,

c. the approval funding letter shall inform the Oklahoma Universal Service Fund Beneficiary of the preapproved services and associated credit amount for the applicable funding year. The amount of OUSF funding preapproved under this subsection may be subject to adjustments based on the amount of support received from other sources, if any, and adjustments to pricing that may occur between the time of preapproval and installation of service,

d. any OUSF administrative preapproval request shall be submitted to the Administrator in the format outlined in instructions posted on the Commission website. The OUSF administrative preapproval request shall include but not be limited to the following:
   (1) a Special Universal Services request form as posted on the Commission website no later than June 30 of each year for requests made after August 31 of that year,
   (2) a Federal Universal Service Support Mechanism or successor program or programs form used to request federal funding support for the applicable funding year,
   (3) a federal funding commitment letter for the applicable funding year, if issued, and
   (4) competitive bidding documentation for the relevant funding year,

e. issuance of an OUSF approval funding letter by the Administrator shall occur without a Commission order,

f. OUSF administrative preapproval requests not submitted by June 30 prior to the applicable funding year shall be processed by the Administrator on a first-in-first-out basis, and

g. after a preapproval funding letter has been issued, an OUSF Beneficiary may submit a new administrative preapproval request to provide corrections or additional information per program rules issued by the Commission.

3. The eligible provider reimbursement process shall be as follows:

a. requests for reimbursement shall be submitted per procedures as set forth in subsection D of Section 139.106 of Title 17 of the Oklahoma Statutes,

b. the Administrator shall post the monthly payout report to the Commission website,

c. funding for eligible services, including federal funding, shall not exceed actual eligible expenses,

d. any change in cost of eligible services during the funding year shall be reported by the eligible provider to the OUSF and:

(1) all decreases in cost shall be deemed approved until the next eligible bidding period and all cost savings shall be properly allocated to the OUSF and the Oklahoma Universal Service Fund Beneficiary, and

(2) increases in cost shall be reviewed for approval as provided for in Commission rules, and

e. issuance of a determination by the Administrator shall not require a Commission order.

Added by Laws 2016, c. 270, § 6, emerg. eff. May 9, 2016.

§17-139.110. High speed Internet access or broadband service – Regulation by Corporation Commission prohibited – Requirements of local exchange telecommunications service providers – Taxation.

A. The Oklahoma Corporation Commission shall not, by entering any order, adopting any rule, or otherwise taking any agency action, impose any regulation upon a provider of high speed Internet access service or broadband service in its provision of such service, regardless of technology or medium used to provide such service.

B. An incumbent local exchange telecommunications service provider (ILEC) subject to the provisions of 47 U.S.C., Section 251(c) shall be required to provide unbundled access to network elements, including but not limited to loops, subloops, and collocation space within the facilities of the ILEC, to the extent specifically required under 47 C.F.R., Section 51.319 or any successor regulations issued by the Federal Communications Commission.

C. Nothing in this section shall effect the assessment of any company under Article X of the Oklahoma Constitution or Section 2801 et seq. of Title 68 of the Oklahoma Statutes.

Added by Laws 2002, c. 80, § 3, eff. July 1, 2002.

§17-139.601. Wide Area Calling Plans - Expansion to include sole unincluded exchanges.

A. The Corporation Commission shall take action as necessary to cause the expansion of Wide Area Calling Plans to include every local telephone exchange which is the sole unincluded exchange seated in a county where all the other exchanges seated in said county are already included in a Wide Area Calling Plan.

B. For the purposes of this section, "seated" shall mean the place at which the central switch for the local exchange is sited.

C. The expansion shall be revenue neutral with respect to the affected local exchange companies.

D. The inclusion of the affected exchanges shall take effect on December 31, 1996.

Added by Laws 1996, c. 357, § 1, emerg. eff. June 14, 1996.

§17-140. Repealed by Laws 1996, c. 331, § 6, emerg. eff. June 12, 1996.

§17-140.1. Definitions.

As used in this act:

1. "Person" means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity;

2. "Pay-per-call service" means any passive, interactive, polling, conference or other similar audiotext service that is provided for a charge to a caller through an exclusive telephone number prefix or service access code;

3. "Information provider" means the person who provides the information, prerecorded message, or interactive program for the information delivery service. The information provider generally receives a portion of the revenue from the calls. This service does not include the medium for advertising information delivery service;

4. "Interactive program" means a pay-per-call program that allows callers to choose between options or to communicate with other callers;

5. "Sponsor" means an individual, corporation, association, partnership or other entity that sells a pay-per-call service and on whose behalf charges are billed, but shall not include a public utility regulated by the state or the Federal Communications Commission or an interexchange carrier which provides transport or billing and collection services for a pay-per-call service unless the public utility or interexchange carrier actually produces or promotes the pay-per-call service;

6. "Subscriber" means a customer of a local or long distance telephone service from which a pay-per-call service is accessed;

7. "Interexchange carrier" means an interexchange telecommunications company providing service within the state;

8. "Local exchange company" means a local exchange telephone company providing service within the state; and

9. "Adult entertainment" means any pay-per-call service that contains explicit references to conduct of a sexual nature in a manner designed to arouse an immoderate or unwholesome interest or desire.
Added by Laws 1992, c. 180, § 1, eff. Sept. 1, 1992.

§17-140.2. Prohibition of certain pay-per-call services or interactive programs.

The Corporation Commission shall prohibit any local exchange company or interexchange carrier from billing a subscriber on the subscriber's telephone bill for a pay-per-call service or interactive program whose message content contains:

1. Vulgar language, explicit or implicit descriptions of violence or sexual conduct, adult entertainment, or incitement to violence;

2. Inflammatory or demeaning portrayals of the race, religion, political affiliation, ethnicity, gender, or handicap of any individual or group; or

3. False, misleading or deceptive advertising.
Added by Laws 1992, c. 180, § 2, eff. Sept. 1, 1992.

§17-140.3. Services to children under 12 years - Requirements.

A. An information provider that does business in this state shall not direct information delivery services to children under the age of twelve (12) years unless the information provider complies with the following provisions:

1. Interactive calls where children under the age of twelve (12) years can speak to other children under the age of twelve (12) years are prohibited;

2. Programs directed to children under the age of twelve (12) where the children are asked to provide their names, addresses, telephone numbers, or other identifying information are prohibited;

3. Advertisements for information delivery services that are directed to children under the age of twelve (12) years must contain a visual disclosure, in the case of print and broadcast advertising, and audibly in the case of broadcast advertising, that clearly and conspicuously states that children under the age of twelve (12) years must obtain parental consent before placing a call to the advertised number;

4. Program messages that encourage children under the age of twelve (12) years to make increased numbers of calls in order to obtain progressively more valuable prizes, awards, or similarly denominated items are prohibited;

5. Advertisements for information delivery services that are directed to children under the age of twelve (12) years must contain, in age-appropriate language, an accurate description of the services being provided. In the case of print advertising, the information

must be clear and conspicuous and in the case of broadcast advertising, it must be clearly and conspicuously visually displayed and verbally disclosed in an audible, clear, articulated manner; and

6. Program messages that are directed to children under the age of twelve (12) years that employ broadcast advertising where an electronic tone signal is emitted during the broadcast of the advertisement that automatically dials the program message are prohibited.

B. Every local exchange company or interexchange carrier providing billing and collection services for pay-per-call services doing business in this state shall remove pay-per-call service charges from the subscriber's bill upon complaint of the subscriber that the caller to the pay-per-call service was under the age of twelve (12) years and the information provider failed to comply with the provisions of Section 3 of this act.

Added by Laws 1992, c. 180, § 3, eff. Sept. 1, 1992.

§17-140.4. Rules and regulations.

The Corporation Commission is authorized to adopt all reasonable and necessary rules and regulations to implement any powers and duties of the Commission pursuant to the provisions of this act.

Added by Laws 1992, c. 180, § 4, eff. Sept. 1, 1992.

§17-140.5. Provisions in conflict or inconsistent with Oklahoma Constitution.

If this act or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Section 18 through Section 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared that this entire act and this section are amendments to and alterations of said section of the Constitution, as authorized by Section 35 of Article IX of said Constitution.

Added by Laws 1992, c. 180, § 5, eff. Sept. 1, 1992.

§17-140.6. Amendments and alterations to constitution - Legislative intent.

It is the intention of the Legislature that this act is an amendment to and alteration of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35 of Article IX of said Constitution.

Added by Laws 1992, c. 180, § 6, eff. Sept. 1, 1992.

§17-141. Repealed by Laws 1998, c. 356, § 13, eff. July 1, 1998.

§17-142. Repealed by Laws 1998, c. 356, § 13, eff. July 1, 1998.

§17-143. Repealed by Laws 1998, c. 356, § 13, eff. July 1, 1998.

§17-144. Repealed by Laws 1998, c. 356, § 13, eff. July 1, 1998.

§17-145. Repealed by Laws 1998, c. 356, § 13, eff. July 1, 1998.

§17-151. Public utility defined - Exemption of nonprofit water and sewer corporations - Washington County - Authority of certain beneficiaries to condemn property.

The term "public utility" as used in Sections 151 through 155 of this title, shall be taken to mean and include every corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, except as hereinafter provided, and except cities, towns, or other bodies politic, that now or hereafter may own, operate, or manage any plant or equipment, or any part thereof, directly or indirectly, for public use, or may supply any commodity to be furnished to the public.

(a) For the conveyance of gas by pipeline.

(b) For the production, transmission, delivery or furnishing of heat or light with gas.

(c) For the production, transmission, delivery or furnishing electric current for light, heat or power.

(d) For the transportation, delivery or furnishing of water for domestic purposes or for power. Provided further that a corporation organized and existing not for profit pursuant to Title 18 of the Oklahoma Statutes, Sections 851-863, but for the purpose of developing and providing rural water supply and sewage disposal facilities to serve rural residents shall not be declared a public utility under this act, and shall be exempt in any and all respects from the jurisdiction and control of the Corporation Commission of this state.

The term "Commission" shall be taken to mean Corporation Commission of Oklahoma.

Provided, that, in Washington County, where any corporation, association, company, individuals, their trustees, lessees, or receivers, successors or assigns, is engaged in the private business of manufacturing any products other than those hereinbefore defined, and in the manufacture of such products operate and maintain private electric or water plants for its own power and electrical energy or water used in its manufacturing plant, without the right of eminent domain and without the use of streets, highways or public property, it may contract upon terms and prices approved by Corporation Commission the sale of a bona fide surplus of electrical energy or water developed in such private plants to any public utility engaged in manufacturing and distributing electrical energy in Washington County, Oklahoma, without becoming a public utility. Provided further any city or town within a county having a population of over

five hundred thousand (500,000) or any county having a population of over five hundred thousand (500,000), according to the 1970 Federal Census, which is a beneficiary of a public trust that has multiple beneficiaries and that includes within any or all of its boundaries a water supply and/or distribution system, or any portion thereof, shall have the authority to condemn all or any portion of any water supply and/or distribution system owned and/or operated and/or leased by a public trust within the limits of the condemning city or town or within the unincorporated areas of the condemning county; provided the power granted hereunder shall not be exercised until the condemning city, town or county shall have made provision to pay off all outstanding bonded indebtedness incurred by the public trust, including interest on the bonds to maturity of the bonds, or first call date, and premium, if any, to which the property to be condemned or the revenues therefrom has been pledged for security.
Laws 1913, c. 93, p. 150, § 1; Laws 1929, c. 353, p. 487, § 1; Laws 1971, c. 26, § 1; Laws 1971, c. 322, § 1, emerg. eff. June 24, 1971.

§17-151.1. Resale of water or sewage service – Maximum charges – Disclosure – Penalties - Enforcement.

A. Except for any person, public utility, or public service corporation subject to the jurisdiction of the Corporation Commission, or a municipal utility, or a public trust which has as its beneficiary the municipality, no owner of any interest in real property in this state who purchases water or sewage services from a municipality and who resells such water or sewage services to any residential lessee of any interest in such real property for the purpose of providing water or sewage services shall charge such lessee any amount in excess of ten percent (10%) of the cost to such reseller for each billing cycle of the water or sewage services purchased by the reseller from the supplier.

B. The reseller shall separately disclose in its water or sewage services bills to the lessee the per unit cost of its purchased water or sewage services and the actual amount of each fee or charge in dollars and cents to be paid by the lessee to the reseller.

C. Any person who willfully violates the provisions of this section, upon conviction thereof by a district court, shall be guilty of a misdemeanor. In addition to the punishment prescribed by this subsection, the reseller is liable in treble damages to the lessee injured, said damages to be recovered in a civil action by the consumer so injured. Treble damages shall be based on the total amount to be paid to the reseller by the lessee for each bill which exceeds the authorized percentage pursuant to this section.

D. The Office of the Attorney General of this state shall have the power and duty to investigate and prosecute any violations of the provisions of this section.
Added by Laws 1999, c. 212, § 6, eff. Nov. 1, 1999.

§17-152. Commission's jurisdiction over public utilities - Examination of requests for review of rates and charges.

A. The Commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe and promulgate rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted.

B. 1. When any public utility subject to general supervision pursuant to this section or to Section 158.27 of this title shall file with the Commission a request for review of its rates and charges, such request shall be given immediate attention.

2. In the exercise of this responsibility, the Commission shall complete any examination of such request for a review of its rates and charges within one hundred twenty (120) days from the date such application for review of its rates and charges is filed.

3. Public hearings on such matter must commence within forty-five (45) days of the end of such examination to be conducted by the Commission and in no event shall the conclusion of such examination of the rates and charges and the hearing conducted by the Commission exceed one hundred eighty (180) days from the date the request was filed.

4. If such request for review of the applicant's rates and charges has not been completed and an order issued within one hundred eighty (180) days from the date of filing of such application, some or all of the request for changes in the rates, charges, and regulations made in such application shall be immediately placed into effect and collected through new tariffs on an interim basis at the discretion of the applicant.

5. Should the Commission determine upon the completion of its examination and public hearings that a refund regarding the amount of interim relief is appropriate and necessary, the Commission shall order such refund including reasonable interest at the one-year U.S. Treasury bill rate accruing on that portion of the rate increase to be refunded for a period not to exceed ninety (90) days from the effective date of the rate increase which is being refunded.

C. The Commission shall have full visitorial and inquisitorial power to examine such public utilities, and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of this act, and with the Constitution and laws of this state, and with the orders of the Commission.

Added by Laws 1913, c. 93, p. 150, § 2. Amended by Laws 1993, c. 231, § 2, emerg. eff. May 26, 1993; Laws 1994, c. 315, § 6, eff. July 1, 1994.

§17-153. Implied and incidental powers of Commission - Contempt.

In addition to the powers enumerated, specified, mentioned or indicated in this act, the Commission shall have all additional implied and incidental powers which may be proper and necessary to carry out, perform and execute all powers herein enumerated, specified, mentioned, or indicated, and to punish as for contempt such corporation, association, company or individual, their trustees, lessees, receivers, successors and assigns, for the disobedience of its orders in the manner provided for punishment of transportation and transmission companies, by the Constitution and laws of this state.

Laws 1913, c. 93, p. 151, § 3, emerg. eff. March 25, 1913.

§17-154. Records of public utility business.

In case the owner or operator of any public utility is engaged in carrying on any other business in connection with the operation of such public utility, the Commission may require the cost of the operation and gross revenues of such joint business to be kept in such form and manner as may be prescribed by the Commission so that the cost of the operation and gross revenues of the public utility may be ascertained.

Laws 1913, c. 93, p. 151, § 4.

§17-155. Orders and rules of Commission - Scope - Right of appeal.

The Commission may, from time to time, adopt or promulgate, such orders, rules, regulations or requirements, relative to investigations, inspections, tests, audits, and valuations of the plants and properties relative to inspection and tests of meters as in its judgment may be necessary and proper; provided, that under the provisions of this act, any public utility, corporation, association, company, individual, their trustees, lessees or receivers, successors, or assigns, may appeal from any order or finding or judgment of the Corporation Commission as provided by law in cases tried and heard before said Commission of transportation and transmission companies.

Laws 1913, c. 93, p. 152, § 5.

§17-156. Installation of distributed generation devices - Increased rates or surcharges - Subsidization.

A. As used in this section:

1. "Distributed generation" means:

a. a device that provides electric energy that is owned, operated, leased or otherwise utilized by the customer,

b. is interconnected to and operates in parallel with the retail electric supplier's grid and is in compliance with the standards established by the retail electric supplier,
c. is intended to offset only the energy that would have otherwise been provided by the retail electric supplier to the customer during the monthly billing period,
d. does not include generators used exclusively for emergency purposes,
e. does not include generators operated and controlled by a retail electric supplier, and
f. does not include customers who receive electric service which includes a demand-based charge.

2. "Fixed charge" means any fixed monthly charge, basic service, or other charge not based on the volume of energy consumed by the customer, which reflects the actual fixed costs of the retail electric supplier.

3. "Retail electric supplier" means an entity engaged in the furnishing of retail electric service within the State of Oklahoma and is rate regulated by the Oklahoma Corporation Commission.

B. No retail electric supplier shall increase rates charged or enforce a surcharge above that required to recover the full costs necessary to serve customers who install distributed generation on the customer side of the meter after the effective date of this act.

C. No retail electric supplier shall allow customers with distributed generation installed after the effective date of this act to be subsidized by customers in the same class of service who do not have distributed generation.

D. A higher fixed charge for customers within the same class of service that have distributed generation installed after the effective date of this act, as compared to the fixed charges of those customers who do not have distributed generation, is a means to avoid subsidization between customers within that class of service and shall be deemed in the public interest.

E. Retail electric suppliers shall implement tariffs in compliance with this act no later than December 31, 2015.
Added by Laws 1977, c. 209, § 4. Amended by Laws 2014, c. 93, § 1, eff. Nov. 1, 2014.

§17-157. Repealed by Laws 2018, c. 18, § 1, eff. Nov. 1, 2018.

§17-158.21. Short title.

This act shall be known and may be cited as the Retail Electric Supplier Certified Territory Act.
Laws 1971, c. 113, § 1.

§17-158.21a. Provisions of act in conflict or inconsistent with Constitution - Amendment to Constitution.

If this act, or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Section 18 through Section 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared this entire act and this section are amendments to and alterations of said sections of the Constitution, as authorized by Section 35 of Article IX of said Constitution.

Added by Laws 1988, c. 107, § 3, emerg. eff. April 4, 1988.

§17-158.22. Definitions.

For the purposes of this act, the following terms shall have the meanings given them:

1. The term "retail electric supplier" means any person, firm, corporation, association or cooperative corporation, exclusive of municipal corporations or beneficial trusts thereof, engaged in the furnishing of retail electric service.

2. The term "certified territory" shall mean the unincorporated areas as certified by and pursuant to Section 158.24 of this title.

3. The term "existing distribution line" shall mean an electric line which on the effective date of this act

a. is located in an unincorporated area and

b. is being or has been substantially used for retail electric service.

4. The term "retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale.

5. The term "unincorporated area" shall mean geographical area outside the corporate limits of cities and towns.

6. The term "electric consuming facilities" means everything that utilizes electric energy from a central station source.

7. The term "Commission" shall mean "Corporation Commission of Oklahoma" or its successor.

8. The term "association or cooperative corporation" shall mean any association or cooperative corporation doing business under the Rural Electric Cooperative Act.

9. The term "hearing" shall mean a hearing by the Commission pursuant to reasonable notice to all affected retail electric suppliers.

10. The term "member consumer" shall mean the customer in whose name service of any association or cooperative corporation doing business under the Rural Electric Cooperative Act is being provided.

Amended by Laws 1988, c. 107, § 1, emerg. eff. April 4, 1988.

§17-158.23. Geographical areas.

It is hereby declared to be in the public interest that, in order to encourage the orderly development of coordinated statewide retail electric service, to avoid wasteful duplication of distribution facilities, to avoid unnecessary encumbering of the landscape of the State of Oklahoma, to prevent the waste of materials and natural resources, for the public convenience and necessity and to minimize disputes between retail electric suppliers which may result in inconvenience, diminished efficiency and higher costs in serving the consumer, the state be divided into geographical areas, establishing the unincorporated areas within which each retail electric supplier is to provide the retail electric service as provided in this act. Laws 1971, c. 113, § 3.

§17-158.24. Fixing boundaries of certified territories - Protests - Hearings by Commission.

A. Except as otherwise provided, no retail electric supplier shall furnish retail electric service in the certified territory of another retail electric supplier.

B. Except as otherwise provided in this section, the boundaries of the certified territory of each retail electric supplier are hereby set as a line or lines substantially equidistant between its existing distribution lines and the nearest existing distribution lines of any other retail electric supplier in every direction, with the result that there is hereby certified to each retail electric supplier such unincorporated area which in its entirety is located substantially in closer proximity to one of its existing distribution lines than to the nearest existing distribution line of any other retail electric supplier.

C. (1) On or before ninety (90) days after the effective date of this act, or, when requested in writing by a retail electric supplier and for good cause shown, such further time as the Commission may fix by order, each retail electric supplier shall file with the Commission a map or maps showing all of its existing distribution lines. The Commission shall prepare or cause to be prepared within ninety (90) days thereafter a map or maps of uniform scale to show, accurately and clearly, the boundaries of the certified territory of each retail electric supplier as established under Section 4 B, and shall issue such map or maps of certified territory to each retail electric supplier. Any retail electric supplier or municipality or beneficial trust thereof engaged in the furnishing of electric service who feels itself aggrieved by reason of a certification of territory pursuant to this section may protest the certification of territory, not to exceed one township in a single protest, within a one hundred twenty-day period after issuance of the map of certified territory by the Commission; and the Commission shall have the power,

after hearing, to revise or vacate such certified territories or portions thereof.

(2) In such hearing, the Commission shall be guided by the following conditions as they existed on the effective date of this act:

(a) The proximity of existing distribution lines to such certified territory.

(b) Which supplier was first furnishing retail electric service, and the age of existing facilities, in the area.

(c) Which supplier is the predominant retail electric supplier in the area.

(d) The adequacy and dependability of existing distribution lines and facilities to provide dependable high quality retail electric service at reasonable costs.

(e) The elimination and prevention of duplication of electric lines and facilities supplying such territory.

In its determination of such protest, the Commission hearing shall be de novo; and neither supplier shall bear the burden of proof.

D. In each unincorporated area, where the Commission shall determine that the existing distribution lines of two or more retail electric suppliers are so intertwined or located that Section 4 B cannot reasonably be applied, the Commission shall, after hearing, certify the service territory or territories for the retail electric suppliers under the provisions of Section 4 C (2) hereof.

Laws 1971, c. 113, § 4.

§17-158.25. Exclusive rights within territory - New electric-consuming facilities.

A. Except as otherwise provided herein, each retail electric supplier shall have the exclusive right to furnish retail electric service to all electric-consuming facilities located within its certified territory, and shall not furnish, make available, render or extend its retail electric service to a consumer for use in electric-consuming facilities located within the certified territory of another retail electric supplier; provided that any retail electric supplier may extend its facilities through the certified territory of another retail electric supplier, if such extension is necessary for such supplier to connect any of its facilities or to serve its consumers within its own certified territory.

B. Except as provided in Section 5 C and Section 5 E, any new electric-consuming facility located in an unincorporated area which has not as yet been included in a map issued by the Commission, pursuant to Section 4C(1), or certified, pursuant to Section 4 D, shall be furnished retail electric service by the retail electric supplier which has an existing distribution line in closer proximity to such electric-consuming facility than is the nearest existing distribution line of any other retail electric supplier. Any

disputes under this Section 5 B shall be resolved by the Commission.
C. If the Commission, after hearing, shall determine that the retail electric service being furnished or proposed to be furnished by a retail electric supplier to an electric-consuming facility is inadequate and is not likely to be made adequate, the Commission may authorize another retail electric supplier to furnish retail electric service to such facility.

D. Except as provided in Section 5 C, no retail electric supplier shall furnish, make available, render or extend retail electric service to any electric-consuming facility to which such service is being lawfully furnished by another retail electric supplier on the effective date of this act, or to which retail electric service is lawfully commenced thereafter in accordance with this section by another retail electric supplier.

E. The provisions of this act shall not preclude any retail electric supplier from extending its service after the effective date of this act (1) to its own property and facilities, in an unincorporated area, and (2) subject to Section 5 D, to an electric-consuming facility requiring electric service, in an unincorporated area, if the connected load for initial full operation of such electric-consuming facility is to be 1,000 kw or larger.
Laws 1971, c. 113, § 5.

§17-158.26. Contracts between suppliers.

Notwithstanding the effectuation of certified territories established by or pursuant to this act, and the exclusive right to service within such territory, a retail electric supplier may contract with another retail electric supplier for the purpose of allocating territories and consumers between such retail electric suppliers and designating which territories and consumers are to be served by which of said retail electric suppliers. Notwithstanding any other provisions of law, a contract between retail electric suppliers as herein provided when approved by the Commission shall be valid and enforceable. The Commission shall approve such contract if it finds that the contract will promote the purposes of Section 3 and will provide adequate and reasonable service to all areas and consumers affected thereby.
Laws 1971, c. 113, § 6.

§17-158.27. General supervision by Commission - Rate investigations - Notice of proposed rate increases - Petition by member-consumers - Exemption of rural electric cooperatives.

A. The Corporation Commission shall have general supervision over all associations or cooperative corporations as defined herein with power to fix and establish rates and to prescribe rules affecting their services, operation, and the management and conduct of their business. It shall have full visitorial and inquisitorial

power to examine such associations or cooperative corporations and keep informed as to their general conditions, their capitalization, rates, plants, equipments, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services; not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the provisions of the Retail Electric Supplier Certified Territory Act, and with the Constitution and laws of this state, and with the orders of the Commission. The provisions of this section shall not be applicable to generation and transmission associations or cooperative corporations, or transmission associations or cooperative corporations.

B. 1. An association or cooperative corporation shall be subject to rate investigations by the Commission pursuant to subsection A of this section unless a proposed increase in rates and charges does not exceed three percent (3%) based on the previous twelve (12) months revenue generated by the existing rates; provided however, that such association or cooperative corporation shall be subject to subsection A of this section if:

a. the association or cooperative corporation elects, by action of its board of trustees, to be subject to rate investigation by the Commission,

b. the percentage of members, that according to bylaws constitute a quorum not to exceed five percent (5%) of the membership for that particular association or cooperative have signed a petition requesting rate investigation pursuant to paragraphs 3 or 4 of this subsection, or

c. the Commission declares that the association or cooperative corporation shall be subject to rate investigations by the Commission pursuant to paragraph 6 of this subsection.

2. Each such association or cooperative corporation not subject to rate investigation, at least ninety (90) days before the effective date of any proposed rate increase, shall notify the Commission and each of its member-consumers of the proposed rate increase. Notice to the Commission shall include a verified statement showing the then total number of member-consumers of the association or cooperative corporation.

Notice by the association or cooperative corporation to its member-consumers shall:

a. be in a form prescribed by this section,

b. be by regular mail and may be included in regular member-consumer billings, and

c. include a schedule of the proposed rate schedules, the effective date of the proposed rate increase and the

procedure necessary for the member-consumers to petition the Commission to examine and determine the reasonableness of the proposed rate increase.

3. The member-consumers of an association or a cooperative corporation may petition the Commission to examine and determine the reasonableness of the rates and charges proposed by the association or cooperative corporation pursuant to subparagraph b of paragraph 1 of this subsection. The form of such a petition shall be substantially in compliance with subsection C of this section. A petition substantially in compliance with such form shall not be deemed invalid due to minor errors in its form.

4. If, by the effective date of this proposed increase in rates and charges, the Commission has received petitions from less than the number of member-consumers as set out in subparagraph b of paragraph 1 of this subsection, requesting that the Commission examine the proposed increase in rates and charges, the Commission shall immediately certify such fact to the association or cooperative corporation. If, on or before the effective date of the proposed increase in rates and charges, the Commission has received petitions from the number of member-consumers as set out in subparagraph b of paragraph 1 of this subsection or more, the Commission shall notify the association or cooperative corporation that it will examine and determine the reasonableness of the proposed increase in rates and charges. Rates and charges established by the Commission or by an association or a cooperative corporation pursuant to this section shall be in force for not less than one (1) year and no further increases in rates and charges shall be permitted during said one-year period.

5. No cooperative corporation or association shall have the right to receive more than one rate increase per year for any reason or under any procedures.

6. In addition to the procedure for petition prior to any proposed increase in rates and charges pursuant to paragraphs 1 through 4 of this subsection, the member-consumers of an association or cooperative corporation may at any time petition the Commission to declare the association or cooperative corporation be subject to full scale rate investigation. If the Commission determines that a majority of the member-consumers of an association or a cooperative corporation have properly petitioned that the association or cooperative corporation be subject to full scale rate regulations, the Commission shall certify such fact to the association or cooperative corporation and thereafter the association or cooperative corporation shall be subject to full scale rate investigation by the Commission until at least a majority of the member-consumers of the association or cooperative corporation properly petition that the association or cooperative corporation shall no longer be subject to such full scale rate investigations by the Commission. The form of

such a petition shall substantially comply with subsection C of this section.

A petition substantially in compliance with the form pursuant to subsection C of this section shall not be deemed invalid due to minor errors in its form.

7. Paragraphs 1 through 6 of this subsection apply only to the rates and charges and shall have no effect on the Commission's jurisdiction over the associations or cooperative corporations or the rules and regulations governing the operations of electric utilities.

8. Each association or cooperative corporation, when determining how rates and charges, established under paragraph 2 of this subsection, are to be allocated to the different rate classes, shall apportion such rates and charges in a manner which reflects, as closely as practicable, the costs of providing service to that class.

9. In no event, and under no circumstances, shall the procedures herein provided be utilized for the purpose of establishing special competitive rates in any area in which a cooperative corporation is in direct competition with another regulated retail electric supplier.

C. 1. A petition requesting the Commission to examine and determine the reasonableness of a proposed increase in rates and charges shall be in substantially the following form:

a. Form:
The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Corporation Commission of the State of Oklahoma"; (2) the name of the association or cooperative corporation seeking an increase in rates and charges; (3) the relief sought.

b. Body:
The body of the petition shall consist of four numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts: The allegations of facts stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is based. The allegations will be stated in numbered subparagraphs as necessary for clarity,

(2) Legal Authority: Retail Electric Supplier Certified Territory Act,

(3) Relief Sought: A brief statement of the amount of the increase in rates and charges that is objected to or other relief sought, and

(4) Petitioners: The name, address, telephone number and signature of each member-consumer.

2. A petition requesting rate regulation of an association or cooperative corporation shall be in substantially the following form:

a. Form:

The petition shall be headed by a caption, which shall contain (1) the heading, "Before the Corporation Commission of the State of Oklahoma"; (2) the name of the association or cooperative corporation seeking an increase in rates and charges; (3) the relief sought.

b. Body:

The body of the petition shall consist of four numbered paragraphs, if applicable, as follows:

(1) Allegations of Facts: The allegations of facts stated in the form of ultimate facts, without unnecessary detail, upon which the right to relief is based. The allegations will be stated in numbered subparagraphs as necessary for clarity,

(2) Legal Authority: Retail Electric Supplier Certified Territory Act, Sections 158.21 through 158.32 of Title 17 of the Oklahoma Statutes,

(3) Relief Sought: A brief statement of the reason the petitioners seek the Commission to regulate the rates and charges of the association or cooperative corporation or other relief sought, and

(4) Petitioners: The name, address, telephone number and signature of each member-consumer.

3. Petitions may only be signed by the member-consumer of the association or cooperative corporation.

D. Upon proceedings brought by an interested person or by action of the Commission, the Commission shall have the jurisdiction to enforce compliance with the Retail Electric Supplier Certified Territory Act, and shall have jurisdiction to prohibit furnishing retail electric service by any retail electric supplier except in its certified territory or territories, or where lawfully serving, and in connection with such enforcement and prohibition to exercise all powers herein or otherwise granted to the Commission.

E. 1. Rural electric cooperatives, which are owned by the member-consumers they serve, are regulated by the member-consumers themselves acting through an elected governing board. It is declared that the regulation by the Commission under this section may be duplicative of the self-regulation by the rural electric cooperative and may be neither necessary nor cost-effective. It is therefore the purpose of this subsection to determine the necessity of regulation by the Commission by allowing the member-consumers of a rural electric cooperative to exempt themselves from regulation by the Commission except as provided herein.

2. Except as otherwise provided in paragraphs 4, 5, 6 and 7 of this subsection, regulation by the Commission shall not apply to rural electric cooperatives which comply with paragraph 3 of this subsection.

3. To be exempt under paragraph 2 of this subsection from all Commission regulation, except as provided for in this section, a cooperative shall poll its members as follows:

a. an election under this subsection may be called by the Board of Trustees or shall be called not less than one hundred eighty (180) days after receipt of a valid petition signed by not less than five percent (5%) of the members of the cooperative,

b. the proposition for deregulation shall be presented to a meeting of the members, the notice of which shall set forth the proposition for deregulation and the time and place of the meeting. Notice to the members shall be written and delivered not less than twenty-one (21) nor more than forty-five (45) days before the date of the meeting,

c. if the cooperative mails information to its members regarding the proposition for deregulation other than notice of the election and the ballot, the cooperative shall also include in such mailing any information in opposition to the proposition that is submitted by petition signed by not less than one percent (1%) of the cooperative's members,

d. if the proposition for deregulation is approved by the affirmative vote of not less than a majority of the members voting on the proposition, the cooperative shall notify the state Corporation Commission in writing of the results within ten (10) days after the date of the election, and

e. voting on the proposition for deregulation shall be by mail ballot, provided, members attending the meeting provided for in subparagraph b of this paragraph may execute and deliver their ballot to the cooperative during or at the conclusion of said meeting.

4. In the event the member-consumers have voted, pursuant to paragraph 3 of this subsection, to exempt themselves from regulation by the Commission, any such cooperative may vote no more than once every twelve (12) months to place said cooperative under the regulation of the Commission, as provided in this section. Said question shall be submitted to the member-consumers of the rural electric cooperative if at least five percent (5%) of the members of the cooperative sign a petition requesting such an election. Such petition shall be submitted to the membership in the same manner as provided for in paragraph 3 of this subsection.

5. Each rural electric cooperative which has voted to exempt itself from Commission regulation, when determining how rates and charges established after such exemption are to be allocated to the different rate classes, shall apportion such rates and charges in a

manner which reflects, as closely as practicable, the costs of providing service to that class. Each cooperative which has exempted itself from Commission regulation shall file and maintain a copy of all current rates and charges with the Oklahoma Corporation Commission.

6. In no event, and under no circumstances, shall rates and charges established hereunder be utilized for the purpose of establishing special competitive rates in any area in which a cooperative is in direct competition with another regulated retail utility supplier.

7. Notwithstanding the provisions of this section, the Commission shall retain jurisdiction over all cooperatives who have voted to exempt themselves from Commission regulation:

a. for all purposes relating to certified territories established under the Retail Electric Supplier Certified Territory Act, and

b. for proceedings brought by a regulated utility relating to alleged discriminatory or anti-competitive rates established by an exempt cooperative, or relating to actions to acquire existing customers of a regulated utility using such rates.

Added by Laws 1971, c. 113, § 7. Amended by Laws 1988, c. 107, § 2, emerg. eff. April 4, 1988; Laws 1993, c. 231, § 1, emerg. eff. May 26, 1993; Laws 2002, c. 281, § 1, eff. July 1, 2002; Laws 2004, c. 14, § 1, emerg. eff. March 23, 2004.

§17-158.28. Applicabilty of act.

The provisions of this act shall not be applicable to municipal corporations, or beneficial trusts thereof, owning or operating electric lines or generating facilities, or the financing of a rural electric cooperative or association; and nothing in this act shall prohibit or shall ever be construed to prohibit any municipal corporation, or beneficial trusts thereof, owning or operating electric lines, from furnishing electric service to any territory thereafter annexed to and incorporated into the corporate limits of said municipal corporation, or from acquiring the electric distribution facilities of any association or cooperative corporation as now provided in Title 18, Section 437.2. Provided further that it shall not be necessary for any such municipal corporation, or beneficial trusts thereof, to secure the prior order, consent or authorization of the Commission to proceed under said Title 18, Section 437.2, but after the acquisition of any such electric distribution facilities of any association or cooperative corporation, the Commission shall be notified by such municipal corporation as to the description of the territory annexed and incorporated into the corporate limits in order that the Commission may adjust its required maps.

Laws 1971, c. 113, § 8.

§17-158.29. Annexation of area to city or town.

When an area, which is included in whole or in part in any territory or territories certified to a retail electric supplier or suppliers under this act, is annexed to and becomes a part of an incorporated city or town, the certification of the territory or territories under this act shall be subject to the provisions of the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act.

Added by Laws 1971, c. 113, § 9. Amended by Laws 2008, c. 263, § 6, eff. Jan. 1, 2009.

§17-158.30. Grand River Dam Authority excepted.

The provisions of this act shall not apply to Grand River Dam Authority.

Laws 1971, c. 113, § 10.

§17-158.31. Liberal construction.

This act shall be construed liberally. The enumeration of any object, purpose, power, manner, method or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods or things.

Laws 1971, c. 113, § 11.

§17-158.32. Section 437.2 of Title 18 not repealed - Provisions as cumulative.

This act shall not be construed to repeal Title 18, Section 437.2, and shall be cumulative to existing law.

Laws 1971, c. 113, § 13.

§17-158.41. Short title.

Sections 2 through 5 of this act shall be known and may be cited as the "Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act".

Added by Laws 2008, c. 263, § 1, eff. Jan. 1, 2009.

§17-158.42. Purpose.

The purposes of the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act are to encourage the orderly development of coordinated statewide retail electric service, conserve natural resources and materials, minimize unnecessary use of the public rights-of-way, avoid needless and wasteful duplication of electric distribution facilities within the State of Oklahoma and provide safe, economical and cost-efficient electric service to retail electric consumers.

Added by Laws 2008, c. 263, § 2, eff. Jan. 1, 2009.

§17-158.43. Affected area division procedure.

A. Notwithstanding any other provision of law to the contrary, when as a result of annexation by a municipality, two or more retail electric suppliers, excluding the Grand River Dam Authority but including investor-owned utilities, rural electric cooperatives, municipalities that provide electricity either directly or through a trust, authority or other political entity and any other retail supplier of electricity, have been authorized to serve consumers in that annexed area, the area to be defined herein as the "affected area", the following procedure shall apply:

1. Any retail electric supplier authorized to serve consumers, as described in subsection C of this section, in the affected area which intends to negotiate a division of the affected area among the affected retail electric suppliers shall notify all other retail electric suppliers authorized to serve consumers in the same affected area. Notification shall be performed by certified mail to the chief executive officer of a privately owned retail electric supplier, including investor-owned utilities and rural electric cooperatives, or to the mayor of a municipality or chief executive officer of any other governmental entity, and a copy of the notification shall be transmitted simultaneously to the Corporation Commission. All affected retail electric suppliers shall negotiate in good faith to divide the affected area by mutual agreement, consistent with the purposes of the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act as set out in Section 2 of this act. No retail electric supplier shall be required to participate in negotiations for more than five affected areas at one time. Any retail electric supplier that is engaged in, or has received notice for, negotiations in five affected areas, may, upon receipt of an additional notice or notices, advise the retail electric supplier providing the additional notice or notices of that fact, in which case the requirements of this subsection to negotiate shall not begin until at least one of the previous negotiations is completed or the parties are unable to agree after six (6) months of negotiation;

2. Within six (6) months of the date of notification, the affected retail electric suppliers may attempt to negotiate a division of the affected area. Upon successful negotiation, the affected retail electric suppliers shall execute a contract that recites with specificity the precise division of the affected area. An executed copy of the contract shall be filed with the Corporation Commission by and for the investor-owned utility or the rural electric cooperative. The Corporation Commission, within ninety (90) days of receipt of an executed copy of the contract, shall issue an order approving the division of the affected area as specified in the contract for the investor-owned utility or the rural electric cooperative unless the Corporation Commission determines, after

hearing, that the contract does not comply with provisions of the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act or that it is not in the public interest. There shall be a presumption that a contract that complies with provisions of this act is in the public interest. If a municipal electric supplier is a party to the contract dividing the affected area, the contract shall be approved for the municipal electric supplier by the governing body of the municipality that is providing electricity either directly or through a trust, authority or other political entity within ninety (90) days unless the governing body of the municipality determines that the contract does not comply with the provisions of the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act or that it is not in the public interest. No contract executed under provisions of this act shall become effective until the contract is approved by the Corporation Commission for the investor-owned utility or the rural electric cooperative and the governing body of the municipality in the case of a municipal electric provider. Nothing in this act shall be construed to authorize, create or imply any regulation of or authority over any municipal electric provider by the Corporation Commission for any purpose, whether or not an agreement under this act is entered into by the municipal electric provider. To the extent that a dispute arises after the execution and approval of an agreement made pursuant to this act between an investor-owned utility or a rural electric cooperative with a municipal electric provider, then the Oklahoma district courts shall have exclusive jurisdiction in the contract dispute;

3. The provisions of this paragraph shall not be applicable:
   a. to a municipal electric provider, or
   b. where one of the retail electric suppliers is a municipal electric supplier and the municipal electric supplier or any retail electric supplier are unable to reach an agreement regarding the division of an affected area, as defined in this act.

If the affected retail electric suppliers, excluding municipal electric providers, are unable to agree to a division of the affected area within the applicable six-month period, either retail electric supplier shall have sixty (60) days in which to notify the Corporation Commission of the inability of the retail electric suppliers to negotiate a division of the affected area. Upon receipt of the notice, the Corporation Commission shall, within six (6) months, divide the affected area among the affected retail electric suppliers based upon projected sales and other criteria so that each affected retail electric supplier shall have, as nearly as is reasonable, an approximately equal share of the projected economic benefits associated with the extension of retail electric service to new electric-consuming facilities in the affected area. When

dividing the affected area so as to achieve equal shares of the future growth in projected economic benefit of providing retail electric service in the affected area, the Corporation Commission shall not consider the economic benefits associated with serving retail electric customers existing prior to the order dividing the affected area between retail electric suppliers. The Corporation Commission shall consider economic projections provided by the affected retail electric suppliers. The Corporation Commission may choose to employ or contract with an independent consultant to provide economic projections, in which case the reasonable, ordinary and necessary costs of the consultant shall be borne equally by the affected retail electric suppliers. In all cases, criteria upon which the Corporation Commission makes its determination shall include public safety, current and projected population, existing electric service, current and anticipated municipal zoning, potential customer revenue, quality of electric service, cost to provide electric service, growth potential over a ten-year period, conservation of natural resources and materials and efficient use of public rights-of-way. After making its determination, the Corporation Commission shall issue an order dividing the territory among the affected retail electric suppliers. An order by the Commission, dividing the affected area between the affected retail electric suppliers, shall provide each retail electric supplier, as nearly as is reasonable, an equal share of the future growth in projected economic benefit of providing retail electric service in the affected area. In no event, however, shall the Corporation Commission issue an order that affects the right of a retail electric supplier to continue serving existing customers in the affected area that the retail electric supplier was serving prior to the effective date of the Commission order except as otherwise provided by law; and

4. During the time beginning when two or more retail electric suppliers are authorized to serve consumers in an affected area and ending when a contract is approved under this act, the affected retail electric suppliers shall be entitled to continue to provide and extend electric service to retail consumers within the affected area. Nothing in this act shall be construed to affect the right of a retail electric supplier to continue serving existing customers in the affected area that the retail electric supplier was serving prior to the effective date of approval by the Corporation Commission.

B. Upon the approval by the Corporation Commission of an agreement dividing an affected area as specified in the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act, the governing body of a municipality may, at its sole discretion, collect, by municipal ordinance, an annual municipal fee upon the gross receipt from all retail sales of power, light, or electricity, in the affected area of the municipality. An investor-owned utility or rural electric cooperative that enters into a contract with

another retail electric supplier in an affected area, or that is assigned territory by the Corporation Commission under subsection A of this section, beginning thirty (30) days after the effective date of the municipal ordinance, shall collect and remit to the municipality in the affected area the municipal fee specified in the municipal ordinance, upon the gross receipts from all retail sales of power, light, or electricity, in the affected area of the municipality. The municipal fee shall not exceed the cumulative amount of any current or future municipal sales tax as applied to each consumer plus the greater amount of any voter-approved franchise fee or annual tax on gross receipts levied as a result of a municipal ordinance enacted pursuant to Section 2601 of Title 68 of the Oklahoma Statutes less any current or future municipal sales tax, franchise fee or gross receipts fee paid by the retail electric service provider or its customers to the municipality. The municipal fee amount shall be collected from the customers of the retail electric supplier on the gross receipts from all retail sales in the affected area within the municipal corporate limits and be remitted by the retail electric supplier to the municipality in the affected area.

C. Two or more retail electric suppliers shall be eligible to initiate or participate in the negotiations provided by subsection A of this section if, and only if, one of the following conditions is met:

1. When a retail electric supplier has a franchise agreement with a municipality, and the municipality annexes or has annexed prior to the effective date of this act territory completely or partially certified to one or more other retail electric suppliers under the Retail Electric Supplier Certified Territory Act;

2. When a municipality or beneficial trust or authority thereof provides retail electric distribution service from a municipally owned or trust- or authority-owned electric distribution system, and the municipality annexes or has annexed prior to the effective date of this act territory completely or partially certified to one or more other retail electric suppliers under the Retail Electric Supplier Certified Territory Act;

3. When two or more retail electric suppliers are, upon the effective date of this act, lawfully providing retail electric service in an area that is not included within any other certified territory of a retail electric supplier, as defined in the Retail Electric Supplier Certified Territory Act; or

4. When by virtue of annexation by a municipality two or more retail electric suppliers are authorized by franchise, state statute or court order to provide retail electric service in such annexed area.

Added by Laws 2008, c. 263, § 3, eff. Jan. 1, 2009.

§17-158.44. Furnishing of retail electricity continued.

Subject to the provisions of the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act, any retail electric supplier shall be entitled to continue and extend the furnishing of electricity, including the right to construct, maintain and operate electric transmission and distribution lines and related facilities along, upon, under and across all existing and future public thoroughfares in an area that has been or shall be included, as a result of incorporation or annexation, within the boundaries of a municipality if the retail electric supplier was furnishing electricity or was constructing or operating electric facilities in the area prior to its incorporation or annexation without obtaining the consent, franchise, license, permit or other authority of the municipality, subject, however, to compliance with the lawful safety requirements of the municipality as to the matter of constructing and maintaining facilities along, upon, under and across thoroughfares. Provided that, if any such retail electric supplier is or has been operating under a franchise granted by the voters of the municipality, upon expiration of such franchise, this section shall not be construed as a grant of a right to continue and extend the furnishing of electricity within the boundaries of the municipality other than as granted with regard to the annexed area referred to in this section.

Added by Laws 2008, c. 263, § 4, eff. Jan. 1, 2009. Amended by Laws 2009, c. 46, § 1, emerg. eff. April 14, 2009.

§17-158.45. Provisions in conflict or inconsistent with Constitution.

If the Retail Electric Consumer Cost Reduction, Safety and Service Efficiency Act, or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared this entire act and this section are amendments to and alterations of said sections of the Constitution, as authorized by Section 35 of Article IX of said Constitution.

Added by Laws 2008, c. 263, § 5, eff. Jan. 1, 2009.

§17-158.50. Definitions.

1. "Acquiring party" means a person and all affiliates thereof by whom or on whose behalf an acquisition of control referred to in Section 2 of this act is to be effected;

2. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by or is under common control with the person specified including any

corporation created at the direction of the person specified for purposes of corporate reorganization;

3. "Commission" means the Oklahoma Corporation Commission;

4. "Control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership, by contract, purchase of assets, or otherwise, unless such power is the result of an official position with, or corporate office held in, such person. Control shall be presumed to exist if any person, directly or indirectly, owns or controls the assets of such rural electric cooperative. This presumption may be rebutted by showing that control does not exist in fact. The Commission may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

5. "Domestic public utility" means a person doing business in the state, including any other person controlling such a domestic public utility, any substantial portion of the revenues of which, either directly or indirectly, are derived from the business of providing utility service in this state, except that such term does not include agencies, authorities or instrumentalities of the United States or a state or political subdivision of a state;

6. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function;

7. "Rural electric cooperative" means a person doing business in the state, pursuant to Section 437.1 et seq. of Title 18 of the Oklahoma Statutes;

8. "Utility service" means the distribution, delivery or furnishing of electric current for sale to the public for light, heat or power;

9. "Assets" in the case of a rural electric cooperative means the physical plant, equipment, accounts receivable, accounts payable, capital credits and all other assets of such rural electric cooperative.

Added by Laws 1987, c. 59, § 1, emerg. eff. April 30, 1987.

§17-158.51. Offers, requests, invitations and acquisitions - Conflict of interests - Statement - Approval.

No person shall make an offer for, or enter into any agreement to exchange, seek to acquire, or acquire the assets of a rural electric cooperative regulated by the Corporation Commission if, after the consummation of such action, such person would directly or

indirectly, or by conversion or by exercise of any right to acquire, be in control of such rural electric cooperative, and no person shall merge with or otherwise acquire control of a rural electric cooperative, except pursuant to Section 437.13 of Title 18 of the Oklahoma Statutes, unless, at the time any such offer, request or invitation is made or prior to the acquisition of assets, such person has filed with the Commission and has sent to such rural electric cooperative a statement containing the information required by Section 3 of this act and such offer, request, invitation, or acquisition has been approved by the Commission in the manner prescribed in Section 4 of this act.
Added by Laws 1987, c. 59, § 2, emerg. eff. April 30, 1987.

§17-158.52. Statement - Contents - Oath or affirmation - Amendments.

A. The statement to be filed with the Corporation Commission as required by Section 2 of this act shall be made under oath or affirmation and shall contain the following information:

1. The name and address of each acquiring party and all affiliates thereof; and

a. if such acquiring party is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years, or

b. if such acquiring party is not an individual, a report of the nature of its business and its affiliates' operations during the past five (5) years or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such acquiring party and its subsidiaries; and a list of all individuals who are or who have been selected to become directors or officers of such acquiring party, or who perform or will perform functions appropriate or similar to such positions. Such list shall include for each such individual the information required by subparagraph a of paragraph 1 of this subsection;

2. The source, nature and amount of the consideration used or to be used in effecting the acquisition of control, a detailed description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests;

3. Audited financial information in a form acceptable to the Commission as to the financial condition of an acquiring party for the preceding three (3) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar information as of a date not earlier than one hundred thirty-five (135) days prior to the filing of the statement;

4. Any plans or proposals which an acquiring party may have to liquidate such rural electric cooperative, to sell its assets or a substantial part thereof, or merge or consolidate it with any person, or to make any other material change in its investment policy, business or corporate structure, or management. If any change is contemplated in the investment policy, or business or corporate structure, such contemplated changes and the rationale therefor shall be explained in detail. If any changes in the management of the rural electric cooperative are contemplated, the acquiring party shall provide a resume of the qualifications and the names and addresses of the individuals who have been selected or are being considered to replace the then current management personnel of the rural electric cooperative;

5. Copies of all offers for, exchange offers for, and agreements to acquire or exchange any assets and, if distributed, of additional soliciting material relating thereto;

6. Documentation from any and all mortgagors which hold a mortgage on any plant or equipment of such rural electric cooperative setting forth such mortgagors approval of such proposed acquisition of control; and

7. Such additional information as the Commission may by rule or regulation prescribe as necessary or appropriate for the protection of ratepayers of the rural electric cooperative or in the public interest.

B. If a person required to file the statement referred to in Section 2 of this act is a partnership, limited partnership, syndicate or other group, the Commission may require that the information called for in paragraphs 1 through 7 of subsection A of this section shall be given with respect to each partner of such partnership or limited partnership, each member of such syndicate or group and each person who controls such partner or member. If any such partner, member, person or acquiring party is a corporation or if a person required to file the statement referred to in Section 2 of this act is a corporation, the Commission may require that the information called for by paragraphs 1 through 7 of subsection A of this section be given with respect to such corporation, each officer and director of such corporation.

C. If any material change occurs in the facts set forth in the statement filed with the Commission and sent to such rural electric cooperative pursuant to this act, an amendment setting forth such

change, together with copies of all documents and other material relevant to such change, shall be filed with the Commission and sent by the person filing the statement to the rural electric cooperative within two (2) business days after such person learns of such change. Added by Laws 1987, c. 59, § 3, emerg. eff. April 30, 1987.

§17-158.53. Approval of acquisition of control - Public hearing.

A. The Corporation Commission shall approve any acquisition of control referred to in Section 2 of this act unless, after a public hearing thereon, it finds that one or more of the following conditions will exist if such acquisition of contol is consummated, in which event it shall disapprove such acquisition of control and the same shall not be consummated:

1. The acquisition of control would adversely affect the contractual obligations of the rural electric cooperative or its ability or commitment to render the same level of service to its customers that the rural electric cooperative is currently rendering;

2. The effect of the acquisition of control would be substantially to lessen competition in the furnishing of public utility service in this state;

3. The financial condition of any acquiring party is such as might jeopardize the financial stability of the rural electric cooperative or otherwise prejudice the interest of the rural electric cooperative's customers;

4. The plans or proposals which an acquiring party has to liquidate the rural electric cooperative, sell its assets, or a substantial part thereof, or consolidate or merge it with any person, or to make any other material change in its investment policy, business or corporate structure or management, would be detrimental to the customers of the rural electric cooperative and not in the public interest; or

5. The competence, experience and integrity of the persons who would control the operation of the rural electric cooperative are such that it would not be in the interest of its customers and the public to permit the acquisition of control.

B. The public hearing referred to in subsection A of this section shall be commenced within thirty (30) days after the statement required by Section 2 of this act is filed. The place, date and time for such public hearing shall be set by the Commission and notice thereof shall be given by the Commission to the person filing the statement and to the rural electric cooperative at least twenty (20) days prior to the date of the public hearing. Notice of the public hearing shall be given by the person filing the statement to such other persons and in such manner as may be directed by the Commission at least fifteen (15) days prior to such public hearing. The rural electric cooperative shall give notice to its customers as provided in Section 5 of this act. The public hearing referred to in

subsection A of this section shall be concluded within thirty (30) days after the commencement of such hearing. The Commission shall make a determination on the factors specified in subsection A of this section within thirty (30) days after the conclusion of such hearing, and any acquisition of control within the purview of this section shall be deemed approved unless the Commission has, within thirty (30) days after the conclusion of such hearing, entered its order disapproving the acquisition of control.
Added by Laws 1987, c. 59, § 4, emerg. eff. April 30, 1987.

§17-158.54. Notice of public hearing - Expenses and security.

Notice, in a form to be specified by the Corporation Commission, of the public hearing to be held pursuant to Section 4 of this act shall be mailed, or shall be given in such other manner as may be determined by the Commission, by the rural electric cooperative to its customers within ten (10) business days after it has received notice of the hearing from the Commission. The expenses of preparation and mailing and giving of such notice shall be borne by the person filing the statement required by Section 2 of this act. As security for the payment of such expenses, the Commission may require such person to file with the Commission an acceptable bond or other deposit in an amount to be determined by the Commission.
Added by Laws 1987, c. 59, § 5, emerg. eff. April 30, 1987.

§17-158.55. Domestic public utility - Filing application for approval - Exemption.

If the acquiring party is a domestic public utility, and the rural electric cooperative, control of which is sought to be acquired in a transaction described in Section 2 of this act which would require the filing of a statement pursuant to Section 2 of this act, is subject to the jurisdiction of the Commission, an application for approval containing such information as the Commission may prescribe by rule or regulation adopted pursuant to this act, shall be filed with and heard by the Commission after such notice as the Commission may prescribe, and the transaction approved or disapproved based upon the factors enumerated in paragraphs 1 through 5 of subsection A of Section 4 of this act, subject to judicial review as provided in Section 11 of this act, but the other provisions of this act shall not apply to such transaction. This act shall not apply to mergers or consolidations of rural electric cooperatives governed by Section 437.13 or 437.14 of Title 18 of the Oklahoma Statutes.
Added by Laws 1987, c. 59, § 6, emerg. eff. April 30, 1987.

§17-158.56. Jurisdiction - Copies of lawful process.

The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files or is required to file a statement with the

Corporation Commission as required by Section 2 of this act, and over all actions involving such person arising out of violations of this act. Copies of all such lawful process shall be served on the Commission and transmitted by certified or registered mail, with return receipt requested, by the Commission to such person at his last-known address.
Added by Laws 1987, c. 59, § 7, emerg. eff. April 30, 1987.

§17-158.57. Corporation Commission power - Expenses of conducting analysis or investigation.

The Corporation Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this act. The expense of conducting an analysis or investigation by the Commission of the information required to be filed under Section 3 of this act shall be paid by the acquiring party within fifteen (15) days of the public hearing required by Section 4 of this act. Expenses of conducting the analysis or investigation may include, but not be limited to, the cost of acquiring expert witnesses, consultants and analytical services.
Added by Laws 1987, c. 59, § 8, emerg. eff. April 30, 1987.

§17-158.58. Violations - Injunctions - Transmitting evidence - Criminal proceedings.

Whenever it shall appear to the Corporation Commission, the Attorney General or a rural electric cooperative which reasonably believes itself to be the object of an offer or attempt to obtain control as described in Section 2 of this act, that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this act, or of any rule, regulation or order thereunder, the Commission, the Attorney General or the rural electric cooperative may bring an action in the district court in and for Oklahoma County, State of Oklahoma, to enjoin such acts or practices and to enforce compliance with this act or any rule, regulation or order or temporary or permanent injunction shall be granted without bond. The Commission, the Attorney General and the rural electric cooperative shall transmit such evidence as may be available concerning such acts or practices or concerning apparent violations of this act to the District Attorney for Oklahoma County, who, in his discretion may institute appropriate criminal proceedings.
Added by Laws 1987, c. 59, § 9, emerg. eff. April 30, 1987.

§17-158.59. Fines and penalties.

A. Any person who willfully and knowingly does or causes to be done any act, matter or thing prohibited or declared to be unlawful

by this act, or who willfully and knowingly omits or fails to do any act, matter or thing required by this act to be done, or willfully and knowingly causes such omission or failure, shall, upon conviction thereof, be guilty of a felony punishable by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than two (2) years, or both such fine and imprisonment. In addition, such violation shall be punished upon conviction thereof by a fine not exceeding Five Hundred Dollars ($500.00) for each day during which such offense occurs.

B. Any person who willfully and knowingly violates any rule, regulation, restriction, condition or order made or imposed by the Corporation Commission under authority of this act, shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine not exceeding Five Hundred Dollars ($500.00) for each day during which such offense occurs.

Added by Laws 1987, c. 59, § 10, emerg. eff. April 30, 1987. Amended by Laws 1997, c. 133, § 138, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 64, eff. July 1, 1999.

NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 138 from July 1, 1998, to July 1, 1999.

§17-158.60. Appeals - Precedence.

Any party adversely affected by any action of the Corporation Commission under the provisions of this act may appeal to the Supreme Court in the manner now provided in Section 20 of Article IX of the Constitution of the State of Oklahoma. All cases appealed to the Supreme Court from an action of the Commission as herein provided shall have precedence therein as provided in Article IX, Section 21 of the Constitution of the State of Oklahoma.

Added by Laws 1987, c. 59, § 11, emerg. eff. April 30, 1987.

§17-158.61. Provisions in conflict or inconsistent with Constitution.

If this act, or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Section 18 through Section 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared this entire act and this section are amendments to and alterations of said sections of the Constitution, as authorized by Section 35 of Article IX of said Constitution.

Added by Laws 1987, c. 59, § 12, emerg. eff. April 30, 1987.

§17-159.11. Definitions.

As used in this act:

(a) "Water Transportation Company" means any person carrying water for compensation through a water transportation line.

(b) "Water Transportation Line" means a pipe or canal or combination thereof and facilities and appliances thereto used for the purpose of transporting or carrying water therein. It includes the plural lines and extensions thereof. It does not include lines and facilities for retail distribution or sale of water or lines and facilities of nonprofit rural water corporations.

(c) "Person" means an individual, firm, association, or corporation.

(d) A water transportation company shall be considered to be a public utility and all laws, rules and regulations applicable to a public utility be applicable to a water transportation company and be subject to continuing supervision.

Laws 1969, c. 109, § 1, emerg. eff. April 1, 1969.

§17-159.12. Certificate of convenience and necessity required for water transportation lines.

(a) It shall be unlawful for any person to construct, build or equip any water transportation line to serve the public as a common carrier of water without having first obtained from the Corporation Commission of the State of Oklahoma a certificate that the present public convenience and necessity require the operation of such business.

(b) The Commission shall not grant a certificate for the proposed water transportation line which will be in competition with or duplication of any other line serving as a common carrier of water unless it shall first determine that the existing common carrier facilities are inadequate to meet the reasonable needs of the public, or that the person operating the same in unable or refuses or neglects, after hearing on reasonable notice, to provide reasonably adequate service.

Laws 1969, c. 109, § 2, emerg. eff. April 1, 1969.

§17-159.13. Rules and regulations for applications.

The application for any such certificate provided for in Section 2 shall be under such rules and regulations as the Commission may prescribe; provided, however, that the Commission shall not act upon any application whether now pending or hereafter filed until it shall first have adopted rules and regulations relating to the issuance of such certificates.

Laws 1969, c. 109, § 3, emerg. eff. April 1, 1969.

§17-159.14. Information to be furnished with application.

In addition to any other requirements of the Commission, the rules of the Commission shall require the applicant to submit with its application the following:

(a) Plans, specifications, maps, surveys, and field notes in such detail and form as the Commission shall prescribe to demonstrate the

physical feasibility of the proposed water transportation line and the ability of the applicant to complete the same.

(b) Financial statements in such form and detail as the Commission shall prescribe to demonstrate the estimated cost of the facilities and present financial ability of the applicant to construct and operate the same.

(c) A construction schedule showing the proposed starting and completion dates of the project and its major phases, as well as the date on which the water transportation line will be available for service.

(d) Certification by the Oklahoma Water Resourses Board in such form as the Commission shall prescribe that there are, under the laws of Oklahoma, water permits or rights presently vested in that segment of the public sought to be served by the applicant, adequate to provide the applicant with sufficient traffic to make the proposed water transportation line financially feasible.

(e) Certification by the Oklahoma Water Resources Board in such form as the Commission shall prescribe that the water transportation line to be built, if built in keeping with the proposed plans and specifications, will be safe and not a menace to life and property and will not result in waste through excessive loss of water in transit or storage while in the facilities of the applicant.

(f) Certification by the Oklahoma State Department of Health in such form as the Commission shall prescribe that the water transportation line to be built, if built in keeping with the proposed plans and specifications, will be adequate to protect the water from pollution or degradation while in the facilities of the applicant.

Laws 1969, c. 109, § 4, emerg. eff. April 1, 1969.

§17-159.15. Notice of receipt of application.

Upon receipt of an application for such certificate, the Commission shall cause notice thereof to be given by certified mail or personal service to the chief executive officer of the municipality or municipalities affected, if any, to the board of county commissioners in any county the line enters or traverses, and to any water transportation company having a water transportation line in any county in which the proposed line is to be built or having a transporation line in any county or counties having a common boundary at any point to any county in which the proposed line is to be built, and shall publish such notice once a week for two (2) consecutive weeks in some newspaper of general circulation in each county affected.

Laws 1969, c. 109, § 5, emerg. eff. April 1, 1969.

§17-159.16. Power to issue or refuse certificate - Protests.

The Commission shall have power to issue said certificate as prayed for, or to refuse to issue the same, or to suspend or revoke the same, or to issue it for construction, operation, or acquisition of some portion only of the proposed water transportation line.

No certificate shall be issued until the expiration of forty-five (45) days from the date of the first publication of notice, nor shall any certificate be issued without hearing unless no protest is filed to the granting of the certificate by any interested party within such forty-five day period. In the event such protest is filed, then the Commission shall set the matter for public hearing; however, in the event no protest is filed, the Commission, at its discretion, may issue the certificate forthwith or set the matter for public hearing on its own motion.

Laws 1969, c. 109, § 6, emerg. eff. April 1, 1969.

§17-159.17. Provisions of certificate - Defaults.

Each certificate of convenience and necessity issued by the Commission shall establish time limits within which construction must be started but in no case shall this exceed six (6) calendar months. The certificate shall also establish a time limit within which the certificated water transportation line will be made available for public service. The certificate shall also provide for reports to the Commission at appropriate intervals indicating the progress of construction, the percentage of completion of the major phases of the project, changes in the estimated completion dates, and any other appropriate information which may be required by the Commission.

If the Commission shall determine that the certificate holder appears to be in default as to the time limits set out in the certificate, it shall conduct a hearing, after ten (10) days' notice, and require the certificate holder to show cause why the certificate should not be canceled. If the certificate holder shall show that it is in default for good cause, such as unanticipated engineering difficulty, national emergency making materials unavailable for construction, or other valid reasons over which the certificate holder has no control, the Commission may extend the time set out in the certificate or in any previous extension. In the absence of good cause shown, the certificate shall be canceled.

The Commission shall conduct a hearing to extend such time limits upon application of the certificate holder, and may make extension for good cause shown.

Added by Laws 1969, c. 109, § 7, emerg. eff. April 1, 1969.

§17-159.18. Assignment of certificate.

Certificates of convenience and necessity issued pursuant to this act or amendments thereto shall not be assigned, leased or alienated in any way except with the consent of the Commission upon the petition of the holder of the certificate, and only then when the

physical assets of the water transportation company or that part thereof covered by the certificate are assigned, leased or alienated to the same assignee to assign a certificate of convenience and necessity, the Commission shall cause the same to be set for hearing and give due and proper notice in writing at least ten (10) days prior to the date of the hearing to all persons who are served by the facilities covered by the certificate which is sought to be transferred, and by the publication once a week for two (2) consecutive weeks in a newspaper of general circulation in each county in which the line is located. If at such hearing the Commission finds from competent evidence that the transfer is in the best interest of the public convenience and necessity, it shall permit the certificate to be transferred.
Laws 1969, c. 109, § 8, emerg. eff. April 1, 1969.

§17-159.19. Rates.

In any proceeding to issue a certificate and in any other proceeding to regulate the rates of a water transportation line subject to the jurisdiction of the Corporation Commission, said Commission shall prescribe and enforce rates to provide a fair return on the fair value of the property of the water transportation line.
Laws 1969, c. 109, § 9, emerg. eff. April 1, 1969.

§17-159.20. Petition for service.

Upon the petition of any person not served by an existing transportation line or by a transportation line for which a certificate has been issued, the Commission may cause the same to be set for hearing and give due and proper notice in writing at least ten (10) days prior to the date of hearing to all persons holding certificates nearest to those requesting service and to the municipal officers of all municipalities served or to be served by such water transportation companies, and by publication once a week for two (2) consecutive weeks in a newspaper or newspapers of general circulation in the county or counties in which the line is proposed to be constructed. If at such hearing the Commission finds from competent evidence that the public convenience and necessity require the furnishing of water transportation service to the petitioners, it shall have the further power to order and direct the person holding a certificate who can most economically extend its service so as to furnish efficient water transportation service to the petitioners to so extend its line. It shall not make an order so requiring unless it finds, from substantial evidence, that the person so ordered to serve is earning a fair return on the fair value of its water transportation line and the rendition of service to the petitioners will not prevent the person so ordered to serve from earning a fair return on the fair value of its water transportation line.
Laws 1969, c. 109, § 10, emerg. eff. April 1, 1969.

§17-159.21. Administrative Procedures Act to govern - Review.

In the exercise of the authority granted by this act, except as herein expressly provided, the Commission shall be governed by and shall conform to the provisions of the Administrative Procedures Act, Sections 1 through 25, inclusive, Chapter 371, O.S.L.1963 (75 O.S.Supp.1968, Sections 31-325). Judicial review of the Commission's decisions in individual proceedings shall be through appeal to the Supreme Court of Oklahoma and the appeal procedure shall be as set forth in said Administrative Procedures Act.
Laws 1969, c. 109, § 11, emerg. eff. April 1, 1969.

§17-159.22. Exceptions.

The provisions of this act shall not be applicable to rural water districts created under the provisions of Section 1 et seq., Chapter 266, O.S.L.1963 (82 O.S.Supp.1968, Sections 1301 et seq.) and as thereafter amended; regional water distribution districts created pursuant to 82 O.S., Secs. 1261, et seq.; port authorities; all water conservancy districts; irrigation districts organized for the purpose of transporting water for agricultural purposes; municipal corporations; trusts of which governmental units or subdivisions are beneficiaries; private individuals or corporations operating water transportation lines to carry water for their own use and not for sale to the public; or federal or state agencies involved in water transportation projects.
Laws 1969, c. 109, § 12, emerg. eff. April 1, 1969.

§17-159.23. Restriction on owning or holding water rights.

No holder of a certificate hereunder shall own or hold water rights or apply to the Oklahoma Water Resources Board therefor and any such right is void.
Laws 1969, c. 109, § 13, emerg. eff. April 1, 1969.

§17-160.1. Ratemaking authority and general jurisdiction of Corporation Commission.

A. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of natural gas, steam heat and steam serving the general public notwithstanding operation thereof by a trust, authority, cooperative and subsidiary created for the benefit or furtherance of a public function pursuant to a trust or public trust, unless the said body operating said system has financing or is in the process of financing the acquisition, improvement or extension of the said system with a loan from the United States of America and is a nonprofit trust.

B. The Corporation Commission shall also have general supervision over any person or entity to whom the function of operating a natural gas, steam heat or steam supply system has been

delegated by such a trust, authority, cooperative or subsidiary. Provided nothing herein shall be construed to apply to a public trust whose Board of Trustees is composed of elected officials or is elected by the customers or a majority of which is composed of members selected by the governing bodies of municipalities in which the public trust operates, or members which it serves, and which Board of Trustees has the authority to establish and regulate its own rates.

C. The Corporation Commission shall have ratemaking authority and general jurisdiction over all supply systems of steam and chilled water serving any portion of any municipality if such system serves more than fifty (50) off-site commercial customers within such municipality.

D. The Corporation Commission shall have the power to fix and establish rates and to prescribe rules, requirements and regulations affecting their services, operation and the management and conduct of the business of persons and entities subject to this act, Section 160.1 et seq. of this title, and shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitorial and inquisitorial power to examine such operations, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, apparatus and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the Constitution and laws of this state, and with the orders of the Commission.

E. The ratemaking authority and general jurisdiction of the Corporation Commission, created under this act, shall be subject to the following exceptions:

1. The Corporation Commission shall not have ratemaking authority or general jurisdiction over:
    a. steam supply systems operated by public trusts which supply steam to customers presently served by or located within the mid-America industrial district, or
    b. an institution of higher education, or related entities, now operating such steam and chilled water facilities not for profit; and
2. The Commission shall not have authority to:
    a. compel an electric public utility to make inspections of consumer-owned facilities, or
    b. compel an electric public utility to provide electric utility service wherein the electric public utility believes such service is likely to endanger the public health and safety or the health and safety of employees of the electric public utility.

Added by Laws 1975, c. 291, § 1, emerg. eff. June 5, 1975. Amended by Laws 1981, c. 44, § 1, emerg. eff. April 8, 1981; Laws 1992, c. 365, § 1, eff. Sept. 1, 1992; Laws 1994, c. 315, § 20, eff. July 1, 1994; Laws 1995, c. 328, § 4, eff. July 1, 1995.

§17-160.2. Existing trusts to submit certain information - Rate orders.

All existing trusts subject to this act shall submit information, within ninety (90) days after the effective date of this act, showing the rate being charged, along with a complete financial statement, including the names of all trustees, officers, employees and beneficiaries.

The Commission shall determine the reasonableness of such rates, in line with the criteria used in nontrust utilities, and enter appropriate orders by December 31, 1975, to establish the rates that shall be charged by trusts, authorities, companies, persons and entities covered by the provisions of this act.
Laws 1975, c. 291, § 2, emerg. eff. June 5, 1975.

§17-160.11. Oklahoma Wind Energy Development Act.

This act shall be known and may be cited as the "Oklahoma Wind Energy Development Act".
Added by Laws 2010, c. 319, § 1, eff. Jan. 1, 2011.

§17-160.12. Legislative findings.

The Legislature finds that:

1. Oklahoma's wind energy resources are an important asset for the continued economic growth of the state and for the provision of clean and renewable power to both the people of the state and the nation as a whole;

2. Promotion of the development of wind energy resources is important to the economic growth of the state;

3. The prudent development of wind energy resources requires addressing the relationship of the needs of wind energy developers with those of the mineral estate owners who have the historical right to make reasonable use of the surface estate, including the right of ingress and egress therefor, for the purpose of exploring, severing, capturing and producing the minerals as reflected in the Exploration Rights Act of 2011, Sections 3 through 7 of this act, and balancing the needs of wind energy developers with those of the landowners who provide access to the wind energy resource, including assurances that wind turbines and wind energy facilities will be properly decommissioned, that they will have access to adequate information to verify the accuracy of their payments, and that they will be adequately protected against hazards and accidents that may arise from the wind turbines or wind energy facilities;

4. The conversion of wind energy into power for utility-scale systems frequently requires large wind energy systems consisting of wind turbines, electrical substations, electrical lines, and other supporting systems;

5. Wind energy facilities, if abandoned or not properly maintained, could pose a hazard to public health, safety, and welfare through mechanical failures, electrical hazards, or the release of hazardous substances; and

6. To protect the public against health and safety hazards, standards for the safe decommissioning of wind energy facilities should be established and assurance of adequate financial resources should be given so that the wind energy systems can be properly decommissioned at the end of their useful life.

Added by Laws 2010, c. 319, § 2, eff. Jan. 1, 2011. Amended by Laws 2011, c. 197, § 2.

§17-160.13. Definitions.

As used in the Oklahoma Wind Energy Development Act:

1. "Abandonment" means the failure to generate electricity from commercial wind energy equipment for a period of twenty-four (24) consecutive months for reasons other than curtailment, repowering, a valid judicial order or other governmental regulatory action, with no pending negotiations for purchase. A wind energy facility shall not be considered abandoned if the owner or operator has elected not to run the facility, but it has been maintained in proper working order and is capable of generating electricity;

2. "Commencement of construction" means beginning excavation of wind turbine foundations or other actions relating to the actual erection and installation of commercial wind energy equipment. It shall not include erection of meteorological towers, environmental assessments, surveys, preliminary engineering or other activities associated with assessment of development of the wind resources on a given parcel of property;

3. "Commercial generation date" means the date on which the wind turbine in question first generates electrical energy in commercial quantities;

4. "Commercial wind energy equipment" means a wind tower and turbine with five hundred kilowatts (500kw) or greater of total nameplate generating capacity;

5. "Commercial quantities" means an amount of electrical energy sufficient for sale or use off-site from a wind turbine or wind energy facility, and shall not include amounts of electrical energy used only for the maintenance or testing of the wind turbine or wind energy facility itself;

6. "Owner" means the entity having a majority equity interest in commercial wind energy equipment, including their respective successors and assigns;

7. "Useful life" means the time during which a wind turbine or wind energy facility is generating electricity in commercial quantities;

8. "Wind turbine" means a wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blade, tower, base and pad transformer, if any; and

9. "Wind energy facility" means an electrical generation facility consisting of one or more wind turbines under common ownership or operating control, and includes substations, meteorological data towers, aboveground and underground electrical transmission lines, transformers, control systems, and other buildings or facilities used to support the operation of the facility, and whose primary purpose is to supply electricity to an off-site customer or customers. Wind energy facility shall not include a wind energy facility located entirely on property held in fee simple absolute estate by the owner of the wind energy facility. Added by Laws 2010, c. 319, § 3, eff. Jan. 1, 2011.

§17-160.14. Decommissioning of wind energy facility.

A. The owner of a wind energy facility shall be responsible, at its expense, for the proper decommissioning of the facility upon abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility.

B. Proper decommissioning of a wind energy facility shall include:

1. Removal of wind turbines, towers, buildings, cabling, electrical components, foundations and any other associated facilities, to a depth of thirty (30) inches below grade; and

2. Disturbed earth being graded and reseeded or otherwise restored to substantially the same physical condition as existed prior to the construction of the wind energy facility by the owner, excluding roads, unless the landowner specifically requests in writing that the roads or other land surface areas be restored.

C. The decommissioning of the wind energy facility, or individual pieces of commercial wind energy equipment, shall be completed as follows:

1. By the owner of the wind energy facility within twelve (12) months after abandonment or the end of the useful life of the commercial wind energy equipment in the wind energy facility; and

2. If the owner of the wind energy facility fails to complete the decommissioning within the period prescribed in paragraph 1 of this subsection, the Corporation Commission shall take such measures as are necessary to complete the decommissioning.

D. A lease or other agreement between a landowner and an owner of a wind energy facility may contain provisions for decommissioning that are more restrictive than provided for in this section.

Added by Laws 2010, c. 319, § 4, eff. Jan. 1, 2011.

§17-160.15. Required filing - Evidence of financial security.

A. The owner of a wind energy facility shall submit to the Corporation Commission evidence of financial security to cover the anticipated costs of decommissioning the wind energy facility. For a wind energy facility or portion thereof which reaches the commercial generation date prior to December 31, 2016, the evidence of financial security shall be submitted after the fifteenth year of operation of the facility. For a wind energy facility or portion thereof which reaches the commercial generation date on or after December 31, 2016, the evidence of financial security shall be submitted by the fifth year of operation of the facility. Evidence of financial security may be in the form of a surety bond, collateral bond, parent guaranty, cash, cashier's check, certificate of deposit, bank joint custody receipt or other approved negotiable instrument as established in rules promulgated by the Commission.

B. 1. For a wind energy facility which reaches the commercial generation date prior to December 31, 2016, the evidence of financial security shall be accompanied by an estimate of the total cost of decommissioning, minus the salvage value of the equipment, prepared by a professional engineer licensed in this state. The amount of the evidence of financial security shall be either:

a. the estimate of the total cost of decommissioning minus the salvage value of the equipment which shall be submitted to the Commission in the fifteenth year of the project and every tenth year thereafter for the life of the wind energy facility, or

b. one hundred twenty-five percent (125%) of the estimate of the total cost of decommissioning which shall be submitted to the Commission in the fifteenth year of the project.

2. For a wind energy facility which reaches the commercial generation date on or after December 31, 2016, the evidence of financial security shall be accompanied by an estimate of the total cost of decommissioning and an estimate of the salvage value of the equipment prepared by a professional engineer licensed in this state. The amount of the evidence of financial security shall be one hundred twenty-five percent (125%) of the estimate of the total cost of decommissioning, minus the salvage value of the equipment, which shall be submitted to the Commission by the fifth year after reaching the commercial generation date and thereafter upon request by the Commission.

C. If the owner of a wind energy facility fails to submit the information with the Commission as is required by this section, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day.

D. In the event of a transfer of ownership of a wind energy facility, the evidence of financial security posted by the transferor shall remain in place and shall not be released until such time as evidence of financial security meeting the requirements of this section is posted by the new owner of the wind energy facility and deemed acceptable by the Commission.

E. The provisions of this section shall apply to any wind energy facility or portion thereof entering into or renewing a power purchase agreement (PPA) for the energy generated by the wind energy facility on or after January 1, 2011. If a wind energy facility does not sell its energy under a power purchase agreement, the provisions of this section shall apply to the wind energy facility or portion thereof which construction commences on or after January 1, 2011.
Added by Laws 2010, c. 319, § 5, eff. Jan. 1, 2011. Amended by Laws 2015, c. 92, § 1.

§17-160.16. Statement to landowner.

For those landowners who are paid based on the amount of electrical energy produced from the conversion of wind energy, the owner or operator of any wind turbine or wind energy facility shall provide a statement within ten (10) business days of the payment to the landowner in consideration for the use of the property of the landowner to generate electrical energy from the conversion of wind energy. The statement shall provide, at a minimum, information reasonably necessary to provide the landowner an understanding of the basis for the payment to the landowner and a means of confirming its accuracy.
Added by Laws 2010, c. 319, § 6, eff. Jan. 1, 2011.

§17-160.17. Inspection of records.

A. Any landowner who has, through a lease, easement, or other arrangement, allowed a wind turbine foundation to be placed on the property of the landowner and who is paid based on the amount of electrical energy produced from the conversion of wind energy shall have the right to inspect the records of the owner or operator of the wind turbine or wind energy facility for the purposes of confirming the accuracy of any payments made to the landowner within the past twenty-four (24) months.

B. The owner or operator of any wind turbine or wind energy facility, any portion of which is located in this state, upon request of a landowner with the right to inspect records as set forth in subsection A of this section and within a reasonable time, but no more than once per calendar year, shall make available within the state all records, documents, data, and other information, or copies thereof, as are necessary for a landowner to conduct the inspection specified in subsection A of this section. The records shall be made available in a location and manner that affords a landowner

reasonable access to the records during normal business hours. The landowner shall be permitted a reasonable length of time to complete the inspection and shall not cause undue disruption to the operations of the owner or operator during the inspection. The records shall be subject to confidentiality requirements contained in the respective landowner lease agreement.
Added by Laws 2010, c. 319, § 7, eff. Jan. 1, 2011.

§17-160.18. Report to Corporation Commission.

A. The owner or operator of any wind turbine or wind energy facility shall report to the Corporation Commission the power generated from the wind turbine or wind energy facility, the nameplate capacity of the wind turbine or wind energy facility, and the location of the wind turbine or wind energy facility.

B. In the event that a wind energy facility contains wind turbines with different nameplate capacities, the information required in subsection A of this section shall be separated by generation from each nameplate capacity.

C. The information required by this section shall be reported on an annual basis, with the information due not later than March 1 of each calendar year.
Added by Laws 2010, c. 319, § 8, eff. Jan. 1, 2011.

§17-160.19. Insurance policies.

A. Prior to commencing construction of a wind energy facility, the owner or operator of a wind turbine or wind energy facility shall obtain and keep in effect either a:

1. Commercial general liability insurance policy with a limit consistent with prevailing industry standards; or

2. Combination of self insurance and an excess liability insurance policy.

B. The owner or operator shall cause the owner of the land where the wind turbine or wind energy facility is located to be named as an additional insured in the policy.

C. The owner or operator shall deliver to the landowner a certificate of insurance evidencing the policy. The landowner shall be given at least thirty (30) days prior notice of any material modification, cancellation or termination of the insurance.
Added by Laws 2010, c. 319, § 9, eff. Jan. 1, 2011.

§17-160.20. Setback requirements.

A. After August 21, 2015, no wind energy facility may be constructed if the base of any tower is located at a distance of less than:

1. One and one-half (1 1/2) nautical miles from the center line of any runway located on:

a. a public-use airport as defined in Section 120.2 of Title 3 of the Oklahoma Statutes, or

b. an airport owned by a municipality;

2. One and one-half (1 1/2) nautical miles from any public school which is a part of a public school district; or

3. One and one-half (1 1/2) nautical miles from a hospital.

B. Attestation of compliance with the setback requirements in this section shall be included in any reports required by the Corporation Commission. Stakeholder and landowner disputes arising under subsection A of this section shall fall under the exclusive jurisdiction of the district courts. The Corporation Commission may seek enforcement of the submission and attestation requirements of this subsection and subsection C of this section through its administrative court system.

C. After the effective date of this act, construction or operation of a proposed individual wind turbine or any other individual structure requiring a Federal Aviation Administration (FAA) Form 7460-1 that is part of a wind energy facility shall not encroach upon or otherwise have a significant adverse impact on the mission, training or operations of any military installation or branch of military as determined by the Military Aviation and Installation Assurance Siting Clearinghouse (Clearinghouse) and the FAA. Areas of impact include, but are not limited to, military training routes, drop zones, approaches to runways and bombing ranges. No individual wind turbine or any other individual structure that requires a FAA 7460-1 form that is part of a wind energy facility may be constructed or expanded unless there is an active Determination of No Hazard from the FAA and adverse impacts to the United States Department of Defense, pursuant to Title 32 of the Code of Federal Regulations, Section 211.6, have been resolved as evidenced by documentation from the Clearinghouse for the individual wind turbine or other individual structure. The Mission Compatibility Certification Letter or successor form may serve as such evidence of adverse impacts being resolved with the Department of Defense or successor agency.

1. The Determination of No Hazard and documentation of the resolution of adverse impacts to the Department of Defense shall be filed with the Corporation Commission and the Oklahoma Aeronautics Commission.

2. The requirements established by this subsection shall not prohibit the construction of an individual wind turbine or any other individual structure requiring a FAA 7460-1 form that is part of a wind energy facility if that individual wind turbine or other individual structure has received a Determination of No Hazard or mitigation plan on or before the effective date of this act.

3. The Corporation Commission is authorized to promulgate rules and regulations for the implementation of the provisions of this section and Section 160.21 of this title.

D. If an owner of a wind energy facility fails to submit an active Determination of No Hazard and documentation that adverse impacts to the Department of Defense have been resolved by the Clearinghouse for the individual wind turbine or other individual structure prior to the start of construction, the owner shall be subject to an administrative penalty not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day, per violation from the Corporation Commission as provided by law. In addition, stakeholders, including, but not limited to, the Corporation Commission or the Aeronautics Commission may institute an action in any court of general jurisdiction to prevent, restrain, correct or abate any violation of subsection C of this section other than Corporation Commission actions related to submissions or attestations.

Added by Laws 2015, c. 92, § 2. Amended by Laws 2017, c. 45, § 2, emerg. eff. April 17, 2017; Laws 2018, c. 4, § 1, emerg. eff. April 3, 2018; Laws 2019, c. 310, § 1, emerg. eff. May 7, 2019.

NOTE: Laws 2018, c. 179, § 1 repealed by Laws 2019, c. 25, § 7, emerg. eff. April 4, 2019.

§17-160.21. See the following versions:

OS 17-160.21v1 (HB 3561, Laws 2018, c. 4, § 2).

OS 17-160.21v2 (HB 2118, Laws 2019, c. 310, § 2).

§17-160.21v1. Notification of intent to build a facility.

A. The owner of a wind energy facility shall submit notification of intent to build a facility to the Corporation Commission within six (6) months of the initial filing pertaining to commencement of construction with the Federal Aviation Administration (FAA) of an FAA Form 7460-1 (Notice of Proposed Construction or Alteration) or any subsequent form required by the FAA for evaluating the impact a proposed wind energy facility will have on air commerce safety and the preservation of navigable airspace. The Corporation Commission shall prescribe the form and submittal requirements of the notification; provided, the information required on the notification form shall include at least the same information required on the FAA form. The owner of the wind energy facility shall send copies of the notification with the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of filing with the Corporation Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be sent to the governing body of the

municipality within twenty-four (24) hours of filing with the Commission.

B. Within thirty (30) days of submitting the notification to the Corporation Commission, as provided for in subsection A of this section, the owner of the wind energy facility shall cause a copy of the notification to be submitted to the Oklahoma Strategic Military Planning Commission. The Oklahoma Strategic Military Planning Commission shall notify local base commanders upon receipt of the notification. The Oklahoma Strategic Military Planning Commission shall submit a letter to the Military Aviation and Installation Assurance Siting Clearinghouse outlining potential areas of impact, as provided in Section 160.20 of this title, within thirty (30) days of receipt of the notification. The letter from the Oklahoma Strategic Military Planning Commission shall be filed with the Corporation Commission.

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

D. Within six (6) months of submitting the notification with the Commission as provided in subsection A of this section, the owner of the wind energy facility shall cause a copy of the notification to be sent, by certified mail, to:

1. Any operator, as reflected in the records of the Corporation Commission, who is conducting oil and gas operations upon all or any part of the surface estate as to which the wind energy developer intends the construction of the wind energy facility;

2. Any operator, as reflected in the records of the Corporation Commission, of an unspaced unit, or a unit created by order of the Corporation Commission, who is conducting oil and gas operations for the unit where all or any part of the unit area is within the geographical boundaries of the surface estate as to which the wind energy developer intends the construction of the wind energy facility; and

3. As to tracts of land not described in paragraphs 1 and 2 of this subsection on which the wind energy developer intends to construct a wind energy facility, all lessees of oil and gas leases covering the mineral estate underlying any part of the tracts of land that are filed of record with county clerk in the county where the tracts are located and whose primary term has not expired.

If the wind energy developer makes a search with reasonable diligence, and the whereabouts of a party entitled to any notice described in this subsection cannot be ascertained or such notice cannot be delivered, then an affidavit attesting to such diligent

search for the parties shall be placed in the records of the county clerk where the surface estate is actually located.

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

F. With regard to the surface estate upon which the owner of a wind energy facility intends to construct a wind energy facility, at least sixty (60) days before entering upon the surface estate for the purposes of commencement of construction of the wind energy facility, the owner shall provide written notice, by certified mail, of its intent to construct the wind energy facility to:

1. Any operator, as reflected in the records of the Corporation Commission, who is conducting oil and gas operations upon all or any part of the surface estate as to which the wind energy developer intends the construction of the wind energy facility;

2. Any operator, as reflected in the records of the Corporation Commission, of an unspaced unit, or a unit created by order of the Corporation Commission, who is conducting oil and gas operations for the unit where all or any part of the unit area is within the geographical boundaries of the surface estate as to which the wind energy developer intends the construction of the wind energy facility; and

3. As to tracts of land not described in paragraphs 1 and 2 of this subsection on which the wind energy developer intends to construct a wind energy facility, all lessees of oil and gas leases covering the mineral estate underlying any part of the tracts of land that are filed of record with county clerk in the county where the tracts are located and whose primary term has not expired.

The notice shall contain a map or plat of the proposed location, with sufficient specificity of all of the various elements of the wind energy facility to be located on the governmental section which includes all or any part of the tracts of land described in paragraphs 1, 2 and 3 of this subsection and the approximate date that the owner of the wind energy facility proposes to commence construction. If the wind energy developer makes a search with reasonable diligence, and the whereabouts of a party entitled to any notice described in this subsection cannot be ascertained or such notice cannot be delivered, then an affidavit attesting to such diligent search for the parties shall be placed in the records of the

county clerk where the surface estate is actually located. Within thirty (30) days of receiving said notice, any operator, as described in paragraphs 1, 2 and 3 of this subsection shall reciprocate, in writing by certified mail, certain site, operational and infrastructure information, with sufficient specificity, to be shared with the owner of the wind energy facility to assist both with the safe construction and operation pertaining to the surface estate. This information should include ALTA surveys of existing subsurface and surface improvements on the property, if any, as well as other technical specifications for existing improvements such as pipe size, material, capacity and depth.

G. The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information as required in this section, the owner shall be subject to an administrative penalty from the Corporation Commission not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day.

Added by Laws 2015, c. 92, § 3. Amended by Laws 2017, c. 45, § 1, emerg. eff. April 17, 2017; Laws 2018, c. 4, § 2, emerg. eff. April 3, 2018.

§17-160.21v2. Notification of intent to build a facility.

A. The owner of a wind energy facility shall submit notification of intent to build a facility to the Corporation Commission within six (6) months of the initial filing with the Federal Aviation Administration (FAA) of a FAA 7460-1 form. The Corporation Commission shall prescribe the form and submittal requirements of the notification; provided, the information required on the notification form shall include at least the same information required on the FAA form and a map of the project boundary. The owner of a wind energy facility shall submit to the Oklahoma Aeronautics Commission copies of all initial FAA 7460-1 forms for all individual wind turbines or any other individual structure that requires a FAA Form 7460-1 that is part of a wind energy facility within thirty (30) days of the initial filing with the FAA. The Aeronautics Commission shall prescribe the submittal requirements for the 7460-1 form. The owner of the wind energy facility shall send copies of the notification to the board of county commissioners of every county in which all or a portion of the wind energy facility is to be located within twenty-four (24) hours of filing with the Corporation Commission. If all or a portion of the wind energy facility is to be located within the incorporated area of a municipality, copies of the notification shall also be sent to the governing body of the municipality within twenty-four (24) hours of filing with the Corporation Commission. If the owner of a wind energy facility is required to file subsequent 7460-1 forms with the FAA due to changing locations or heights of individual

structures from the locations or heights originally proposed in the initial 7460-1 forms submitted to the Aeronautics Commission, the owner shall, within ten (10) days of filing with the FAA, submit such subsequent 7460-1 forms to the Corporation Commission and Aeronautics Commission. A wind energy facility owner shall not be required to start the notification processes over unless the subsequent 7460-1 forms expand the project beyond its original boundaries submitted to the Corporation Commission.

B. Within ten (10) days of receiving a FAA 7460-1 form, as provided for in subsection A of this section, the Aeronautics Commission shall notify the Oklahoma Strategic Military Planning Commission. The Oklahoma Strategic Military Planning Commission shall notify local base commanders upon receipt of this notification. The Oklahoma Strategic Military Planning Commission shall submit a letter to the Military Aviation and Installation Assurance Siting Clearinghouse outlining potential areas of impact, as provided in Section 160.20 of this title, within thirty (30) days of receipt of the notification. The letter from the Oklahoma Strategic Military Planning Commission shall be submitted to the Corporation Commission, the Aeronautics Commission and the wind energy facility owner at the same time the letter is submitted to the Clearinghouse.

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

D. Within six (6) months of submitting the notification with the Corporation Commission as provided in subsection A of this section, the owner of the wind energy facility shall cause a copy of the notification to be sent, by certified mail, to:

1. Any operator, as reflected in the records of the Corporation Commission, who is conducting oil and gas operations upon all or any part of the surface estate as to which the wind energy developer intends the construction of the wind energy facility;

2. Any operator, as reflected in the records of the Corporation Commission, of an unspaced unit, or a unit created by order of the Corporation Commission, who is conducting oil and gas operations for the unit where all or any part of the unit area is within the geographical boundaries of the surface estate as to which the wind energy developer intends the construction of the wind energy facility; and

3. As to tracts of land not described in paragraphs 1 and 2 of this subsection on which the wind energy developer intends to construct a wind energy facility, all lessees of oil and gas leases covering the mineral estate underlying any part of the tracts of land

that are filed of record with county clerk in the county where the tracts are located and whose primary term has not expired.

If the wind energy developer makes a search with reasonable diligence, and the whereabouts of a party entitled to any notice described in this subsection cannot be ascertained or such notice cannot be delivered, then an affidavit attesting to such diligent search for the parties shall be placed in the records of the county clerk where the surface estate is actually located.

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

F. With regard to the surface estate upon which the owner of a wind energy facility intends to construct a wind energy facility, at least sixty (60) days before entering upon the surface estate for the purposes of commencement of construction of the wind energy facility, the owner shall provide written notice, by certified mail, of its intent to construct the wind energy facility to:

1. Any operator, as reflected in the records of the Corporation Commission, who is conducting oil and gas operations upon all or any part of the surface estate as to which the wind energy developer intends the construction of the wind energy facility;

2. Any operator, as reflected in the records of the Corporation Commission, of an unspaced unit, or a unit created by order of the Corporation Commission, who is conducting oil and gas operations for the unit where all or any part of the unit area is within the geographical boundaries of the surface estate as to which the wind energy developer intends the construction of the wind energy facility; and

3. As to tracts of land not described in paragraphs 1 and 2 of this subsection on which the wind energy developer intends to construct a wind energy facility, all lessees of oil and gas leases covering the mineral estate underlying any part of the tracts of land that are filed of record with county clerk in the county where the tracts are located and whose primary term has not expired.

The notice shall contain a map or plat of the proposed location, with sufficient specificity of all of the various elements of the wind energy facility to be located on the governmental section which includes all or any part of the tracts of land described in paragraphs 1, 2 and 3 of this subsection and the approximate date

that the owner of the wind energy facility proposes to commence construction. If the wind energy developer makes a search with reasonable diligence, and the whereabouts of a party entitled to any notice described in this subsection cannot be ascertained or such notice cannot be delivered, then an affidavit attesting to such diligent search for the parties shall be placed in the records of the county clerk where the surface estate is actually located. Within thirty (30) days of receiving said notice, any operator, as described in paragraphs 1, 2 and 3 of this subsection shall reciprocate, in writing by certified mail, certain site, operational and infrastructure information, with sufficient specificity, to be shared with the owner of the wind energy facility to assist both with the safe construction and operation pertaining to the surface estate. This information should include ALTA surveys of existing subsurface and surface improvements on the property, if any, as well as other technical specifications for existing improvements such as pipe size, material, capacity and depth.

G. The owner of a wind energy facility shall not commence construction on the facility until the notification and public meeting requirements of this section have been met. If an owner of a wind energy facility fails to submit the information as required in this section, the owner shall be subject to an administrative penalty from the Corporation Commission not to exceed One Thousand Five Hundred Dollars ($1,500.00) per day, per violation as provided by law.

Added by Laws 2015, c. 92, § 3. Amended by Laws 2017, c. 45, § 1, emerg. eff. April 17, 2017; Laws 2018, c. 179, § 2, emerg. eff. May 2, 2018; Laws 2019, c. 310, § 2, emerg. eff. May 7, 2019.

§17-160.22. Authority to promulgate rules and set fees.

The Corporation Commission shall have authority to promulgate rules as necessary to implement the provisions of the Oklahoma Wind Energy Development Act and to set fees necessary to carry out the duties and responsibilities of the Commission pursuant to the act.

Added by Laws 2015, c. 92, § 4.

§17-161.1. Restrictions on charges for reselling electric current or natural gas.

A. Except for any person, public utility, or public service corporation subject to the jurisdiction of the Corporation Commission, or a municipal utility, or a public trust which has as its beneficiary the municipality, no owner of any interest in real property in this state who purchases electric current or natural gas from a municipality and who resells such electric current or natural gas to any residential lessee of any interest in such real property for the purpose of heat, light or power shall charge such lessee any amount in excess of ten percent (10%) of the cost to such reseller

for each billing cycle of the electricity or natural gas purchased by the reseller from the supplier. Provided the provisions of this section shall not apply to the resell of electric current or natural gas pursuant to a commercial lease.

B. The reseller shall separately disclose in its electric or gas bills to the lessee the per unit cost of its purchased power and the actual amount of each fee or charge in dollars and cents to be paid by the lessee to the reseller.

C. Any person who willfully violates the provisions of this act, upon conviction by a district court, shall be guilty of a misdemeanor. In addition to the punishment prescribed by this subsection, said reseller is liable in treble damages to the lessee injured, said damages to be recovered in a civil action by the consumer so injured. Treble damages shall be based on the total amount to be paid to the reseller by the lessee for each bill which exceeds the authorized percentage pursuant to this section.

D. The Office of the Attorney General of this state shall have the power and duty to investigate and prosecute any violations of the provisions of this section.

Added by Laws 1987, c. 163, § 1, eff. Nov. 1, 1987.

§17-162. Administrative law judges - Powers - No additional compensation.

The Corporation Commission is authorized and empowered to assign persons in its regular employ as administrative law judges who shall have power to administer oaths, examine witnesses, and receive evidence and report the same to the Corporation Commission, under such rules as the Commission may adopt. A person or persons so assigned shall not be entitled to any compensation other than the regular salary for the position for which they may be regularly employed for performing the services of administrative law judge.

Added by Laws 1931, p. 21, § 1. Amended by Laws 1998, c. 180, § 3, eff. July 1, 1998.

§17-163.1. Wage rates, benefits, working conditions or other terms or conditions of employment subject to collective bargaining agreements - Disallowance or change.

In establishing rates, unless there is evidence that wage rates, benefits, working conditions or other terms or conditions of employment are not comparable to other collective bargaining agreements for comparable regulated and nonregulated entities in comparable economic and geographical environments, the Corporation Commission shall not disallow or otherwise change any wage rate, benefit, working condition, or other term or condition of employment that is the subject of a collective bargaining agreement between the public utility or public service corporation and a labor organization. Nothing herein shall affect the authority of the

Commission to make adjustments where necessary to match wages and benefits with a test year examined by the Commission and to allocate a benefit to the period during which rates will be expected to remain in effect.

It is the intention of the Legislature that any provision of this section is an amendment to, and alteration of Sections 18 through 34 inclusive of Article IX of the Oklahoma Constitution as authorized by Section 35 of Article IX of the Oklahoma Constitution.

Added by Laws 1993, c. 132, § 1, eff. Sept. 1, 1993.

§17-164. Fees for rebates or refunds.

For all rebates or refunds made through the intervention or agency of the Corporation Commission, a fee of ten per cent on such rebates or refund shall be charged and deducted from such amount rebated or refunded through such intervention or agency of the Corporation Commission, and same shall be converted into the State Treasury as provided by law.

Laws 1915, c. 161, § 2.

§17-166.1. Fees - Rules and regulations.

The Oklahoma Corporation Commission may promulgate rules and regulations prescribing reasonable fees for:

1. The filing and duplication of documents by the Commission, and such fees shall be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund;

2. The filing, cancellation, reinstatement and duplication of documents processed by the Transportation Division including, but not limited to, documents for insurance, reinstatement of insurance, annual reports, rates and tariffs, name changes, "Doing Business As" (DBA) designations and address changes, and such fees shall be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund.

Added by Laws 1982, c. 354, § 1, operative July 1, 1982. Amended by Laws 1984, c. 284, § 12, operative July 1, 1984; Laws 1985, c. 325, § 5, emerg. eff. July 29, 1985.

§17-166.1a. Fee schedule for permits, licenses, certificates and other authorizations - Service fee schedule - Disposition of fees collected.

A. The Corporation Commission may establish a schedule of fees to be charged for applications for, or the issuance of, new, modified or renewed permits, licenses, certificates and other authorizations and for such other services as are involved in the regulation of activities, functions and programs within the jurisdiction of the Commission. Such fees shall be subject to the following limitations:

1. The Commission shall follow the procedures required by the Administrative Procedures Act for promulgation of rules in establishing or amending any such schedule of fees;

2. The Commission shall base its schedule of fees for each service, function or program upon the reasonable costs, both direct and indirect, of operating or providing such services, functions or programs, including, but not limited to, the costs of administration, personnel, office space, equipment, training, travel, inspection and review rendered in connection with each such service, function or program;

3. The Commission shall expend monies from fees levied pursuant to this section, including, but not limited to, application, review, inspection, monitoring and operating fees, only on the direct or indirect costs of the specific functions or programs from which such monies originate.

B. The Commission may establish a schedule of fees to be charged for services, including, but not limited to, searches, compilations, certifications or reproductions of maps and publications, transcripts, blueprints, computer data, electronic recordings or documents. Such fees shall be based on the actual cost to the Commission for the provision of such services.

C. Fees collected by the Commission pursuant to this section shall be deposited in the Corporation Commission Revolving Fund.
Added by Laws 1993, c. 278, § 42, operative Sept. 1, 1993.

§17-166.2. Purchase of transcripts - Utilization of Oil and Gas Revolving Fund.

In addition to other purposes now authorized by law, the Corporation Commission is authorized to utilize the Oil and Gas Revolving Fund for the purpose of purchasing transcripts of proceedings before the Commission, or before any other court, agency or board.
Added by Laws 1982, c. 354, § 2, operative July 1, 1982. Amended by Laws 1997, c. 275, § 1, eff. July 1, 1997.

§17-166.3. Conferences.

A. The Corporation Commission is hereby authorized to sponsor and implement conferences to promote the dissemination of knowledge regarding the Commission's regulatory activities. The Commission is hereby authorized to charge registration and other fees necessary to cover the costs of these conferences and shall deposit the fees, plus any other conference proceeds, including donated funds, into an agency special account to be created by the Special Agency Account Board. Expenditure of monies from this agency special account shall be exempt from the Oklahoma Central Purchasing Act and shall be for purposes incidental to the conferences sponsored by the Commission.

B. From any monies remaining in the fund following a conference after all bills have been paid, the Commission shall retain ten percent (10%) of the total conference cost to be used to cover start up costs for the next conference and may transfer any remaining monies to the Oklahoma Corporation Commission Revolving Fund to be used for general operating expenses of the Commission.
Added by Laws 1996, c. 331, § 4, emerg. eff. June 12, 1996. Amended byLaws 2008, c. 181, § 1, emerg. eff. May 15, 2008.

§17-167. Certificate of record showing as to oil and gas leases - Filing.

Any person, firm or corporation desiring to ascertain such facts may make application in writing to the Corporation Commission of the State of Oklahoma for a certificate setting forth what the records of the Corporation Commission, returned and compiled under its lawfully issued rules and regulations, disclose with reference to notices to drill, plug and abandon oil and gas well or wells and the production therefrom, if any, on the tract or tracts of land or lands covered by such application. Such application must be accompanied by a fee of Ten Dollars ($10.00) to be paid to the Oil and Gas Conservation Division to be deposited in the Oil and Gas Revolving Fund. It shall be the duty of the Commission to mail to the address given in the application a certificate setting forth the information and date requested in such application, which certificate shall be signed by the chairman or vice-chairman of the Commission and attested to by its secretary. Any such certificates may be filed for record in the county in which the tract or tracts of land is located, and the county clerk shall properly endorse such instruments under the lands affected as certificates of the Corporation Commission.
Added by Laws 1945, p. 41, § 1, emerg. eff. April 25, 1945. Amended by Laws 1951, p. 34, § 1; Laws 1975, c. 202, § 1, operative July 1, 1975; Laws 1982, c. 354, § 3, operative July 1, 1982; Laws 1997, c. 275, § 2, eff. July 1, 1997.

§17-168. Certificate as prima facie evidence - Burden of proof.

If, and when a certificate, as provided in Section 1 hereof, has been filed and recorded in the land records of the county in which the tract of land described in said certificate is located, and such certificate disclosed that no notice of intention to drill an oil well or gas well on said described land has been filed with the Commission, or discloses that as to all wells, for which notices to drill on said lands have been filed, and there has been filed a notice to plug, or discloses that no production has been reported from said tract for six (6) months or more prior to the date of said certificate, said certificate shall constitute prima facie evidence of the actual status of production from, development of, or abandonment of operations on said tract, and any person, firm or

corporation, who asserts the existence and validity of any oil and gas lease, or conveyance, the primary term of which has expired, and the existence and validity of which lease or conveyance is dependent upon such development, production, or operations, as defeating the merchantability of title to the tract covered by said certificate, or any part thereof, shall have the burden of proving that such lease or conveyance is in fact valid and subsisting.
Laws 1945, p. 42, § 2; Laws 1951, p. 34, § 2.

§17-179. Acts in conflict of interest by Commission members prohibited.

It shall be unlawful for any member of the Corporation Commission to own any interest in or to assist in the financing of any firm, corporation or business or to associate himself with any firm, corporation or business which is subject to regulation by the Corporation Commission or in which the influence of the Corporation Commission is used to benefit such business.
Laws 1968, c. 397, § 1, emerg. eff. May 17, 1968.

§17-180. Penalties.

After the effective date of this act, any person who with wrongful intent acquires an interest in or assists in financing any firm, corporation or business of the type specified in Section 1, or who actually uses such influence to benefit such firm, corporation or business, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment in the county jail for a period of not exceeding one (1) year, or by both such fine and imprisonment.
Laws 1968, c. 397, § 2, emerg. eff. May 17, 1968.

§17-180.1. Advertising expenses by public utilities.

A. Advertising expenses shall not be included by a public utility in its operating expenses for ratemaking purposes.

B. For purposes of subsection A of this section:

1. "Advertising" means:

a. the commercial use by a public utility of any media including, but not limited to, newspaper, magazine, radio and television to transmit a message to the public or to such public utility's customers, or

b. the commercial use by a public utility of any printed material to transmit a message to a substantial number of members of the public or to a substantial number of the public utility's customers;

2. "Advertising" shall not mean:

a. periodic publications or reports required by the bylaws of any public utility or electric cooperative, b. any

communication with customers and the public which is strictly limited to energy conservation and education,

c. any communication with customers and the public which provides telephone customers with instruction in the use of new, changed or improved features of their telephone service, or information about time periods or other conditions under which long distance calls may be made at reduced rates, or information which promotes the efficient use of the telephone network; provided that if the cost of providing such information is to be treated as an operating expense by the public utility, it shall be clearly marked or identified to indicate the identity of the public utility and the fact that the cost is paid for by the ratepayers of the public utility,

d. any communication with customers and the public for giving of information or notice required by law or otherwise necessary to warn of dangerous or hazardous conditions,

e. routine classified telephone listings for the convenience of customers,

f. informational inserts in customers' bills,

g. any communication with customers and the public which informs existing and potential customers of the availability and conservation features of energy-efficient appliances and equipment,

h. any communication with customers and the public which relates to industrial development, and

i. any communication with customers and the public which is in furtherance of conservation or load management programs approved by the Corporation Commission;

3. "Public utility" means any individual, firm, association, partnership, corporation or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

a. producing, generating, transmitting, distributing, selling or furnishing electricity,

b. the conveyance, transmission, reception or communications over a telephone system; provided that no authority not otherwise a public utility within the meaning of this section shall be deemed such solely because of the furnishing or furnishing and maintenance of a private system, or

c. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public; and

4. "Appliances" and "equipment" mean those individual appliances and space-conditioning equipment introduced by manufacturers after November 9, 1978, which operate at a level of efficiency at least twenty percent (20%) greater than appliances and

space-conditioning equipment of the same energy type manufactured prior to that date.
Laws 1977, c. 263, § 1; Laws 1981, c. 294, § 1.

§17-180.2. Public utilities - Promotional payments.

A. No public utility which has for one of its purposes the sale or distribution of energy may include promotional payments in its operating expenses for ratemaking purposes.

B. For purposes of subsection A of this section:

1. "Promotional payment" means any payment, gift or other remuneration made directly or indirectly by a public utility to or for the account of any builder or other person to encourage or induce such builder or other person to install appliances including, but not limited to, space heaters, heat pumps, clothes dryers, water heaters and stoves and equipment which will consume any energy sold or marketed by such public utility;

2. "Promotional payment" shall not mean payments, gifts or other remuneration made for conservation or load management programs or energy-efficient appliances and equipment introduction programs approved by the Corporation Commission;

3. "Public utility" means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation, or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

a. producing, generating, transmitting, distributing, selling or furnishing electricity, or

b. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public; and

4. "Appliances" and "equipment" mean those individual appliances and space-conditioning equipment introduced by manufacturers after November 9, 1978, which operate at a level of efficiency at least twenty percent (20%) greater than appliances and space-conditioning equipment of the same energy type manufactured prior to that date.
Laws 1977, c. 227, § 1; Laws 1981, c. 294, § 2.

§17-180.4. Political activities prohibited - Exception.

No employee of the Corporation Commission in the unclassified service, shall, directly or indirectly, solicit, receive, or in any manner be concerned in soliciting or receiving any assessment, subscription or contribution for any political organization, candidacy or other political purpose; and no employee of the Commission in the unclassified service shall solicit or receive any such assessment, subscription or contribution from an employee in the classified service. No employee of the Corporation Commission in the

unclassified service shall be a candidate for nomination or election to any paid public office, or take part in the management or affairs of any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.
Laws 1979, c. 253, § 8, emerg. eff. June 5, 1979.

§17-180.5. File of applications for motor carrier operating authority - Carriers of commodities - Certificates or permits - Rate-making procedure - Divisions combined.

A. The Oklahoma Corporation Commission shall maintain a separate file, listing by commodity group all applications for motor carrier operating authority or transfer thereof, for which proof of public convenience and necessity is required. The list shall name the applicant and the protestant(s), if any, and shall indicate the disposition of each application. Said file shall be maintained on an annual basis and shall be open to public inspection.

B. It shall not be necessary for any motor carrier in intrastate commerce of sand, gravel, rock, crushed stone, asphaltic mix or other similar road building materials when transported in three-axle or less open-top dump trucks, or an intrastate motor carrier of livestock or unprocessed agricultural commodities, to prove public convenience and necessity for the transportation of said commodities, or to give any notice in order to obtain a certificate or permit. The Commission shall issue such certificates or permits to carriers of said commodities in an intrastate commerce without public hearing.

C. In order to insure nondiscriminatory rates for all shippers, the Commission shall establish a collective rate-making procedure for all commodities for which it has heretofore prescribed rates. Said procedure shall assure that respective revenues and costs of carriers engaged in the transportation of the particular commodities for which rates are prescribed are ascertained. Failure on the part of any carrier to comply with this paragraph or the rules and regulations thereof may result in suspension or cancellation of said carrier's operating authority by the Commission.

D. The Corporation Commission is hereby authorized to combine the Common Carrier Rate Division and the Motor Carrier Division. All duties, functions, authority and contractual obligations that relate to these Divisions are hereby transferred to and vested in the combined Division.
Laws 1979, c. 253, § 16, emerg. eff. June 5, 1979.

§17-180.6. Intrastate transmission of telephone communication or message.

Any telephone communication or message which is transmitted and received within the boundaries of the State of Oklahoma shall be an intrastate transmission, regardless of whether such transmission crosses state boundaries prior to reaching its receiving point.

Added by Laws 1984, c. 33, § 1, emerg. eff. March 27, 1984.

§17-180.7. Corporation Commission Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Corporation Commission, to be designated the "Corporation Commission Revolving Fund". The revolving fund shall consist of all fees and monies received by the Corporation Commission as required by law to be deposited to the credit of said fund and any other monies, excluding appropriated funds, that are not directed by law to be deposited to the credit of any other Corporation Commission Fund. Said revolving fund shall be a continuing fund, not subject to fiscal year limitations and shall not be subject to legislative appropriation. Expenditures from said revolving fund shall be made pursuant to the laws of this state and the statutes relating to the Corporation Commission and shall be for general operating expenses of the Corporation Commission. In addition, expenditures from said revolving fund may be made pursuant to the Oklahoma Central Purchasing Act for the purpose of immediately responding to emergency situations, within the Commission's jurisdiction, having potentially critical environmental or public safety impact. Warrants for expenditures from said fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee or employees of the Corporation Commission and approved for payment by the Director of the Office of Management and Enterprise Services.
Added by Laws 1984, c. 284, § 11, operative July 1, 1984. Amended by Laws 1985, c. 201, § 1.; Laws 2012, c. 304, § 58.

§17-180.10. Corporation Commission Plugging Fund - Minimum maintenance level - Additional excise tax.

A. There is hereby created in the State Treasury a fund for the Corporation Commission to be designated the "Corporation Commission Plugging Fund". The plugging fund shall consist of monies received by the Corporation Commission as required by law to be deposited to the credit of said fund. The fund shall be a continuing fund not subject to fiscal year limitations and shall not be subject to legislative appropriations. Expenditures from the plugging fund shall be made pursuant to the laws of this state and the statutes relating to the Corporation Commission. For each fiscal year, the Commission may expend not more than eight percent (8%) of the total amount deposited to the credit of the plugging fund during the previous fiscal year for the purpose of responding to occurrences of seeping natural gas as provided for in Section 317.1 of Title 52 of the Oklahoma Statutes. In addition, expenditures from the plugging fund may be made pursuant to The Oklahoma Central Purchasing Act, Section 85.1 et seq. of Title 74 of the Oklahoma Statutes, for purposes of immediately responding to emergency situations, within the Commission's jurisdiction, having potentially critical

environmental or public safety impact. Warrants for expenditures from the fund shall be drawn by the State Treasurer, based on claims signed by an authorized employee of the Corporation Commission and approved for payment by the Director of the Office of Management and Enterprise Services. The provisions of this act or rules promulgated pursuant thereto, shall not be construed to relieve or in any way diminish the surety bonding requirements required by Section 318.1 of Title 52 of the Oklahoma Statutes.

B. Prior to July 1, 2021, the plugging fund shall be maintained at Five Million Dollars ($5,000,000.00). If the plugging fund falls below the five-million-dollar maintenance level, the Corporation Commission shall notify the Tax Commission that the plugging fund has fallen below the required maintenance level and that the excise tax which has been levied by subsection A of Section 1101 of Title 68 of the Oklahoma Statutes and subsection A of Section 1102 of Title 68 of the Oklahoma Statutes which is credited and apportioned to the Corporation Commission Plugging Fund pursuant to Section 1103 of Title 68 of the Oklahoma Statutes is to be imposed. Such additional excise tax shall be imposed and collected until such time as is necessary to meet the additional five-million-dollar maintenance level. The Tax Commission shall notify the persons responsible for payment of the excise tax on oil and gas of the imposition of such tax. The provisions of this subsection shall terminate on July 1, 2021.

Added by Laws 1990, c. 107, § 1, eff. Oct. 1, 1990. Amended by Laws 1995, c. 328, § 5, eff. July 1, 1995; Laws 2001, c. 249, § 4, eff. July 1, 2001; Laws 2006, c. 252, § 1, eff. July 1, 2006; Laws 2011, c. 154, § 1; Laws 2012, c. 304, § 59; Laws 2015, c. 314, § 1, eff. July 1, 2015; Laws 2016, c. 153, § 1, emerg. eff. April 25, 2016.

§17-180.11. Assessment upon public utilities.

A. The Corporation Commission is hereby authorized to assess a fee upon each public utility to provide adequate funding to the Public Utility Division of the Corporation Commission for the regulation of public utilities in this state and for providing for timely and expeditious reviews and completion of rate cases, and increased responsiveness to the needs of consumers and the regulated community.

B. 1. The assessment authorized by this section may, after excluding the amount allocated to interexchange telecommunications companies, resellers, pay phone service providers and operator service providers in paragraph 2 of this subsection, be borne by the affected public utilities as follows:

a. one-half (1/2) shall be allocated based on that proportion which the total regulated Oklahoma jurisdictional gross operating revenues of each public utility bear to the total regulated Oklahoma

jurisdictional gross operating revenues of all public utilities, and

b. one-half (1/2) shall be allocated based on that proportion which the total number of regulated Oklahoma jurisdictional customers of each public utility bears to the total number of regulated Oklahoma jurisdictional customers of all public utilities.

2. For interexchange telecommunications companies, resellers, pay phone service providers and operator service providers, the allocation may be based on the total regulated Oklahoma jurisdictional gross operating revenues that each interexchange telecommunications company, reseller or operator service provider bears in proportion to the total regulated Oklahoma jurisdictional gross operating revenue of all public utilities as applied to the total amount of the assessment to be collected from all public utilities for each year.

C. Any assessment levied pursuant to this section shall be recoverable as an operating expense to the public utility and shall be included in a utility's base rates or basic monthly service charge. The Corporation Commission shall take such action necessary to ensure recovery of the assessment by a public utility during the period for which it is levied.

D. The Corporation Commission may provide that each public utility shall pay any assessment levied pursuant to this section on a quarterly basis. Notice of the annual assessment shall be sent by certified mail, return receipt requested, to each public utility. Each public utility shall pay the amount assessed to the Commission for deposit to the Public Utility Regulation Revolving Fund created in subsection E of this section. A public utility may, at its discretion, pay its annual assessment prior to the due date of the quarterly payments.

E. Any assessment collected by the Commission pursuant to this section shall be deposited in the Public Utility Regulation Revolving Fund hereby created. The fund shall be a continuing fund not subject to fiscal year limitations and shall consist of the monies received by the Commission from any assessment levied pursuant to the provisions of this section. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Commission to pay the costs, both direct and indirect, of the Public Utilities Division incurred to regulate public utilities. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

F. The Legislature shall establish budgetary limits for the Public Utility Division of the Corporation Commission. Any assessment levied pursuant to this section shall not exceed the

amount of the budgetary limits and indirect costs for related support functions established by the Legislature for any fiscal year. Budgetary limits will stay in effect until superseded by further action of the Legislature.

G. For purposes of this section, "public utility" means:

1. A public utility as defined by Section 151 of this title, excluding those companies encompassed by paragraph (d) of Section 151 of this title;

2. Any telephone or telecommunications company subject to Section 131 et seq. of this title, including interexchange telecommunications companies or such other telecommunications companies as defined by OCC Rule OAC 165:55-1-4, resellers as defined by OCC Rule OAC 165:56-1-4 and operator service providers as defined by OCC Rule OAC 165:57-1-4; and

3. Any association or cooperative corporation doing business under the Rural Electric Cooperative Act except for generation and transmission associations or cooperative corporations, or transmission associations or cooperative corporations.

H. It is the intention of the Legislature that this entire section is an amendment to and alteration of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35 of Article IX of said Constitution.

Added by Laws 1993, c. 278, § 43, operative Sept. 1, 1993. Amended by Laws 1996, c. 91, § 1, eff. July 1, 1996; Laws 1998, c. 126, § 1, eff. July 1, 1998; Laws 2012, c. 304, § 60; Laws 2017, c. 143, § 1, eff. July 1, 2017.

§17-181. Definitions.

In this act unless the context otherwise requires:

(1) "Public utility" means and embraces every corporation organized or doing business in this state, (except a municipal corporation or other political subdivision of this state), that now owns or hereafter may own, operate or manage any plant or equipment for the manufacture, production, transmission, delivery or of furnishing electric current for light, heat or power for public use in this state.

(2) "Commission" means the Corporation Commission of the State of Oklahoma.

(3) "Securities" means capital stock and evidences of indebtedness having the standing of negotiable instruments of a public utility, not including, however, any such obligation falling due twelve (12) months or less after its issuance.

Laws 1947, p. 82, § 1.

§17-182. Issuance of securities and creation of liens declared a privilege - Power of supervision and regulation.

The power of public utilities to issue securities, in case of public utilities organized under the laws of this state, and to create liens on property in this state to secure the payment of evidences of indebtedness in case of public utilities organized under the laws of any other state or foreign country, is a privilege, the right of supervision, regulation, restriction and control of which is, and shall continue to be, vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the Commission may prescribe pursuant to law.
Laws 1947, p. 82, § 2.

§17-183. Certificate to be obtained from Commission.

No securities shall be issued by a public utility organized under the laws of this state, nor shall any liens on property in this state be created by a public utility organized under the laws of another state or foreign country, to secure the payment of evidences of indebtedness until such public utility shall first have obtained from the Commission a certificate authorizing such issue or creation.
Laws 1947, p. 82, § 3.

§17-184. Purposes for which securities may be issued - Issuance of short term securities - Foreign public utilities.

(1) A public utility organized under laws of this state may, when authorized by order of the Commission, and not otherwise, issue securities when necessary for the acquisition of property, the construction, extension or improvement of its facilities, or the improvement of its service, or for the discharge or lawful refunding of its obligations, or reimbursement of moneys actually expended from income from any source, or for any other corporate purpose authorized by the Commission. Such public utility may issue securities for proper corporation purposes payable at periods of not more than twelve (12) months, without the consent of the Commission; but no such note, in whole or in part, shall be refunded by any issue of securities, with maturity date later than twelve (12) months from date of issue, without the consent of the Commission.

(2) A public utility organized under the laws of another state or foreign country may, when authorized by order of the Commission and not otherwise, create liens on property in this state to secure evidences of indebtedness when the issuance of such evidences of indebtedness is necessary for the acquisition of property, the construction, extension or improvement of its facilities, or improving of its service, or for the discharge or lawful refunding of its obligations or reimbursement of moneys actually expended from income from any source or for any other corporate purpose authorized by the Commission. The order of the Commission shall fix the amount of evidences of indebtedness secured by such lien or liens and the purposes for which such evidences of indebtedness or their proceeds

are to be applied. No such public utility shall, without the consent of the Commission, apply such evidences of indebtedness or their proceeds to any purpose not specified in the order.
Laws 1947, p. 83, § 4.

§17-185. Application - Filing - Examination - Issuance of certificate.

(1) Any public utility desiring to issue securities, or to create liens to secure evidences of indebtedness, shall file with the Commission an application verified by its president or vice-president, (or by the signers of its articles of organization if it has not yet elected officers), setting forth: (1) The amount and character of the proposed securities or liens; (2) the general purposes for which they are to be issued or created, including a description and statement of the value of any property or services that are to be received in full or partial payment for the securities or in a proper case the evidences of indebtedness to be secured by the lien or liens, and of any property or services already received by the public utility, the cost of which is to be reimbursed to the public utility by the proceeds of such securities or evidences of indebtedness; and (4) a balance sheet of the public utility as of the most recent available date.

(2) The Commission shall examine all applications filed with it pursuant to this act, and if the proposed issue of securities or creation of lien or liens complies with the provisions of this act, it shall issue to the public utility a certificate of authority permitting such issue or creation.
Laws 1947, p. 83, § 5.

§17-186. Validation of securities or liens when certificate not obtained.

Securities issued or liens created by any public utility, for the issuance or creation of which a certificate should have been, but through excusable neglect or mistake was not, applied for, may be validated by the Commission upon application of such public utility, signed and verified by the president or vice-president and setting forth the information required by Section 5, and in addition thereto a concise statement of the reasons why such application was not made at the time such securities were issued or lien created. If the Commission shall find and determine that such failure to make application was due to excusable neglect or mistake, and was not occasioned by any design to evade compliance with the law, and that such issue or creation was otherwise in accordance with law, the Commission shall issue to the corporation a validating certificate.
Laws 1947, p. 83, § 6.

§17-187. Appeals.

Any public utility may appeal from any order, finding or judgment of the Commission in the manner provided in Article IX, Section 20 and 22 of the Constitution of Oklahoma.
Laws 1947, p. 84, § 7.

§17-188. Securities title not applicable.
Securities issued by public utilities, as defined in this act, shall not be subject to any of the provisions of Title 71, O.S.1941, relating to the Oklahoma Securities Commission.
Laws 1947, p. 84, § 8.

§17-189. Rural electric cooperative corporations - Law not applicable.
This act shall not be construed to affect any cooperative corporation created under the Rural Electric Cooperative Act, Title 18, Sections 437 to 437.30, O.S. 1941.
Laws 1947, p. 84, § 9.

§17-190. Addition of optical fiber to electric towers - Additional easement or license.
The addition of optical fiber as part of the static wire attached to electricity towers and appurtenant structures together with all associated equipment for the transmission of communications and information services by optical fiber shall be considered a part of the transmission system and shall not constitute an additional burden on the land or require an additional easement or license; provided, however, no additional poles or other structures are installed on the property; and provided further, no additional poles, structures, wires, cables, or other facilities may be placed except as provided by the existing easement; and provided further, no damage shall be permitted either within or outside of the existing easement during the installation, repair, replacement, or maintenance of the optical fiber line.
Communication services or information services provided over such facilities shall be solely for the internal use of the company or cooperative. Such services shall not be offered to any other entity on a wholesale, retail or any other basis.
Added by Laws 2003, c. 459, § 11.

§17-190.1. Short title.
This act shall be known and may be cited as the "Electric Restructuring Act of 1997".
Added by Laws 1997, c. 162, § 1, emerg. eff. April 25, 1997.

§17-190.2. Purpose of act - Goals of restructured electric utility industry.

The purpose of this act is provide for the orderly restructuring of the electric utility industry in the State of Oklahoma in order to allow direct access by retail consumers to the competitive market for the generation of electricity while maintaining the safety and reliability of the electric system in this state.

A competitive and diverse retail electric market should result in lower electricity prices for consumers, create business opportunities, and encourage the development of increased and enhanced services.

Monopoly utility regulation has been used as a substitute for competition in the supply of electricity, but recent changes in the energy marketplace and technology as well as the passage of the National Energy Policy Act of 1992 and implementation of Order No. 888 by the Federal Energy Regulatory Commission have resulted in increased competition in the electric generation industry. The introduction of consumer choice in retail electric energy suppliers will result in market forces rather than regulation determining the cost and quality of electricity for all consumers.

Restructuring of the electric utility industry to provide greater competition and more efficient regulation is a national trend and the State of Oklahoma must aggressively pursue restructuring and increased consumer choice in order to provide electric generation service at the lowest and most competitive rates.

The primary goals of a restructured electric utility industry are as follows:

1. To reduce the cost of electricity for as many consumers as possible, helping industry to be more competitive, to create more jobs in this state and help lower the cost of government by reducing the amount and type of regulation now paid for by taxpayers;

2. To encourage the development of a competitive electricity industry through the unbundling of prices and services and separation of generation services from transmission and distribution services;

3. To enable retail electric energy suppliers to engage in fair and equitable competition through open, equal and comparable access to transmission and distribution systems and to avoid wasteful duplication of facilities;

4. To ensure that direct access by retail consumers to the competitive market for generation be implemented in the State of Oklahoma by July 1, 2002; and

5. To ensure that proper standards of safety, reliability and service are maintained in a restructured electric service industry.

It is in the best interest of the citizens of this state to efficiently and expeditiously move forward to increased competition in the generation and sale of electric energy. To ensure a successful transition to a competitive marketplace, a thorough assessment of issues and consequences associated with restructuring shall be undertaken as provided by this act.

Added by Laws 1997, c. 162, § 2, emerg. eff. April 25, 1997.

§17-190.3. Definitions.

As used in the Electric Restructuring Act of 1997:

1. "Commission" means the Corporation Commission;

2. "Consumer" means a person or entity purchasing or seeking to purchase electric energy for other than resale;

3. "Direct access consumer" means a consumer who chooses to procure retail electric energy supply and related services directly from the competitive market rather than through a retail electric service distributor;

4. "Electric consuming facility" means everything that utilizes electric energy from a central station source;

5. "Electric distribution system" means the physical system of wires, poles, and other equipment designed to deliver electricity to the ultimate consumer for consumption, excluding generation and transmission facilities;

6. "Independent system operator" means an independent entity, not owned or controlled by an entity which owns generation, transmission, or distribution facilities, which coordinates the physical security and stability of the Oklahoma bulk power system;

7. "Public benefit programs" means all social, economic and environmental programs currently funded through rates charged to consumers receiving electric service in the State of Oklahoma;

8. "Retail electric energy supplier" means any entity which sells retail electric energy to consumers;

9. "Retail electric service distributor" means any firm, corporation, company, individual or their trustees, lessees or receivers, or cooperative corporation or agency, engaged in the furnishing of retail electric services in this state, exclusive of municipal corporations, or beneficial trusts thereof and the Grand River Dam Authority. Any municipal corporation or beneficial trust thereof or the Grand River Dam Authority may, through its own nonrevocable election, voluntarily opt to become subject to the provisions of this act to participate in electric restructuring and retail consumer choice by adopting a resolution stating that all service provided via facilities owned by such entities will be rendered on an open access nondiscriminatory basis in a manner consistent with the provisions of such service by retail electric service distributors subject to this act; and

10. "Transmission line" or "transmission system" means the poles, wires and other equipment, including any fiber optic cable which is a part of such poles, wires and other equipment, designed and constructed to transport bulk electricity between generators and electric distribution systems.

Added by Laws 1997, c. 162, § 3, emerg. eff. April 25, 1997. Amended by Laws 1998, c. 391, § 3, emerg. eff. June 10, 1998.

§17-190.4. Study of and development of framework for electric utility industry restructuring.

A. To ensure an orderly and equitable restructuring of the electric utility industry in this state and achieve the goals outlined in Section 190.2 of this title, the Legislature hereby directs the Joint Electric Utility Task Force to undertake a study of all relevant issues relating to restructuring the electric utility industry in this state including, but not limited to, those issues set forth in this section, and develop a proposed electric utility industry restructuring framework for the State of Oklahoma. The Joint Electric Utility Task Force shall address appropriate steps to achieve an orderly transition to a competitive market and may include in addition to the directives in this act other provisions as the task force shall deem necessary and appropriate to expedite the transition to full consumer choice. The Corporation Commission shall assist the task force in achieving the goals outlined in the Electric Restructuring Act of 1997; provided, however, during the transition period to full consumer choice, the Corporation Commission is expressly prohibited from promulgating any rules or issuing any orders relating to the restructuring of Oklahoma's electric utility industry without prior express authorization by the Oklahoma State Legislature.

B. It is the intent of the Legislature that the following principles and directives be adhered to in developing a framework for a restructured industry:

1. Reliability and safety. Appropriate rules shall be promulgated, in accordance with the provisions of this act, ensuring that reliable and safe electric service is maintained;

2. Competition. Competitive markets are to be encouraged to the greatest extent possible. Regulation should serve as a substitute only in those circumstances where competition cannot provide results that serve the best interests of all consumers;

3. Consumer choice. Consumers shall be allowed to choose among retail electric energy suppliers to help ensure fully competitive and innovative markets. A process should be established whereby all retail consumers are permitted to choose their retail electric energy suppliers by July 1, 2002. Consumer choice means that retail electric consumers shall be allowed to purchase different levels and quality of electric supply from a variety of retail electric energy suppliers and that every seller of electric generation in the retail market shall have nondiscriminatory open access to the electric distribution system of every retail electric service distributor, subject to this act. The Corporation Commission should ensure that consumer confusion will be minimized and consumers will be well informed about changes resulting from restructuring and increased choice;

4. Regulation and unbundling of services. Entities which own both transmission and distribution, as well as generation facilities, shall not be allowed to use any monopoly position in these services as a barrier to competition. Generation services may be subject to minimal regulation and shall be functionally separated from transmission and distribution services, which services shall remain regulated. All retail electric energy suppliers shall be required to meet certain minimum standards designed to ensure reliability and financial integrity, and be registered with the Corporation Commission;

5. Unbundling of rates. When consumer choice is introduced, rates shall be unbundled to provide clear price information on the components of generation, transmission and distribution and any other ancillary charges. Electric bills for all classes shall be unbundled, utilizing line itemization to reveal the various component cost of providing electrical services. Charges for public benefit programs currently authorized by statute or the Commission, or both, shall be unbundled and appear in line item format on electric bills for all classes of consumers;

6. Open access to transmission and distribution facilities. Consumer access to alternative suppliers of electricity requires open access to the transmission grid and the distribution system. Comparability shall be assured for retail electric energy suppliers competing with affiliates of entities supplying transmission and distribution services. The Corporation Commission shall monitor companies providing transmission and distribution services and take necessary measures to ensure that no supplier of such services has an unfair advantage in offering and pricing such services;

7. Obligation to connect and establishment of firm service territories. An entity providing distribution services shall be relieved of its traditional obligation to provide electric supply but shall have a continuing obligation to provide distribution service for all consumers in its service territory. As part of the restructuring process firm service territories shall be fixed by a date certain, if not currently established by law in order to avoid wasteful duplication of distribution facilities;

8. Independent system planning committee. The benefits associated with implementing an independent system planning committee composed of owners of electric distribution systems to develop and maintain planning and reliability criteria for distribution facilities shall be evaluated;

9. Consumer safeguards. Minimum residential consumer service safeguards and protections shall be ensured including programs and mechanisms that enable residential consumers with limited incomes to obtain affordable essential electric service, and the establishment of a default provider or providers for any distribution customer who has not chosen an alternative retail electric energy supplier;

10. Establishment of a transition period. A defined period for the transition to a restructured electric utility industry shall be established. The transition period shall reflect a suitable time frame for full compliance with the requirements of a restructured utility industry;

11. Rates for service. Electric rates for all consumer classes shall not rise above current levels throughout the transition period. If possible, electric rates for all consumers shall be lowered when feasible as markets become more efficient in a restructured industry;

12. Establishment of a distribution access fee. The task force shall consider the establishment of a distribution access fee to be assessed to all consumers in the State of Oklahoma connected to electric distribution systems regulated by the Corporation Commission. This fee shall be charged to cover social costs, capital costs, operating costs, and other appropriate costs associated with the operation of electric distribution systems and the provision of electric service to the retail consumer;

13. Recovery of stranded costs. Electric utilities have traditionally had an obligation to provide service to consumers within their established service territories and have entered into contracts, long-term investments and federally mandated co-generation contracts to meet the needs of consumers. These investments and contracts have resulted in costs which may not be recoverable in a competitive restructured market and thus may be "stranded". Procedures shall be established for identifying and quantifying stranded investments and for allocating costs and mechanisms shall be proposed for recovery of an appropriate amount of prudently incurred, unmitigable and verifiable stranded costs and investments. As part of this process, each entity shall be required to propose a recovery plan which establishes its unmitigable and verifiable stranded costs and investments and a limited recovery period designed to recover such costs expeditiously, provided that the recovery period and the amount of qualified transition costs shall yield a transition charge which shall not cause the total price for electric power, including transmission and distribution services, for any consumer to exceed the cost per kilowatt-hour paid on April 25, 1997, during the transition period. The transition charge shall be applied to all consumers including direct access consumers, and shall not disadvantage one class of consumer or supplier over another, nor impede competition and shall be allocated over a period of not less than three (3) years nor more than seven (7) years; and

14. Transition costs. All transition costs shall be recovered by virtue of the savings generated by the increased efficiency in markets brought about by restructuring of the electric utility industry. All classes of consumers shall share in the transition costs.

C. The study of all relevant issues related to electric industry restructuring shall be divided into four parts, as follows: independent system operator issues, technical issues, financial issues and consumer issues. All studies created pursuant to this section shall be conducted under the direction of the Joint Electric Utility Task Force. The task force shall direct the Corporation Commission, the Oklahoma Tax Commission, any other state agency or consultant as necessary to assist the task force in the completion of such studies.

1. The Commission shall commence the study of independent system operator issues no later than July 1, 1997, and provide a final report to the Joint Electric Utility Task Force no later than February 1, 1998. Such report shall be in writing and shall make recommendations as the Commission deems necessary and appropriate regarding the establishment of an independent system operator in the State of Oklahoma or the appropriate region.

2. No later than July 1, 1998, the Joint Electric Utility Task Force shall commence the study of technical issues related to the restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:

a. reliability and safety,
b. unbundling of generation, transmission and distribution services,
c. market power,
d. open access to transmission and distribution,
e. transition issues, and
f. any other technical issues the task force deems appropriate.

A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.

3. No later than July 1, 1998, the Joint Electric Utility Task Force shall commence the study of financial issues related to restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:

a. rates and charges,
b. access and transition costs and fees,
c. stranded costs and their recovery,
d. stranded benefits and their funding,
e. municipal financing,
f. cooperative financing,
g. investor-owned utility financing, and
h. any other financial issues the task force deems appropriate.

A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.

4. No later than September 1, 1998, the Joint Electric Utility Task Force shall commence the study of consumer issues related to

restructuring of the electric utility industry. Such study shall include, but is not limited to, the examination of:

a. service territories,
b. the obligation to serve,
c. the obligation to connect,
d. consumer safeguards,
e. rates for regulated services,
f. consumer choices,
g. competition,
h. licensing of retail electric energy suppliers, and
i. any other consumer issues the task force finds appropriate.

A final report shall be completed by the Joint Electric Utility Task Force no later than October 1, 1999.

D. The Joint Electric Utility Task Force may, if it deems necessary, by a majority vote of the members combine or modify any of the studies required by this act. Provided, however, the task force shall not eliminate any of the issues required to be studied herein. Added by Laws 1997, c. 162, § 4, emerg. eff. April 25, 1997. Amended by Laws 1998, c. 391, § 4, emerg. eff. June 10, 1998.

§17-190.5. Study of impact of restructuring on tax revenues.

To ensure full evaluation and consideration of the impact of restructuring of the electric utility industry on municipal and state tax revenues the Legislature hereby directs the Joint Electric Utility Task Force to study and fully assess the impact of restructuring on state tax revenues and all other facets of the current utility tax structure both on the state and all other political subdivisions of the state. The task force shall direct the Oklahoma Tax Commission to assist the task force in completion of this study. The Oklahoma Tax Commission is hereby authorized to retain such consultants and experts as may be necessary to complete this study. The study shall include the feasibility of establishing a uniform consumption tax or other method of taxation which may be applied in a restructured industry and shall also assess means of ensuring that tax revenues derived by municipalities will not be adversely impacted as a result of restructuring. A final report shall be completed by the task force no later than October 1, 1999. During the transition period prior to full consumer choice, the Oklahoma Tax Commission is expressly prohibited from promulgating any rule or issuing any order relating to methods of taxation to be applied to a restructured electric industry without prior express authorization by the Oklahoma State Legislature or the Joint Electric Utility Task Force.

Notwithstanding any other provisions contained in this act, a uniform tax policy which allows all competitors to be taxed on a fair and equal basis shall be established on or before July 1, 2002.

Added by Laws 1997, c. 162, § 5, emerg. eff. April 25, 1997. Amended by Laws 1998, c. 391, § 5, emerg. eff. June 10, 1998.

§17-190.6. Repealed by Laws 2003, c. 8, § 3, eff. July 1, 2003.

§17-190.7. Furnishing of retail electric service to facilities currently being served - Extension of distribution service by municipalities - Prohibitions.

A. Electric distribution providers governed by the Retail Electric Supplier Certified Territory Act, Section 158.21 et seq. of this title or municipal corporations or beneficial trusts thereof owning or operating a retail electric distribution system or the Grand River Dam Authority shall not furnish retail electric service to an electric consuming facility which is currently being served, or which was being served and the permanent electric facilities are in place to render such service, by a municipal corporation or beneficial trust thereof, a rural electric cooperative or an investor-owned electric utility or the Grand River Dam Authority until enactment of electric restructuring enabling legislation and the implementation of consumer choice of retail electric energy suppliers unless the entities involved have agreed by mutual consent, in writing, to such transaction. For the purpose of this section, "electric distribution providers" shall mean the same as "retail electric service distributors" as defined by Section 190.3 of this title.

B. Any municipal corporation or beneficial trust thereof offering retail electric distribution service from a municipally or trust-owned electric distribution system that decides not to participate in the provisions of this act as outlined in Section 190.3 of this title shall be prohibited from extending a retail electric distribution primary feeder system beyond its corporate limits with the exception that it may continue to offer retail electric distribution service through the addition of secondary service drops from the primary feeder system it owned outside the corporate limits of such municipality on April 25, 1997. Provided, however, nothing contained in this section shall be construed to prohibit system maintenance, repairs or upgrades to such primary distribution feeder system outside the corporate limits except that secondary service drops shall not be upgraded to primary distribution lines.

Added by Laws 1997, c. 162, § 7, emerg. eff. April 25, 1997. Amended by Laws 1998, c. 391, § 7, emerg. eff. June 10, 1998; Laws 2001, c. 397, § 3, emerg. eff. June 4, 2001.

§17-190.8. Nondiscriminatory equivalent access to transmission and distribution facilities.

Any person, firm, association, government agency, authority, cooperative, corporation or any affiliate thereof seeking to use electric transmission and distribution facilities of any retail electric service distributor for the purpose of supplying retail electric power shall be required to provide equivalent access to its own electric transmission and distribution facilities on a nondiscriminatory basis as a condition to the continuing use of the electric transmission and distribution facilities of any other retail electric service distributor.
Added by Laws 1998, c. 391, § 8, emerg. eff. June 10, 1998.

§17-190.9. Collection of municipal taxes by retail service distributors.

Notwithstanding any other provision of law, all retail electric service distributors shall, within the boundaries of a municipal corporation, on or after the effective date of full implementation of retail consumer choice, on a nondiscriminatory basis, collect and remit all applicable municipal taxes assessed against the end consumers on the sale of electricity within such municipality.
Added by Laws 1998, c. 391, § 9, emerg. eff. June 10, 1998.

§17-190.20. Repealed by Laws 2005, c. 108, § 1, eff. July 1, 2005.

§17-190.21. Joint Electric Utility Restructuring Task Force.

A. There is hereby created a Joint Electric Utility Restructuring Task Force which shall be composed of the members of the Oklahoma State Senate Energy and Environment Committee and the Oklahoma House of Representatives Energy and Technology Committee and the Chair of the Corporation Commission, or designee. The task force shall be jointly chaired by the chairs and co-chairs of the Senate and House committees.

B. A majority of the members serving on the task force shall constitute a quorum. The task force shall meet at such times and places as it deems necessary to perform its duties as specified herein. Meetings shall be at the call of the chairs.

C. The task force shall study the following issues:

1. The ability of a municipality to annex and serve customers inside the territory of another electric provider;

2. The condemnation and re-use of electric facilities;

3. The statutory prohibition on consumer switching electric service providers established in Section 190.7 of Title 17 of the Oklahoma Statutes;

4. Court rulings and pending litigation filed as a result of interpretations of the Electric Restructuring Act of 1997, Sections 190.1 et seq. of Title 17 of the Oklahoma Statutes;

5. The effect of regional transmission organizations on the electric generation marketplace;

6. The impact of changes in other states in our region and nationwide relating to retail choice of electric services by consumers;

7. Other issues the task force deems necessary to adequately study electric restructuring in this state.

D. The task force shall solicit the input of all stakeholders involved in the provision and consumption of electric service. To further enhance such participation, the task force may appoint advisory councils made up of representatives of various stakeholders or invite any other persons as needed to advise the task force in any matter they deem appropriate and necessary.

E. Members of the task force shall be reimbursed by their appointing authorities for necessary travel expenses incurred in the performance of their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes.

F. The Oklahoma State Senate and House of Representatives shall provide such staff support as is required by the task force and any other state agency shall provide support as requested by the task force.

G. The task force may issue any reports it deems necessary and appropriate and may make any legislative recommendations available to the Governor and the Legislature. The Legislature shall review any reports or recommendations developed by the task force. Final authority relating to the implementation of any recommended statutory revisions shall reside with the Legislature.

H. The task force shall remain in effect and operate as herein directed until its termination which shall be no later than December 1, 2009. The task force may elect, by majority vote, to terminate its operations at an earlier date if it deems such action appropriate.

Added by Laws 2007, c. 117, § 2, emerg. eff. May 9, 2007.

§17-191.1. Definitions.

As used in this act:

1. "Acquiring party" means a person and all affiliates thereof by whom or on whose behalf a merger or other acquisition of control referred to in Section 191.2 of this title is to be effected;

2. "Affiliate" means a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified, including any corporation created at the direction of the person specified for purposes of corporate reorganization;

3. "Commission" means the Oklahoma Corporation Commission;

4. "Control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of

voting securities, by contract, or otherwise, unless such power is the result of an official position with, or corporate office held in, such person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent (10%) or more of the aggregate number of the voting securities of any other person. This presumption may be rebutted by a showing that control does not exist in fact. The Commission may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect;

5. "Domestic public utility" means a person doing business in the state, any substantial portion of the revenues of which, either directly or indirectly, are derived from the business of providing utility service in this state, except that such term does not include agencies, authorities or instrumentalities of the United States or a state or political subdivision of a state;

6. "Foreign public utility" means a person that is not a domestic public utility that is engaged in the production, transmission, delivery, or furnishing of heat, light, power, or natural gas to the public in another state of the United States or in the District of Columbia, and whose rates for the furnishing of heat, light, power, or natural gas to the public in another state or the District of Columbia are subject to the approval of an agency of such other state or the District of Columbia;

7. "Holding company" means any of the following:

a. any person which, in any chain or successive ownership, directly or indirectly, as a beneficial owner, owns, controls or holds ten percent (10%) or more of the outstanding voting securities of a domestic public utility, with the unconditional power to vote such securities, or

b. any person which the Commission determines, after investigation and hearing, directly or indirectly, exercises, alone or under any arrangement or understanding with one or more persons, such a controlling interest over the management or policies of a domestic public utility as to make it necessary or appropriate in the public interest or for the protection of the consumers or investors of the utility that such person be subject to this act;

8. "Issuer" means any person who issues or proposes to issue any security;

9. "Nonutility company" means a person that is not a holding company, a domestic public utility, or a foreign public utility;

10. "Person" means an individual, a corporation, a partnership, an association, a limited liability company, a joint stock company, a

trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function;

11. "Tender offer" means the acquisition of, or offer to acquire, pursuant to a tender offer or request or invitation for tenders, any voting security of a domestic public utility or holding company, if after acquisition thereof the acquiring party would, directly or indirectly, be a record or beneficial owner of more than ten percent (10%) of the aggregate number of the issued and outstanding voting securities of such domestic public utility or holding company. "Tender offer" does not mean:

a. bids made by a dealer for his own account in the ordinary course of his business of buying and selling such security, or

b. any other offer to acquire a voting security, or the acquisition of such voting security pursuant to such offer, for the sole account of the acquiring party, from not more than fifty persons, in good faith and not for the purpose of avoiding this act;

12. "Total utility assets of an acquiring party" means the sum of:

a. the total assets of each domestic public utility that is an affiliate of the acquiring party,

b. the total assets of each foreign public utility that is an affiliate of the acquiring party, and

c. the portion, if any, of the total assets of the acquiring party, without regard to its affiliates or subsidiaries and without regard to its investments in its affiliates or subsidiaries, owned directly by the acquiring party and used in the business of being a domestic public utility or a foreign public utility;

13. "Total nonutility assets of the acquiring party" means the sum of:

a. the total assets of each nonutility company that is an affiliate of the acquiring party, and

b. the portion, if any, of the total assets of the acquiring party, without regard to its affiliates or subsidiaries and without regard to its investments in its affiliates or subsidiaries, owned directly by the acquiring party and not used in the business of being a domestic public utility or a foreign public utility;

14. "Utility service" means the transmission or distribution of combustible hydrocarbon natural or synthetic natural gas by a person subject to Section 152 of this title for sale to the public or the production, transmission, delivery or furnishing of electric current

by a person subject to Section 181 et seq. of this title for sale to the public for light, heat or power; and

15. "Voting security" means any stock or indenture of any class presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company, or any stock or indenture of any class issued under or pursuant to any trust, agreement or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such stock or indenture are presently entitled to vote in the direction or management of the company.

Added by Laws 1983, c. 292, § 1, eff. Nov. 1, 1983. Amended by Laws 1987, c. 36, § 1, emerg. eff. April 22, 1987; Laws 2004, c. 196, § 1, emerg. eff. May 4, 2004.

§17-191.2. Procedure for acquisition, control or merger of certain domestic public utilities.

No person, other than the issuer of the securities of the domestic public utility or an affiliate of such an issuer, shall make a tender offer for, request or invite tenders of, or enter into any agreement to exchange, seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic public utility regulated by the Corporation Commission or any holding company controlling such domestic public utility if, after the consummation of such action, such person would, directly or indirectly, or by conversion or by exercise of any right to acquire, be in control of such domestic public utility or holding company, and no person shall merge with or otherwise acquire control of a domestic public utility or holding company unless the acquiring party is an affiliate of such domestic public utility or holding company or unless, at the time any such offer, request or invitation is made or any such merger is consummated, or prior to the acquisition of such securities if no offer or agreement is involved, such person has filed with the Commission and has sent to such domestic public utility or holding company, a statement containing the information required by Section 191.3 of this title and such offer, request, invitation, merger or acquisition has been approved by the Commission in the manner prescribed in Section 191.5 of this title. The Commission may modify the aforementioned procedures to the extent necessary to conform to the requirements of Regulation 14D under the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a-78jj, as amended.

Added by Laws 1983, c. 292, § 2, eff. Nov. 1, 1983. Amended by Laws 2004, c. 196, § 2, emerg. eff. May 4, 2004.

§17-191.3. Statement to be filed with Corporation Commission - Oath or affirmation - Contents - Amendments.

A. The statement to be filed with the Corporation Commission as required by Section 191.2 of this title shall be made under oath or affirmation and shall contain the following information:

1. The name and address of each acquiring party and all affiliates thereof; and

a. if such acquiring party is an individual, his principal occupation and all offices and positions held during the past five (5) years, and any conviction of crimes other than minor traffic violations during the past ten (10) years, or

b. if such acquiring party is not an individual, a report of the nature of its business and its affiliates' operations during the past five (5) years or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence; an informative description of the business intended to be done by such acquiring party and its subsidiaries; and a list of all individuals who are or who have been selected to become directors or officers of such acquiring party, or who perform or will perform functions appropriate or similar to such positions. Such list shall include for each such individual the information required by subparagraph a of paragraph 1 of this subsection;

2. The source, nature and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a detailed description of any transaction wherein funds were or are to be obtained for any such purpose, and the identity of persons furnishing such consideration; provided, however, that where a source of such consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing such statement so requests;

3. Audited financial statements in a form acceptable to the Commission as to the financial condition of an acquiring party for the preceding three (3) fiscal years of each such acquiring party, or for such lesser period as such acquiring party and any predecessors thereof shall have been in existence, and similar unaudited information as of a date not later than one hundred thirty-five (135) days prior to the filing of the statement;

4. Any plans or proposals which an acquiring party may have to liquidate such public utility or holding company, to sell its assets, or a substantial part thereof, or merge or consolidate it with any person, or to make any other material change in its investment policy, business or corporate structure, or management. If any change is contemplated in the investment policy, or business or corporate structure, such contemplated changes and the rationale therefor shall be explained in detail. If any changes in the

management of the domestic public utility or holding company are contemplated, the acquiring party shall provide a resume of the qualifications and the names and addresses of the individuals who have been selected or are being considered to replace the then current management personnel of the domestic public utility or holding company;

5. The number of shares of any voting security of the domestic public utility or holding company which each acquiring party proposes to acquire, and the terms of the offer, request, invitation, agreement or acquisition referred to in Section 191.2 of this title;

6. The amount of each class of any voting security of the domestic public utility or holding company which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

7. A full description of any contracts, arrangements or understandings with respect to any voting security of the domestic public utility or holding company in which any acquiring party is involved, including but not limited to transfer of any securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits or the giving or withholding of proxies. Such description shall identify the persons with whom such contracts, arrangements or understandings have been entered into;

8. A description of the purchase of any voting security of the domestic public utility or holding company during the twelve (12) calendar months preceding the filing of the statement, by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid therefor;

9. Copies of all tender offers for, requests for, advertisements for, invitations for tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the domestic public utility or holding company and, if distributed, of additional soliciting material relating thereto;

10. If the proposed transaction involves the merger or other acquisition of control of a domestic public utility whose utility service includes the furnishing of electric current, a schedule, derived from the financial information provided pursuant to paragraph 3 of this subsection, showing separately, as of a date within one hundred thirty-five (135) days of filing the statement, the amount of the total utility assets of the acquiring party and the amount of the total nonutility assets of the acquiring party; and

11. Such additional information as the Commission may by rule or regulation prescribe as necessary or appropriate for the protection of ratepayers of the domestic public utility or in the public interest.

B. If a person required to file the statement referred to in Section 191.2 of this title is a partnership, limited partnership, limited liability company, syndicate or other group, the Commission may require that the information called for in paragraphs 1 through 11 of subsection A of this section shall be given with respect to each partner of such partnership or limited partnership, each member of such limited liability company, syndicate or group and each person who controls such partner or member. If any such partner, member, person or acquiring party is a corporation or if a person required to file the statement referred to in Section 191.2 of this title is a corporation, the Commission may require that the information called for by paragraphs 1 through 11 of subsection A of this section be given with respect to such corporation, each officer and director of such corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent (10%) of the outstanding voting securities of such corporation and each affiliate of such corporation.

C. If any material change occurs in the facts set forth in the statement filed with the Commission and sent to such domestic public utility or holding company pursuant to this act, an amendment setting forth such change, together with copies of all documents and other material relevant to such change, shall be filed with the Commission and sent by the person filing the statement to the domestic public utility or holding company within two (2) business days after such person learns of such change.

Added by Laws 1983, c. 292, § 3, eff. Nov. 1, 1983. Amended by Laws 2004, c. 196, § 3, emerg. eff. May 4, 2004.

§17-191.4. Combination of statements.

If any offer, request, invitation, merger or acquisition referred to in Section 2 of this act is proposed to be made by means of a registration statement under the Securities Act of 1933, 15 U.S.C. Sections 77a through 77aa, as amended, including rules and regulations promulgated thereunder, or in circumstances requiring disclosure of similar information under the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a through 78jj, as amended, including rules and regulations promulgated thereunder, or under a state law, including rules and regulations promulgated thereunder, requiring similar registration or disclosure, the person required to file the statement referred to in Section 2 of this act may incorporate information contained in the documents filed under the above-mentioned statutes into said statement by attaching the other documents to the statement filed under this act and making specific reference to the information provided by said attached documents.

Added by Laws 1983, c. 292, § 4, eff. Nov. 1, 1983.

§17-191.5. Conditions for disapproval of acquisition of control or merger - Hearing.

A. The Corporation Commission shall approve any merger or other acquisition of control referred to in Section 191.2 of this title upon such terms and conditions as it deems necessary or appropriate in the public interest unless, after a public hearing thereon, it finds that one or more of the following conditions exist or will exist if such merger or other acquisition of control is consummated, in which event it shall disapprove such merger or acquisition of control and the same shall not be consummated:

1. The acquisition of control would adversely affect the contractual obligations of the domestic public utility or of any person controlling such domestic public utility, or its ability or commitment to continue to render the same level of service to its customers that the domestic public utility is currently rendering;

2. The effect of the merger or other acquisition of control would be substantially to lessen competition in the furnishing of public utility service in this state;

3. The financial condition of any acquiring party is such as might jeopardize the financial stability of the domestic public utility or any person controlling such domestic public utility or otherwise prejudice the interest of the domestic public utility's customers;

4. The plans or proposals which an acquiring party has to liquidate the public utility or any such controlling person, sell its assets, or a substantial part thereof, or consolidate or merge it with any person, or to make any other material change in its investment policy, business or corporate structure or management, would be detrimental to the customers of the domestic public utility and not in the public interest;

5. The competence, experience and integrity of those persons who would control the operation of the domestic public utility are such that it would not be in the interest of its customers and the public to permit the merger or other acquisition of control;

6. After giving effect to the merger or other acquisition of control of a domestic public utility whose utility service includes the furnishing of electric current, such domestic public utility would not be operated, in the judgment of the Commission, on an integrated basis with the domestic public utilities and foreign public utilities affiliated with the acquiring party and, if the acquiring party is a domestic public utility or foreign public utility, with the acquiring party; or

7. Prior to giving effect to the merger or other acquisition of control of a domestic public utility whose utility service includes the furnishing of electric current, the acquiring party is not substantially engaged in the business of providing utility service. Provided that, in the discretion of the Commission, the condition

shall not apply to an acquiring party that on the effective date of this act, directly or indirectly, through one or more of its affiliates:

a. owns more than fifty percent (50%) of an electric generating facility in this state, and

b. is selling power from such facility to the domestic public utility pursuant to a contract approved by the Commission.

Further provided that this exception to this condition shall apply only to an acquiring party that on the effective date of this act, directly or indirectly through one or more of its affiliates, meets the requirements of subparagraphs a and b of this paragraph and shall not apply to any third party that after the effective date of this act acquires directly or indirectly such acquiring party or all or part of the generating facility described in subparagraphs a and b of this paragraph.

B. The public hearing referred to in subsection A of this section shall be commenced within sixty (60) days after the statement required by Section 191.2 of this title is filed. The place, date and time for such public hearing shall be set by the Commission and notice thereof shall be given by the Commission to the person filing the statement and to the domestic public utility at least twenty (20) days prior to the date of the public hearing. Notice of the public hearing shall be given by the person filing the statement to such other persons and in such manner as may be directed by the Commission at least fifteen (15) days prior to such public hearing. The domestic public utility shall give notice to its customers as provided in Section 191.6 of this title. The public hearing referred to in subsection A of this section shall be concluded within sixty (60) days after the commencement of such hearing unless it is necessary, for good cause shown or in the judgment of the Commission, to continue such hearing for sixty (60) days. The Commission shall make a determination on the factors specified in subsection A of this section within sixty (60) days after the conclusion of such hearing, and any merger or other acquisition of control within the purview of this section shall be deemed approved as filed unless the Commission has, within sixty (60) days after the conclusion of such hearing, entered its order approving the merger or other acquisition upon such terms and conditions as it deems necessary or appropriate in the public interest or disapproving the merger or other acquisition of control.

C. In determining whether a domestic public utility whose utility service includes furnishing electric current would be operated on an integrated basis under paragraph 6 of subsection A of this section, the Commission shall consider such factors as physical interconnection to the acquiring party or its affiliates and the ability to be economically operated with the acquiring party and its

affiliates as a single coordinated system not so large as to impair the advantages of localized management, efficient operation and the effectiveness of regulation.

D. In determining whether an acquiring party is or is not substantially engaged in providing utility service under paragraph 7 of subsection A of this section, an acquiring party shall be deemed to not be substantially engaged in the business of providing utility service if, based on the information included in the schedule filed pursuant to paragraph 10 of subsection A of Section 191.3 of this title, the amount of the total nonutility assets of the acquiring party exceeds the amount of the total utility assets of the acquiring party.

Added by Laws 1983, c. 292, § 5, eff. Nov. 1, 1983. Amended by Laws 2004, c. 196, § 4, emerg. eff. May 4, 2004.

§17-191.6. Notice of hearing - Bond for payment of expenses.

Notice, in a form to be specified by the Corporation Commission, of the public hearing to be held pursuant to Section 5 of this act shall be mailed, or shall be given in such other manner as may be determined by the Commission, by the domestic public utility to its customers within ten (10) business days after it has received notice of the hearing from the Commission. The expenses of preparation and mailing and giving of such notice shall be borne by the person filing the statement required by Section 2 of this act. As security for the payment of such expenses, the Commission may require such person to file with the Commission an acceptable bond or other deposit in an amount to be determined by the Commission.

Added by Laws 1983, c. 292, § 6, eff. Nov. 1, 1983.

§17-191.7. Certain domestic public utilities to file application for approval of acquisition, control or merger with Commission - Factors for approval or disapproval - Review - Exemption from certain provisions of act.

If the acquiring party is a domestic public utility, and the domestic public utility, control of which is sought to be acquired in a transaction described in Section 2 of this act which would require the filing of a statement pursuant to Section 2 of this act, is subject to the jurisdiction of the Commission, an application for approval, containing such information as the Commission may prescribe by rule or regulation adopted pursuant to this act, shall be filed with and heard by the Commission after such notice as the Commission may prescribe, and the transaction approved or disapproved based upon the factors enumerated in paragraphs 1 through 5 of subsection A of Section 5 of this act, subject to judicial review as provided in Section 12 of this act, but the other provisions of this act shall not apply to such transaction.

Added by Laws 1983, c. 292, § 7, eff. Nov. 1, 1983.

§17-191.8. Court jurisdiction - Agent for service of process.

The courts of this state are hereby vested with jurisdiction over every person not resident, domiciled or authorized to do business in this state who files or is required to file a statement with the Corporation Commission as required by Section 2 of this act, and over all actions involving such person arising out of violations of this act. The Commission shall be the agent for service of process for any such person in any action, suit or proceeding arising out of violations of this act. Copies of all such lawful process shall be served on the Commission and transmitted by certified or registered mail, with return receipt requested, by the Commission to such person at his last-known address.

Added by Laws 1983, c. 292, § 8, eff. Nov. 1, 1983.

§17-191.9. Powers of Corporation Commission - Expenses of conducting analysis or investigation.

The Corporation Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this act. The expense of conducting an analysis or investigation by the Commission of the information required to be filed under Section 3 of this act shall be paid by the acquiring party within fifteen (15) days of the public hearing required by Section 5 of this act. Expenses of conducting the analysis or investigation may include, but not be limited to, the cost of acquiring expert witnesses, consultants and analytical services.

Added by Laws 1983, c. 292, § 9, eff. Nov. 1, 1983.

§17-191.10. Injunctions - Bond not required - Evidence.

Whenever it shall appear to the Corporation Commission, the Attorney General or a domestic public utility which reasonably believes itself to be the object of a tender offer or attempt to obtain control as described in Section 2 of this act, that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this act, or of any rule, regulation or order thereunder, the Commission, the Attorney General or the domestic public utility may bring an action in the district court in and for Oklahoma County, State of Oklahoma, to enjoin such acts or practices and to enforce compliance with this act or any rule, regulation or order thereunder, and upon a proper showing being made a restraining order or temporary or permanent injunction shall be granted without bond. The Commission, the Attorney General and the domestic public utility shall transmit such evidence as may be available concerning such acts or practices or concerning apparent violations of this act to the District

Attorney for Oklahoma County, who, in his discretion, may institute appropriate criminal proceedings.
Added by Laws 1983, c. 292, § 10, eff. Nov. 1, 1983.

§17-191.11. Violations - Penalties.

A. Any person who willfully and knowingly does or causes to be done any act, matter or thing prohibited or declared to be unlawful by this act, or who willfully and knowingly omits or fails to do any act, matter or thing required by this act to be done, or willfully and knowingly causes such omission or failure, shall, upon conviction thereof, be guilty of a felony punishable by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than two (2) years, or both. In addition, such violation shall be punished upon conviction thereof by a fine not exceeding Five Hundred Dollars ($500.00) for each day during which such offense occurs.

B. Any person who willfully and knowingly violates any rule, regulation, restriction, condition or order made or imposed by the Corporation Commission under authority of this act, shall, in addition to any other penalties provided by law, be punished upon conviction thereof by a fine not exceeding Five Hundred Dollars ($500.00) for each day during which such offense occurs.
Added by Laws 1983, c. 292, § 11, eff. Nov. 1, 1983. Amended by Laws 1997, c. 133, § 139, eff. July 1, 1999; Laws 1999, 1st Ex.Sess., c. 5, § 65, eff. July 1, 1999.
NOTE: Laws 1998, 1st Ex.Sess., c. 2, § 23 amended the effective date of Laws 1997, c. 133, § 139 from July 1, 1998, to July 1, 1999.

§17-191.12. Appeal to Supreme Court.

Any party adversely affected by any action of the Corporation Commission under the provisions of this act may appeal to the Supreme Court in the manner now provided in Article IX, Section 20 of the Constitution of the State of Oklahoma. All cases appealed to the Supreme Court from an action of the Commission as herein provided shall have precedence therein as provided in Article IX, Section 21 of the Constitution of the State of Oklahoma.
Added by Laws 1983, c. 292, § 12, eff. Nov. 1, 1983.

§17-191.13. Provisions in conflict or inconsistent with Oklahoma Constitution.

If this act, Section 191.1 et seq. of this title, or any provision hereof is, or may be deemed to be, in conflict or inconsistent with any of the provisions of Section 18 through Section 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, then, to the extent of any such conflicts or inconsistencies, it is hereby expressly declared this entire act and this section are amendments to and alterations of said sections of

the Constitution, as authorized by Section 35 of Article IX of said Constitution.
Added by Laws 1987, c. 36, § 2, emerg. eff. April 22, 1987.

§17-200. Legislative intent - Competition.
It is the intent of the Legislature that competition be allowed in all areas of radio common carrier communications.
Added by Laws 1987, c. 16, § 1, emerg. eff. April 13, 1987. Amended by Laws 1996, c. 331, § 5, emerg. eff. June 12, 1996.

§17-201. Definition.
The term "radio common carrier" shall include every person, firm, corporation or other legal entity operating or managing a radio system engaged in the business of furnishing for public use one-way or two-way radio communications and cellular telephone service and paging service.
Amended by Laws 1987, c. 16, § 2, emerg. eff. April 13, 1987.

§17-202. Authorization to enter business.
Every radio common carrier shall be authorized, without proving public convenience and necessity, to enter into such business in the State of Oklahoma to the extent that the authority to do so has been granted by the Federal Communications Commission.
Amended by Laws 1987, c. 16, § 3, emerg. eff. April 13, 1987.

§17-205. Rules and regulations.
The Corporation Commission is authorized to adopt all reasonable and necessary rules and regulations to implement any powers and duties of the Commission pursuant to the provisions of this act.
Amended by Laws 1987, c. 16, § 4, emerg. eff. April 13, 1987.

§17-206. Amendments and alterations to Constitution - Legislative intent.
It is the intention of the Legislature that Sections 1 through 4 of this act are amendments to, and alterations of Sections 18 through 34, inclusive, of Article IX of the Constitution of the State of Oklahoma, as authorized by Section 35, Article IX of said Constitution.
Added by Laws 1987, c. 16, § 5, emerg. eff. April 13, 1987.

§17-250. Terms defined.
As used in this act:
1. "Affiliated person, subsidiary, firm or corporation" means any person, subsidiary, firm or corporation which:
a. controls or is controlled by a public utility,
b. is controlled by an entity that also controls the utility, or

c. the utility or an entity controlling the utility has directly or indirectly the power to control;

2. "Commission" means any state regulatory body which has jurisdiction to regulate public utilities or electric cooperatives;

3. "Emergency sales of gas" mean sales of natural gas made by a public utility or subsidiary thereof to one or more interstate pipelines or other out-of-state customer pursuant to federal law which exempts such transactions from the jurisdiction of the Federal Power Commission;

4. "Fair field price" means the value attributed to gas produced from wells owned by a public utility, or a subsidiary or affiliate of a public utility, which shall be the going price paid by the utility, subsidiary or affiliate to others in the field where such production is located. If the utility, subsidiary or affiliate is not purchasing gas in such field, then such value shall be the price paid by the utility, subsidiary or affiliate in the nearest field where conditions are similar. The value to be attributed to residue gas owned by a public utility, or a subsidiary or affiliate of a public utility, from gas processing plants shall be the going price paid by the utility, subsidiary or affiliate to others from the same plant. If the utility, subsidiary or affiliate is not purchasing gas from said plant, then the value shall be the price paid by the utility, subsidiary or affiliate at the nearest plant where conditions are similar. However, the Commission may require an adjustment of the fair field price when it deems it proper to do so based on information before it. The fair field price shall not be applicable to gas purchased by a public utility from a subsidiary or affiliate of a public utility pursuant to a competitive bid process;

5. "Fuel adjustment clause" means any mechanism which allows a public utility or electric generating cooperative to automatically adjust its charges above or below the base amount included in its rates, based upon changes in costs of fuel for generation of electricity, purchased power or purchased gas;

6. "Heat rate" means a measure of the efficiency of an electric generating station, computed by dividing the total British Thermal Unit content of the fuel burned by the resulting net kilowatt-hours generated;

7. "Line loss" means the kilowatt-hours of electricity lost in the operation of an electric transmission or distribution system;

8. "Public utility" or "utility" means any individual, firm, association, partnership, corporation, or any combination thereof, other than a municipal corporation or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

a. producing, generating, transmitting, distributing, selling or furnishing electricity, or

b. transmitting, directly or indirectly, or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public or for wholesale, unless its wholesale rates are regulated by a federal agency; and

9. "Purchased power adjustment clause" means any mechanism which allows an electric public utility or electric distribution cooperative to adjust its charges above or below the base amount included in its rates based upon changes in costs of wholesale power purchased from others.

Added by Laws 1977, c. 252, § 1, emerg. eff. June 15, 1977. Amended by Laws 2004, c. 410, § 1, emerg. eff. June 3, 2004.

§17-251. Change in price of fuels or power - Approval of fuel adjustment clauses - Rules for making determination.

A. No fuel adjustment clause of any kind shall hereafter be authorized by the Corporation Commission if such clause operates automatically to permit charges, assessments or amendments to existing rate schedules to be made which have not been first approved as provided by Sections 251 through 255 of this title, except as otherwise provided for purchased power adjustments by electric distribution cooperatives in Sections 258 through 262 of this title.

B. If the Commission finds that the changes in the price of fuels required for the generation of electricity by any electric public utility, that the changes in the price of purchased electricity required for distribution by any public utility or changes in the price of purchased gas required for distribution by any gas utility, portends a likely and substantial threat to the ability of the utility to earn a reasonable rate of return, or are likely to cause the utility to have an excessive rate of return, or are likely to substantially impair the ability of the utility to acquire adequate supplies of fuel or gas, the Commission may, after investigation and public hearing, approve suitable fuel adjustment clauses to be superimposed upon the existing rate schedules of the public utility. The Commission shall design the fuel adjustment clause to allow the electric or gas public utility to increase or decrease charges to the consumer according to changes in the cost of fuel, purchased power or purchased gas as compared to the price of such fuels or power as reflected in the base rates.

C. In the Commission's design of fuel adjustment clauses, the following rules shall apply:

1. For the purpose of determining fuel or gas costs, the price paid for the fuel or gas shall be computed at the actual cost of fuel or gas purchased from nonaffiliated persons, firms and corporations; and the actual cost of the production of fuel owned by the public utility or received from affiliated persons, firms and corporations, and in the case of gas, the fair field price for gas owned by the

public utility or received from affiliated persons, firms or corporations;

2. The cost of fuel or gas shall be the price paid at the point of delivery into the utility system. In the event the transportation is performed by an affiliated person, firm or corporation as defined in this act which is not subject to the regulatory jurisdiction of the Commission, a regulatory agency of another state having jurisdiction, or the Federal Energy Regulatory Commission or successor agency, the charges made for transportation shall be, if allowed at all, only such as the Commission finds fair, just and reasonable, for purposes of this section. Transportation charges approved by this Commission, a regulatory agency of another state having jurisdiction, or by the Federal Energy Regulatory Commission, or successor agency shall be included for purposes of this section, if allowed by this Commission. The proposed adjustment charge shall not include the cost of transportation beyond its point of delivery into that portion of the utility system regulated by the Corporation Commission unless there is presented to the Commission and it is persuaded by reliable evidence which clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return;

3. The amount of electric energy produced by hydroelectric generating plants and purchased by the public utility proposing the adjustment charge shall be deducted from the amount of electric energy to which any fuel cost applies;

4. The actual efficiency or heat rate of electric public utilities shall be utilized and line losses shall be considered only if reliable evidence clearly points to the conclusion that failure to do so will substantially threaten the ability of the utility to earn a reasonable rate of return;

5. Fuel or gas removed from storage or stockpiles shall be taken into consideration on the basis of the weighted average cost method of inventory accounting; and

6. No estimated fuel adjustment shall be allowed.

Added by Laws 1977, c. 252, § 2, emerg. eff. June 15, 1977. Amended by Laws 1994, c. 315, § 16, eff. July 1, 1994; Laws 2007, c. 340, § 1, eff. Jan. 1, 2008.

§17-252. Monitoring of fuel adjustment clauses.

Whenever the Commission approves a fuel adjustment clause pursuant to this act, the clause shall apply to all similar public utilities affected by such increased costs. In addition, the Commission shall continually monitor and oversee the application of the fuel adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. If the Commission finds that the charges or credits are not based upon the actual

prices paid for fuel, purchased gas or purchased power, or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits and shall direct the public utility to take such action as may be required to insure that the charges or credits properly reflect the actual prices paid for fuel, purchased gas or purchased power and are properly computed in accordance with the applicable adjustment clause for the applicable period. The fuel adjustment clause may be amended upon a finding of changed circumstances by the Commission but shall not be wholly discontinued or suspended except by order of the Commission after notice and hearings for the utilities affected have been rendered.
Laws 1977, c. 252, § 3, emerg. eff. June 15, 1977; Laws 1991, c. 332, § 2, eff. July 1, 1991.

§17-253. Rules for considering adjustment applications.

A. No proposed monthly fuel adjustment, purchased power adjustment or purchased gas adjustment shall become effective until after the Corporation Commission has had an opportunity to determine that the adjustment is calculated in accordance with the terms and conditions of the applicable fuel adjustment clause.

B. The Commission shall promulgate rules requiring each company as a necessary part of the monthly filing with the Commission and condition to consideration of any adjustment application to submit the following information:

1. A statement by each company subject to a fuel adjustment clause of the items and costs making up the average cost of fuel per million BTU and associated costs in dollars and cents or fraction thereof;

2. A summary of its fuel and gas purchase invoices and its computations of the proposed monthly fuel adjustment or purchased gas adjustment charges;

3. A summary of inventory records of fuel and gas going into and taken out of stockpile or storage;

4. A report containing the average unit price, the change in the average unit price, the volume purchased and a brief explanation of such unit cost increase; and

5. Any other records deemed necessary by the Commission including, but not limited to, the heat rate efficiency and delivery efficiency for affected electric public utilities and the actual capacity factor for each generating facility utilized to produce electric power.

The records and computations filed shall be open to public inspection at the office of the Commission.

C. The Commission shall have five (5) business days after the records and computations prescribed in subsection B of this section have been filed to determine the necessity of an administrative

proceeding thereon. If the Commission does not determine that a hearing is required, the proposed adjustment charge shall become effective as filed. In the event the Commission decides to hold a hearing on the information filed, it shall notify the public utility within such five-day period, set the matter for a public hearing to commence within thirty (30) business days thereafter, and give notice thereof at least three (3) days prior to the commencement of such hearing by publication in a newspaper of general circulation in the area served by such company. The issue to be determined at such hearing shall be either or both of the following determinations:

1. Whether charges or credits made under the fuel adjustment clauses are based upon the actual prices paid for fuel, purchased gas or purchased power and are properly computed in accordance with the applicable adjustment clause; or

2. Whether the fuel adjustment clauses should be discontinued, amended or suspended. In the event that the Commission determines that it is necessary to set any proposed adjustment charge for hearing, the proposed charge shall nevertheless become effective at the option of the utility following the expiration of the five-day period after its records and computations have been filed, pending the Commission's finding with respect to such charges. However, in the discretion of the Commission, the effectiveness of the proposed charge may be conditioned upon the filing by the utility with the Commission of an assurance satisfactory to the Commission, which may include a bond with surety, of the utility's ability and willingness to refund to its customers any such amounts as the utility may collect from them in excess of the charge approved by the Commission in its finding. If the Commission has not approved, in whole or in part, or denied the proposed charge within a seven-day period subsequent to the commencement of such hearing, the Commission shall promptly submit a written explanation of the Commission's failure to do so to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the office of the Governor.

Added by Laws 1977, c. 252, § 4, emerg. eff. June 15, 1977. Amended by Laws 1981, c. 272, § 5, eff. July 1, 1981; Laws 1991, c. 332, § 3, eff. July 1, 1991; Laws 1998, c. 364, § 9, emerg. eff. June 8, 1998.

§17-254. Disclosure in customer bills.

Each public utility subject to a fuel adjustment clause shall separately disclose in its customer bills the per unit cost of its fuel, purchased power or purchased gas adjustment. Upon request by any individual consumer, such utility shall also disclose for the month for which the request is received:

1. The actual amount of the adjustment in dollars and cents; and

2. The per unit rate and amount thereof in dollars and cents of fuel, purchased power or purchased gas included in its basic rate.

Laws 1977, c. 252, § 5, emerg. eff. June 15, 1977.

§17-255. Preexisting clauses to continue.

Any fuel adjustment clause approved and in effect for any public utility immediately prior to the effective date of this act shall remain in effect in its present form and method of operation until procedures conforming to the requirements of this act have been approved, established and placed into effect by the Commission. The Commission shall approve, establish and place into effect such procedures after notice and opportunity for a public hearing no later than November 1, 1977, but the operation of such preexisting clauses, unless suspended by order of the Commission after due notice and hearing shall continue in the case of each company until a final decision, no longer subject to judicial review, has been rendered by the Commission with respect to such clauses.

Laws 1977, c. 252, § 6, emerg. eff. June 15, 1977.

§17-256. Sections 251 to 255 not applicable to electric cooperatives.

The provisions of Sections 2 through 6 of this act shall not be construed to apply to electric cooperatives.

Laws 1977, c. 252, § 7, emerg. eff. June 15, 1977.

§17-257. Electric generation cooperatives - Report of fuel adjustment clauses.

Electric generation cooperatives which determine to utilize a fuel adjustment clause shall report such fuel adjustment clause to the Commission. The Commission shall promulgate reasonable rules requiring each such cooperative to file monthly with the Commission, the following:

1. A report of adjustments charged or credited to its wholesale electric customers on its current monthly billing;

2. A statement of the items and costs making up the average cost of fuel per million BTU and associated costs in dollars and cents or fraction thereof;

3. A summary of its fuel and gas purchase invoices and its computation of the proposed monthly fuel adjustment charges;

4. A summary of inventory records of fuel going into and taken out of stockpile or storage;

5. A report containing the average unit price, the change in the average unit price, the volume purchased and a brief explanation of any change in such unit cost; and

6. Any other records pertaining to fuel adjustment charges deemed necessary by the Commission including, but not limited to, the heat-rate efficiency and delivery efficiency for affected electric generating cooperatives and the actual capacity factor for each generating facility utilized to produce electric power. The records

and computations provided for in this section shall be open to public inspection at the office of the Commission.
Added by Laws 1977, c. 252, § 8, emerg. eff. June 15, 1977. Amended by Laws 1981, c. 272, § 6, eff. July 1, 1981; Laws 1998, c. 364, § 10, emerg. eff. June 8, 1998.

§17-258. Approval of purchased power adjustment clauses.

A. No purchased power adjustment clause of any kind shall apply nor be used in computing bills for retail electric service which has not been first approved by the Commission.

B. If the Commission finds that the changed price of purchased wholesale power required for distribution by any electric distribution cooperative threatens the ability of the cooperative to earn a reasonable rate of return, the Commission may, after investigation and public hearing, approve a suitable purchased power adjustment clause to be superimposed upon the existing retail electric rate schedules of the cooperative and designed only to recapture such increased costs of wholesale power.

C. The Commission shall design the purchased power adjustment clause to allow the electric distribution cooperative to increase or decrease its charges for retail electric service as provided in its approved electric rates only for the changes in the cost of purchased power when the price of such purchased power differs from the price which is reflected in its basic approved retail rates. It shall include in a purchased power adjustment clause an allowance for line losses if a preponderance of evidence points to the probable conclusion that failure to do so will result in less than a reasonable rate of return for the cooperative.
Laws 1977, c. 252, § 9, emerg. eff. June 15, 1977.

§17-259. Monitoring of application of adjustment clauses.

Whenever the Commission approves a purchased power adjustment clause pursuant to Section 258 of this title, the clause shall apply to all similar distribution cooperatives affected by such increased costs. In addition, the Commission shall continually monitor and oversee the application of the adjustment clauses. The Commission shall hold a public hearing thereon whenever it deems it necessary, but no less frequently than once every twelve (12) months. The Commission shall undertake such other investigation thereof as is necessary to determine whether:

1. Charges or credits made under the adjustment clauses are based upon the actual prices paid for purchased power, are properly computed in accordance with the applicable adjustment clause, and that portion representing fuel adjustment charges made by an electric generation cooperative are fair, equitable and properly computed; or

2. Whether the purchased power adjustment clause should be amended, suspended or discontinued.

If the Commission finds that the charges or credits are not based upon the actual prices paid for purchased power, or are not properly computed in accordance with the applicable adjustment clause, it shall recompute the charges or credits. Appropriate adjustments shall then be ordered by the Commission in the amount used in calculating the power adjustment charge for one (1) or more succeeding months under the purchased power adjustment clause by the electric distribution cooperative making the error. The purchased power adjustment clause may be amended upon a finding of changed circumstances by the Commission, but shall not be wholly discontinued or suspended except by order of the Commission after due notice and hearings for the cooperatives affected have been rendered.
Laws 1977, c. 252, § 10, emerg. eff. June 15, 1977; Laws 1991, c. 332, § 4, eff. July 1, 1991.

§17-260. Disclosure of per unit rate in consumer's bill.

Each electric distribution cooperative applying a purchased power adjustment charge in its bills shall separately disclose the per unit rate of the purchased power adjustment charge. Upon request by any individual consumer, such cooperative shall also disclose for the month for which the request is received:

1. The dollars and cents of the purchased power adjustment charge; and

2. The base cost of purchased power included in the retail rate.

Laws 1977, c. 252, § 11, emerg. eff. June 15, 1977.

§17-261. Preexisting purchased power adjustment clauses.

Any purchased power adjustment clause approved and in effect for any electric distribution cooperative immediately prior to the effective date of this act shall remain in effect in its present form and method of operation until procedures conforming to the requirements of this act have been approved, established and placed into effect by the Commission. The Commission shall approve, establish and place into effect such procedures after notice and opportunity for a public hearing no later than November 1, 1977.
Laws 1977, c. 252, § 12, emerg. eff. June 15, 1977.

§17-262. Applications through common representative.

Nothing in this act shall prevent similarly situated electric distribution cooperatives from making, or the Commission from accepting, filings and applications as shall be required simultaneously and through a common representative.
Laws 1977, c. 252, § 13, emerg. eff. June 15, 1977.

§17-263. Periodic detailed rate investigations.

A. In order to assure that the rates charged to their customers by public utilities and electric distribution cooperatives which

utilize fuel adjustment clauses or purchased power adjustment clauses are just and reasonable, the Commission shall periodically conduct detailed rate investigations of such utilities and cooperatives.

The provisions of this subsection shall not prohibit or otherwise restrict the authority of the Corporation Commission to conduct, whenever necessary, an investigation or review of any such utility or electric distribution cooperative. In addition, this section shall not limit or restrict such utility from requesting and receiving a rate review upon proper application to the Commission.

B. Such investigations shall include public hearings. In such rate investigations or proceedings, income, expenses and investments of affiliated persons, subsidiaries, firms or corporations and emergency and off-system sales of electricity or gas shall be given appropriate consideration by the Commission in determining the financial requirements of the utility or cooperative.

C. However, nothing in this section shall be interpreted to require any public utility or electric cooperative to submit itself to the authority of the Commission for ratemaking purposes if it is not so required by other statutory or constitutional provisions.
Laws 1977, c. 252, § 14, emerg. eff. June 15, 1977; Laws 1987, c. 17, § 2, emerg. eff. April 13, 1987; Laws 1993, c. 231, § 3, emerg. eff. May 26, 1993.

§17-264. Article headings.

Article headings contained in this act shall not be deemed to govern, limit or in any manner affect the scope, meaning or intent of the provisions of any article or section therein.
Laws 1977, c. 252, § 15, emerg. eff. June 15, 1977.

§17-270. Natural Gas Policy Act of 1978 - Power and duties of Corporation Commission - Applications for determinations - Fees.

In order to implement the Natural Gas Policy Act of 1978 (Public Law 95-621), the Corporation Commission is hereby authorized to process applications for determinations as provided for in the rules and regulations issued by the Federal Energy Regulatory Commission. The Corporation Commission shall possess such powers and perform such acts as are necessary to comply with the Natural Gas Policy Act of 1978 (Public Law 95-621). The Corporation Commission shall charge a filing fee of Twenty-five Dollars ($25.00) per well for a well category determination or determinations under the Natural Gas Policy Act of 1978. All filing fees charged and collected hereunder shall be deposited daily with the State Treasurer and shall be credited and apportioned to the Oil and Gas Revolving Fund.
Added by Laws 1979, c. 2, § 1, emerg. eff. March 19, 1979. Amended by Laws 1997, c. 275, § 3, eff. July 1, 1997.

§17-271. Appeals.

Appellate jurisdiction is hereby conferred upon the Supreme Court of this state to review the procedures employed by the Commission to carry out the provisions of this act and the Federal Natural Gas Policy Act of 1978, in the same manner and time as appeals are allowed by law from orders of the Commission in exercising their powers under the Oil and Gas Conservation Act. Such appeal may be taken by any person shown by the record to be interested therein. Laws 1979, c. 2, § 2, emerg. eff. March 19, 1979.

§17-281. Responses to discovery requests.

A. In a public utility proceeding subject to subsection B of Section 152 of Title 17 of the Oklahoma Statutes, responses to any document request, data request or interrogatory shall be due within ten (10) business days from the date of receipt, unless an objection is filed or the parties agree in writing to a different response time.

B. In any other public utility proceeding, responses to any document request, data request or interrogatory shall be due no later than twenty (20) days after service of the document or data request or interrogatory, unless an objection is filed or the parties agree in writing to a different response time.

C. The Commission may allow a shorter or longer time for response for good cause shown, but in no event may the Commission order a response to be served in less than ten (10) business days, except as otherwise agreed by the parties.

D. Any request or interrogatory received after 3:00 p.m. shall be deemed received on the next regular business day.
Added by Laws 1994, c. 315, § 7, eff. July 1, 1994.

§17-282. Settlement conferences.

A. In any contested public utility rate proceeding, the Corporation Commission shall at the request of any of the parties, order a settlement conference among the parties, to be held at a time and place to be fixed by the Commission. Provided, however, that the Commission may terminate any settlement conference, upon a motion by any party, if it finds that any party is failing to participate in the process in good faith or that there is no probability of settlement.

B. An individual designated by the Commission with the concurrence of the utility and the Attorney General will preside as settlement judge at the settlement conference. The settlement judge shall take no part in adjudicating the case subsequent to the settlement conference.

C. Scheduling of settlement conferences will not continue, delay, or otherwise interfere with scheduling dates set pursuant to a scheduling order. Likewise, the scheduling dates set at the prehearing or scheduling conference will not affect the date of a

settlement conference set pursuant to a separate settlement conference order.

D. At least one attorney who is fully familiar with the proceeding or cause shall appear for each party. A person or representative with full settlement authority shall accompany the attorney to the settlement conference. The settlement judge presiding over the settlement conference may make such other and additional requirements of the parties as shall be deemed proper in order to expedite an amicable resolution of the case. The settlement authority of the Public Utility Division of the Corporation Commission shall be extended from the director of that division.

E. Any settlement reached by the parties shall be subject to the approval of the Commission.

F. All matters discussed at a settlement conference, and any materials which may be distributed in connection with a settlement conference, shall be considered privileged and confidential. Accordingly, all such matters and materials shall not be admissible in any public utility rate proceeding, and shall not be disclosed to the Commission, except for any settlement reached by the parties which is submitted to the Commission for approval under subsection E of this section.

Added by Laws 1994, c. 315, § 8, eff. July 1, 1994.

§17-283. Exit conferences.

The Public Utility Division Director shall designate personnel with at least five (5) years' experience in public utility ratemaking, and with managerial responsibility for and knowledge of the issues raised in the audit, to conduct an exit conference on behalf of the Public Utility Division. The Public Utility Division representative shall conduct an exit conference with designees of the utility being audited, within ten (10) days of the audit's conclusion. At the exit conference, the preliminary draft of the audit findings should be discussed. An exit conference memorandum, identifying all matters discussed at the exit conference shall be approved by the Director of the Public Utility Division. The exit memorandum shall be maintained with any audit records of the Corporation Commission and shall be available to any party upon request.

Added by Laws 1994, c. 315, § 9, eff. July 1, 1994.

§17-284. Rate increase applications - Effect given to known and measurable changes.

In its review and examination of an application by a utility to change its rates and charges pursuant to Sections 137, 152 or 158.27 of Title 17 of the Oklahoma Statutes, and in any order resulting therefrom, the Corporation Commission shall give effect to known and measurable changes occurring or reasonably certain to occur within

six (6) months of the end of the test period upon which the rate review is based.
Added by Laws 1994, c. 315, § 10, eff. July 1, 1994.

§17-285. Communications between utilities and customers.

For purposes of communicating information to a customer, including delinquent and termination notices, the Corporation Commission shall allow a utility to use either written or oral communications by the utility to the customer. Oral communications may be over the telephone or in person.
Added by Laws 1994, c. 315, § 11, eff. July 1, 1994.

§17-286. Electric utility – Transmission upgrade costs presumed recoverable – Applications for capital expenditures, facilities.

A. 1. The portion of costs incurred by an electric utility, which is subject to rate regulation by the Corporation Commission, for transmission upgrades approved by a regional transmission organization to which the utility is a member and resulting from an order of a federal regulatory authority having legal jurisdiction over interstate regulation of transmission rates, shall be presumed recoverable by the utility. The presumption established in this paragraph may be rebutted by evidence that the costs so incurred by the utility for the transmission upgrades exceed the scope of the project authorized by the regional transmission organization or order issued by the federal regulatory authority having jurisdiction over interstate regulation of transmission rates. The Commission shall transmit rules to implement the requirements of this subsection to the Legislature on or before April 1, 2006. The rules may authorize an electric utility to periodically adjust its rates to recover all or a portion of the costs so incurred by the utility for the transmission upgrades.

2. Reasonable costs incurred by an electric utility for transmission upgrades:

a. needed to develop wind generation in this state,

b. approved by the Southwest Power Pool, and

c. placed into service before December 31, 2013,

shall be presumed recoverable through a periodic adjustment in the rates of the utility, provided that the presumption of the recovery of such costs or the recovery of such costs through a periodic adjustment in rates may be rebutted by evidence presented to the Commission. The determination of whether the costs shall be recovered and whether the costs shall be recovered through a periodic adjustment of rates shall be made by the Commission following proper notice and hearing in a cause to be filed by the electric utility in which it files such information as the Commission may require.

B. An electric utility subject to rate regulation by the Corporation Commission may file an application seeking Commission

authorization of a plan by the utility to make capital expenditures for equipment or facilities necessary to comply with the federal Clean Air Act (CAA), the Clean Water Act (CWA), the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Emergency Planning & Community Right-to-Know Act (EPCRA), the Endangered Species Act (ESA), the National Environmental Policy Act (NEPA), the Occupational Safety and Health Act (OSHA), the Oil Pollution Act (OPA), the Pollution Prevention Act (PPA), the Resource Conservation and Recovery Act (RCRA), the Safe Drinking Water Act (SDWA), the Toxic Substances Control Act (TSCA), all as amended, and, as the Commission may deem appropriate, federal, state, local or tribal environmental requirements which apply to generation facilities. If approved by the Commission, after notice and hearing, the equipment or facilities specified in the approved utility plan are conclusively presumed used and useful. The utility may elect to periodically adjust its rates to recover the costs of the expenditures. The utility shall file a request for a review of its rates pursuant to Section 152 of this title no more than twenty-four (24) months after the utility begins recovering the costs through a periodic rate adjustment mechanism and no more than twenty-four (24) months after the utility begins recovering the costs through any subsequent periodic rate adjustment mechanism. Provided further, that a periodic rate adjustment or adjustments are not intended to prevent a utility from seeking cost recovery of capital expenditures as otherwise may be authorized by the Commission. However, the reasonableness of the costs to be recovered by the utility shall be subject to Commission review and approval. The Commission shall promulgate rules to implement the provisions of this subsection, such rules to be transmitted to the Legislature on or before April 1, 2007.

C. 1. An electric utility subject to rate regulation by the Corporation Commission may elect to file an application seeking approval by the Commission to construct a new electric generating facility, to purchase an existing electric generation facility or enter into a long-term contract for purchased power and capacity and/or energy, subject to the provisions of this subsection. If, and to the extent that, the Commission determines there is a need for construction or purchase of the electric generating facility or long-term purchase power contract, the generating facility or contract shall be considered used and useful and its costs shall be subject to cost recovery rules promulgated by the Commission. The Commission shall enter an order on an application filed pursuant to this subsection within two hundred forty (240) days of the filing of the application, following notice and hearing and after consideration of reasonable alternatives.

2. Following receipt of an application filed pursuant to this subsection, the Corporation Commission staff may file a request to

assess the specific costs, to be paid by the electric utility and which shall be deemed to be recoverable, for the costs associated with conducting the analysis or investigation of the application including, but not limited to, the cost of acquiring expert witnesses, consultants, and analytical services. The request shall be filed at and heard by the Corporation Commissioners in the docket opened by the electric utility pursuant to this subsection. After notice and hearing, the Commission shall decide the request.

3. Additionally, following receipt of an application filed pursuant to this subsection, the Office of the Attorney General may file a request with the Corporation Commission for the assessment of specific costs, to be paid by the electric utility and which shall be deemed to be recoverable, associated with the performance of the Attorney General's duties as provided by law. Those costs may include, but are not limited to, the cost of acquiring expert witnesses, consultants and analytical services. The request shall be filed at and heard by the Corporation Commissioners in the docket opened by the electric utility pursuant to this subsection. After notice and hearing, the Commission shall decide the request.

4. The Commission shall promulgate rules to implement the provisions of this subsection. The rules shall be transmitted to the Legislature on or before April 1, 2006. In promulgating rules to implement the provisions of this subsection, the Commission shall consider, among other things, rules which would:

a. permit contemporaneous utility recovery from its customers, the amount necessary to cover the Corporation Commission staff and Attorney General assessments as authorized by this subsection,

b. establish how the cost of facilities approved pursuant to this subsection shall be timely reviewed, approved, and recovered or disapproved, and

c. establish the information which an electric utility must provide when filing an application pursuant to this subsection.

5. The Commission shall also consider rules which may permit an electric utility to begin to recover return on or return of Construction-Work-In-Progress expenses prior to commercial operation of a newly constructed electric generation facility subject to the provisions of this subsection.

Added by Laws 2005, c. 161, § 1, emerg. eff. May 11, 2005. Amended by Laws 2008, c. 80, § 1, emerg. eff. April 24, 2008; Laws 2008, c. 150, § 1, emerg. eff. May 12, 2008.

§17-287. Development of wind energy - Expansion of transmission capacity.

A. The Legislature declares that it is in the public interest to promote the development of a robust transmission grid to facilitate

delivery of renewable energy and improve reliability of the electric transmission system. It is further in the public interest, in cooperation with electricity transmission entities and the Southwest Power Pool, to promote wind-energy development in the state to the extent that the renewable energy generated from wind can be utilized in every part of the state and exported to other states.

B. The Legislature and the Corporation Commission shall work with the Southwest Power Pool to develop a plan to expand transmission capacity in the state and monitor the construction of new transmission facilities in the state through the year 2020. The Commission shall report on the progress in expanding transmission capacity by January 1, 2014, and January 1, 2017, with a final report issued by January 1, 2020.

Added by Laws 2010, c. 283, § 7, eff. Nov. 1, 2010.

§17-291. Definitions.

As used in this act:

1. "Commission" means the Corporation Commission;

2. "Incumbent electric transmission owner" means any Oklahoma electric public utility, as recognized by the Commission, or its affiliates, or subsidiaries or any electric cooperative, any municipal power agency or any municipal utility that owns, operates and maintains an electric transmission facility in this state or any public utility, as recognized by the Commission, that is engaged in the development of an electric transmission facility in the state as of the effective date of this act;

3. "Local electric transmission facility" means a high-voltage transmission line or high-voltage associated transmission facilities with a rating of greater than sixty-nine (69) kilovolts and less than three hundred (300) kilovolts; and

4. "Southwest Power Pool" means the Southwest Power Pool or any federally recognized successor entity.

Added by Laws 2013, c. 355, § 1, eff. Nov. 1, 2013.

§17-292. Rights of electric transmission owner.

A. An incumbent electric transmission owner has the right to construct, own and maintain a local electric transmission facility that has been approved for construction in a Southwest Power Pool transmission plan and will interconnect to facilities owned by that incumbent electric transmission owner. An incumbent electric transmission owner has the right to construct, own and maintain:

1. A new local electric transmission facility that connects to electric transmission facilities owned by the incumbent; and

2. Upgrades to the existing local electric transmission facilities of the incumbent.

B. The right to construct, own and maintain a local electric transmission facility that will interconnect to facilities owned by

two or more incumbent electric transmission owners belongs individually and equally to each incumbent electric transmission owner, unless otherwise agreed upon in writing by the incumbent electric transmission owners.

C. Nothing in this section is intended to affect an incumbent electric transmission owner's use and control of its existing property rights including the incumbent electric transmission owner's ability to assign its rights to construct, own and maintain a local electric transmission facility described in subsection A of this section. The retention, modification or transfer of existing property rights of an incumbent electric transmission owner and the rights described in subsection A of this section shall remain subject to the relevant state law or regulation recognizing the property right.

Added by Laws 2013, c. 355, § 2, eff. Nov. 1, 2013.

§17-293. Local electric transmission facility.

A. If the Southwest Power Pool has approved a local electric transmission facility in a Southwest Power Pool transmission plan and has formally directed the incumbent electric transmission owner or owners, if there is more than one owner, to construct, own and maintain the local electric transmission facility, the incumbent electric transmission owner or owners shall give notice to the Southwest Power Pool, in writing, within ninety (90) days of receipt of the direction to construct by the Southwest Power Pool, regarding its intent to construct, own and maintain the local electric transmission facility. If notice is not provided, the incumbent electric transmission owner shall surrender its right to construct, own and maintain the local electric transmission facility.

B. If an incumbent electric transmission owner or owners give notice of intent not to construct the local electric transmission facility or fail to provide notice as required in subsection A of this section, then the Southwest Power Pool may determine whether the incumbent electric transmission owner or owners or other entity will construct, own and maintain the local electric transmission facility.

C. Nothing in this section is intended to limit the ability of any person to notify the Southwest Power Pool that it believes an incumbent electric transmission owner with the right to construct, own and maintain a local electric transmission facility originally approved by the Southwest Power Pool has failed to exercise its right to construct, own and maintain the local electric transmission facility within a reasonable period of time and request that the Southwest Power Pool rescind the right to construct, own and maintain the local electric transmission facility and assign the rights to another incumbent electric transmission owner.

Added by Laws 2013, c. 355, § 3, eff. Nov. 1, 2013.

§17-301. Short title – Oklahoma Petroleum Storage Tank Consolidation Act - Oklahoma Petroleum Storage Tank Division – Responsibilities of Division.

A. Sections 301 through 348.9 of this title shall be known and may be cited as the "Oklahoma Petroleum Storage Tank Consolidation Act".

B. For the purposes of implementing the Oklahoma Petroleum Storage Tank Consolidation Act, there is hereby recognized the Oklahoma Petroleum Storage Tank Program administered by the Petroleum Storage Tank Division of the Oklahoma Corporation Commission.

C. The Petroleum Storage Tank Division shall maintain, operate and administer the Oklahoma Petroleum Storage Tank Program and shall include, but not be limited to, regulatory compliance activities, enforcement of rules promulgated to implement regulatory programs, technical review, development and approval of corrective action plans and determinations that remediation of contaminated sites is complete.

D. The Petroleum Storage Tank Division shall maintain, operate and administer the Petroleum Storage Tank Indemnity Fund (Indemnity Fund) and shall include, but not be limited to, processing, reviewing and paying claims for corrective action costs resulting from a release of regulated substances and mitigate environmental, health and safety threats to the public. The Administrator of the Indemnity Fund shall maintain, operate and administer the Indemnity Fund, and process, review and pay claims to those individuals deemed eligible for reimbursement for corrective action at eligible petroleum release sites.

E. The Petroleum Storage Tank Division shall maintain, operate and administer an inspection program for facilities that store or dispense Commission-regulated substances for the purpose of determining whether such products comply with the specifications, requirements, rules and orders of the Corporation Commission and the laws of the state.

F. The Petroleum Storage Tank Division shall maintain, operate and administer a program for the regulation of antifreeze sold or held with the intent to sell within the state for the purpose of determining whether such products comply with the specifications, requirements, rules and orders of the Corporation Commission and the laws of the state.

Added by Laws 1989, c. 90, § 1, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 1, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 7, emerg. eff. June 9, 1998; Laws 2018, c. 27, § 1, eff. Nov. 1, 2018; Laws 2019, c. 82, § 1, eff. July 1, 2019.

§17-302. Legislative intent - Public policy.

A. The Legislature finds that the release of regulated substances from storage tanks into the surface water, groundwater,

air and subsurface soils of this state poses a potential threat to the environment, health, safety and welfare of the residents of this state.

Therefore the Legislature declares it is the public policy of this state to protect the public health, safety, welfare, and the environment from the potential harmful effects of storage tanks used to store regulated substances. The Legislature acknowledges that certain statutory enactments regarding petroleum storage tank systems are set forth in other titles. To that extent and to effectuate consolidation, storage tank system inspections and the regulation of antifreeze are included in the Oklahoma Petroleum Storage Tank Consolidation Act. In order to implement this policy, it is the intent of the Legislature to consolidate programs for the regulation of storage tank systems, antifreeze, inspections and Indemnity Fund compensation for eligible petroleum storage tank releases; and that the regulation of spills and releases from petroleum storage tanks, oversight of petroleum storage tank environmental corrective action, and the reimbursement of claims for costs incurred for petroleum storage tank environmental corrective action be administered by the Oklahoma Corporation Commission Petroleum Storage Tank Division.

B. The purpose of the Oklahoma Petroleum Storage Tank Consolidation Act is to provide for the administration of the various programs within the Oklahoma Corporation Commission regulating the release or spilling of regulated substances from petroleum storage tanks and to utilize financial resources for petroleum storage regulatory services, administration and reimbursement of claims for environmental corrective action by the Petroleum Storage Tank Indemnity Fund.

C. The provisions of this act shall be applicable to all current, pending, past and future contracts, claims and cases within the jurisdiction of the Petroleum Storage Tank Division; provided, that this subsection shall not apply to, nor be construed to authorize or permit the reopening or review of, the underlying claim or claims of any cases which were formally settled pursuant to a formal settlement agreement or which a final order was entered by the Corporation Commission. Further, the provisions of this act shall not change or modify the terms of purchase order agreements entered into prior to the effective date of this act.

D. In addition, to provide that petroleum storage tank regulatory concerns of industry and the public shall be addressed in an expedient manner, the Legislature further finds that:

1. Significant quantities of regulated substances are being stored in storage tank systems in this state;

2. Spills, leaks and other releases of regulated substances from such storage tank systems have occurred, are occurring and will continue to occur;

3. Such releases often pose a significant threat to the public health and safety, the quality of the water and other natural resources in this state;

4. Where contamination has occurred, corrective action measures have often been delayed for long periods while determination as to the liability and extent of liability are made;

5. Such delays result in the continuation and intensification of the threat to the public health, safety and welfare, in greater damage to the environment, and in significantly higher costs to contain and remove the contamination;

6. Adequate financial resources must be readily available to enable owners, operators and other persons to take the corrective action necessary to investigate and, if necessary, remediate such contaminated sites; and

7. Adequate financial resources shall be provided by the petroleum storage tank program established by the Petroleum Storage Tank Indemnity Fund and funded by an assessment on the sale of motor fuel, diesel fuel and blending materials in this state by a distributor.

E. The Legislature declares that, in order to provide for the investigation and, if necessary, remediation of as many contaminated sites resulting from releases of regulated substances from storage tank systems as soon as possible, any person eligible for Indemnity Fund reimbursement pursuant to the provisions of this act shall be compensated for certain allowable costs incurred in connection with corrective action, subject to the conditions specified by Sections 301 through 348.9 of this title.

Added by Laws 1989, c. 90, § 2, emerg. eff. April 21, 1989. Amended by Laws 1998, c. 375, § 8, emerg. eff. June 9, 1998; Laws 2016, c. 155, § 1, eff. Nov. 1, 2016; Laws 2018, c. 27, § 2, eff. Nov. 1, 2018; Laws 2019, c. 82, § 2, eff. July 1, 2019.

§17-303. Definitions.

As used in the Oklahoma Petroleum Storage Tank Consolidation Act:

1. "Abandoned system" means a storage tank system which:
   a. has been taken permanently out of service as a storage vessel for any reason or is not intended to be returned to service,
   b. has been out of service for one (1) year or more prior to April 21, 1989, or
   c. has been rendered permanently unfit for use as determined by the Commission after notice and hearing;

2. "Administrator" means the person hired by the Director of the Petroleum Storage Tank Division of the Corporation Commission to administer the Indemnity Fund;

3. "Administrative application" means an application and notice of hearing filed by the Director of the Petroleum Storage Tank

Division for a judicial determination of any question regarding the administration of the regulatory, Indemnity Fund or inspection program of the Petroleum Storage Tank Division;

4. "Assignment of benefits" means a written directive from the applicant of record instructing the Commission to pay allowable costs incurred directly to the named assignee including, but not limited to, an environmental consultant;

5. "Assignment of rights" or "limited power of attorney" means a transfer of authority granting the assignee the legal right to act on grantor's behalf regarding specified matters;

6. "Biodiesel" for the purpose of prescribing specifications for the quality of biodiesel shall mean a fuel comprised of mono-alkyl esters of long chain fatty acids derived from vegetable oils or animal fats, designated as B100, and meeting the requirements of the American Society for Testing and Materials (ASTM) D6751 standards. A biodiesel blend is a blend of biodiesel fuels meeting the ASTM D6751 standards with a petroleum-based diesel fuel, which is designated "Bxx", with "xx" representing the volume percentage of biodiesel fuel in the blend;

7. "Commission" means the Corporation Commission;

8. "Confirmed release" means a level of concentration of chemicals of concern that may be sufficient to cause adverse effects upon human health or the environment or cause a nuisance;

9. "Contaminants" or "contamination" means the presence of Commission-regulated substances in the environment;

10. "Corrective action" means action taken to monitor, investigate, minimize, eliminate or perform remediation of a release from a storage tank system;

11. "Director" means the Director of the Petroleum Storage Tank Division of the Corporation Commission;

12. "Distributor" means:

a. every person importing or causing to be imported into this state any motor fuel, diesel fuel or blending material for use, distribution, or sale and distribution, or sale and delivery after the same reaches this state. Distributor does not mean persons importing motor fuel only in the supply tank of a vehicle originally provided by the manufacturer of the motor vehicle as a container for motor fuel or diesel fuel to propel such motor vehicle, nor does distributor mean persons only importing motor fuel, diesel fuel or blending material into the state under circumstances requiring that they be licensed as "Motor Fuel/Diesel Fuel Importers for Use" as defined in paragraph 7 of Section 601 of Title 68 of the Oklahoma Statutes and who are actually so licensed,

b. any person producing, refining, preparing, distilling, blending, manufacturing, or compounding motor fuel or blending material in this state for use, distribution or sale and delivery in this state,
c. any person within this state producing or collecting what is commonly known as drip, casinghead or natural gasoline,
d. any person who has in his or her possession or buys for sale or use motor fuel, diesel fuel or blending material from any person other than a licensed distributor, retailer or dealer,
e. any person other than a retailer or dealer who sells motor fuel, diesel fuel or blending material to anyone except a licensed distributor,
f. any person who makes bulk sales of motor fuel, diesel fuel or blending material, and
g. any other person, including a retailer or dealer, who has filed an application for and has procured a distributor's license in the manner provided by the Oklahoma Motor Fuel/Diesel Fuel Importers for Use Tax Code, Section 601 et seq. of Title 68 of the Oklahoma Statutes;

13. "Division" means the Petroleum Storage Tank Division of the Corporation Commission;

14. "Eligible person" means:
a. any owner or operator of a storage tank system who has incurred liability as a result of an eligible release, and who meets the requirements specified in Section 327.3 of this title,
b. any person who on or after November 8, 1984, purchases or acquires property by any means on which a storage tank system is located if:
(1) the storage tank system was located on the property on November 8, 1984,
(2) such person could not have known that such storage tank system existed. The burden shall be upon such purchaser to show that such purchaser did not know or should not have known of the existence of such storage tank system,
(3) the owner or operator of the storage tank system responsible for the system cannot be determined by the Corporation Commission or the Indemnity Fund Administrator, or the owner or operator of the storage tank system responsible for the system is incapable, in the judgment of the Corporation Commission, of properly carrying out any necessary

corrective action taken pursuant to Section 309 of this title, and

(4) either funds are unavailable from the Oklahoma Leaking Underground Storage Tank Trust (LUST Trust) Fund or the storage tank system is not eligible for corrective action taken pursuant to Section 328 of this title,

c. any person who acquired ownership of a tank system through inheritance or other means or is responsible for a release by reason of owning the real property within which a tank or a release is or was located if:

(1) the storage tank system of the release was located on the real property on November 8, 1984,

(2) the operator of the storage tank system responsible for the system or responsible for a release cannot be determined or found by the Corporation Commission, or the operator of the storage tank system responsible for the system or responsible for the release is incapable, in the judgment of the Corporation Commission, of properly carrying out any necessary corrective action,

(3) either funds are unavailable from the LUST Trust Fund or the storage tank system or release is not eligible for corrective action taken pursuant to Section 328 of this title,

(4) the person did not participate or was not responsible in any manner, directly or indirectly, in the management of the storage tank system or for the release and otherwise is not engaged in petroleum production, refining or marketing, and

(5) the person meets the requirements specified in Section 327.3 of this title, or

(d) any person who is an impacted party, adjacent owner or town, city or political subdivision as determined by the Commission and who willingly submits to the regulations of the Commission governing petroleum storage tank system owners, operators or agents;

15. "Eligible release" means a release of regulated substances for which allowable costs, as determined by the Indemnity Fund Administrator, are reimbursable to or on behalf of an eligible person;

16. "Environment" means any water, water vapor, any land including land surface or subsurface, atmosphere, fish, wildlife, biota, domestic animals and all other natural resources;

17. "Environmental consultant" means an individual licensed by the Commission or an environmental consulting company retaining or employing a Commission-licensed environmental consultant;

18. "Facility" means any location or part thereof containing one or more storage tanks or systems;

19. "Impacted party" means an owner whose property has been impacted by a release from an on-site or off-site petroleum storage tank system which the impacted person did not own or operate and for which the impacted person has had no responsibility under Commission rules. An impacted party may apply for an eligibility determination for reimbursement from the Indemnity Fund. An impacted party is not subject to the Indemnity Fund co-pay;

20. "Indemnity Fund" means the Petroleum Storage Tank Indemnity Fund;

21. "Investigation" means activities taken to identify, confirm, monitor or delineate the physical extent of a release;

22. "Maintenance level" means the minimum balance of the Indemnity Fund to be maintained and below which the Indemnity Fund balance will fall when the balance of the Indemnity Fund is below the dollar amount of disbursements from the Indemnity Fund for the payment of claims during the preceding six (6) months plus Five Million Dollars ($5,000,000.00);

23. "Measuring device" shall mean any and all measuring devices through or by the use of which regulated substances are sold, dispensed or delivered to the public or to any person buying any such substance for any purpose other than resale;

24. "Motor fuel" has the same meaning as the term is defined by Section 500.3 of Title 68 of the Oklahoma Statutes;

25. "New system" means a storage tank system for which the installation or upgrade of the system began on or after December 22, 1998. Storage tank systems installed after July 1, 2008, must be secondarily contained and use interstitial monitoring;

26. "Operator" means any person in control of or having responsibility for the daily operation of the storage tank system, whether by lease, contract, or other form of agreement. The term "operator" also includes a past operator at the time of a release, tank closure, or a violation of the Oklahoma Petroleum Storage Tank Consolidation Act or of a rule promulgated thereunder;

27. "Owner" means:

a. in the case of a storage tank system in use on November 8, 1984, or brought into use after that date, any person who holds title to real estate, controls, or possesses an interest in a storage tank system or property where a storage tank system is located used for the storage, use, or dispensing of regulated substances, or

b. in the case of a storage tank system in use before November 8, 1984, but no longer in service on that date, any person who held title to, controlled, or possessed an interest in a storage tank system immediately before the discontinuation of its use.

The term "owner" does not include a person who holds an interest in a tank system solely for financial security, unless through foreclosure or other related actions the holder of a security interest has taken possession of the tank system;

28. "Pay-for-performance" means a process by which an environmental consultant guarantees, by executing a contract pursuant to the provisions of this paragraph, that a release of a regulated substance will be remediated to levels agreed to by the Commission, the eligible person and the consultant. Such levels must be protective of human health, safety and the environment. The performance-based process encompasses several steps including, but not limited to, the development of a contract signed by an officer/owner of the environmental consultant, the eligible person and the Indemnity Fund Administrator. The contract shall contain any agreed-upon reasonable price for the work to be performed. Scheduled payments shall be distributed only as performance-based goals are attained;

29. "Permit" means any registration, permit, license or other authorization issued by the Commission to operate a storage tank system;

30. "Person" means any individual, trust, firm, joint stock company or corporation, limited liability company, partnership, association, any representative appointed by order of a court, the state, any municipality, county, school district or other political subdivision or agency of the state, or any interstate body. The term also includes a consortium, a joint venture, a commercial entity, the United States Government, a federal agency, including a government corporation, or any other legal entity;

31. "Petroleum" means antifreeze, new or used motor oil, gasoline, kerosene, diesel, aviation fuel or blended fuel including, but not limited to, gasoline, diesel, and aviation fuel that is blended with biodiesel, ethanol, Methyl Tertiary Butyl Ether (MTBE) or other additive for purposes of fueling a combustion engine;

32. "Pollution" means contamination or other alteration of the physical, chemical or biological properties of any natural waters of the state, land surfaces or subsurfaces, or atmosphere when such contamination or alteration will or is likely to create a nuisance or render the waters, land or atmosphere harmful or detrimental or injurious to the public health, safety or welfare or the environment;

33. "Purchase order" means a performance-based agreement negotiated between an environmental consultant and the Petroleum Storage Tank Division stipulating a scope of work to be performed by

a target date, for which the Petroleum Storage Tank Indemnity Fund will reimburse a specified amount;

34. "Regulated substance" means petroleum which is regulated pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act;

35. "Reimbursement" means either:

a. repayment of an approved claim to an eligible person for allowable costs resulting from an eligible release, or

b. payment of an approved claim submitted on behalf of an eligible person for incurred allowable costs resulting from an eligible release;

36. "Release" means any spilling, overfilling, leaching, emitting, discharging, escaping, unintentional disposing or leaking from a storage tank system that goes beyond the excavation zone, tankpit, or secondary containment into the environment. The term release includes but is not limited to a suspected or confirmed release of a regulated substance from a storage tank system identified as a result of sampling, testing or monitoring results, or identified in any similarly reliable manner;

37. "Remediation" means a process or technique used to reduce concentration levels of chemicals of concern in the soil and groundwater, and/or to reduce the presence of free product in the environment to levels that are protective of human health, safety and the environment;

38. "Responsible person" means any person that is seeking corrective action of real property, and submits to the jurisdiction of the Commission;

39. "Sale" means every gallon of motor fuel, diesel fuel, or blending materials sold, or stored and distributed, or withdrawn from storage, within the state, for sale or use. No gallon of motor fuel, diesel fuel, or blending materials shall be the basis more than once of the assessment imposed by Section 327.1 of this title;

40. "Storage tank" is a permanent trade fixture and means a stationary vessel designed to contain an accumulation of regulated substances. It includes the individual compartments within a compartmentalized tank, any aboveground or underground connected piping, and is a trade fixture. A storage tank that has ten percent (10%) or more of its volume beneath the surface of the ground is considered an underground storage tank;

41. "Storage tank system" means a closed-plumbed system including, but not limited to, the storage tank(s), the individual storage tank compartments, the lines, the dispenser for a given product, containment sump, if any, ancillary equipment or a delivery truck that is connected to the storage tank system;

42. "Synthetic diesel" for the purpose of prescribing specifications for the quality of synthetic diesel shall mean a hydrocarbon made up of hydrocarbons that are primarily aliphatic in

character with the number of carbon atoms ranging from C-10 to C-20. The hydrocarbons are produced from carbon monoxide and hydrogen, synthesis gas, by passing the synthesis gas over a catalyst under temperature and pressure, commonly known as the Fischer-Tropsch process. Synthetic diesel shall meet all ASTM D975 specifications with or without the use of lubrication additives. A synthetic diesel blend is a blend of synthetic diesel fuel with a petroleum-based diesel fuel, which is designated "Sxx", with "xx" representing the volume percentage of synthetic diesel fuel in the blend;

43. "Tax Commission" means the Oklahoma Tax Commission;

44. "Transporter" means any person who transports, delivers or distributes any quantity of regulated substance from one point to another for the purpose of wholesale or retail gain; and

45. "Waters of the state" means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Oklahoma or any portion thereof.

Added by Laws 1989, c. 90, § 3, emerg. eff. April 21, 1989. Amended by Laws 1992, c. 403, § 1, eff. Sept. 1, 1992; Laws 1993, c. 344, § 2, emerg. eff. June 9, 1993; Laws 1994, c. 352, § 1, emerg. eff. June 9, 1994; Laws 1998, c. 375, § 9, emerg. eff. June 9, 1998; Laws 2004, c. 430, § 1, emerg. eff. June 4, 2004; Laws 2005, c. 435, § 1, eff. Nov. 1, 2005; Laws 2006, c. 28, § 1, emerg. eff. April 11, 2006; Laws 2008, c. 307, § 1, eff. July 1, 2008; Laws 2016, c. 155, § 2, eff. Nov. 1, 2016; Laws 2018, c. 27, § 3, eff. Nov. 1, 2018; Laws 2019, c. 82, § 3, eff. July 1, 2019.

§17-304. Exemptions.

The provisions of the Oklahoma Petroleum Storage Tank Consolidation Act shall not apply to:

1. Septic tank systems;
2. Pipeline facilities;
3. Surface impoundments, pits, ponds or lagoons;
4. Stormwater and wastewater collection systems;
5. Flow-through process tank systems;
6. Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations;
7. Hydraulic lift tank systems;
8. Storage tank systems with a capacity of less than one hundred ten (110) gallons;
9. Fleet and commercial aboveground storage tanks with an individual capacity of two thousand one hundred (2,100) gallons or less;
10. Storage tank systems with a de minimus concentration of regulated substances;

11. Storage tank systems that serve as emergency backup tanks, provided that such backup tanks hold regulated substances for only a short period of time and are expeditiously emptied after each use. The provisions of this paragraph shall not prevent Corporation Commission notification requirements and such other restrictions as may be deemed necessary by the Commission to protect the environment;

12. Farm or residential underground storage tanks with an individual capacity of one thousand one hundred (1,100) gallons or less used for noncommercial purposes;

13. Underground storage tanks used for storing heating oil for consumptive use on the premises where stored;

14. Storage tank systems storing hazardous wastes regulated under Subtitle C of the federal Solid Waste Disposal Act, 42 U.S.C., Section 6921 et seq., or substances regulated as hazardous wastes under the Oklahoma Hazardous Waste Management Act; and

15. Fuel storage facilities and associated equipment used in wholesale or bulk distribution activities that are supplied by a pipeline and from which fuel may be removed at a rack.

Added by Laws 1989, c. 90, § 4, emerg. eff. April 21, 1989. Amended by Laws 1992, c. 403, § 2, eff. Sept. 1, 1992; Laws 1993, c. 344, § 3, emerg. eff. June 9, 1993; Laws 1994, c. 352, § 2, emerg. eff. June 9, 1994; Laws 1998, c. 375, § 10, emerg. eff. June 9, 1998; Laws 2006, c. 28, § 2, emerg. eff. April 11, 2006; Laws 2007, c. 109, § 1, emerg. eff. May 8, 2007; Laws 2018, c. 27, § 4, eff. Nov. 1, 2018.

§17-304.1. Exemption from certain aboveground tank requirements - Promulgation of new rules.

A. All aboveground storage tanks utilized by marinas which are required to be upgraded before July 15, 2007, pursuant to the provisions of permanent Rule OAC 165:26-8-2 and required to meet certain design requirements pursuant to the provisions of permanent Rule OAC 165:26-2-1.3, shall be exempt from such requirements until the Corporation Commission promulgates new rules if the marina is using an underground storage tank with secondary containment, the risk to the environment and human health, safety, and welfare is minimal, and compliance with the upgrade requirements would result in closure of the storage tank system or cause economic hardship to the owner of the storage tank system. Marina owners or operators in this state operating a motor fuel dispensing facility shall not be required to have an attendant or supervisor on duty to supervise, observe or control the dispensing of fuel.

B. All aboveground storage tanks utilized by retail facilities which are required to meet Underwriters Laboratories (UL) or American Petroleum Institute (API) standards for aboveground fuel storage tanks pursuant to the provisions of permanent Rule OAC 165:26-10-2 and are required to meet certain design requirements pursuant to the provisions of permanent Rule OAC 165:26-2-1.3 shall be exempt from

such requirements until the Corporation Commission promulgates new rules, if the retail facility is using an underground storage tank with secondary containment, the risk to the environment and human health, safety and welfare is minimal, and compliance with the tank requirements would result in closure of the storage tank system or cause economic hardship to the owner of the storage tank system.

C. All aboveground storage tanks utilized by fleet and commercial facilities which are required to meet Underwriters Laboratories (UL) or American Petroleum Institute (API) standards for aboveground fuel storage tanks pursuant to the provisions of permanent Rule OAC 165:26-12-2 and are required to meet certain design requirements pursuant to the provisions of permanent Rule OAC 165:26-2-1.3 shall be exempt from such requirements until the Corporation Commission promulgates new rules, if the fleet or commercial facility is using an underground storage tank with secondary containment, the risk to the environment and human health, safety and welfare is minimal, and compliance with the tank requirements would result in closure of the storage tank system or cause economic hardship to the owner of the storage tank system.

D. Any rules promulgated by the Corporation Commission governing the design and labeling of aboveground storage tanks shall be amended to allow storage tanks designed and built for underground use to be used as aboveground storage tanks if used with secondary containment and if the storage tanks were installed for that use prior to July 1, 2007. Any rules promulgated by the Commission shall not be more stringent than any Environmental Protection Agency standards or regulations relating to aboveground storage tank design.
Added by Laws 2007, c. 267, § 1, emerg. eff. June 4, 2007. Amended by Laws 2008, c. 51, § 1, emerg. eff. April 18, 2008; Laws 2018, c. 27, § 5, eff. Nov. 1, 2018.

§17-305. Corporation Commission and Department of Environmental Quality designated as state agencies to administer certain federal programs.

Within their respective jurisdictional areas, the Corporation Commission and the Department of Environmental Quality are hereby designated as the state agencies to administer subtitle I of Title VI of the Solid Waste Disposal Act and Section 205 of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C.A., Section 6991 et seq. The Corporation Commission shall have jurisdiction over underground and aboveground storage tanks that contain antifreeze, motor oil, motor fuel, gasoline, kerosene, diesel, or aviation fuel and that are not located at refineries or at upstream or intermediate shipment points of pipeline operations, including, but not limited to, tanks from which these materials are dispensed into vehicles, or tanks used in wholesale or bulk distribution activities, as well as leaks from pumps, hoses, dispensers, and other ancillary equipment

associated with the tanks, whether above the ground or below; provided that any point source discharge of a pollutant to waters of the United States during site remediation or the off-site disposal of contaminated soil, media, or debris shall be regulated by the Department of Environmental Quality. The Department of Environmental Quality shall have jurisdiction over underground and aboveground storage tanks containing hazardous substances and other substances or facilities not within the jurisdiction of the Corporation Commission. Added by Laws 1989, c. 90, § 5, emerg. eff. April 21, 1989. Amended by Laws 1992, c. 406, § 1, emerg. eff. June 11, 1992; Laws 1998, c. 375, § 11, emerg. eff. June 9, 1998; Laws 2000, c. 364, § 7, emerg. eff. June 6, 2000.

§17-306. Corporation Commission Petroleum Storage Tank Division - Powers and duties.

Within its jurisdictional areas of responsibility, the Corporation Commission Petroleum Storage Tank Division shall have the power and duty to:

1. Issue, renew, deny, modify, suspend, refuse to renew and revoke licenses, registrations and permits pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and rules promulgated pursuant thereto;

2. Enter at any reasonable time upon any public or private property for the purpose of inspecting and investigating storage tank system monitoring or remediation equipment and taking such samples as may be necessary to determine compliance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, and rules promulgated pursuant thereto;

3. Request issuance of an administrative warrant or search warrant as may be necessary by Commission application after notice and hearing to allow entry, inspection, testing, sampling, or copying on public or private property;

4. Have access to and copy any records required to be maintained pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant thereto;

5. Cause investigations, inquiries and inspections to be made. Inspect any equipment, practice or method prior to implementation which is required by the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant thereto;

6. Have the right to access any property which has or may have had a petroleum storage tank system, a suspicion of release or a confirmed release from a petroleum storage tank system on the premises, and inspect any monitoring equipment, conduct sampling or tests to identify any actual or suspected release of a regulated substance;

7. Investigate alleged violations of the Oklahoma Petroleum Storage Tank Consolidation Act. Employ, authorize or designate

personnel to conduct inquiries, investigations, inspections, and to perform other acts that the Director of the Petroleum Storage Tank Division is authorized or required to conduct or perform, to make reports of compliance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and rules promulgated pursuant thereto;

8. Within its discretion, report and request criminal prosecution proceedings to the district attorney having jurisdiction or to the Attorney General any act committed by any person, entity, owner, operator, employee or agent of a facility which may constitute a violation of the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, any order issued or rules promulgated pursuant thereto;

9. Advise, consult, assist, and cooperate with other agencies of this state, towns, cities, counties, industries, the federal government, other states and interstate agencies and with affected groups and political subdivisions regarding petroleum storage tank issues;

10. Financially assist other agencies and political subdivisions of the state where the Petroleum Storage Tank Division has jurisdiction;

11. Administer the Storage Tank Program in lieu of the federal government upon approval by the Environmental Protection Agency;

12. Promulgate and enforce rules to implement the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act;

13. Establish minimum standards and schedules for storage tank systems;

14. Require any owner or operator of a storage tank system within this state to:

a. submit such reports and information concerning the storage tank system as may be determined necessary by the Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant thereto,

b. perform tests, install release detection devices, and where appropriate, monitor the environment to ensure that a petroleum release is not occurring,

c. make timely reports to the Commission of contamination, releases, or testing and sampling events at or above Commission action levels,

d. temporarily or permanently cease operation of a storage tank system, modify and immediately remove or control any regulated substance that is found to be causing contamination when such cessation, removal or control is determined to be necessary by the Commission,

e. provide an alternate or temporary drinking water source to any person deprived of drinking water if it is found

that such owner or operator is responsible for contaminating the drinking water source beyond applicable drinking water standards, or where no such standard exists, such standard as the Department of Environmental Quality shall determine,

f. take full corrective action if such owner or operator or other such responsible person is found to be responsible for the release, and

g. take appropriate action to temporarily relocate residents affected by the release;

15. Establish and enforce administrative penalties against any person or entity for violations pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, requirements, rules promulgated thereunder, or orders issued therefrom, including issuance of field citations by designated personnel for violations of the Oklahoma Petroleum Storage Tank Consolidation Act, including but not limited to the authority to shut down a storage tank system found to pose an imminent threat to the health, safety or the environment, to be operating a storage tank system for which permit fees have not been paid, or to be operating a storage tank system with an outstanding unpaid field citation or fine, or violation of a Commission requirement, rule or order. The Commission shall promulgate rules specifying the events that provide for storage tank system shutdown. Issuance or payment of field citations shall in no way preclude other enforcement proceedings, administrative penalties, fines or order of the Commission if an owner or operator fails to correct a violation or abate a threat to health, safety or the environment in a reasonable manner, as determined by the Commission. If a citation is issued or a facility is closed under the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, the owner or operator of the facility on application and notice of hearing to the Commission shall be afforded a hearing within ten (10) days of filing an application. Any penalties or fines assessed pursuant to this section shall be established by the Commission by rules promulgated pursuant to the Administrative Procedures Act;

16. Institute and maintain or intervene in any action or proceeding where deemed necessary by the Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act to protect the health, safety and welfare of any resident of this state or the environment;

17. Review emergency response plans developed outside the Commission;

18. Establish a schedule of fees for issuance of any permit, license, inspection, form or registration in an amount to cover the costs of the Commission in administering the Oklahoma Petroleum Storage Tank Consolidation Act. Payment of the permitting fees for any storage tank system required pursuant to the provisions of the

Oklahoma Petroleum Storage Tank Consolidation Act or to rules promulgated pursuant thereto shall prohibit the assessment of additional registration, inspection, licensing or permitting fees for such storage tank systems by any other agency or municipality of this state;

19. Create and implement an internally coordinated management system for the Petroleum Storage Tank Division;

20. When necessary, economically advantageous, reasonable and integral to a corrective action effort or to establish an alternative water supply, the Petroleum Storage Tank Division may, in the exercise of its powers for the performance of its duties as authorized by this section, purchase real property and easements, and if an owner/operator is unwilling, unknown, unavailable or financially unable, the Petroleum Storage Tank Division may arrange for the design, construction and operation of an alternative water supply system conjunctive with a corrective action effort and/or the establishment of an alternative water supply with funds from the Indemnity Fund. Provided, no real property shall be purchased by the Commission pursuant to this paragraph which will impose liability on the Commission, Petroleum Storage Tank Division, the Indemnity Fund or on the state for environmental claims or hazards. Disposition of property purchased by the Indemnity Fund shall be made by the Petroleum Storage Tank Division and the Office of Management and Enterprise Services. Proceeds from any sale shall be deposited to the credit of the Petroleum Storage Tank Indemnity Fund;

21. Acquire and sell personal property which has been purchased or obtained by a pay-for-performance contract pursuant to Section 327.3 of this title. Surplus personal property shall be disposed of by the Petroleum Storage Tank Division and the Office of Management and Enterprise Services pursuant to the Oklahoma Surplus Property Act. The proceeds of the sale shall be deposited in the Petroleum Storage Tank Indemnity Fund;

22. Implement and coordinate an Underground Storage Tank Operator Training Program pursuant to the provisions of Section 319 of this title, issue annual permits related thereto and assess any fees necessary for such training and permitting;

23. Encourage and conduct studies, investigations and research; and collect and disseminate information relating to petroleum-storage-tank-related contamination and its causes, effects, prevention, control and abatement;

24. Enter into agreements for, accept, use, disburse and administer grants of money, personnel and property from the federal government or any department or agency thereof, or from any state or state agency, or from any other source, to promote and conduct in this state any program relating to petroleum storage tank regulation;

25. Determine, charge and receive fees to be collected for services, research and permits, to file other papers, to make copies

of documents, to make prints of maps and drawings, and to certify copies of documents, maps and drawings as authorized by law;

26. Provide a toll-free phone number for petroleum-storage-tank-related complaints;

27. Develop standards for pipeline terminal and refinery delivery point metering and calibration and provide for appropriate inspection and regulation of such meters where the metered product is to be delivered to petroleum storage tanks; and

28. Exercise all incidental powers as necessary and proper for the administration of the Oklahoma Petroleum Storage Tank Consolidation Act.

Added by Laws 1989, c. 90, § 6, emerg. eff. April 21, 1989. Amended by Laws 1992, c. 406, § 2, emerg. eff. June 11, 1992; Laws 1993, c. 344, § 4, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 12, emerg. eff. June 9, 1998; Laws 2004, c. 430, § 2, emerg. eff. June 4, 2004; Laws 2005, c. 435, § 2, eff. Nov. 1, 2005; Laws 2008, c. 307, § 2, eff. July 1, 2008; Laws 2018, c. 27, § 6, eff. Nov. 1, 2018; Laws 2019, c. 82, § 4, eff. July 1, 2019.

§17-306.1. Tanks containing petroleum products used for agricultural purposes - Permit fee.

Owners of storage tank systems over eleven hundred (1100) gallons containing regulated substances when the regulated substances are used for agricultural purposes and not for resale shall be required to pay a permit fee of not more than Ten Dollars ($10.00) per tank per year.

Added by Laws 1991, c. 181, § 8, eff. July 1, 1991. Amended by Laws 2005, c. 435, § 3, eff. Nov. 1, 2005.

§17-307. Corporation Commission - Rules governing storage tank systems.

A. The Corporation Commission shall promulgate rules governing storage tank systems. The Commission's rules shall, at a minimum, include the following provisions:

1. Requirements that release detection methods or equipment or both such methods and equipment, adequate to identify releases from storage tank systems, be maintained;

2. Procedures to follow when release detection methods or equipment or both such methods and records indicate an abnormal loss or gain which is not explainable by spillage, temperature variations or other known causes;

3. Requirements that appropriate corrective action be taken in response to a release from a storage tank system as may be necessary to protect human health, safety and welfare and the environment;

4. Requirements to maintain records documenting actions taken in accordance with paragraphs 1 through 3 of this subsection;

5. An enforcement program;

6. Requirements that notice be given to landowners whose property has been or may be affected by a release and providing such landowner the opportunity to have input into any activities impacting such landowners property;

7. Procedures to allow an adjacent property owner whose property has been contaminated by a release to engage in corrective action on his or her own property under the same requirements as the tank owner or operator responsible for performing corrective action; and

8. Minimum schedules and standards for the design, construction, installation, operation, maintenance, repair, monitoring, testing, inspection, release detection, performance, abandonment and closure, of storage tank systems, as may be necessary to protect human health, safety and welfare and the environment.

B. In promulgating rules establishing standards pursuant to paragraph 8 of subsection A of this section, the Commission may distinguish in such standards between requirements appropriate for storage tank systems. In making such distinctions, the Commission may consider the following factors:

1. Location of the storage tanks;

2. Soil and climate conditions;

3. Uses of the storage tanks;

4. History of maintenance;

5. Age of the storage tanks;

6. National industry codes;

7. Hydrogeology;

8. Water table;

9. Size of the storage tanks;

10. Quantity of regulated substances periodically deposited in or dispensed from the storage tank;

11. The compatibility of the regulated substance and the materials of which the storage tank is fabricated; and

12. Any other factors as deemed necessary by the Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

C. The Commission may promulgate rules establishing different requirements for different areas or regions of the state if the Commission finds that more stringent rules are necessary:

1. To protect specific waters of the state including but not limited to those waters of the state designated for additional protection in Oklahoma's water quality standards; or

2. Because conditions peculiar to that area or region require different standards to protect public health, safety, welfare or the environment.

D. In promulgating rules pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, the Commission shall consider all relevant federal standards and regulations on storage tank systems. If the Commission promulgates any rule that is

more stringent than a federal standard or regulation on the same subject, the Commission shall clearly express the deviation from the federal standard or regulation and the reasons for the deviation at a public hearing or at time of adoption of the rule.
Added by Laws 1989, c. 90, § 7, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 5, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 13, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 4, eff. Nov. 1, 2005; Laws 2018, c. 27, § 7, eff. Nov. 1, 2018.

§17-308. Permits - Registration - Fees - Inspection - Financial responsibility coverage.

A. 1. Except as otherwise provided by this subsection, no storage tank system or facility shall be operated without a permit from the Corporation Commission.

2. A storage tank system is not required to be permitted if the tank system:

a. does not contain or has not contained a regulated substance, or

b. has been permanently closed or has not been in operation since January 1, 1974.

B. No person shall deposit a regulated substance into a storage tank system unless the system is operating pursuant to a permit issued by the Commission.

C. Any person who sells a storage tank system shall notify the owner or operator, or both, of the permit requirements of the Oklahoma Petroleum Storage Tank Consolidation Act, Section 301 et seq. of this title.

D. A storage tank registration form must be provided to and approved by the Commission before a permit is issued. In addition to other information requested by the Commission, the registration form shall include the type of financial responsibility coverage utilized to comply with the requirements of the Oklahoma Petroleum Storage Tank Consolidation Act and by rule of the Commission and the type of leak detection method employed.

E. 1. Permits shall be issued by the Commission for a period not to exceed one (1) year.

2. Any permit issued pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act may be transferred subject to rules promulgated by the Commission and only upon approval by the Commission.

3. Any permittee subject to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act shall be deemed to have given consent to any duly authorized employee or agent of the Commission to access, enter, inspect or monitor, the tank system or facility in accordance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act. Refusal to allow such access, entry, or inspection may constitute grounds for the denial, nonrenewal,

suspension, or revocation of a permit. Upon refusal of access, entry, inspection, sampling or copying pursuant to this section, the Director may make application for and obtain an administrative warrant or an order from the Commission after notice and hearing to allow such entry, inspection, testing, sampling or copying.

4. The owner or operator of a storage tank system shall display the permit in a conspicuous location or manner easily visible to any person depositing a regulated substance into a storage tank system even after normal business hours.

F. Any permit fee collected pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act shall be deposited in the Corporation Commission Storage Tank Revolving Fund.

G. The Commission may deny approval of a storage tank registration, or refuse to reissue, suspend or revoke a permit issued pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act if the Commission finds, after notice and a hearing pursuant to Section 311 of this title that the applicant or permittee has:

1. Fraudulently or deceptively obtained or attempted to obtain a permit;

2. Failed to comply with any order of the Commission, provision or requirement of this act or any rules promulgated by the Commission in accordance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act; or

3. Not maintained in effect, the financial responsibility requirements established by subsection H of this section and by rules of the Commission.

H. Any person owning or operating a storage tank system containing a regulated substance who is not otherwise exempted by law or rule of the Commission shall obtain and have in effect financial responsibility coverage for taking corrective action and for compensating third parties for physical injury and property damage caused by releases arising from operating storage tank systems. The requirement for financial responsibility coverage specified by this subsection shall not be more stringent than is required by the federal Environmental Protection Agency for storage tank systems of equal type, age, and classification.

Added by Laws 1989, c. 90, § 8, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 6, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 14, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 5, eff. Nov. 1, 2005; Laws 2018, c. 27, § 8, eff. Nov. 1, 2018; Laws 2019, c. 82, § 5, eff. July 1, 2019.

§17-308.1. Storage tank systems for regulated substances - Permit fees - Penalties.

A. An annual permit fee of not more than Twenty-five Dollars ($25.00) per tank shall be assessed by the Corporation Commission upon each owner or operator of a storage tank system for regulated

substances. Such fee shall be assessed upon each storage tank or storage tank compartment owned or operated by such owner or operator whether in use or not.

B. Failure to pay the fees required by subsection A of this section shall subject an owner or operator of a storage tank system to:

1. A penalty of fifty percent (50%) of the computed total fee due and owing by such owner and operator; or

2. Storage tank system shutdown, suspension or nonrenewal of the permit to operate such system issued by the Commission until payment of such fees or penalty, or both, so assessed; or

3. All such penalty, shutdown of storage tank system and permit suspension or nonrenewal.

Added by Laws 1991, c. 181, § 9, eff. July 1, 1991. Amended by Laws 1993, c. 344, § 7, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 15, emerg. eff. June 9, 1998; Laws 2018, c. 27, § 9, eff. Nov. 1, 2018.

§17-309. Release from storage tank system - Corrective action.

A. No person including but not limited to the owner or operator, employee or agent of such owner or operator, or transporter shall knowingly allow a release or suspicion of a release from a storage tank system to occur or continue to occur without reporting the release or suspicion of a release to the Corporation Commission within twenty-four (24) hours upon discovering such a release or information that suggests that a release has occurred.

B. The owner or operator of a storage tank system shall immediately take all reasonable corrective actions necessary to prevent a release or a threatened release of regulated substances from a storage tank system and to abate and remove any such releases subject to applicable federal and state requirements. The Corporation Commission shall require that any corrective action taken by a storage tank system owner or operator or authorized by the Commission shall be in compliance with all applicable state statutes and rules and federal laws and regulations for the protection of air quality and water quality and for the transportation and disposal of any waste.

C. If there is a release from a storage tank system, the Commission may:

1. Issue an administrative order stating the existence of an emergency and requiring that such action be taken as the Commission deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such an order is directed shall comply with the order immediately but on application to the Commission shall be afforded a hearing within ten (10) days after receipt of the administrative order. On the basis of such hearing, the Commission shall continue such order in effect, revoke it, or modify it. Any person aggrieved by such order continued after the

hearing provided for in this subsection may appeal to the Supreme Court as provided in Section 318 of Title 75 of the Oklahoma Statutes. Such appeal when docketed shall have priority over all cases pending on the docket; and

2. Require an owner, operator, or responsible person to submit investigation, remediation or other corrective action plans to the Petroleum Storage Tank Division of the Corporation Commission for preapproval prior to initiating such investigation, remediation, or other corrective action.

D. 1. The Commission may take corrective action if:

a. an owner or operator of the storage tank system cannot be identified,

b. an identified owner or operator cannot or will not comply with the order issued pursuant to subsection C of this section,

c. an administrative or judicial proceeding on an order issued pursuant to subsection C of this section is pending and the Commission determines corrective action is necessary to protect the public health, safety and welfare or the environment until the administrative or judicial proceeding is resolved, or

d. the Commission determines that the release constitutes a danger requiring immediate action to prevent, minimize or mitigate damage to the public health and welfare or the environment. Before taking an action under this paragraph, the Commission shall make all reasonable efforts, taking into consideration the urgency of the situation, to afford an owner or operator notice and hearing to take a corrective action and notify the owners or occupants of adjacent or affected real property as specified by Section 310 of this title.

2. The owner or operator is liable for the cost of any corrective action taken by the Commission pursuant to this subsection, including the cost of investigating the release and administrative and legal expenses, if:

a. the owner or operator has failed to take a corrective action required by the Commission and the Commission has taken the corrective action, or

b. the Commission has taken corrective action in an emergency pursuant to subparagraph d of paragraph 1 of this subsection.

3. Reasonable and necessary expenses incurred by the Commission, the Oklahoma Leaking Underground Storage Tank Trust Fund, or the Oklahoma Leaking Underground Storage Tank Revolving Fund, in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered from the

Indemnity Fund by application to the Commission with notice and hearing pursuant to Section 311 of this title. The Commission's certification of costs incurred is prima facie evidence that the costs incurred are reasonable and necessary. The Commission shall be entitled to apply for and receive payment from the Indemnity Fund upon any site upon which the Commission has taken corrective action. Costs incurred that are recovered under this subsection shall be deposited in the Corporation Commission Storage Tank Revolving Fund. Costs reimbursed by the Indemnity Fund for Oklahoma Leaking Underground Storage Tank Trust Fund or Oklahoma Leaking Underground Storage Tank Revolving Fund expenditures shall be deposited in the Oklahoma Leaking Underground Storage Tank Revolving Fund.

E. Any order issued by the Commission pursuant to this section shall not limit the liability of the owner or operator or both such owner or operator for any injury, damages, or costs incurred by any person as a result of the release. The owner or operator shall not avoid any liability, statutory environmental responsibility imposed by Section 301 et seq. of this title; or as a result of such release by means of a conveyance of any right, title or interest in real property; or by any indemnification, hold harmless agreement, or similar agreement.

1. This subsection does not:
    a. prohibit a person who may be liable from entering an agreement by which the person is insured, held harmless, or indemnified for part or all of the liability,
    b. prohibit the enforcement of an insurance, hold harmless, or indemnification agreement, or
    c. bar a cause of action brought by a person who may be liable or by an insurer or guarantor, whether by right of subrogation or otherwise.

2. Except as otherwise provided by law, if there is more than one person liable, such persons shall be jointly liable for any injury, damages, or costs.

Added by Laws 1989, c. 90, § 9, emerg. eff. April 21, 1989. Amended by Laws 1992, c. 406, § 3, emerg. eff. June 11, 1992; Laws 1993, c. 344, § 8, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 16, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 6, eff. Nov. 1, 2005; Laws 2008, c. 307, § 3, eff. July 1, 2008; Laws 2018, c. 27, § 10, eff. Nov. 1, 2018; Laws 2019, c. 82, § 6, eff. July 1, 2019.

§17-310. Inspections and investigations - Violations - Notice - Failure to take corrective action - Hearings - Orders.

A. If upon inspection or investigation, or whenever the Corporation Commission determines that there are reasonable grounds to believe that a storage tank system owner, operator or responsible person is in violation of the Oklahoma Petroleum Storage Tank

Consolidation Act or of any rule promulgated pursuant thereto or of any order of the Commission, the Commission shall give written notice or issue a Notice of Violation to the alleged violator specifying the cause of complaint. Such notice shall require that action or corrective action be immediately initiated. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection C of this section.

B. 1. If action or corrective action is not taken in response to the notice issued pursuant to subsection A of this section, the Commission shall initiate proceedings and hold a hearing to determine if:

a. the alleged violator should be found in contempt or in violation of Commission rules, requirements, enabling statutes, and/or Commission orders,

b. any permit or license issued to the alleged violator should be suspended, revoked or not reissued,or

c. whether any other appropriate relief should be granted.

2. Notice of the hearing shall be delivered to the alleged violator at least twenty (20) days prior to the time set for hearing. The notice shall be delivered to the alleged violator in accordance with the provisions of subsection C of this section.

3. After hearing, the Commission shall make findings of fact and conclusions of law, and enter its order reflecting its decision in the matter. The order of the Commission shall become final and binding on all parties unless appealed to the Supreme Court as provided in Section 318 of Title 75 of the Oklahoma Statutes within sixty (60) days of the Commission's order. Except as otherwise provided by this section, Sections 319 through 322 of Title 75 of the Oklahoma Statutes shall be applicable to such appeals.

C. 1. Except as otherwise expressly provided by law, any notice, order, or other instrument issued by or pursuant to authority of the Commission may be served on any person affected thereby personally, by publication, or by mailing a copy of the notice, order, or other instrument by certified mail directed to the person affected at the last-known post office address as shown by the files or records of the Commission. Service shall be considered complete if certified mail service is returned unclaimed, undeliverable, unable to forward, vacant or refused. Proof of service shall be made as in the case of service of a summons or by publication or may be made by the affidavit of the person who did the mailing.

2. Such proof of service shall be filed in the court clerk's office of the Commission.

3. Every certificate or affidavit of service made and filed as provided in this section shall be prima facie evidence of the facts therein stated. A certified copy thereof shall have like force and effect.

Added by Laws 1989, c. 90, § 10, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 9, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 17, emerg. eff. June 9, 1998; Laws 2004, c. 430, § 3, emerg. eff. June 4, 2004; Laws 2005, c. 435, § 7, eff. Nov. 1, 2005; Laws 2018, c. 27, § 11, eff. Nov. 1, 2018.

§17-310.1. Notice to real property owners – Access to property - Compensation.

A. 1. The Commission shall provide notice and an opportunity for hearing to:

a. the surface owner of real property where any corrective action is to be taken if such person is not the owner or operator of the storage tank system, and

b. the owner of real property adjacent to the location of the corrective action if such real property owner will be adversely affected by the corrective action.

2. The notice shall advise such real property owner or owners that the corrective action is to be taken and that the owner's cooperation will be required for that action to be taken. The Commission shall give the owner or owners of such real property, as the case might be, an opportunity for hearing and to present evidence on the matter.

B. 1. The Commission is vested with the adjudicative authority to enter orders allowing a petroleum storage tank system owner, operator or otherwise responsible person access to property not owned by the tank owner, operator or otherwise responsible person when necessary to investigate, remediate or perform corrective action as the result of a release. Actions shall be brought by the tank owner, operator or otherwise responsible person seeking access to the property not owned by the tank owner, operator, otherwise responsible person or by the Director of the Petroleum Storage Tank Division.

2. An order granting access shall only be entered upon a determination that access cannot be obtained by any other means and that the petroleum storage tank system owner, operator or otherwise responsible person seeking access has made a good-faith effort to obtain access.

3. The Commission shall determine the reasonable compensation, if any, to be paid to the owner of the property which is to be accessed for the use of the property to investigate, remediate or perform corrective action as the result of a release.

4. An order granting access to property shall be upon such terms as to reasonably minimize the impact of the access upon the owner's use of the property and to protect the rights of the property owner.
Added by Laws 2018, c. 27, § 12, eff. Nov. 1, 2018.

§17-311. Fines - Criminal violations.

A. Any person who has been determined by the Corporation Commission to have violated any provisions of the Oklahoma Petroleum Storage Tank Consolidation Act or any rule promulgated or order issued pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act shall be liable for a fine of not more than Ten Thousand Dollars ($10,000.00) for each day that said violation continues.

B. 1. The amount of the fine shall be assessed by the Commission pursuant to the provisions of subsection A of this section, after notice and hearing. In determining the amount of the fine, the Commission shall include but not be limited to consideration of the nature, circumstances and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, the effect on ability of the person to continue to do business, and any show of good faith in attempting to achieve compliance with the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

2. All fines collected pursuant to the provisions of this subsection shall be deposited in the Corporation Commission Storage Tank Revolving Fund.

C. The payment, in full, of any fine, assessed pursuant to an administrative order, the completion of any corrective action taken for a release pursuant to an administrative order, and the otherwise compliance with an administrative order issued by the Commission pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act for a release shall be full and complete satisfaction of the violation for which the administrative order was issued and shall preclude the assessment of any other administrative, civil or criminal penalty for the same known violation by any other agency of this state.

D. Any person who willfully and knowingly violates any provision of the Oklahoma Petroleum Storage Tank Consolidation Act or a rule, promulgated or order issued pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, upon conviction, shall be guilty of a misdemeanor and may be subject for each offense to a fine of not more than Five Thousand Dollars ($5,000.00) or imprisonment for a term not to exceed one (1) year or both such fine and imprisonment. Each day of violation pursuant to this subsection shall constitute a separate violation.

E. Any person who willfully and knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be filed, or required to be maintained pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant to this act, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required to be maintained pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or rules promulgated pursuant to the program shall be deemed guilty of a

misdemeanor and, upon conviction, may be punished by a fine of not more than Five Thousand Dollars ($5,000.00) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each day of violation pursuant to this subsection shall constitute a separate violation.
Added by Laws 1989, c. 90, § 11, emerg. eff. April 21, 1989. Amended by Laws 1998, c. 375, § 18, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 8, eff. Nov. 1, 2005; Laws 2018, c. 27, § 13, eff. Nov. 1, 2018; Laws 2019, c. 82, § 7, eff. July 1, 2019.

§17-312. Enforcement of actions and remedies - Action for equitable relief - Jurisdiction - Relief.

A. Enforcement of any action for an injunction or recovery of any administrative fine or civil penalty assessed pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act, Section 301 et seq. of this title, or rule promulgated thereto may be brought by:

1. The district attorney of the appropriate district court of the State of Oklahoma;

2. The Attorney General on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma; or

3. The Petroleum Storage Tank Division of the Corporation Commission on behalf of the State of Oklahoma before an administrative law judge of the Commission, or as otherwise authorized by law.

B. The Division may bring an action before an administrative law judge of the Commission, or in a court of competent jurisdiction for equitable relief to redress or restrain a violation by any person of a provision of the Oklahoma Petroleum Storage Tank Consolidation Act or any rule promulgated or order issued pursuant to the act. The administrative law judge or court has jurisdiction to determine the action, and to grant the necessary or appropriate relief, including but not limited to:

1. Enjoining further releases;

2. Ordering the design, construction, installation or operation of alternate facilities;

3. Ordering the removal of facilities, contaminated soils and the restoration of the environment;

4. Fixing and ordering compensation for any public or private property destroyed, damaged or injured;

5. Except as otherwise provided by law, assessing and awarding punitive damages pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act; and

6. Ordering reimbursement to any agency of federal, state or local government from any person whose acts caused governmental expenditures if not already reimbursed by any other state or federal reimbursement program.

C. All judgments or fines assessed against any corporation, person or firm for the violation of any order or regulation shall be a first lien on all property of such corporation, person or firm within the state, and it shall be the duty of the Corporation Commission, if such judgment or fine is not paid within thirty (30) days after the rendition of such judgment or fine, to issue an execution, directed to the Marshal of the Corporation Commission, commanding him or her to seize sufficient property of such corporation, person or firm to satisfy the fine or judgment. It shall be the duty of the Marshal to sell or dispose of properties levied on by reason of an execution issued by the Commission, in like manner as now required by sheriffs of this state, for the sale of the property levied on by virtue of an execution issued on a judgment of a district court.

Added by Laws 1989, c. 90 § 12, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 10, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 19, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 9, eff. Nov. 1, 2005; Laws 2018, c. 27, § 14, eff. Nov. 1, 2018.

§17-313. Records, reports and information - Public inspection - Confidentiality - Disclosure to federal or state representatives.

A. Any records, reports or information obtained pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act shall be available to the public except as provided in subsection B of this section.

B. Upon a showing satisfactory to the Corporation Commission by any person that records, reports or information, or a particular part thereof is made public, would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Commission shall consider such record, report or information or particular portion thereof, confidential.

C. Nothing in this section shall be construed to prevent disclosures of such report, record or information to federal or state representatives as necessary for purposes of administration of any federal or state laws or when relevant to proceedings pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act.

D. Information concerning groundwater quality and the presence or concentration of regulated substances or chemicals of concern, in soils or groundwater shall not be considered confidential by the Commission.

Added by Laws 1989, c. 90, § 13, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 11, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 20, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 10, eff. Nov. 1, 2005; Laws 2018, c. 27, § 15, eff. Nov. 1, 2018.

§17-314. Annual report of new releases.

The Corporation Commission shall prepare an annual compilation of new reported releases at the end of the fiscal year, make available to the public and provide that report to the Storage Tank Advisory Council, the Legislature and to the Governor. The report shall contain:

1. The number of petroleum release cases activated during the fiscal year;

2. The number of petroleum release cases closed during the fiscal year; and

3. The number of petroleum release cases closed since inception.

Added by Laws 1989, c. 90, § 14, emerg. eff. April 21, 1989. Amended by Laws 1998, c. 375, § 21, emerg. eff. June 9, 1998; Laws 2018, c. 27, § 16, eff. Nov. 1, 2018.

§17-315. Corporation Commission Storage Tank Revolving Fund.

There is hereby created in the State Treasury a revolving fund for the Corporation Commission, to be designated the "Corporation Commission Storage Tank Revolving Fund", (Storage Tank Revolving Fund). The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Commission, from:

1. The proceeds of any fees imposed pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, Section 301 et seq. of this title;

2. Interest attributable to investment of monies in the Corporation Commission Storage Tank Revolving Fund;

3. Monies received by the Commission in the form of gifts, grants other than federal grants, reimbursements or appropriations from any source intended to be used for the purposes of the revolving fund;

4. Fines, forfeitures, administrative fees, settlement proceeds; and

5. Any other sums designated for deposit to the revolving fund from any source public or private.

All monies accruing to the credit of said revolving fund are hereby appropriated and may be budgeted and expended by the Commission for the purpose of implementing the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and the rules promulgated thereto. Expenditures from said revolving fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1989, c. 90, § 15, emerg. eff. April 21, 1989. Amended by Laws 1990, c. 252, § 13, operative July 1, 1990; Laws 1993, c. 344, § 12, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 22, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 11, eff. Nov. 1, 2005; Laws 2012, c. 304, § 61; Laws 2018, c. 27, § 17, eff. Nov. 1, 2018.

§17-316. Ordinance or regulations in conflict with act prohibited.

No county, incorporated or nonincorporated municipality, state agency or political subdivision shall enact ordinances or promulgate any rules, ordinances, regulations or requirements governing any aspect of petroleum storage tank system regulation within the State of Oklahoma that shall be in conflict with any of the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act, or any rules promulgated or any orders issued by the Corporation Commission pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

Added by Laws 1989, c. 90, § 16, emerg. eff. April 21, 1989. Amended by Laws 1993, c. 344, § 13, emerg. eff. June 9, 1993; Laws 1998, c. 375, § 23, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 12, eff. Nov. 1, 2005; Laws 2018, c. 27, § 18, eff. Nov. 1, 2018.

§17-317. Repealed by Laws 1992, c. 406, § 13, emerg. eff. June 11, 1992.

§17-318. Licensing of storage tank professionals - Contractors required to meet training and other requirements of federal and state laws and regulations.

A. 1. The Corporation Commission is authorized to implement a program for the licensing of petroleum storage tank professionals. Persons licensed by the Commission as environmental consultants must have the training, education and experience as may be required by the Commission. Persons seeking to become licensed may be required to demonstrate knowledge, experience and expertise of soil and water protection and remediation techniques and the regulation of petroleum storage tanks.

2. The Corporation Commission shall require that all contractors and their employees participating in the removal of storage tanks and the corrective action or remediation of contaminated tank sites meet all training and other requirements of federal law and regulations, and state statutes.

B. 1. The Commission may deny, suspend, revoke, or reinstate the license of a petroleum storage tank professional.

2. The Commission shall promulgate rules establishing the basis for denial, suspension, revocation, or reinstatement of a petroleum storage tank professional license, and establishing procedures for disciplinary actions.

3. The burden of proof in all proceedings brought pursuant to this section shall be clear and convincing evidence.

4. Proceedings relating to the suspension or revocation of a license issued pursuant to this section are subject to the hearing, penalty and enforcement provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

5. A person whose license has been revoked in a proceeding brought pursuant to this section may apply for a new license after the expiration of a term of no less than one (1) year and no more than five (5) years from the date of revocation, depending on the decision of the Director of the Petroleum Storage Tank Division of the Corporation Commission. Upon a subsequent determination of violation of:

a. the Oklahoma Petroleum Storage Tank Consolidation Act,
b. the Oklahoma Petroleum Storage Tank Indemnity Fund, or
c. promulgated rules,

the Commission may, after notice and hearing, revoke a petroleum storage tank professional license for a term no less than five (5) years.

Added by Laws 1993, c. 344, § 14, emerg. eff. June 9, 1993. Amended by Laws 1998, c. 375, § 24, emerg. eff. June 9, 1998; Laws 2005, c. 435, § 13, eff. Nov. 1, 2005; Laws 2018, c. 27, § 19, eff. Nov. 1, 2018.

§17-319. Underground Storage Tank Operator Training Program.

A. The Corporation Commission is authorized to implement an Underground Storage Tank Operator Training Program as required to comply with the provisions of the federal Energy Policy Act of 2005.

B. The Commission shall develop a training program within their agency it deems appropriate to fulfill the requirements of federal law or the provisions of this section.

C. Operators of underground storage tanks shall complete a training program commensurate with their responsibility for the operation of underground storage tanks. The training program shall be approved by the Commission and encompass training for persons with three levels of responsibility for storage tank operation as follows:

1. Persons having primary responsibility for on-site operation and maintenance of underground storage tank systems;

2. Persons having daily on-site responsibility for the operation and maintenance of underground storage tank systems; and

3. Persons with daily, on-site primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank.

D. Storage tank operators shall be required to complete the training program required by the Commission to obtain certification for the operation of underground storage tanks.

E. Operators of underground storage tank systems shall repeat the applicable training if the tank for which they have primary daily on-site management responsibilities is determined to be out of compliance with a requirement or order of the Commission.

F. The Commission is authorized to promulgate any rules necessary to comply with the provisions of this section.

Added by Laws 2008, c. 307, § 6, eff. July 1, 2008. Amended by Laws 2018, c. 27, § 20, eff. Nov. 1, 2018.

§17-321. Short title - Purpose - Scope.

A. It is the intent of the Legislature that the regulation of spills and releases from petroleum storage tanks, oversight of petroleum storage tank environmental cleanups, and the reimbursement of claims for costs incurred for petroleum storage tank environmental cleanups be administered by a single division of the Corporation Commission, the Petroleum Storage Tank Division.

B. This act shall be known and may be cited as the "Oklahoma Petroleum Storage Tank Reform Act".

C. The purpose of the Oklahoma Petroleum Storage Tank Reform Act is to provide for the administration of the various programs within the Corporation Commission regulating the release or spilling of fuel from petroleum storage tanks and to:

1. Eliminate overlap and duplication of effort;

2. Provide that petroleum storage tank regulatory concerns of industry and the public shall be addressed in an expedient manner; and

3. Better utilize financial resources for petroleum storage tank regulatory services, administration, and reimbursement of claims for environmental cleanup by the Petroleum Storage Tank Indemnity Fund.

D. The Storage Tank Advisory Council shall make recommendations and the Corporation Commission shall adopt rules to implement the provisions of this act by January 1, 1999. These rules shall include procedural rules specifically designed for the adjudication of cases within the jurisdiction of the Division.

E. The provisions of this act shall be applicable to all current, pending, past and future contracts, claims and cases within the jurisdiction of the Division, provided that this subsection shall not apply, nor be construed to authorize or permit the reopening or re-review of the underlying claim or claims of any cases which were formally settled pursuant to a formal settlement agreement or in which a final order was entered by the Corporation Commission. Further, the provisions of this act shall not change or modify the terms of pay for performance or purchase order contracts entered into prior to the effective date of this act.

Added by Laws 1998, c. 375, § 1, emerg. eff. June 9, 1998. Amended by Laws 2005, c. 435, § 14, eff. Nov. 1, 2005.

§17-322. Petroleum Storage Tank Division - Jurisdiction - Director - Powers and duties.

A. 1. Effective July 1, 1998, there is hereby established the Petroleum Storage Tank Division within the Corporation Commission, which shall have separate budget activities and subactivities from any other division of the Commission.

2. The Petroleum Storage Tank Division shall be funded by available federal funds, grants, fees, and appropriations.

B. 1. The Petroleum Storage Tank Division shall be the sole division of the Commission with jurisdiction over releases and spills from petroleum storage tanks.

2. The acts and programs specified by this paragraph shall constitute a part of the Oklahoma Petroleum Storage Tank Consolidation Act and shall be subject to the jurisdiction of the Division. This jurisdiction shall include, but not be limited to, the administration of the following previous acts, programs, funds and inspections:

a. the Oklahoma Petroleum Storage Tank Regulation Act,
b. the Oklahoma Petroleum Storage Tank Reform Act,
c. the Oklahoma Petroleum Storage Tank Release Indemnity Fund Program,
d. the Oklahoma Petroleum Storage Tank Release Environmental Cleanup Indemnity Fund,
e. the Oklahoma Storage Tank Regulation Revolving Fund,
f. the Oklahoma Leaking Underground Storage Tank Trust Fund,
g. the Oklahoma Leaking Underground Storage Tank Trust Revolving Fund,
h. Compliance and Inspection,
i. Petroleum Storage Tank Registration, Licensing, and
j. Antifreeze.

3. All positions in the Petroleum Storage Tank Division shall be unclassified. Those employees who are classified on the effective date of this act may elect to remain classified pursuant to Section 840-4.2 of Title 74 of the Oklahoma Statutes.

4. All rules promulgated and orders entered by the Oklahoma Corporation Commission prior to the effective date of this act related to the programs, funds and services of the Petroleum Storage Tank Division and shall remain in full force and effect until overturned, amended, modified, revoked or repealed by the Corporation Commission and shall be enforced by the Petroleum Storage Tank Division.

C. 1. The Director of the Petroleum Storage Tank Division shall be appointed by the Director of Administration of the Corporation Commission. All other employees of the Petroleum Storage Tank Division shall be hired by the Director of the Petroleum Storage Tank Division.

2. The Director shall provide for the administration of the Petroleum Storage Tank Division and shall:

a. develop the organizational framework of the Petroleum Storage Tank Division,
b. define duties and set salaries of employees, to employ a sufficient number of employees to accomplish the

duties and responsibilities of the programs, funds and services of the Petroleum Storage Tank Division, including but not limited to such assistants, chemists, geologists, hydrologists, storage tank professionals, engineers, administrative, clerical and technical personnel, investigators, aides and such other personnel, either on a full-time, part-time, fee or contractual basis, as in the judgment and discretion of the Director shall be deemed necessary, expedient, convenient or appropriate to the performance or carrying out of any of the purposes, objectives, responsibilities or statutory provisions relating to the Petroleum Storage Tank Division,

c. establish internal policies and procedures for the proper and efficient administration of the Division,

d. clearly delineate the duties and responsibilities of the various programs as prescribed by law within the jurisdiction of the Division,

e. create and implement an internal coordinated management system among the Storage Tank Regulation Program and the Indemnity Fund,

f. the Indemnity Fund Administrator and all other employees of the Indemnity Fund shall be hired by the Director of the Petroleum Storage Tank Division of the Corporation Commission,

g. Indemnity Fund employees shall be in the unclassified service and shall be exempt from the agency full-time-equivalent limit. All employees involved in reviewing and approving claims and in the approval and issuance of payments shall be employees of the Indemnity Fund under the supervision of the Director or Director's designee,

h. the Director is authorized to employ temporary workers, contract labor, or to contract with a private company as may be prudent to properly administer the Indemnity Fund, and

i. exercise all incidental powers which are necessary and proper to implement the purposes of the Division pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act and to implement all programs within the Division's jurisdiction.

Added by Laws 1998, c. 375, § 2, emerg. eff. June 9, 1998. Amended by Laws 2012, c. 304, § 62; Laws 2018, c. 27, § 21, eff. Nov. 1, 2018; Laws 2019, c. 82, § 8, eff. July 1, 2019.

§17-323. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-324. Petroleum Storage Tank Indemnity Fund – Expenditures – Administrator – Composition of fund.

A. Monies in the Petroleum Storage Tank Indemnity Fund shall only be expended for:

1. Reimbursements to eligible persons, unless duly assigned to another, for eligible expenses including the costs to identify and confirm the existence of a suspected release when so instructed by the Petroleum Storage Tank Division or when such expenses as determined by the Petroleum Storage Tank Division as necessary and appropriate to protect the health, safety and welfare of the public and the environment;

2. Reimbursement of actual costs incurred by the Division for the administration of the Indemnity Fund;

3. Purchase real property, personal property and easements in conjunction with corrective action efforts and/or the establishment of an alternative water supply as provided for in Section 306 of this title;

4. Reimbursement of actual costs incurred by the Petroleum Storage Tank Division for the administration of the Indemnity Fund and costs incurred for the purpose of evaluating claims and determining whether specific claims qualify for payment or reimbursement from the Indemnity Fund. Any costs incurred by and reimbursed to the Commission pursuant to the provisions of the Indemnity Fund shall not exceed the actual expenditures made by the Commission to implement the provisions of the Indemnity Fund; and

5. Payment of claims from the Indemnity Fund shall not become or be construed to be an obligation of this state. No claims submitted for reimbursement from the Indemnity Fund shall be paid with state monies.

B. The Director of the Petroleum Storage Tank Division shall hire an Administrator who shall administer the Indemnity Fund for the benefit of those persons determined to be eligible by the Administrator to receive total or partial reimbursement for:

1. The costs determined to be eligible by the Administrator in preparing a corrective action plan;

2. The cost of corrective action taken in response to an eligible release;

3. Payment of claims for property damage or personal injury resulting from an eligible release; and

4. Necessary costs incidental to the cost of a site assessment or the corrective action taken and for filing and obtaining reimbursement from the Indemnity Fund.

C. Reimbursements made to or for the benefit of eligible persons shall be exempt from The Oklahoma Central Purchasing Act.

D. 1. Costs incurred as a result of a release from a storage tank system owned or operated by this state are reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank

Consolidation Act. State-owned facilities shall take the proper corrective action as may be necessary to protect the environment from a leaking storage tank system. An agency of the state may also access said fund for reimbursement when it purchases property containing storage tanks from an owner or operator qualified to access the Indemnity Fund and upon which an eligible release has occurred prior to the agency acquiring the property.

2. Costs incurred as a result of a release from a storage tank system owned or operated by a Class I railroad or the federal government are not reimbursable pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

E. The Indemnity Fund shall consist of:

1. All monies received by the Commission as proceeds from the assessment imposed pursuant to Section 327.1 of this title;

2. Interest attributable to investment of money in the Indemnity Fund; and

3. Money received by the Commission in the form of gifts, grants, reimbursements or from any other source intended to be used for the purposes specified by or collected pursuant to the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act.

F. 1. Except as provided in this section, the monies deposited in the Indemnity Fund shall at no time become monies of the state and shall not become part of the general budget of the Commission or any other state agency. Except as otherwise authorized by the Oklahoma Petroleum Storage Tank Consolidation Act, no monies from the Indemnity Fund shall be transferred for any purpose to any other state agency or any account of the Commission or be used for the purpose of contracting with any other state agency or reimbursing any other state agency for any expense.

2. Monies from the Indemnity Fund may be used to pay or reimburse the Commission for the salary and indirect expense of any employee of the Petroleum Storage Tank Division while such employee is performing work involved in the regulation of storage tanks pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act or the administration of programs pursuant to said act, including the development, review and approval of corrective action plans as required by the regulatory programs. The Indemnity Fund shall pay for all costs associated with administering the Compliance and Inspection Department including, but not limited to, automobile and travel costs, computer software and equipment, and other costs incurred in administering the Compliance and Inspection Department. The Commission shall cross-train the field staff of the Petroleum Storage Tank Division to perform inspections and related field activities for all programs within the Division and the Indemnity Fund may reimburse the Division the actual costs of inspection services performed on behalf of the Indemnity Fund.

Added by Laws 1998, c. 375, § 4, emerg. eff. June 9, 1998. Amended by Laws 2004, c. 430, § 5, emerg. eff. June 4, 2004; Laws 2005, c. 435, § 16, eff. Nov. 1, 2005; Laws 2018, c. 27, § 22, eff. Nov. 1, 2018; Laws 2019, c. 82, § 9, eff. July 1, 2019.

§17-325. Annual reports.

A. The Director of the Petroleum Storage Tank Division shall make a written report on an annual basis to the Corporation Commissioners, the Storage Tank Advisory Council, the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the following:

1. The total number of storage tank applicants requesting disbursement from the Indemnity Fund during the preceding year;

2. The total number of storage tank applicants receiving payment during the preceding year and total amount disbursed for such payments;

3. The average time frame for providing disbursements to applicants;

4. The total amount of funds needed to complete the corrective action and achieve closure of all release cases; and

5. Any other information requested by the Speaker of the House of Representatives or the President Pro Tempore of the Senate regarding the Indemnity Fund program.

B. The Oklahoma Tax Commission shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the amount of assessments collected for deposit to the Indemnity Fund and to the State Transportation Fund.

C. The Oklahoma Department of Transportation shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the expenditures made from the revenue received from the assessment levied pursuant to Section 327.1 of this title.

D. The Oklahoma Department of Environmental Quality shall submit an annual report to the Speaker of the House of Representatives and the President Pro Tempore of the Senate detailing the expenditures made from the revenue received from the assessment levied pursuant to Section 327.1 of this title.

E. By December 1, 1998, and every year thereafter, the State Auditor and Inspector shall conduct an independent audit of the books, records, files and other such documents of the Corporation Commission pertaining to and which relate to the administration of the Petroleum Storage Tank Indemnity Fund. The audit shall include but shall not be limited to a review of agency compliance with state statutes regarding the Indemnity Fund, internal control procedures, adequacy of claim process expenditures from and debits of the Indemnity Fund regarding administration, personnel, operating and

other expenses charged by the Corporation Commission; the duties performed in detail by agency personnel and Indemnity Fund personnel for which payment is made from the Indemnity Fund, and recommendations for improving claim processing, equipment needed for claim processing, internal control or structure for administering the Indemnity Fund; and such other areas deemed necessary by the State Auditor and Inspector.

F. The cost of the audit shall be borne by the Indemnity Fund.

G. Copies of the audit shall be submitted to the State Auditor and Inspector, the Governor, the Speaker of the House of Representatives, the President Pro Tempore of the Senate and the Chairs of the Appropriation Committees of both the Oklahoma House of Representatives and the Oklahoma State Senate.

Added by Laws 1998, c. 375, § 5, emerg. eff. June 9, 1998. Amended by Laws 2018, c. 27, § 23, eff. Nov. 1, 2018; Laws 2019, c. 82, § 10, eff. July 1, 2019.

§17-326. Repealed by Laws 2004, c. 430, § 22, emerg. eff. June 4, 2004.

§17-327. Approval requirements for certain bills to change the Petroleum Storage Tank Indemnity Fund.

A. Any Petroleum Storage Tank Indemnity Fund bill which would change the distribution of the assessment imposed pursuant to the provisions of Section 327.1 of this title and decrease the amount required to be deposited in the Petroleum Storage Tank Indemnity Fund shall require approval of not less than two-thirds (2/3) of the membership of each House of the Legislature to become law.

B. The provisions of subsection A of this section shall not apply to any Petroleum Storage Tank Indemnity Fund bill that appropriates monies from the Petroleum Storage Tank Indemnity Fund for purposes of increasing the costs of administering the Indemnity Fund or related administrative functions of the Corporation Commission.

C. For purposes of this section, a "Petroleum Storage Tank Indemnity Fund bill" shall mean any bill which amends any or all of Section 328 of this title or any bill that impacts the distribution of the assessment set forth in Section 328 of this title.

Added by Laws 2018, c. 27, § 24, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 11, eff. July 1, 2019.

§17-327.1. Assessment on motor fuel – Exemptions - Allocation.

A. Except as otherwise provided by this section, there shall be an assessment of one cent ($0.01) per gallon upon the sale of each gallon of motor fuel used or consumed in this state. The assessment imposed pursuant to the provisions of this section shall be for the purposes of providing revenue to:

1. The Corporation Commission Revolving Fund pursuant to paragraph 1 of subsection C of this section;

2. The Petroleum Storage Tank Indemnity Fund pursuant to paragraphs 3 and 4 of subsection C of this section;

3. The State Transportation Fund pursuant to subparagraph b of paragraph 5 of subsection C of this section;

4. The Corporation Commission Storage Tank Revolving Fund pursuant to subparagraph a of paragraph 5 of subsection C of this section;

5. The Department of Environmental Quality Revolving Fund pursuant to paragraph 2 of subsection C of this section; and

6. The Weigh Station Improvement Revolving Fund pursuant to paragraph 3 of subsection C of this section.

The assessment shall be imposed at the time of the sale of the motor fuel and shall be precollected and remitted to the Oklahoma Tax Commission in accordance with Section 500.1 et seq. of Title 68 of the Oklahoma Statutes and as provided by Section 327.2 of this title.

B. 1. Exempt from the assessment imposed pursuant to subsection A of this section are:

a. the state government,
b. the federal government,
c. Class I and Class II railroads, and
d. sales for exportation outside of this state by a licensed exporter.

2. Exempt from the assessment imposed for purposes specified in paragraph 3 of subsection A of this section are sales of:

a. motor fuel used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children, or in the operation of vehicles used in driver training,
b. motor fuels used solely and exclusively to propel motor vehicles on the public roads and highways of this state when leased or owned and being operated for the sole benefit of a county, city, town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
c. motor fuel to counties and cities and towns,
d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
e. motor fuel used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and

f. motor fuel used in aircraft or in aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

C. The assessment imposed by subsection A of this section shall be distributed in the following manner:

1. The first One Million Dollars ($1,000,000.00) collected during each fiscal year shall be deposited into the Corporation Commission Revolving Fund created in Section 180.7 of Title 17 of the Oklahoma Statutes;

2. After deduction of the amount required pursuant to paragraph 1 of this subsection, eight percent (8%) of the remainder of the revenue collected during each fiscal year shall be deposited into the Department of Environmental Quality Revolving Fund created in Section 2-3-401 of Title 27A of the Oklahoma Statutes;

3. Until the total amount deposited since July 1, 2008, in the Weigh Station Improvement Revolving Fund totals Eighty-one Million Dollars ($81,000,000.00), Five Hundred Thousand Dollars ($500,000.00) per month of all revenue from the assessment received over the amount required by paragraphs 1 and 2 of this subsection shall be deposited in the Weigh Station Improvement Revolving Fund, created in Section 1167 of Title 47 of the Oklahoma Statutes and shall be used solely for the purpose of constructing weigh stations;

4. After the total amount deposited in the Weigh Station Improvement Revolving Fund totals Eighty-one Million Dollars ($81,000,000.00), any revenue from the assessment received over the amounts required in paragraphs 1 and 2 of this subsection shall be deposited in the Petroleum Storage Tank Indemnity Fund as provided in this section in amounts necessary to maintain the maintenance level of the Indemnity Fund pursuant to subsection D of this section; and

5. The balance of any revenue from the assessment remaining above the amount required in paragraphs 1 through 4 of this subsection shall be deposited as follows:

a. the first One Million Dollars ($1,000,000.00) collected during each fiscal year shall be deposited in the Corporation Commission Storage Tank Revolving Fund for the purpose of implementing the provisions of the Oklahoma Petroleum Storage Tank Consolidation Act and the rules promulgated thereunder, and

b. the balance of the monies collected during each fiscal year shall be deposited in the State Transportation Fund and shall be used solely for the purpose of matching Federal-Aid funds for the construction of highways and roads in this state.

D. 1. If at any time the Petroleum Storage Tank Indemnity Fund falls below the required maintenance level on or before December 31, 2032, the Administrator shall notify the Tax Commission that the Indemnity Fund has fallen below the required maintenance level and

that the assessment is to be deposited into the Indemnity Fund for at least three (3) calendar months pursuant to the provisions of paragraph 2 of this subsection.

2. At least fifteen (15) days prior to the calendar month in which the assessment is to be collected for credit to the Indemnity Fund, the Tax Commission, upon notification by the Administrator that the Indemnity Fund has fallen below the required maintenance level, shall notify the suppliers, licensed importers or other appropriate persons that the assessment is being imposed for purposes of maintaining the Indemnity Fund. The notice shall include a date certain upon which to begin collecting the assessment for credit to the Indemnity Fund and a date certain for ending the assessment for credit to the Indemnity Fund. Upon notice by the Tax Commission that the assessment imposed is for credit to the Indemnity Fund, the supplier, licensed importer or other appropriate person shall also assess, for the specified period required by the Tax Commission, the sales of:

a. motor fuel used solely and exclusively in district-owned or leased public school buses, FFA and 4-H Club trucks for the purposes of legally transporting public school children or in the operation of vehicles used in driver's training,
b. motor fuels used solely and exclusively to propel motor vehicles on the public roads and highways of the state when leased or owned and being operated for the sole benefit of a county, city or town, volunteer fire department with a state certification and rating, rural electric cooperative, rural water and sewer district, rural ambulance service district, or federally recognized Indian tribe as specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
c. motor fuel to counties and cities and towns,
d. diesel fuel for off-road purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes,
e. motor fuel used for agricultural purposes specified by Section 500.10 of Title 68 of the Oklahoma Statutes, and
f. motor fuel used in aircraft and aircraft engines pursuant to Section 500.10 of Title 68 of the Oklahoma Statutes.

3. After the collection period required by this subsection has expired, the revenue collected from the assessment shall be again deposited in the Corporation Commission Storage Tank Revolving Fund and the State Transportation Fund as provided in paragraph 5 of subsection C of this section.

Added by Laws 2018, c. 27, § 25, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 12, eff. July 1, 2019.

§17-327.2. Duty to precollect assessment – Collection report.

A. It shall be the duty of every supplier, licensed importer or any other appropriate person under this act to precollect and remit any assessment so precollected pursuant to the provisions of this act and Section 327.1 of this title and make and submit an assessment collection report as required by this section.

B. 1. The assessment imposed pursuant to the provision of Section 327.1 of this title shall be collected and remitted to the Oklahoma Tax Commission at the same time and in the same manner as provided by law for the collection and remission of tax levies upon the sale of gasoline within this state. The basis for computation of the amount due shall be one hundred percent (100%) of the net gallonage reported to the Tax Commission for assessment.

2. Each supplier, licensed importer or other appropriate person shall make and submit for each calendar month that the assessment is imposed an itemized and verified assessment collection report showing:

a. the name of the supplier, licensed importer or other appropriate person collecting the assessment,
b. the total amount of motor fuel, diesel fuel and blending materials sold during the preceding month,
c. the total amount of assessments collected by the supplier, licensed importer or other appropriate person during the preceding month, and
d. such further information the Tax Commission may require to enable it to compute correctly and collect the assessment made pursuant to this act.

The reports shall be filed at the same time and in like manner as required for gasoline tax reports pursuant to this act.

C. Every supplier, licensed importer or other appropriate person shall keep and preserve suitable records of the gross sales of motor fuel, diesel fuel and blending materials, the assessment collected and such other pertinent records and documents which may be necessary to determine the amount of assessment due as will substantiate and prove the accuracy of the reports. All the records shall be preserved for a period of three (3) years, unless the Tax Commission, in writing, has authorized their destruction or disposal at an earlier date. The records shall be open for examination by employees of the Tax Commission, the Corporation Commission or the Oklahoma Department of Transportation in the performance of their duties pursuant to law.

D. Any supplier, licensed importer or other appropriate person who fails to comply with any provisions of this section shall pay a penalty imposed by the Tax Commission. Any monies collected for payment of the penalty shall be deposited in the same manner as the assessments pursuant to the provisions of subsection B of this

section. The penalty shall be equal to ten percent (10%) of the gross amount of the assessments received by the supplier, licensed importer or other appropriate person for the report period that the supplier, licensed importer or other appropriate person failed to timely mail the required report or remit any monies collected pursuant to the provisions of this act.

E. The Tax Commission shall keep a separate accounting of all the monies received pursuant to this section and together with any interests and penalties thereon shall deposit such monies monthly as provided in subsection B of this section.

Added by Laws 2018, c. 27, § 26, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 13, eff. July 1, 2019.

§17-327.3. Reimbursement for allowable costs from an eligible release.

A. The Oklahoma Petroleum Storage Tank Indemnity Program shall provide reimbursement to eligible persons for allowable costs resulting from an eligible release pursuant to the provisions of this section.

B. 1. The Oklahoma Petroleum Storage Tank Indemnity Fund:

a. may require that any corrective action taken as a result of an eligible release, other than corrective action taken in an emergency situation, may be made by the competitive bid of at least two bidders. Acquisition or contracts or subcontracts for corrective action or for labor or equipment comprising a single task or scope of work which exceeds Two Thousand Five Hundred Dollars ($2,500.00) from any one vendor or subcontractor for any one site shall be awarded to the lowest and best bidder,

b. shall require that an eligible person or a property owner whose off-site property has been contaminated by a release shall not retain an environmental consultant to conduct the remediation of the release in which the eligible person, property owner or impacted party has more than a ten-percent interest ownership, is an employee, or is an officer of the environmental consultant, and

c. may require the owner or operator to submit documentation evidencing proof of such competitive bidding.

2. Any competitive bid submitted pursuant to this section shall be accompanied by the sworn noncollusion statement contained in Section 85.22 of Title 74 of the Oklahoma Statutes, modified in wording as appropriate. In the event bids are not obtained pursuant to this subsection, expenditures made without bids shall only be

reimbursed by the amount determined to be the reasonable value of the equipment purchased or the task or scope of work performed.

3. Professional engineering, geological, land surveying and other professional services or services provided by a Commission-licensed storage tank environmental consultant required for investigation and the preparation of corrective action plans or proposed corrective action plans and oversight of corrective action shall be selected based upon professional qualifications and technical experience of the consultant at a fair and reasonable fee as negotiated between the eligible person and his or her environmental consultant.

C. The eligible person responsible for taking the corrective action shall keep and preserve suitable records of hydrological and other site investigations and assessments, site rehabilitation plans, contracts and contract negotiations, and accounts, invoices, sales tickets, or other payment records from purchases, sales, leases, or other transactions or claims involving costs actually incurred related to such corrective action or injury or damage. Such records shall be made available upon request to agents and employees of the Oklahoma Petroleum Storage Tank Indemnity Fund during regular business hours, and at other times upon written request. In addition, the employees, agents and representatives of the Oklahoma Petroleum Storage Tank Indemnity Fund may from time to time request submission of such site-specific information as it may require. All records of costs actually incurred shall be certified by affidavit to the Oklahoma Petroleum Storage Tank Indemnity Fund as being true and correct.

D. 1. a. The Administrator shall deny or approve and pay, in whole or in part, the application for reimbursement on behalf of or to eligible persons and shall complete initial reimbursement within ninety (90) days after receipt of the complete application including but not limited to all requisite supporting documents, unless the time for review is extended by the Administrator giving the applicant written notice of intent to extend no later than eighty (80) days from the date of receipt of the application. The total review period shall not be extended beyond one hundred twenty (120) days from the date of receipt of the complete application including but not limited to all requisite supporting documents, unless otherwise extended by written mutual agreement of the applicant and the Administrator.

b. The Administrator, within thirty (30) days of receipt of the complete application including but not limited to all requisite supporting documents, shall determine whether such person is eligible for reimbursement and

shall notify such applicant as to his or her eligibility in writing.

c. An application deemed to be incomplete shall not trigger the time allowed for review.

2. Disposition of an application shall be provided to the applicant in writing, accompanied by a written explanation setting forth in detail the reason or reasons for the approval or denial of a claim, in whole or in part. If the Administrator fails to make a determination on an application or payment within the time provided or denies an application, or if a dispute otherwise arises with regard to reimbursement, the applicant may seek appropriate legal remedies.

3. For claims submitted subsequent to submittal of the application, the Administrator shall have thirty (30) days from the date of receipt of the supplemental claim in which to approve or deny the supplemental claim. If a supplemental claim is made subsequent to the date of the application but prior to the completion of the review of the application, the thirty-day review period shall not commence until the Oklahoma Petroleum Storage Tank Indemnity Fund has completed its review of the application. This time for review may be extended by the Administrator giving the applicant written notice of intent to extend no later than twenty (20) days from the date of receipt of the claim.

4. For eligible releases requiring extensive corrective action, the Administrator is authorized to make an initial payment and periodic supplemental payments for reimbursements to eligible persons for ongoing reimbursable costs actually incurred. An eligible person intending to file for supplemental payments for reimbursement shall submit work plans for implementation of the corrective action plan approved by the Commission's regulatory program pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act, or for other work which is proposed to be performed. Such work plans shall include, but not be limited to, the work to be completed, schedule of actions to be taken and estimates of costs to be reimbursed. Such information may be submitted with the application for reimbursement or whenever appropriate. Such work plans shall be submitted for informational purposes only. After approval of the application, the Administrator shall have thirty (30) days from the date of receipt of a claim for supplemental payment in which to approve and pay or deny the supplemental claim. The thirty-day time for review may be extended by the Administrator for an additional thirty (30) days upon giving the applicant written notice of such intent to extend no later than twenty (20) days from the date of receipt of the claim. If the claim for payment is included with the application for reimbursement, paragraph 1 of this subsection shall control.

E. 1. For reimbursement to any person the following conditions apply:

a. the person claiming reimbursement must be an eligible person,
b. the eligible person must have been in substantial compliance with the applicable rules promulgated pursuant to the provisions of the Oklahoma Petroleum Storage Tank Indemnity Fund and the Oklahoma Storage Tank Consolidation Act at the time of the reporting of the release,
c. allowable costs resulting from a release must have been incurred on or after December 23, 1988,
d. the Commission determined that the release no longer poses a threat to the public health and welfare or the environment,
e. the Commission was given adequate notice by such owner or operator of the release pursuant to Section 309 of Title 17 of the Oklahoma Statutes, and
f. such owner or operator, to the extent possible, fully cooperated with the Commission in responding to the release.

A person seeking reimbursement who has not been in substantial compliance with the applicable rules as required in subparagraph b of this paragraph or who failed to give adequate notice as required in subparagraph e of this paragraph will remain ineligible until all corrective action ordered by the Commission has been accomplished and all fines paid. Payment of fines and documentation of corrective action shall be shown by a certification signed by the Director of the Petroleum Storage Tank Division. The certificate must state that all fines resulting from noncompliance have been paid and any required corrective action has been completed and no additional enforcement actions are required.

2. For reimbursement to any person, the following conditions apply:

a. the person claiming reimbursement must be an eligible person,
b. the person, to the extent possible, has fully cooperated with the Commission, and
c. allowable costs for any corrective action must have been incurred on or after December 23, 1988.

F. Except as otherwise provided by the Oklahoma Petroleum Storage Tank Indemnity Fund, a reimbursement shall not be made to any eligible person who has received or is eligible for payment or reimbursement from any other state or federal agency or other third-party payor for the corrective action taken or the damages or the injuries associated with a release. If a state or federal agency or other third-party payor does not fully compensate the eligible person, then the eligible person may seek compensation for the uncompensated amount from the Indemnity Fund.

G. 1. An eligible person shall be reimbursed from the Indemnity Fund for allowable costs in excess of the copayment of one percent (1%) of the reimbursable costs for the corrective action. Copayments shall not exceed a maximum of Five Thousand Dollars ($5,000.00). The Indemnity Fund shall charge the eligible person directly for an initial one-thousand-dollar copayment and thereafter in one-thousand-dollar increments as warranted by the progressive total case costs. When the total case cost is finalized, the Petroleum Storage Tank Indemnity Fund shall reimburse the eligible person any overpayment of the one-percent copayment. For releases that occurred prior to June 4, 2004, eligible persons shall pay the five-thousand-dollar deductible as a copayment which may be paid in installments.

2. An impacted party whose on-site or off-site property has been contaminated by a release who elects the procedure authorized by this subsection shall not be required to remit copayments in order to receive reimbursement from the Petroleum Storage Tank Indemnity Fund. The impacted party or adjacent owner submits to the jurisdiction of the Commission by applying for Indemnity Fund reimbursement.

3. Reimbursements shall not exceed Two Million Five Hundred Thousand Dollars ($2,500,000.00) per occurrence, and:

a. Four Million Dollars ($4,000,000.00) annual aggregate for owners of one to one hundred storage tank systems, or

b. Five Million Dollars ($5,000,000.00) annual aggregate for owners of more than one hundred storage tank systems.

The reimbursement limits in this paragraph shall not include funds expended on city, county, state or political subdivision property where the city, county, state or political subdivision is an impacted party or adjacent property owner.

4. Reimbursement shall not be made from the Petroleum Storage Tank Indemnity Fund pursuant to this section until the Administrator has determined that the costs for which reimbursement is requested were actually incurred and were reasonable.

H. The Petroleum Storage Tank Indemnity Fund shall cover corrective action taken and other actual physical damage caused by an eligible release. The Petroleum Storage Tank Indemnity Fund shall also cover any medical injuries incurred as a result of the eligible release to persons other than employees of the eligible person of the storage tank system or their agents and independent contractors retained to perform any such corrective action. The Petroleum Storage Tank Indemnity Fund shall not be used to:

1. Recover payments for loss of time;

2. Recover payment of costs which may be associated with but are not integral to corrective action such as the cost of renovating, removing or disposing of storage tanks unless the removing of any petroleum storage tanks, concrete, concrete accessories, lines,

dispensers or other site improvements is necessary as required by a corrective action plan approved by the Commission's regulatory program;

3. Pay for punitive damages from any civil action resulting from the eligible release;

4. Recover costs for loss of business and taking of property associated with the corrective action; or

5. Pay legal expenses.

I. The right to apply for reimbursement and the receipt of reimbursement does not limit the liability of an owner or operator for damages, injuries or the costs incurred as a result of an eligible release.

J. The right to file the initial application, supplemental claims, and resubmittals for reimbursement and the right to certify that costs are true, correct and actually incurred shall not be assigned to a person rendering services for corrective action on the subject site.

K. Any person who prevails in an action brought pursuant to the Oklahoma Petroleum Storage Tank Indemnity Fund to recover disallowed claims upon an application, supplemental claim or resubmittal requesting reimbursement shall be entitled to recover interest, the costs of the action and attorney fees. Costs of the action shall include filing fees, administrative costs, witness fees and expenses related to the proceeding.

L. 1. In any case that has been determined to be eligible for reimbursement from the Petroleum Storage Tank Indemnity Fund, a property owner whose property has been contaminated by an eligible release may remediate his or her own property and make direct application to and receive reimbursement from the Petroleum Storage Tank Indemnity Fund for any of the following:

a. the costs of investigation,
b. participation in the determination of activities to be conducted upon the site,
c. corrective action, and
d. remediation of his or her property.

2. Reimbursement shall be subject to the same requirements as requests for reimbursement made by the eligible person on such sites and shall be handled in the same manner as other sites which have adjacent release or overlapping or commingled plumes. The amount reimbursed to the property owner and eligible person shall not exceed the statutory limits of subsection G of this section.

M. In the event the Petroleum Storage Tank Indemnity Fund fails to reimburse a claim as provided by this section, any person who prevails in an action brought pursuant to the Oklahoma Petroleum Storage Tank Release Indemnity Program to recover claims disallowed by an administrative action of the Oklahoma Petroleum Storage Tank Indemnity Fund upon an application, supplemental claim or resubmittal

requesting reimbursement shall be entitled to receive interest upon such claim at the rate provided for in subsection I of Section 727 of Title 12 of the Oklahoma Statutes.

N. 1. Claims for reimbursement pursuant to the Petroleum Storage Tank Indemnity Fund must be made within two (2) years of June 9, 1998, or two (2) years after site closure, whichever is later.

2. Eligible persons should be encouraged to submit claims for reimbursement as the costs are incurred and in the order they are incurred. However, the right to submit a claim or the time during which to submit a claim for reimbursement shall not be limited or restricted except as provided in this subsection.

3. All claims, including but not limited to resubmitted claims, shall be evaluated by the Petroleum Storage Tank Indemnity Fund under the system of evaluation employed by the Indemnity Fund at the time the costs were incurred.

O. 1. The Petroleum Storage Tank Indemnity Fund is authorized to enter into contracts for site remediation or corrective action which may be performance-based. Parties to such contracts shall be the eligible person, the off-site owner, the impacted party, the licensed environmental consultant and the Petroleum Storage Tank Indemnity Fund which may guarantee the remediation or corrective action. Each party must execute the contract before it is effective. Costs of equipment used in the performance-based contract may be reimbursed separate and apart from the performance-based contract as determined by the Administrator.

2. If:

a. an owner or operator is not available and a storage tank system has made a release into the environment, or

b. where there is a suspicion of a release onto any property where tanks are located and/or onto property proximate thereto, or where tanks are located and a site assessment is necessary to confirm a release or perform tank closure, and

c. such property is located within the limits of the town, city or political subdivision,

the town, city or political subdivision may obtain assignments from property owners in order to assume the rights of an eligible party for the purpose of reimbursement of the costs associated with the assessment, investigation and remediation of any site.

3. The Administrator of the Petroleum Storage Tank Indemnity Fund may also designate a town, city or political subdivision to be an eligible party for the purpose of reimbursement of the costs associated with the assessment, investigation and remediation of any site.

4. If the town, city or political subdivision has title to the property or is the recipient of proceeds from a sale or auction of the property, the town or city shall reimburse the Petroleum Storage

Tank Indemnity Fund for any required copayment within three (3) years from the closure of the case.

5. Terms of pay-for-performance contracts shall include, but not be limited to, the total amount to be paid for completion of the remediation or corrective action provided for by the contract and the length of time necessary to implement and complete the remediation or corrective action. Performance payments under pay-for-performance contracts shall be based upon the actual reduction of contamination upon the site being remediated. For those sites upon which it is estimated that remediation will take more than six (6) months and will require the installation and operation of a mechanical remediation system, payments under such contracts for the remediation to be accomplished by such system shall be as follows:

a. twenty percent (20%) of the total contract price for the first twenty-five-percent reduction in contamination to be accomplished by such system,
b. an additional twenty percent (20%) of the total contract price, for a total of forty percent (40%) for the next twenty-five percent (25%), for a total fifty-percent reduction in contamination to be accomplished by such system,
c. an additional twenty percent (20%) of the total contract price, for a total of sixty percent (60%) for the next first twenty-five percent (25%), for a total seventy-five-percent reduction in contamination to be accomplished by such system,
d. an additional twenty percent (20%) of the total contract price, for a total of eighty percent (80%) for the next first twenty-five percent (25%), for a total one-hundred-percent reduction in contamination to be accomplished by such system, and
e. with a final payment of the remaining twenty percent (20%) of the contract price to be paid after the site remains clean for six (6) months.

6. Any environmental consultant or company who fails to complete corrective action or remediation as provided in a pay-for-performance contract, or who has failed or fails, before requesting and receiving the first payment under a pay-for-performance contract, to install equipment upon a site which was proposed or which was to be installed whenever possible, or who in any other manner materially breaches a pay-for-performance contract shall be prohibited from entering into another pay-for-performance contract or purchase order with the Indemnity Fund for a period of three (3) years and shall forfeit any rights to or interest in the equipment to the Indemnity Fund if the equipment was:

a. paid in advance by the Indemnity Fund, and
b. allocated for a pay-for-performance site.

P. The Oklahoma Petroleum Storage Tank Indemnity Fund is authorized to enter into purchase orders for the performance of corrective action or various tasks or scopes of work to be performed upon a site as is prudent. Each purchase order shall establish an amount to be paid for the completion of a particular corrective action, task or scope of work. Such purchase orders shall be entered into between the Petroleum Storage Tank Indemnity Fund and the eligible person or his or her environmental consultant. The Indemnity Fund and the eligible person or his or her consultant shall conduct negotiations in good faith. Rules promulgated to implement this subsection shall not place any restrictions upon the negotiation process by limiting the number of revisions which may be submitted or restricting the time period during which they may be submitted.

Q. In evaluating and determining the amount of reimbursement to be paid upon a claim, the Indemnity Fund shall consider the reasonable cost of the task or scope of work that was reasonable and completed and shall be based upon standard billing rates and practices for environmental services as normally billed by such professionals, contractors or other service providers. If the overall total cost of performing a particular task or scope of work is reasonable, the Indemnity Fund shall fully reimburse the total cost of the particular task or scope of work performed.

R. 1. When a claim submitted for first reimbursement consideration is disallowed in whole or in part by the Administrator of the Petroleum Storage Tank Indemnity Fund, an applicant shall have ninety (90) days to resubmit the disallowed claim for reconsideration. Unless otherwise authorized by the Administrator of the Petroleum Storage Tank Indemnity Fund, resubmittal of a claim that has been disallowed in whole or in part shall only be allowed one time.

2. Except as otherwise provided by this paragraph, if the disallowed claim is not resubmitted within ninety (90) days from the date of the disallowance, the claim shall no longer be eligible for reimbursement from the Petroleum Storage Tank Indemnity Fund. An action by the applicant disputing a disallowed claim shall be commenced within one (1) year of the date of the last disallowance and shall be brought for an administrative hearing before the Commission.

3. Any applicant that, prior to November 1, 2004, has incurred a disallowance of a claim in whole or in part and has not resubmitted the disallowed claim for further consideration has until February 28, 2005, to resubmit the disallowed claim for such consideration. After February 28, 2005, the claim shall be deemed denied and shall no longer be eligible for reconsideration or reimbursement from the Petroleum Storage Tank Indemnity Fund.

4. The Director of the Petroleum Storage Tank Division may consider hardship exceptions such as, but not limited to, active military duty, to the time limits contained in this subsection.
Added by Laws 2018, c. 27, § 27, eff. Nov. 1, 2018.

§17-327.4. Confidential records, reports or information.

Upon a showing satisfactory to the Corporation Commission by any person that records, reports or information, or a particular part thereof, if made public, would divulge production or sales figures or methods, processes or production unique to such person or would otherwise tend to affect adversely the competitive position of such person by revealing trade secrets, the Commission shall consider such record, report or information, or particular portion thereof, confidential.
Added by Laws 2018, c. 27, § 28, eff. Nov. 1, 2018.

§17-327.5. Indemnity Fund claim payments - Subrogation.

A. Payment of any claim from the Indemnity Fund shall be subject to the Indemnity Fund acquiring by subrogation the right to recover from any person any amounts paid by the Indemnity Fund to or on behalf of any eligible person which may be determined to be fraudulent, reimbursable by other sources, or excessive. The Administrator shall bring an action on behalf of the Indemnity Fund to recover any such monies in the district court where the property is located or where the person from whom recovery is sought resides. The prevailing party in such cases shall be entitled to recover interest, costs of the action and attorney fees. Costs of the action shall include filing fees, administrative costs, witness fees and expenses related to the proceeding.

B. The Administrator is authorized to represent and protect the Indemnity Fund in any state or federal judicial or administrative proceeding.

C. Any person who is a party to a lawsuit and who may request any payment or reimbursement payable from the Indemnity Fund as a result of such lawsuit shall notify the Administrator upon being served with notice of the lawsuit. The Administrator is authorized to establish and enforce such third-party claim requirements as are necessary to implement and comply with the provisions of this section.
Added by Laws 2018, c. 27, § 29, eff. Nov. 1, 2018.

§17-328. Oklahoma Leaking Underground Storage Tank Trust Fund - Oklahoma Leaking Underground Storage Tank Revolving Fund.

A. There is hereby created in the State Treasury a fund for the Corporation Commission to be designated the "Oklahoma Leaking Underground Storage Tank Trust Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of

loans and grants from the federal government and any state matching funds required by the federal government with regard to underground storage tanks.

B. There is hereby created in the State Treasury a revolving fund for the Corporation Commission to be designated the "Oklahoma Leaking Underground Storage Tank Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of monies from public or private sources, and any monies collected pursuant to the provisions of this section.

C. All monies accruing to the credit of the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving Fund are hereby appropriated and may be budgeted and expended by the Corporation Commission only for the purpose provided in this section, to best protect human health and the environment. Expenditures from the funds shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

D. The Corporation Commission is hereby given the power and authority to receive, administer and authorize payments from the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving Fund. The Commission shall establish separate accounts and subaccounts within the Oklahoma Leaking Underground Storage Tank Trust Fund and the Oklahoma Leaking Underground Storage Tank Revolving Fund deemed necessary to implement the provisions of this section.

E. For the purpose of immediately responding to emergency situations created by leaking underground storage tanks having potentially critical environmental or public health or safety impact, the Corporation Commission may take whatever action it deems necessary without notice or hearing, including the expenditure of monies from either the Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking Underground Storage Tank Revolving Fund or from both such funds to promptly respond to the emergency.

F. 1. The Corporation Commission shall seek reimbursement from the responsible person, firm or corporation for all expenditures made from either the Oklahoma Leaking Underground Storage Tank Trust Fund or the Oklahoma Leaking Underground Storage Tank Revolving Fund or from both such funds. All monies received by the Corporation Commission as reimbursement or penalties relating to expenditures made from the Oklahoma Leaking Underground Storage Tank Trust Fund or Oklahoma Leaking Underground Storage Tank Revolving Fund shall be transferred for deposit to the credit of the Oklahoma Leaking Underground Storage Tank Revolving Fund. All monies received by the Corporation Commission as reimbursement or penalties relating to expenditures made from the Corporation Commission Storage Tank

Revolving Fund shall be transferred for deposit to the Corporation Commission Storage Tank Revolving Fund.

2. The owner or operator is liable for the cost of the corrective action taken by the Corporation Commission pursuant to this subsection, including the cost of investigating the release and administrative and legal expenses, if:

a. the owner or operator has failed to take a corrective action ordered by the Commission and the Commission has taken the corrective action, or

b. the Petroleum Storage Tank Division has taken corrective action in an emergency.

3. Reasonable and necessary expenses incurred by the Commission in taking a corrective action, including costs of investigating a release and administrative and legal expenses, may be recovered in an administrative proceeding. The Commission's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. Expenses that are recovered under this subsection shall be deposited in the Oklahoma Leaking Underground Storage Tank Revolving Fund.

G. Any owner or operator of an underground storage tank who fails to comply with any order issued by the Corporation Commission for corrective or enforcement actions may be subject to an administrative penalty not to exceed Twenty-five Thousand Dollars ($25,000.00) for each underground tank for each day of violation.

The administrative penalties assessed and collected by the Corporation Commission shall be deposited to the Oklahoma Leaking Underground Storage Tank Revolving Fund to be disbursed by the Commission in support of relevant agency activities.
Added by Laws 2018, c. 27, § 30, eff. Nov. 1, 2018.

§17-330. Required procedures for hearing of protests.

A. In every case requiring the exercise of its adjudicative authority pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act, the Corporation Commission shall:

1. Require that any person protesting a case shall file a response or notice of protest at least five (5) days prior to the scheduled hearing date. The Corporation Commission may extend the time for filing upon a showing of exigent or extraordinary circumstances;

2. Require that each case shall be heard within one hundred eighty (180) days of the date of filing unless all parties actively participating in the case agree otherwise or as otherwise provided in this section and due to this time constraint, all Petroleum Storage Tank Division cases, regardless of type of matter, shall be given priority on that day's docket;

3. Provide for the issuance of subpoenas pursuant to the provisions of Section 2004.1 of Title 12 of the Oklahoma Statutes; and

4. Provide that discovery be conducted pursuant to the provisions of the Oklahoma Discovery Code, Sections 3224 through 3237 of Title 12 of the Oklahoma Statutes.

B. No more than two continuances shall be granted by the Corporation Commission in any case unless the continuance is agreed to by all of the parties actively participating in the case or as otherwise provided in this section.

C. The Corporation Commission may grant permission to file out of time or an extension of time or continuance contrary to the provisions of subsections A and B of this section upon the showing of exigent or extraordinary circumstances.

Added by Laws 1998, c. 375, § 38, emerg. eff. June 9, 1998. Amended by Laws 2018, c. 27, § 31, eff. Nov. 1, 2018.

§17-340. Storage Tank Advisory Council - Members - Quorum - Authority - Rules - Expenses.

A. 1. There is hereby created within the Corporation Commission the Storage Tank Advisory Council. The Council shall consist of eleven (11) members.

2. Three members shall be appointed by the Governor, four members shall be appointed by the Speaker of the House of Representatives and four members shall be appointed by the President Pro Tempore of the Senate.

3. The initial appointments for each gubernatorial and legislative member shall be for progressive terms of one (1) through three (3) years so that only one term expires each calendar year; subsequent appointments shall be for three-year terms.

4. Members shall continue to serve until their successors are appointed.

5. If a member resigns or fails to attend three meetings with unexcused absences as determined by the chair of the Council in a twelve-month period of the Council, their appointment shall be deemed vacant and the chair of the Council shall notify the original appointing authority.

6. Any vacancy shall be filled in the same manner as the original appointments.

7. Six members shall constitute a quorum.

B. The Council shall be composed as follows:

1. The Governor shall appoint three members as follows:

a. one member shall be a petroleum storage tank owner, operator, or agent, and

b. two members may include:

(1) a petroleum storage tank owner, operator or agent, or

(2) an engineer who holds an environmental consultant's license issued by the Petroleum Storage Tank Division or works for a company that performs petroleum storage tank services, or
(3) a licensed environmental consultant, or
(4) an owner-operator of an environmental company;

2. The President Pro Tempore of the Senate shall appoint four members as follows:

a. one member shall be a petroleum storage tank owner, operator or agent,
b. one member shall be a petroleum storage tank operator or agent for an agricultural cooperative, and
c. two members may include:
(1) a petroleum storage tank owner, operator or agent, or
(2) an engineer who holds an environmental consultant's license issued by the Petroleum Storage Tank Division or works for a company that performs petroleum storage tank services, or
(3) a licensed environmental consultant, or
(4) an owner-operator of an environmental company; and

3. The Speaker of the House of Representatives shall appoint four members as follows:

a. one member shall be a petroleum storage tank owner, operator or agent,
b. one member shall be a county commissioner or a petroleum storage tank operator or agent for a county commissioner, and
c. two members may include:
(1) a petroleum storage tank owner, operator or agent, or
(2) an engineer who holds an environmental consultant's license issued by the Petroleum Storage Tank Division or works for a company that performs petroleum storage tank services, or
(3) a licensed environmental consultant, or
(4) an owner-operator of an environmental company.

C. The Council shall elect a chair and a vice-chair from among its members. The Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any five members.

D. The Storage Tank Advisory Council shall:

1. Have authority to recommend to the Commission rules to implement the Oklahoma Petroleum Storage Tank Consolidation Act and the Petroleum Storage Tank Indemnity Fund. The staff of the storage tank regulatory program and the Petroleum Storage Tank Indemnity Fund

shall not have standing to recommend to the Commission proposed permanent rules or changes to such rules which have not previously been submitted to the Council for action prior to the hearing for adoption of the rules by the Commission;

2. Before recommending any permanent rules to the Commission, give public notice, offer opportunity for public comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act and rules of the Commission;

3. Have authority to make written recommendations to the Commission which have been concurred upon by at least a majority of the membership of the Council; and

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

a. pass nonbinding resolutions expressing the sense of the Council, and

b. make recommendations to the Commission and its regulatory programs and the Petroleum Storage Tank Indemnity Fund concerning the need and the desirability of conducting public meetings, workshops and seminars.

E. The Council shall not recommend rules for promulgation by the Commission unless all applicable requirements of the Administrative Procedures Act and rules of the Commission have been followed, including but not limited to notice, rule impact statement and rule-making hearings. All actions of the Council with regard to rule-making shall be deemed actions of the Commission for the purposes of complying with the Administrative Procedures Act and rules of the Commission. The Council shall advise the Commission on initiating and conducting rule-making proceedings pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act.

F. Members of the Council shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Council is authorized to utilize the conference rooms of the Commission and obtain administrative assistance from the Commission, as required.

G. 1. The Commission is specifically charged with the duty of promulgating rules which will implement the duties and responsibilities of the Oklahoma Petroleum Storage Tank Consolidation Act.

2. Except as provided in this subsection, rules within the jurisdiction of the Council provided for by this section shall be promulgated with the advice of such Council.

3. The Commission may promulgate emergency rules without the advice of the Council when the time constraints of the emergency, as determined by the Commission, do not permit timely development of recommendations by the Council.

4. If the Commission adopts any proposed permanent rules without the advice of the Council or not in accord with the advice of the Council, the Commission shall detail the reasons on the rule report submitted to the Governor and the Legislature pursuant to Article I of the Administrative Procedures Act.
Added by Laws 1993, c. 344, § 15, emerg. eff. June 9, 1993. Amended by Laws 1994, c. 352, § 3, emerg. eff. June 9, 1994; Laws 1998, c. 375, § 25, emerg. eff. June 9, 1998; Laws 2004, c. 430, § 6, emerg. eff. June 4, 2004; Laws 2005, c. 435, § 17, eff. Nov. 1, 2005; Laws 2007, c. 121, § 1, eff. July 1, 2007; Laws 2018, c. 27, § 32, eff. Nov. 1, 2018.

§17-341. Unlawful to sell, offer for sale, use or consume regulated substances not in compliance.

It shall be unlawful for any person, firm or corporation in the State of Oklahoma to sell, offer for sale, use or consume any regulated substances manufactured in this state or brought into it unless the same complies with the rules of the Corporation Commission and the laws of the State of Oklahoma.
Added by Laws 2018, c. 27, § 33, eff. Nov. 1, 2018.

§17-341.1. Fuel inspection and compliance personnel.

For the purpose of enforcing the fuel inspection laws of the State of Oklahoma, the Corporation Commission Petroleum Storage Tank Division shall appoint and assign fuel inspection and compliance personnel sufficient to discharge the duties and obligations of the Commission regarding the inspection, testing, calibration and compliance of fuel and fuel storage facilities pursuant to the Oklahoma Petroleum Storage Tank Consolidation Act.
Added by Laws 2018, c. 27, § 34, eff. Nov. 1, 2018.

§17-341.2. Division employees – Prohibited from jobs or businesses in regulated field.

The employees of the Petroleum Storage Tank Division shall not engage in any job or business in an industry or engage in a profession in any area or field regulated by the Petroleum Storage Tank Division of the Corporation Commission.
Added by Laws 2018, c. 27, § 35, eff. Nov. 1, 2018.

§17-341.3. Severability.

If any section, paragraph, sentence, or phrase of Section 301 et seq. of this title shall be declared unconstitutional or void, for any reason, by any court of final jurisdiction, such decision shall not in any way invalidate or affect any other section, paragraph, sentence, or phrase of this act, but the same shall continue in full force and effect.

Added by Laws 2018, c. 27, § 36, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 14, eff. July 1, 2019.

§17-342. Authority to promulgate rules and specifications.

A. Jurisdiction is conferred upon the Corporation Commission, and the same is authorized and empowered, to prescribe and promulgate rules and specifications for safety and quality with reference to regulated substances as it may deem proper from time to time. The Corporation Commission shall prescribe rules governing the test for octane rating on motor fuels and prescribe the rating.

B. All specifications as may be prescribed and promulgated by the Corporation Commission shall be accepted as statutory enactments and shall be received as prima facie evidence by any court of competent jurisdiction within the State of Oklahoma.

Added by Laws 2018, c. 27, § 37, eff. Nov. 1, 2018.

§17-343. Inspection required for regulated substances and mixtures - Penalties.

A. It shall be unlawful for any person to sell, or offer for sale, any regulated substance without first having had the same inspected and any liquid intended to be mixed with any regulated substance to form a mixture designed to be used as in internal combustion engines.

B. It shall be unlawful for any person to sell, or offer for sale, any mixtures or combinations of any two or more regulated substances without first having had such mixture or combination inspected as herein provided. It shall not be an excuse or defense to a prosecution therefor that the component liquids had previously been inspected.

C. If any person shall sell, or offer for sale, any regulated substances or mixtures or combinations, without having had the same inspected as herein provided, he or she shall be guilty of a misdemeanor and be subject to a fine of Five Hundred Dollars ($500.00) per day per violation and imprisonment for ninety (90) days, or both, for each offense.

Added by Laws 2018, c. 27, § 38, eff. Nov. 1, 2018.

§17-344. Refusal to admit inspector - Penalties.

A. Any dealer in or manufacturer or other person in possession of regulated substances who refuses to admit an inspector upon the premises to perform the duties of the inspector shall, for each refusal to admit on his or her premises, or obstruction offered to an inspector, be guilty of a misdemeanor and be subject to a fine of Five Hundred Dollars ($500.00) per day per violation and imprisonment for ninety (90) days, or both, for each offense.

B. Any person who owns or has custody of any measuring device who shall refuse to admit employees of the Corporation Commission

upon his or her premises so far as it may be necessary for the performance of their duties, or shall obstruct such employees in the performance of their duties, shall for each separate offense be guilty of a misdemeanor and subject to a fine of One Hundred Dollars ($100.00).
Added by Laws 2018, c. 27, § 39, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 15, eff. July 1, 2019.

§17-345. Authority to promulgate tests, standards, specifications and rules – Voluntary calibration program.

A. The Corporation Commission is hereby authorized and directed to promulgate such tests, standards, specifications and rules necessary to carry out the provisions of this act and to ensure that all measuring devices shall be of the highest degree of accuracy reasonably consistent with the nature of the substance measured, and for such purpose the Commission shall have authority to prescribe such maximum limits of allowable error for such measuring devices as the Commission deems necessary to prevent fraud resulting from inaccurate measurement.

B. The Commission is authorized to promulgate rules as necessary to establish a voluntary calibration program for tanks and containers used in this state to transport motor fuel, diesel fuel or blending material; provided, however, this shall not include the fuel supply tanks of a motor vehicle. The Commission is further authorized to establish a fee not to exceed Fifty Dollars ($50.00) for the calibration of these tanks and containers. The fees are to cover the costs necessary for the enforcement of this act.

C. Any tank or container calibrated by the manufacturer, officials of another state, the Tax Commission or the Corporation Commission shall not be subject to further calibration testing by the Commission unless the physical shape or size of the tank or container has been altered by accident or design. A Certificate of Measurement shall be issued by the Commission for tanks and containers which are calibrated by the manufacturer, another state or the Commission. Nothing herein shall prohibit the Commission from ordering the mandatory calibration testing of any tank, container or metering device which the Commission has good reason to believe is inaccurate and is being utilized to defraud any person, firm or corporation.

D. Fees collected under the provisions of this act shall be deposited in the State Treasury to the credit of the Corporation Commission Revolving Fund.
Added by Laws 2018, c. 27, § 40, eff. Nov. 1, 2018.

§17-346. Duty to inspect fueling facilities.

A. It shall be the duty of the Petroleum Storage Tank Division to inspect all fueling facilities where regulated substances are kept or stored, for the purpose of determining whether or not such

products comply with the orders, rules and specifications of the Corporation Commission and the laws of the state. The Petroleum Storage Tank Division may take samples from any and all places where such products are kept or stored, and shall test the same or have the same tested to determine whether or not the owner or other person in charge of the fueling facility where regulated substances are kept or stored is complying with the orders, rules and specifications of the Corporation Commission and the laws of this state.

B. It shall be the further duty of the Petroleum Storage Tank Division whenever it finds a dispenser or receptacle used for delivering regulated substances which does not meet the minimum specifications required by the rules of the Corporation Commission and the laws of the state immediately to seal and lock the dispenser or receptacle. The seal will be removed when the violation is corrected. The owner has the right to apply for a hearing before the Corporation Commission.

The Petroleum Storage Tank Division shall make such reports to the Corporation Commission as required.

Added by Laws 2018, c. 27, § 41, eff. Nov. 1, 2018.

§17-346.1. Duty to inspect measuring devices.

It shall be the duty of the Corporation Commission Petroleum Storage Tank Division to inspect all measuring devices in this state for the purpose of determining whether or not such measuring devices comply with the tests, standards, specifications and rules of the Commission promulgated under authority of this act; and it shall be the further duty of the Commission whenever it finds a measuring device which does not meet or comply with the tests, standards, specifications or rules to immediately report the facts and circumstances and place a seal or label on the measuring device, stating that the measuring device does not meet or comply with the required tests, standards, specifications or rules, and immediately to seal and lock the measuring device; provided, that the owner or operator thereof shall have the right to make application to the Commission for an order removing the sign, label, lock or seal, which application shall be heard by the Commission without unnecessary delay, and no notice of hearing shall be required.

Added by Laws 2018, c. 27, § 42, eff. Nov. 1, 2018.

§17-346.2. Applicability to regulated substances in transit to other states.

The provisions of Section 341 of this title shall not apply to regulated substances brought into this state in transit for shipment to and consumption in other states or territories.

Added by Laws 2018, c. 27, § 43, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 16, eff. July 1, 2019.

§17-346.3. Noncompliance – Tampering with sign, lock or seal - Penalties.

Any person, firm or corporation who sells, offers for sale, uses or consumes any regulated substance within the State of Oklahoma which does not comply with the rules and specifications of the Corporation Commission and the laws of the State of Oklahoma, or any person who tampers with, alters, defaces or destroys any sign, lock or seal mentioned in this chapter, shall be guilty of a misdemeanor and upon conviction or upon a finding of contempt be punished by an administrative fine of not more than Five Hundred Dollars ($500.00). Each day on which any person, firm or corporation violates any of such orders and rules shall be deemed a separate and distinct offense.

Added by Laws 2018, c. 27, § 44, eff. Nov. 1, 2018.

§17-346.4. Noncompliance of measuring device – Tampering with sign, label, seal or lock – Violation of rule or order - Penalties.

Any person who owns or has custody or control of any measuring device which does not meet or comply with the tests, standards, specifications and rules of the Corporation Commission or any person who tampers with, alters, defaces or destroys any sign, label, seal or lock mentioned in Section 346 of this title, without having first secured an order permitting the removal of such sign, label, seal or lock, as provided in Section 346 of this title, or any person who violates any rule or order of the Commission promulgated under authority of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Two Hundred Fifty Dollars ($250.00), administrative penalties as set forth in Section 311 of this title, and/or punitive damages as set forth in Section 312 of this title; and each day on which any person, firm or corporation violates any of such orders or rules shall be deemed a separate offense. The court may order restitution for any actual damages incurred.

Added by Laws 2018, c. 27, § 45, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 17, eff. July 1, 2019.

§17-347. Ethanol or methanol label requirements.

A. No person shall sell or offer for sale motor fuel from a motor fuel dispenser supplied by a storage tank into which motor fuel that contains a mixture of at least one percent (1%) by volume of ethanol or methanol has been delivered within the sixty-day period preceding the date of sale or offer of sale unless the person prominently displays on the dispenser from which the mixture is sold a label that complies with subsection B of this section.

B. A label as required in subsection A of this section shall:

1. Be displayed on each face of the motor fuel dispenser on which the price of the motor fuel mixture sold from the dispenser is displayed;

2. State "Contains Ethanol" or "Contains Methanol", as applicable;

3. Appear in contrasting colors with block letters at least one-half (1/2) inch high and one-fourth (1/4) inch wide; and

4. Be displayed in a clear, conspicuous and prominent manner, visible to customers using either side of the dispenser.

C. If a motor fuel dispenser is supplied by a storage tank into which motor fuel containing at least ten percent (10%) ethanol by volume or at least five percent (5%) methanol by volume is delivered in the sixty-day period preceding the date of the sale or offer of sale, the sign as required in subsection A of this section shall also state the percentage of ethanol or methanol by volume, to the nearest whole percent, of the motor fuel having the highest percentage of ethanol or methanol delivered into that storage tank during that period.

D. On request by a motor fuel user, a person selling or offering for sale motor fuel from a motor fuel dispenser shall reveal:

1. The percentage of ethanol contained in the motor fuel being sold;

2. The percentage of methanol contained in the motor fuel being sold; and

3. If the motor fuel contains methanol, the types and percentages of associated cosolvents contained in the motor fuel being sold.

E. The provisions of this section shall not prohibit the posting of any other alcohol or additive information. Other alcohol or additive information and any relevant posting shall be subject to regulation by the Corporation Commission.

F. The Corporation Commission shall promulgate rules as necessary to implement the provisions of this section.

Added by Laws 2018, c. 27, § 46, eff. Nov. 1, 2018.

§17-347.1. Retail facilities not required to post information on fuel activities – Label required for aircraft fuel with alcohol.

Except as otherwise provided in this section, retail facilities that sell motor fuel shall not be required to post information regarding fuel additives on the motor fuel dispenser or anywhere else on the premises of the facilities. Motor fuel sold at regional or smaller airports in the state for fueling aircraft shall be labeled with the percent of alcohol, if any, in the fuel. The Corporation Commission shall promulgate rules consistent with the provisions of this section.

Added by Laws 2018, c. 27, § 47, eff. Nov. 1, 2018.

§17-348. Definitions.

As used in this act, unless the context or subject matter otherwise requires:

1. "Antifreeze" shall include all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point; and

2. "Person" shall include individuals, partnerships, corporations, companies and associations.

Added by Laws 2018, c. 27, § 48, eff. Nov. 1, 2018.

§17-348.1. Adulterated antifreeze.

An antifreeze shall be deemed to be adulterated:

1. If it consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user; or

2. If its strength, quality or purity falls below the professed standard of strength, quality or purity under which it is sold.

Added by Laws 2018, c. 27, § 49, eff. Nov. 1, 2018.

§17-348.2. Misbranded antifreeze.

An antifreeze shall be deemed to be misbranded:

1. If its labeling is false or misleading in any particular; or

2. If in package form it does not bear a label containing the name and place of business of the manufacturer, packer, seller or distributor and an accurate statement of the quantity of contents in terms of weight or measure, and these facts are not stated plainly and correctly on the outside of the package; or

3. If the product is to be diluted with another substance for use and does not bear on the label, or in an accompanying instruction sheet, folder or booklet, a statement or chart showing appropriate amounts of each substance to be used to provide protection from freezing at various degrees of temperature down to at least thirty degrees below zero Fahrenheit (-30°F).

Added by Laws 2018, c. 27, § 50, eff. Nov. 1, 2018.

§17-348.3. Sample analysis of antifreeze prior to sale – Annual permit application and fee.

Before any antifreeze shall be sold, exposed for sale or held with intent to sell within this state, a sample thereof must be analyzed pursuant to standards established by the Oklahoma Corporation Commission and a certified analysis submitted to the Petroleum Storage Tank Division for approval with the initial or annual permit fee application. Upon the initial application of the manufacturer, packer or distributor, and upon the payment of a fee of

One Hundred Dollars ($100.00) for each brand of antifreeze submitted, the Corporation Commission shall approve the analysis of the antifreeze submitted and, if it meets the standards of the Corporation Commission, and is not in violation of Sections 348 through 348.9 of this title, the Corporation Commission shall issue the applicant an annual written permit, with an official permit number, authorizing the sale of such antifreeze in this state for one (1) fiscal year, July 1 to June 30, in which inspection fee is paid. However, upon approval of an application for renewal of a permit, the fee shall not exceed One Hundred Dollars ($100.00). The original permit and renewal issued by the Corporation Commission shall bear the same number and shall not be transferable. If the Corporation Commission shall at a later date find that the product to be sold, exposed for sale or held with intent to sell has been materially altered, without the written permission of the Corporation Commission, adulterated, or a change has been made in the name, brand or trademark under which the antifreeze is sold, or it violated the provisions of Sections 348 through 348.9 of this title, the Corporation Commission shall notify the applicant and the permit shall be canceled.
Added by Laws 2018, c. 27, § 51, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 18, eff. July 1, 2019.

§17-348.4. Enforcement by Petroleum Storage Tank Division.

The Petroleum Storage Tank Division of the Oklahoma Corporation Commission shall enforce the provisions of Sections 348 through 348.9 of this title by certification, inspections, chemical analysis or any other appropriate methods. All samples for inspection or analysis shall be taken from stocks in this state or intended for sale in this state, or the Corporation Commission through its agents shall require the manufacturer or distributor applying for a permit for antifreeze sale to supply a certified analysis of the antifreeze with the permit application. The Corporation Commission, through its agents, shall have free access by legal means during business hours to all places of business, buildings, vehicles, cars and vessels used in the manufacture, transportation, sale or storage of any antifreeze, and it may open by legal means a box, carton, parcel, or package containing or supposed to contain any antifreeze and may take therefrom samples for analysis.
Added by Laws 2018, c. 27, § 52, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 19, eff. July 1, 2019.

§17-348.5. Authority to promulgate rules.

The Oklahoma Corporation Commission shall have the authority to promulgate such rules and regulations as are necessary to promptly and effectively enforce the provisions of Sections 348 through 348.9 of this title.

Added by Laws 2018, c. 27, § 53, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 20, eff. July 1, 2019.

§17-348.6. List of brands and trademarks of antifreeze permitted.

The Petroleum Storage Tank Division of the Oklahoma Corporation Commission may furnish upon request a list of the brands and trademarks of antifreeze permitted and permit numbers issued by the Corporation Commission during the calendar year which have been found to be in accord with Sections 348 through 348.9 of this title.
Added by Laws 2018, c. 27, § 54, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 21, eff. July 1, 2019.

§17-348.7. Advertising of antifreeze – Restricted statements.

No advertising literature relating to any antifreeze sold or to be sold in this state shall contain any statement that the antifreeze advertised for sale has been approved by the Oklahoma Corporation Commission unless the antifreeze has been permitted by the Corporation Commission and found to meet the standards of the Corporation Commission and not to be in violation of Sections 348 through 348.9 of this title, in which event such statement together with the permit number of the wholesaler or distributor may be contained in any labeling and advertising literature where such brand or trademark or antifreeze is being advertised for sale.
Added by Laws 2018, c. 27, § 55, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 22, eff. July 1, 2019.

§17-348.8. Fees deposited to credit of Corporation Commission Revolving Fund.

All fees collected by the Oklahoma Corporation Commission under the provisions of Sections 348 through 348.9 of this title shall be deposited with the State Treasurer to the credit of the Corporation Commission Revolving Fund.
Added by Laws 2018, c. 27, § 56, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 23, eff. July 1, 2019.

§17-348.9. Violations - Penalties.

Any person or persons violating the provisions of Sections 348 through 348.9 of this title shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than Three Hundred Dollars ($300.00) nor more than Five Hundred Dollars ($500.00), or imprisonment for ninety (90) days or both for each offense. In addition thereto, the Corporation Commission is hereby authorized to punish any person or persons violating the rules and regulations adopted by the Commission pursuant to Sections 348 through 348.9 of this title for contempt, and any person found guilty of violating the rules and regulations of the Corporation Commission adopted pursuant to Sections 348 through 348.9 of this title may be

fined any amount not exceeding Five Hundred Dollars ($500.00) for each offense.
Added by Laws 2018, c. 27, § 57, eff. Nov. 1, 2018. Amended by Laws 2019, c. 82, § 24, eff. July 1, 2019.

§17-350. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-351. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-352. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-353. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-353.1. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-354. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-355. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-356. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-356.1. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-357. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-358. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-359. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-360. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-361. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-365. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-401. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-402. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-403. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-404. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-405. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-406. Repealed by Laws 1993, c. 324, § 58, eff. July 1, 1993.

§17-407. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-408. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-409. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-410. Repealed by Laws 1998, c. 375, § 39, emerg. eff. June 9, 1998.

§17-500. Short title.

This act shall be known and may be cited as the "Oklahoma Brine Development Act".

Added by Laws 1990, c. 255, § 1, eff. Sept. 1, 1990.

§17-501. Purpose.

The Legislature finds that it is desirable and necessary to authorize and provide for unitized management, operation, and further development of brine and associated solution gas, to the end that a greater ultimate recovery of brine and solution gas may be had, waste prevented, and the correlative rights of owners therein be protected. It is further found to be in the public interest to foster, encourage and promote the development and production in the State of Oklahoma of brine and solution gas and to authorize and provide for the operation and development of unitized brine and solution gas properties, and to authorize the Commission to regulate brine and solution gas production.

Added by Laws 1990, c. 255, § 2, eff. Sept. 1, 1990.

§17-502. Definitions.

As used in this act:

1. "Commission" shall mean the Corporation Commission of Oklahoma;

2. "Person" shall include any individual, partnership, corporation or association of whatever character;

3. "Common source of supply" shall include that area which is underlain, or which from geological or other scientific data, or from drilling operations, or other evidence, appears to be underlain by a common accumulation of brine; provided, that, if any such area is underlain or appears from geologic or other scientific data, or from

drilling operations, or from other evidence to be underlain by more than one common accumulation of brine separated from each other by a strata of earth and not connected with each other, then such area, as to each said common accumulation of brine, shall be deemed a separate common source of supply;

4. "Brine" shall mean subterranean saltwater and all of its constituent parts and chemical substances therein contained, including, but not limited to bromine, magnesium, potassium, lithium, boron, chlorine, iodine, calcium, strontium, sodium, sulphur, barium or other chemical substances produced with or separated from such saltwater. Brine produced as an incident to the production of oil or gas, unless such brine is saved or sold for the purposes of removing chemical substances therefrom, shall not be considered brine for the purposes of this act. Gas, whether found in solution or otherwise, shall not be included within the meaning of the term "brine";

5. "Brine owner" shall mean any person entitled to share in the proceeds from the sale of brine production;

6. "Solution gas" shall mean all gas produced from brine wells from the brine common source of supply within the unit area;

7. "Solution gas owner" shall mean any person entitled to share in the proceeds from the sale of solution gas;

8. "Owner" or "owners", unless a more specific term is used, shall mean any person or entity who qualifies as either a brine owner or a solution gas owner;

9. "Operator" shall mean a person who has the right to drill into and produce from any brine common source of supply and to appropriate that production, either for himself, or for himself and others, and is authorized by the Commission to drill;

10. "Effluent" shall mean the liquid remaining after extraction of the chemical substances from brine;

11. "Brine production unit" or "unit" shall mean each separate specific area of land so designated by order of the Commission for production of brine and associated solution gas and the injection of effluent;

12. "Injection well" shall mean a well authorized by the Commission for the injection of effluent or other solutions; and

13. "Manufacture" shall mean the complete process of drilling, completing, equipping and operating production and injection wells and of extracting and packaging brine.

Added by Laws 1990, c. 255, § 3, eff. Sept. 1, 1990.

§17-503. Corporation Commission - Jurisdiction - Rules and regulations - Exceptions.

A. The Corporation Commission is hereby vested with jurisdiction over:

1. The drilling for and production of brine for commercial purposes;

2. Class V injection wells used for the injection or disposal of mineral brines as defined in the federal Safe Drinking Water Act and 40 CFR Part 146; and

3. Class V wells used to inject spent brine into the same formation from which it was withdrawn after extraction of halogens or their salts as defined in 40 CFR Part 146.

B. The Commission may promulgate such rules:

1. As are reasonably necessary to effectuate the purposes of this act, including rules governing the drilling of production, injection or disposal wells and the injection of effluent into underground formations; and

2. To ensure that the drilling, casing and plugging of wells is done in such a manner as to prevent the escape of brine and effluent from one formation to another and to prevent the pollution of fresh water supplies throughout the state.

C. The Oklahoma Brine Development Act shall not apply to nor shall the Corporation Commission have jurisdiction over Class I, III, IV or V wells regulated by the Department of Environmental Quality pursuant to the federal Safe Drinking Water Act and 40 CFR Parts 144 through 148, inclusive, and the Oklahoma Environmental Quality Act.
Added by Laws 1990, c. 255, § 4, eff. Sept. 1, 1990. Amended by Laws 2000, c. 364, § 3, emerg. eff. June 6, 2000.

§17-504. Utilization of brine rights - Application - Solution gas owners as respondents.

A. A party desiring to unitize brine rights shall file with the Corporation Commission an application setting forth a description of the proposed unit area with a map or plat thereof attached. The application shall allege the existence of the facts required to be found by the Commission as provided in Section 7 of this act. The application shall set forth the name and address of each brine owner within the area affected by the application. Each such person shall be a respondent to the application. In an application to enlarge the unit area, brine owners within the existing unit and brine owners in the area to be added to the unit shall be respondents to the application.

B. In the event the brine sought to be unitized is found in association with solution gas, the application shall set forth the name and address of each solution gas owner within the area affected by the application. Each such person shall be a respondent to the application. In an application to enlarge the unit area, solution gas owners within the existing unit and solution gas owners in the area to be added to the unit shall be respondents to the application.

C. Every application to establish a brine unit shall have attached thereto a recommended plan of unitization applicable to the proposed unit area.
Added by Laws 1990, c. 255, § 5, eff. Sept. 1, 1990.

§17-505. Unitization of brine rights - Notice of application.

Notice of the filing of an application to create a unit or to increase or decrease the size of the unit area, along with a copy of the application, shall be mailed to each respondent to the application whose address is known, or whose address can be found with reasonable diligence, at least twenty (20) days prior to the date set for hearing. In addition, notice shall be given at least twenty (20) days prior to the date of said hearing by one publication in some newspaper of general circulation printed in Oklahoma County, Oklahoma, and by one publication at least twenty (20) days prior to the date of the hearing in some newspaper of general circulation printed in each county in which the lands embraced within the application are situated. In addition, such additional notice shall be given as is required by the rules and regulations of the Commission.

Added by Laws 1990, c. 255, § 6, eff. Sept. 1, 1990.

§17-506. Commission's findings - Evidence required - Orders.

A. If, after proper application and notice, the Commission in its hearing shall find by substantial evidence that:

1. There exists a common source of supply or prospective common source of supply for brine;

2. Unitized management, operation and further development of the common source of supply for brine is reasonably necessary in order to effectively develop the brine common source of supply;

3. Unitized operation as applied to such common source of supply is feasible and will prevent waste and, with reasonable probability, will result in greater ultimate recovery of brine and its constituent parts;

4. Such unitization is for the common good and will result in the general advantage of the owners of the brine rights within the common source of supply; and

5. The creation of a unit will accomplish one or more of the following:

a. avoid the drilling of unnecessary wells,

b. prevent waste,

c. protect correlative rights, or

d. increase the ultimate recovery from the common source of supply and unit covered by the application,

the Commission shall make a finding to that effect and enter an order creating the unit, and requiring unitized operation of the prospective common source of supply or portion thereof described in the order.

B. If the Commission in its hearing shall find by substantial evidence that:

1. Solution gas exists within the common source of supply or prospective common source of supply;

2. The production of brine is impossible or impractical without also producing the solution gas; and

3. The unitization of the brine common source of supply is impractical or impossible without also unitizing the associated solution gas,

the Commission shall make a finding to that effect and shall further provide in its order for the unitization of the solution gas within the unit area.

C. Orders of the Commission entered pursuant to Section 87.1 of Title 52 of the Oklahoma Statutes establishing drilling and spacing units for the production of oil, gas or oil and gas shall not be applicable to the drilling of wells and production of solution gas from a unit established by an order issued pursuant to this act.

Added by Laws 1990, c. 255, § 7, eff. Sept. 1, 1990.

§17-507. Delineation of unit area - Allocation of production.

The order of the Commission shall define the area of the common source of supply or portion thereof to be included within the unit area. Each unit and unit area shall be limited to all or a portion of a single common source of supply.

Brine owners within the unit shall share in the production of brine in the proportion that their acreage bears to total acreage within the unit, unless the Commission, after notice and hearing, shall provide for another method in the unit plan. Solution gas owners within the unit shall share in production of solution gas in the proportion that their acreage bears to total acreage in the unit, unless the Commission, after notice and hearing, shall provide for another method in the unit plan.

Added by Laws 1990, c. 255, § 8, eff. Sept. 1, 1990.

§17-508. Plan of unitization - Provisions - Ratification by record owners - Election to sell.

A. The plan of unitization for each such unit and unit area shall be one suited to the needs and requirements of the particular unit dependent upon the facts and conditions found to exist with respect thereto. In addition to such other terms, provisions, conditions and requirements found by the Commission to be reasonably necessary or proper to effectuate or accomplish the purpose of this act, and subject to the further requirements hereof, each such plan of unitization shall contain fair, reasonable and equitable provisions for:

1. The efficient unitized management or control of further development and operation of the unit area. Under such plan the actual operations of the unit shall be carried on by one of the owners of the right to drill for and produce brine within the unit

area as unit operator. The designation of unit operator shall be by majority vote of the owners of the right to drill for and produce brine in the unit in accordance with their acreage ownership in the unit;

2. The method and circumstances under which brine or effluent from the unit, or from any other source, may be injected into the common source of supply under the unit area or into other formations;

3. The fair, just and reasonable compensation to be awarded to any owner within the unit who does not wish to participate in development of the unit by paying such owner's share of unit costs;

4. The fair, just and reasonable manner of participation for any owner desiring to participate in the development of the unit by paying such owners share of unit costs;

5. The fair, just and reasonable allocation and distribution to each owner and the value of such owner's share of the brine and solution gas produced from the unit;

6. The procedure and basis upon which wells, equipment and other properties of the owners within the unit area are to be taken over and used for unit operations, including the method of arriving at the compensation therefor, or for otherwise proportionately equalizing the investment of the several owners in the unit;

7. The method of apportioning costs of development and operation between owners of brine and owners of solution gas, if solution gas has also been unitized;

8. The time when the plan of unitization shall become effective;

9. The time when and conditions under which the unit shall or may be dissolved and all affairs concluded.

B. No order of the Commission creating a unit and prescribing the plan of unitization applicable thereto shall become effective unless and until the plan of unitization has been signed, or in writing ratified or approved by record owners of the right to drill of not less than fifty-five percent (55%) of the unit area affected thereby and by owners of record of not less than fifty-five percent (55%) (exclusive of royalty interest owned by lessees or subsidiaries of any lessee) of the royalty interest in and to the unit area and the Commission has made a finding either in the order creating the unit or in a supplemental order that the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area. Provided, however, in any instance where a royalty owner has, through lease or other agreement, previously authorized pooling or unitization of a size equal to or larger than the size specified in the Commission order, said lease or other agreement shall be deemed to be such royalty owner's authorization to unitize, and no additional signature, ratification or approval shall be necessary from such owner, unless the lease provides for a different production sharing formula than set out in the plan of unitization. Further provided,

however, in any instance where a royalty owner has, through lease or other agreement, previously consented to have the unit boundaries and the allocation formula established by the Commission, said lease or other agreement shall be deemed to be such royalty owner's authorization to unitize, and no additional signature, ratification or approval shall be necessary from such owner. Where the plan of unitization has not been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area at the time the order creating the unit is made, the Commission shall hold such additional and supplemental hearings as may be requested or required to determine if and when the plan of unitization has been so signed, ratified or approved by lessees and royalty owners owning the required percentage interest in and to the unit area and shall, in respect to such hearings, make and enter a finding of its determination in such regard. In the event lessees or royalty owners, or either, owning the required percentage interest in and to the unit area have not so signed, ratified or approved the plan of unitization within a period of six (6) months from and after the date on which the order creating the unit is made, the order creating the unit shall be deemed vacated and of no force and effect.

C. A participating brine owner shall have a one-time election to sell, and any brine owner in the unit with brine refining equipment shall have the obligation to buy, the brine produced from the unit at the value determined by the Commission; provided however, nothing herein shall require the purchasing brine owner to purchase brine when it is not producing brine from the unit for its own account. Added by Laws 1990, c. 255, § 9, eff. Sept. 1, 1990.

§17-509. Amendment and modification of property rights and obligations - Distribution of production.

Property rights, leases, contracts and all other obligations shall be regarded as amended and modified to the extent necessary to conform to the provisions and requirements of this act and to any valid and applicable plan of unitization of the Commission made and adopted pursuant hereto, but not otherwise.

Nothing contained in this act shall be construed to require a transfer to, or to cause a vesting in, the unit of title to the separately owned tracts or leases within the unit area other than the right to use and operate the same to the extent set out in the plan of unitization. All property, whether real or personal, which the unit may in any way acquire or possess shall be held or possessed by the operator for the account and as agent of the several owners of the right to drill for and produce brine and shall be the property of such owners, subject, however, to the right of the operator to the possession, management, use or disposal of the same in the proper conduct of its affairs, and subject to any lien the operator may have thereon to secure the payment of unit expenses.

The production allocated to each separately owned tract within the unit, and only that amount, regardless of the well or wells in the unit area from which it may be produced and regardless of whether it be more or less than the amount of production from the well or wells, if any, on any such separately owned tract, shall for all intents, uses and purposes be regarded and considered as production from such separately owned tract.

Except as may be otherwise authorized in this act, or in the plan of unitization approved by the Commission, such production shall be distributed among or the proceeds thereof paid to the several persons entitled to share in production from such separately owned tract in the same manner that they would have participated in the production or proceeds thereof from such separately owned tract had not said unit been organized.

Operations carried on under the plan of unitization shall be regarded as a fulfillment of and compliance with all of the provisions of the brine or solution gas leases or other contracts upon lands included within the unit area insofar as said leases or contracts may relate to the common source of supply or portion thereof included within the unit. Wells drilled on or operated on any part of the unit area, no matter where located, shall be regarded as wells drilled on each separately owned tract within the unit area. Added by Laws 1990, c. 255, § 10, eff. Sept. 1, 1990.

§17-510. Increase or decrease of unit area size.

A. The Commission shall have jurisdiction to increase the size of an existing unit area where it is shown, upon proper application, notice and hearing that:

1. Land adjacent to the existing unit is underlain by the same common source of supply as that found within the unit area; and

2. Inclusion of the additional land will either:

a. increase unit efficiency, or

b. result in greater ultimate recovery of brine, or

c. prevent waste; and

3. Inclusion of the additional land is fair, just and reasonable, both to parties owning brine interests in the additional land and to parties owning interests in the existing unit; and

4. The requirements of Section 9 of this act have been met.

B. The Commission shall have jurisdiction to decrease the size of an existing unit where it is shown, upon proper application, notice and hearing, that the land to be excluded is of no value to the unit because:

1. It is not underlain by the common source of supply; and

2. Its presence does not contribute to more efficient unit operations, by providing the site for an injection well or wells, or by assisting in the conduct of waterflood operations, or by otherwise increasing unit efficiency; and

3. Exclusion of the land is fair, just and reasonable.
Added by Laws 1990, c. 255, § 11, eff. Sept. 1, 1990.

§17-511. Liability of owner or lessee - Liens.

The obligation or liability of the lessee or other owners of rights in the several separately owned tracts for payment of unit expense shall at all times be several and not joint. At no time shall a lessee or other owner of rights in a separately owned tract be chargeable with, directly or indirectly, more than the amount apportioned to its interest in such separately owned tract pursuant to the plan of unitization.

Subject to such reasonable limitations as may be set out in the plan of unitization, the operator shall have a first and prior lien upon the leasehold estate in and to each separately owned tract and the interest of the owners therein in and to the unit production and equipment in possession of the unit, to secure the payment of unit expense charged to such separately owned tract.
Added by Laws 1990, c. 255, § 12, eff. Sept. 1, 1990.

§17-512. Appeal from orders.

Any person aggrieved by any order of the Commission may appeal therefrom to the Supreme Court of the State of Oklahoma upon the same conditions, within the same time, and in the same manner as is provided in Sections 84-135, inclusive, of Title 52 of the Oklahoma Statutes, or any amendments thereto, for the taking of appeals from orders of the Commission.
Added by Laws 1990, c. 255, § 13, eff. Sept. 1, 1990.

§17-513. Participation in plans by state and local land management boards.

The Commissioners of the Land Office, or other proper board or officers of the state having control and management of state lands, and the proper board or officer of any political, municipal or other subdivision or agency of the state, are hereby authorized on behalf of the state or of such political, municipal or other subdivision or agency hereof, to act with respect to land or brine rights subject to the control and management of such respective body, board or officer, to participate in any plan or program of unitization approved pursuant to this act.
Added by Laws 1990, c. 255, § 14, eff. Sept. 1, 1990.

§17-514. Taxation of unit production or sale proceeds.

Neither the unit production nor proceeds from the sale thereof shall be treated, regarded or taxed as income or profits to the unit. Instead, such receipts shall be the income of the several persons to whom same are payable under the plan of unitization. To the extent the unit may receive or disburse any receipts it shall only do so as

a common administrative agent of the persons to whom the same are payable.
Added by Laws 1990, c. 255, § 15, eff. Sept. 1, 1990.

§17-515. Purchasing priority of solution gas.

If at any time the Commission has designated priorities for the purchasing of gas from oil and gas wells pursuant to its regulatory power, the solution gas associated with the production of brine from any brine well, whether or not within a unit created pursuant to this act, shall be deemed to have a classification equal to the highest priority designated by the Commission.
Added by Laws 1990, c. 255, § 16, eff. Sept. 1, 1990.

§17-516. Pre-existing brine, solution gas or brine and solution gas units - Effect of Act.

Sections 2 through 16 of this act shall not have any effect on any existing brine, solution gas or brine and solution gas units which have been created voluntarily or by a judicial decree to the extent such unit was established as of the date of this act. Any existing brine or brine and solution gas unit may be expanded using the provisions of this act.
Added by Laws 1990, c. 255, § 17, eff. Sept. 1, 1990.

§17-517. Payment of proceeds - Times - Information accompanying payment - Violation - Jurisdiction of district court - Court costs and fees.

A. The proceeds derived from the sale of brine, solution gas or brine and solution gas production shall be paid to persons legally entitled thereto, commencing no later than six (6) months after the date of first sale, and thereafter no later than sixty (60) days after the end of the calendar month within which proceeds are received for subsequent production. In those instances where proceeds are not received for disposition of brine, solution gas or brine and solution gas production due to venting, flaring, use for operations, nonpayment from purchasers, or any other cause, the time periods previously specified within which any required payment shall be paid to the persons legally entitled thereto shall be measured from the date on which such venting, flaring, use for operations, nonpayment or other event occurred. Provided, proceeds from the sale of brine and solution gas from lands covered by a pending application for unitization pursuant to this act shall be paid to persons legally entitled thereto within six (6) months from the entry of a final order of unitization, together with interest thereon at the rate of six percent (6%) per annum to be compounded annually, calculated from the date of first sale after the filing of the application for unitization. Such payment is to be made to persons entitled thereto by the operator of such production. Provided, such operator may

remit to the persons entitled to such proceeds from production semiannually for the aggregate of six (6) months' accumulation of monthly proceeds of amounts less than Twenty-five Dollars ($25.00). Further provided, that any delay in determining the persons legally entitled to an interest in such proceeds from production caused by unmarketable title to such interest shall not affect payments to persons whose title is marketable. Provided, however, that in those instances where such proceeds cannot be paid because the title thereto is not marketable, the operator of such production shall cause all proceeds due such interest to earn interest at the rate of six percent (6%) per annum to be compounded annually, calculated from the last day of the production month, until such time as the title to such interest has been perfected. Marketability of title shall be determined in accordance with the then current title examination standards of the Oklahoma Bar Association.

B. The following information shall be included with each payment made to a brine owner from the sale of brine:

1. Unit identification;

2. Month and year of sales included in the payment;

3. Total volume of production from the unit of brine, solution gas and concentration of chemical substances contained therein and volumes extracted therefrom;

4. Owner's interest, expressed as a decimal, in production from the unit;

5. Total value of extracted chemical substances and solution gas, including the price per unit of measurement at which the products were sold;

6. Owner's share of the total value of sales prior to any deductions;

7. Owner's share of the total value of sales after any deductions; and

8. A specific detailed listing of the amount and purpose of any deductions, including, but not limited to BTU adjustments and taxes, from the gross proceeds due to the owner.

C. Any operator that violates this section shall be liable to the persons legally entitled to the proceeds from production for the unpaid amount of such proceeds with interest thereon at the rate of twelve percent (12%) per annum to be compounded annually, calculated from the last day of the production month.

D. The district court for the county in which the unit is located shall have jurisdiction over all proceedings brought pursuant to this section. The prevailing party in any proceeding brought pursuant to this section shall be entitled to recover any court costs and reasonable expert witness and attorney's fees.

Added by Laws 1990, c. 255, § 18, eff. Sept. 1, 1990.

§17-518. Compliance by operator with rules - Evidence of financial ability - Neglect, failure or refusal to plug and abandon or replug well, etc. - Forfeiture or payment - Transfer of title.

A. Any person who drills or operates any well or unit for the exploration, development or production of oil or brine, or as an injection or disposal well, within this state, shall furnish in writing, on forms approved by the Corporation Commission, his or her agreement to drill, operate and plug wells in compliance with the rules of the Commission and the laws of this state, together with evidence of financial ability to comply with the requirements for plugging, closure of surface impoundments, removal of trash and equipment as established by the rules of the Commission and by law.

B. To establish evidence of financial ability, the Commission shall require an irrevocable commercial letter of credit, cash, a cashier's check, a Certificate of Deposit, Bank Joint Custody Receipt, other negotiable instrument or a blanket surety bond. The amount of such letter of credit, cash, cashier's check, certificate, bond, receipt or other negotiable instrument shall be in the amount of Twenty-five Thousand Dollars ($25,000.00) per well. If an operator operates more than four wells subject to this requirement, the operator may file appropriate evidence of financial ability in a blanket amount of One Hundred Thousand Dollars ($100,000.00). Any instrument shall constitute an unconditional promise to pay and be in a form negotiable by the Commission.

C. The agreement provided for in subsection A of this section shall provide that if the Commission determines that the person furnishing the agreement has neglected, failed or refused to plug and abandon, or cause to be plugged and abandoned, or replug any well or has neglected, failed or refused to close any surface impoundment or removed or cause to be removed trash and equipment in compliance with the rules of the Commission, then the person shall forfeit from his or her bond, letter of credit or negotiable instrument or shall pay to this state, through the Commission, for deposit in the State Treasury, a sum equal to the cost of plugging the well, closure of any surface impoundment or removal of trash and equipment. The Commission may cause the remedial work to be done, issuing a warrant in payment of the cost thereof drawn against the monies accruing in the State Treasury from the forfeiture or payment. Any monies accruing in the State Treasury by reason of a determination that there has been a noncompliance with the provisions of the agreement or the rules of the Commission, in excess of the cost of remedial action ordered by the Commission, shall be credited to the Oil and Gas Revolving Fund. The Commission shall also recover any costs arising from litigation to enforce this provision. Provided, before a person is required to forfeit or pay any monies to the state pursuant to this section, the Commission shall notify the person at his or her last-known address of the determination of neglect,

failure or refusal to plug or replug any well, or close any surface impoundment or remove trash and equipment and such person shall have ten (10) days from the date of notification within which to commence remedial operations. Failure to commence remedial operations shall result in forfeiture or payment as provided in this subsection.

D. If title to property or a well is transferred, the transferee shall furnish the evidence of financial ability to plug the well and close surface impoundments required by the provisions of this section, prior to the transfer.

Added by Laws 1990, c. 255, § 19, eff. Sept. 1, 1990. Amended by Laws 1997, c. 275, § 4, eff. July 1, 1997.

§17-519. Notice to surface owner of intent to drill - Exceptions - Duty to negotiate surface damages.

Before entering upon a site for brine well drilling, except in instances where there are non-state resident surface owners, non-state resident surface tenants, unknown heirs, imperfect titles, surface owners, or surface tenants whose whereabouts cannot be ascertained with reasonable diligence, the operator shall give to the surface owner a written notice of his intent to drill containing a designation of the proposed location and the approximate date that the operator proposes to commence drilling.

Such notice shall be given in writing by certified mail to the surface owner. If the operator makes an affidavit that he has conducted a search with reasonable diligence and the whereabouts of the surface owner cannot be ascertained or such notice cannot be delivered, then constructive notice of the intent to drill may be given in the same manner as provided for the notice of proceedings to appoint appraisers set forth in Section 22 of this act.

Within five (5) days of the date of delivery or service of the notice of intent to drill, it shall be the duty of the operator and the surface owner to enter into good faith negotiations to determine the surface damages.

Added by Laws 1990, c. 255, § 20, eff. Sept. 1, 1990.

§17-520. Security for location damages - Filing - Entry upon property - Increase in security.

A. Every operator doing business in this state shall file a corporate surety bond, letter of credit from a banking institution, cash, or a certificate of deposit with the Secretary of State in the sum of Twenty-five Thousand Dollars ($25,000.00) conditioned upon compliance with Sections 20 through 26 of this act for payment of any location damages due which the operator cannot otherwise pay. The Secretary of State shall hold such corporate surety bond, letter of credit from a banking institution, cash or certificate of deposit for the benefit of the surface owners of this state and shall ensure that such security is in a form readily payable to a surface owner awarded

damages in an action brought pursuant to Sections 20 through 26 of this act. Each corporate surety bond, letter of credit, cash, or certificate of deposit filed with the Secretary of State shall be accompanied by a filing fee of Ten Dollars ($10.00).

B. The bonding company or banking institution shall file, for such fee as is provided for by law, a certificate that said bond or letter of credit is in effect or has been canceled, or that a claim has been made against it in the office of the court clerk in each county in which the operator is drilling or planning to drill. Said bond or letter of credit must remain in full force and effect as long as the operator continues drilling operations in this state. Each such filing shall be accompanied by a filing fee of Ten Dollars ($10.00).

C. Upon deposit of the bond, letter of credit, cash or certificate of deposit, the operator shall be permitted entry upon the property and shall be permitted to commence drilling of a well in accordance with the terms and conditions of any lease or other existing contractual or lawful right.

D. If the damages agreed to by the parties or awarded by the court are greater than the bond, letter of credit, cash or certificate of deposit posted, the operator shall pay the damages immediately or post an additional bond, letter of credit, cash or certificate of deposit sufficient to cover the damages. Said increase in bond, letter of credit, cash or certificate of deposit shall comply with the requirements of this section.
Added by Laws 1990, c. 255, § 21, eff. Sept. 1, 1990.

§17-521. Failure to negotiate damages agreement - Petition for appointment of appraisers - Notice - Selection of appraisers - Report by appraisers - Filing of exceptions or demand for jury trial - Assessment of costs and attorney fees.

A. Prior to entering the site with heavy equipment, the operator shall negotiate with the surface owner for the payment of any damages which may be caused by the drilling operation. If the parties agree, and a written contract is signed, the operator may enter the site to drill. If agreement is not reached, or if the operator is not able to contact all parties, the operator shall petition the district court in the county in which the drilling site is located for appointment of appraisers to make recommendations to the parties and to the court concerning the amount of damages, if any. Once the operator has petitioned for appointment of appraisers, he may enter the site to drill.

B. Ten (10) days' notice of the petition to appoint appraisers shall be given to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen (15) years of age, or, in the case of nonresidents, unknown heirs or other persons whose whereabouts

cannot be ascertained, by publication in one issue of a newspaper qualified to publish legal notices in said county, as provided in Section 106 of Title 25 of the Oklahoma Statutes, said ten-day period to begin with the first publication.

C. The operator shall select one appraiser, the surface owner shall select one appraiser, and the two selected appraisers shall select a third appraiser for appointment by the court. Unless, for good cause shown, additional time is allowed by the district court, the three (3) appraisers shall be selected within twenty (20) days of service of the notice of the petition to appoint appraisers or within twenty (20) days of the first date of publication of the notice as specified in subsection B of this section. If either of the parties fails to appoint an appraiser or if the two appraisers cannot agree on the selection of the third appraiser within the required time period, the remaining required appraisers shall be selected by the district court upon application of either party. Before entering upon their duties, such appraisers shall take and subscribe an oath, before a notary public or some other person authorized to administer oaths, that they will perform their duties faithfully and impartially to the best of their ability. They shall inspect the real property and consider the surface damages which the owner has sustained or will sustain by reason of entry upon the subject land and by reason of drilling or maintenance of brine production on the subject tract of land. The appraisers shall then file a written report within thirty (30) days of the date of their appointment with the clerk of the court. The report shall set forth the quantity, boundaries and value of the property entered on or to be utilized in said brine drilling, and the amount of surface damages done or to be done to the property. The appraisers shall make a valuation and determine the amount of compensation to be paid by the operator to the surface owner and the manner in which the amount shall be paid. Said appraisers shall then make a report of their proceedings to the court. The compensation of the appraisers shall be fixed and determined by the court. The operator and the surface owner shall share equally in the payment of the appraisers' fees and court costs.

D. Within ten (10) days after the report of the appraisers is filed, the clerk of the court shall forward to each attorney of record, each party, and interested party of record, a copy of the report of the appraisers and a notice stating the time limits for filing an exception or a demand for jury trial as provided for in this section.

1. This notice shall be on a form prepared by the Administrative Director of the Courts, approved by the Oklahoma Supreme Court, and supplied to all district court clerks.

2. If a party has been served by publication, the clerk shall forward a copy of the report of the appraisers and the notice of time limits for filing either an exception or a demand for jury trial to

the last-known mailing address of each party, if any, and shall cause a copy of the notice of time limits to be published in one issue of a newspaper qualified to publish legal notices as provided in Section 106 of Title 25 of the Oklahoma Statutes.

3. After issuing the notice provided herein, the clerk shall endorse on the notice form filed in the case the date that a copy of the report and the notice form was forwarded to each attorney of record, each party, and each interested party of record, or the date the notice was published.

E. The time for filing an exception to the report or a demand for jury trial shall be calculated as commencing from the date the report of the appraisers is filed with the court. Upon failure of the clerk to give notice within the time prescribed, the court, upon application by any interested party, may extend the time for filing an exception to the report or filing a demand for trial by jury for a reasonable period of time not less than twenty (20) days from the date the application is heard by the court. Appraisers' fees and court costs may be the subject of an exception, may be included in an action by the petitioner and may be set and allowed by the court.

F. The report of the appraisers may be reviewed by the court, upon written exceptions filed with the court by either party within thirty (30) days after the filing of the report. After the hearing, the court shall enter the appropriate order either by confirmation, rejection, modification or order of a new appraisal for good cause shown. Provided, that in the event a new appraisal is ordered, the operator shall have continuing right of entry subject to the continuance of the bond required herein. Either party may, within sixty (60) days after the filing of such report, file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury. The trial shall be conducted and judgment entered in the same manner as railroad condemnation actions tried in the court. If the party demanding the jury trial does not recover a verdict more favorable to him than the assessment award of the appraisers, all court costs including reasonable attorney fees shall be assessed against him.

Added by Laws 1990, c. 255, § 22, eff. Sept. 1, 1990.

§17-522. Appeal from court review or jury verdict of appraiser's report - Probate - Authority to execute instruments of conveyance.

Any aggrieved party may appeal from the decision of the court on exceptions to the report of the appraisers or the verdict rendered upon jury trial. Such appeal shall not serve to delay the prosecution of the work on the premises in question if the award of the appraisers or jury has been deposited with the clerk for the use and benefit of the surface owner. In case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk to the appropriate county clerk to be filed and recorded.

When an estate is being probated, or when a minor or incompetent person has a legal guardian or conservator, the administrator or executor of the estate or guardian of the minor or incompetent person or the conservator, shall have the authority to execute all instruments of conveyance provided for in this act on behalf of the estate or minor or incompetent person with no other proceedings than approval by the judge of the court of jurisdiction being endorsed on the instrument of conveyance.
Added by Laws 1990, c. 255, § 23, eff. Sept. 1, 1990.

§17-523. Impairment of existing contract rights or contracting for correlative rights - Indian property rights.

Nothing herein contained shall be construed to impair existing contractual rights nor shall it prohibit parties from contracting to establish correlative rights on the subject matter contained in this act.

This act shall not be applicable to nor affect in any way property held by an Indian whose interest is restricted against voluntary or involuntary alienation under the laws of the United States or property held by an Indian tribe or by the United States for any Indian tribe.
Added by Laws 1990, c. 255, § 24, eff. Sept. 1, 1990.

§17-524. Jurisdiction of Corporation Commission - Exception from repeal or limits.

Nothing in this act shall be construed as repealing or limiting the jurisdiction, authority and power of the Oklahoma Corporation Commission.
Added by Laws 1990, c. 255, § 25, eff. Sept. 1, 1990.

§17-525. Willful and knowing entry upon premises, failure to post bond, failure to request appraisers, etc. - Treble damages - Trial de novo.

Upon presentation of clear, cogent and convincing evidence that the operator willfully and knowingly entered upon the premises for the purpose of commencing the drilling of a well before giving notice of such entry or without the agreement of the surface owner, the court may, in a separate action, award treble damages. The issue of noncompliance shall be a fact question, determinable without jury, and a de novo issue in the event of appeal.

Any operator who willfully and knowingly fails to keep posted the required bond or who fails to notify the surface owner, prior to entering, or fails to come to an agreement and does not ask the court for appraisers, shall pay, at the direction of the court, treble damages to the surface owner.

Damages collected pursuant to this act shall not preclude the surface owner from collecting any additional damages caused by the operator at a subsequent date.
Added by Laws 1990, c. 255, § 26, eff. Sept. 1, 1990.

§17-601. Renumbered as § 130.1 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-602. Renumbered as § 130.2 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-603. Renumbered as § 130.3 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-604. Renumbered as § 130.4 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-605. Renumbered as § 130.5 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-606. Renumbered as § 130.6 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-607. Renumbered as § 130.7 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-608. Corporation Commission - Jurisdiction over sales of compressed natural gas - Notice of price increases - Hearing.

A. The Corporation Commission shall have jurisdiction over all sales in this state of compressed natural gas to the state or any county, municipality or public trust authority located within this state, the State Department of Education or any school district within this state, if the compressed natural gas is utilized in a government vehicle or a school vehicle as defined in Section 2 of this act.

B. Any entity engaged in the sale of compressed natural gas, in the manner specified in subsection A of this section, and not otherwise determined to be a public utility pursuant to Section 151 of this title, shall be required to give notice to the Commission prior to increasing the price of compressed natural gas more than five percent (5%). The Commission shall either approve the increase within five (5) business days of the notification or notify the entity of the suspension of the price increase pending further investigation of such increase. The Commission shall give notice and conduct hearings concerning such price increases as the Commission deems appropriate and the Commission shall notify the Attorney General of the time and place any such hearings are to be held. In

determining whether the increase should be granted, the Commission shall consider:

1. the costs of the entity to provide the compressed natural gas;

2. the availability of alternate fuel supplies to consumers; and

3. the potential impact of the proposed increase on the availability of compressed natural gas.

Any public utility engaged in the sale of compressed natural gas in the manner specified in subsection A of this section shall not sell such compressed natural gas at a price greater than the applicable tariff rate for commercial customers of such public utility plus the costs of compressing such gas.

C. Notice to the Commission shall be given by filing a verified statement with the Director of the Public Utility Division which sets forth:

1. the name and address of the entity;

2. the current price and the proposed price;

3. documentation which supports the need for the increase; and

4. the proposed date of the increased price.

D. The Commission shall have the authority to promulgate any rules and regulations as it may deem necessary concerning the regulation of compressed natural gas prices pursuant to the provisions of this section.

Added by Laws 1990, c. 336, § 8, operative July 1, 1990.

§17-609. Renumbered as § 130.9 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-610. Renumbered as § 130.10 of Title 74 by Laws 1991, c. 235, § 23, eff. July 1, 1991.

§17-620. Repealed by Laws 2018, c. 27, § 58, eff. Nov. 1, 2018.

§17-701. Background information of employees or potential employees - NCIC searches for stolen vehicles - Transfer of authority.

A. 1. The Corporation Commission may promulgate rules to require employees and potential employees in sensitive or law enforcement positions to supply photographs, descriptions, fingerprints, measurements and other pertinent information necessary for a criminal history search by the Oklahoma State Bureau of Investigation. The Commission may designate national criminal history searches as defined in Section 150.9 of Title 74 of the Oklahoma Statutes if it deems such information necessary.

2. The Commission shall be authorized to require enforcement officers to be fingerprinted for submission of the fingerprints through the Oklahoma State Bureau of Investigation to the Federal

Bureau of Investigation for a national criminal history check. The Commission shall be the recipient of the results of the record check.

B. The Commission shall request searches of the online and off-line files of the National Crime Information Center (NCIC), or any successor federal agency which supplies such information, to identify apportioned motor vehicles or apportioned motor vehicle license plates which have been reported stolen.

C. The Commission is authorized to promulgate rules or issue orders to prohibit any person or company from conducting business or participating in any manner of business with the Commission as the Commission deems necessary. Any orders or rules pertaining to the provisions of the Trucking One-Stop Shop Act which were issued by the Oklahoma Tax Commission, on or after January 1, 2002, shall be deemed to be in effect and transferred to the authority of the Corporation Commission in accordance with the provisions of the Trucking One-Stop Shop Act.

D. The Commission is authorized to promulgate any rules necessary to implement the provisions of this section.

Added by Laws 2005, c. 418, § 1, emerg. eff. June 6, 2005. Amended by Laws 2006, c. 238, § 1, emerg. eff. June 6, 2006.

§17-710.1. Electric Usage Data Protection Act.

This act shall be known and may be cited as the "Electric Usage Data Protection Act".

Added by Laws 2011, c. 291, § 1, eff. Nov. 1, 2011.

§17-710.2. Legislative findings.

The Legislature finds that smart grid and smart meter technologies have the potential to provide substantial benefits to consumers and the environment, including reduced energy costs, increased energy efficiency, and increased reliability of the electric grid. The Legislature recognizes, however, that the use of advanced metering technology may give electric utilities and consumers access to more detailed usage data than that collected by conventional electric utility services. The purpose of the Electric Usage Data Protection Act is to establish standards to govern the access to and use of usage data, as defined in Section 3 of this act by electric utilities, customers of electric utilities, and third parties.

Added by Laws 2011, c. 291, § 2, eff. Nov. 1, 2011.

§17-710.3. Definitions.

As used in the Electric Usage Data Protection Act:

1. "Aggregate usage data" means any usage data from which all identifying information has been removed such that the individual usage data of a customer cannot without extraordinary effort and

expertise be associated with the identifying information of that customer;

2. "Commission" means the Corporation Commission;

3. "Customer" means an individual or a business partnership, limited liability company, corporation, or other legal entity receiving service from an electric utility in the name of the individual or the entity. A customer may be residential, commercial or industrial;

4. "Customer-identifiable usage data" means usage data that is stored or presented in a format that associates the usage data with identifying information of a customer or could be manipulated to identify a customer without extraordinary effort;

5. "Customer information" means both identifying information and customer-identifiable electric usage data. Aggregate usage data shall not be considered customer information;

6. "Electric utility" means any person, firm, partnership, corporation, association or cooperative corporation furnishing retail electric service to the public in Oklahoma. Electric utility shall not mean a municipal corporation or beneficial trust of a municipal corporation;

7. "Identifying information" means any information that directly or indirectly identifies or is uniquely associated with a customer or an authorized representative of a customer, including but not limited to the name, social security or taxpayer identification number, street address, telephone number, electric utility account number, meter number, or financial account information of the customer or authorized representative of the customer;

8. "Nonstandard usage data" means any usage data that is not standard usage data or aggregate data;

9. "Standard usage data" means usage data, as defined in paragraph 11 of this section, that is used internally and is generally made available by the electric utility to customers in each of its customer classes on a regular basis, delivered by the electric utility in a standard format and with standard frequency, including without limitation the usage data collected by the meter or obtainable on an as-available basis by the customer;

10. "Self-regulated cooperative" means an Oklahoma rural electric cooperative whose members have elected to exempt the cooperative from certain regulation by the Commission as described in Section 158.27 of Title 17 of the Oklahoma Statutes; and

11. "Usage data" means information, on an as-available basis, relating to both:

a. the amount of electricity consumed at a residence or premises of a customer, and

b. the characteristics of that consumption, as generated, recorded, stored or transmitted by the electric utility infrastructure or supporting technology.

Added by Laws 2011, c. 291, § 3, eff. Nov. 1, 2011.

§17-710.4. Electric utilities – Customer information.

A. An electric utility shall provide customers with reasonable access to and shall maintain the confidentiality of customer information as provided for in Sections 5 through 8 of this act.

B. Electric utilities may utilize customer-identifiable usage data for their internal regulated business purposes which may include, but are not limited to, the:

1. Provision of services in an effective and efficient manner;

2. Collection of charges and other fees from customers for services provided;

3. Planning, operation, maintenance, repair or optimization of the electric utility infrastructure; and

4. Subject to approval by the Commission, or in the case of a self-regulated cooperative subject to approval of its board of trustees, development, enhancement, marketing, provision of energy-related products and services or promotion of public policy objectives.

C. The use of customer-identifiable usage data under the provisions of subsection B of this section shall not require customer consent.

Added by Laws 2011, c. 291, § 4, eff. Nov. 1, 2011.

§17-710.5. Electric utilities – Usage data.

A. Upon request, electric utilities shall provide the customer with a copy of or access to the standard usage data for that customer. The provision of standard usage data to a customer shall be provided as a component of basic service provided by an electric utility.

B. Upon written request, electric utilities shall, to the extent feasible, provide the nonstandard usage data of the customer to the customer. Electric utilities may charge a reasonable fee for the provision of nonstandard usage data to cover the actual costs incurred in providing the data.

Added by Laws 2011, c. 291, § 5, eff. Nov. 1, 2011.

§17-710.6. Customer information - Affiliates.

A. An electric utility may provide customer information without customer consent to affiliates and third parties who, under contract, assist the electric utility in providing regulated services or otherwise carrying out its business objectives as outlined in subsection B of Section 4 of this act, provided however that the disclosure is limited to the specific information necessary for the third party to carry out its responsibilities to the electric utility. Prior to the disclosure of any customer information to a third party under this subsection, a responsible representative of

the third party shall agree in writing that it will maintain the security and confidentiality of all customer information to which it has access and limit the use of customer information to the provision of such services to the electric utility.

B. In addition to providing customer information to affiliates and third parties as described in subsection A of this section, electric utilities may disclose customer information to third parties in the following circumstances:

1. As required by law;

2. Pursuant to a warrant, subpoena duces tecum, or other court order;

3. In the event of a business transaction such as a merger, acquisition, sale of assets, or similar transaction involving the electric utility;

4. In the event of an emergency situation; or

5. When the customer provides written consent to the disclosure.

Added by Laws 2011, c. 291, § 6, eff. Nov. 1, 2011.

§17-710.7. Aggregate customer usage information.

A. Electric utilities may use aggregate usage data for their internal business purposes. The use of aggregate usage data by electric utilities shall not require customer consent.

B. 1. Subject to the restrictions in paragraph 2 of this subsection and without customer consent, electric utilities may disclose aggregate usage data to third parties and may make aggregate usage data generally available to the public for purposes such as promoting energy assistance, conservation, environmental advocacy, research, or measuring company performance.

2. Any aggregate usage data disclosed as authorized in paragraph 1 of this subsection shall contain a sufficient number of similarly situated customers within a particular geographic area so that the daily usage routines or habits of an individual customer could not reasonably be deduced from the data.

Added by Laws 2011, c. 291, § 7, eff. Nov. 1, 2011.

§17-710.8. Promulgation of rules.

In the case of an electric utility, other than a self-regulated cooperative, the Commission shall promulgate rules to implement the provisions of the Electric Usage Data Protection Act. In the case of a self-regulated cooperative, the board of trustees shall have the authority to promulgate rules or procedures to implement the provisions of the act.

Added by Laws 2011, c. 291, § 8, eff. Nov. 1, 2011.

§17-801. Legislative intent - Use of cedar trees and residue as renewable energy source.

A. The Legislature declares that it is in the interest of Oklahoma to promote the use of cedar tree wood products and residue as an energy source in the state in order to take advantage of the abundance of cedar trees growing in the state and its natural compatibility with other renewable energy sources.

B. It is hereby declared the intent of the State of Oklahoma to promote use of cedar tree wood products and residue as a renewable energy fuel.

Added by Laws 2010, c. 454, § 14, eff. July 1, 2010.

§17-801.1. Oklahoma Energy Security Act.

This act shall be known and may be cited as the "Oklahoma Energy Security Act".

Added by Laws 2010, c. 283, § 1, eff. Nov. 1, 2010.

§17-801.2. Legislative intent.

It is the goal of the State of Oklahoma to reduce the dependence of Oklahoma and the United States on foreign oil, to improve the security of the United States in the world and to improve the economic well-being of the citizens of Oklahoma. The Legislature hereby expresses its intent to take steps to increase the energy independence of the United States by increasing the use of domestic energy and renewable energy sources in Oklahoma, expand development of domestic energy and renewable energy production and increase the ability to export Oklahoma's domestic energy and renewable energy resources to the rest of the United States.

Added by Laws 2010, c. 283, § 2, eff. Nov. 1, 2010.

§17-801.3. Definitions.

As used in the Oklahoma Energy Security Act:

1. "Commission" means the Corporation Commission;

2. "Demand side management" means the management of customer consumption of electricity, or the demand for electricity, through the implementation of:

a. load management or demand resource technologies, management practices or other strategies in residential, commercial, industrial, institutional or government customers that shift electric loads from periods of higher demand to periods of lower demand, or

b. industrial by-product technologies consisting of the use of a by-product from an industrial process, including the reuse of energy from exhaust gases or other manufacturing by-products that are used in the direct production of electricity at the facility of a customer; and

3. "Energy efficiency" means technologies, management practices or other strategies in residential, commercial, institutional, or government customers that reduce electricity use by those consumers. Added by Laws 2010, c. 283, § 3, eff. Nov. 1, 2010.

§17-801.4. Renewable energy standard.

A. The Legislature declares that it is in the public interest to promote renewable energy development in order to best utilize the abundant natural resources found in this state.

B. It is hereby declared the intent of the State of Oklahoma to increase the use of renewable energy in the state by setting a renewable energy standard that will serve as a goal to be reached by the year 2015.

C. There is hereby established a renewable energy standard for the state that will serve as a goal for the year 2015. The renewable energy standard shall be a goal that fifteen percent (15%) of all installed capacity of electricity generation within the state by the year 2015 be generated from renewable energy sources.

D. For purposes of this section, qualifying renewable energy resources shall include:

1. Wind;
2. Solar;
3. Photovoltaic;
4. Hydropower;
5. Hydrogen;
6. Geothermal;
7. Biomass, which projects may include agricultural crops, wastes, and residues, wood, animal and other degradable organic wastes, municipal solid waste, and landfill gas;
8. Distributed generation from an eligible renewable energy resource where the generating facility or any integrated cluster of such facilities has an installed generating capacity of not more than five (5) megawatts;
9. Other renewable sources approved by the Commission; and
10. Demand side management and energy efficiency as provided in Section 6 of this act.

E. Steam export capacity at a qualified renewable energy resource shall count toward the goal established in subsection C of this section.

F. The annual renewable energy percentage shall be determined by dividing all installed capacity of renewable electricity generation in Oklahoma by the total installed capacity of all electricity generation in Oklahoma. Every electricity generating entity or company operating electricity generation facilities in Oklahoma shall report to the Commission by March 1 each year the installed capacity of each of its generating facilities, the number of kilowatt hours

generated by each facility in Oklahoma and from which source of energy the electricity was produced.
Added by Laws 2010, c. 283, § 4, eff. Nov. 1, 2010. Amended by Laws 2015, c. 101, § 1, emerg. eff. April 20, 2015.

§17-801.5. Natural gas energy standard.

A. The Legislature declares that it is in the public interest to promote natural gas energy development in order to take advantage of our state's vast natural gas resources and its compatibility with wind energy.

B. It is further declared the intent of the Legislature to promote natural gas energy development in this state by establishing a natural gas energy standard to increase the use of natural gas as an electricity generation fuel.

C. There is hereby established a natural gas energy standard to supplement the increased volume of renewable energy and to capitalize on the state's abundant natural gas resources. The natural gas energy standard shall be achieved by declaring natural gas as the preferred choice of electric generation for new fossil fuel generating facilities in this state after the effective date of this act through January 1, 2020.

D. Beginning January 1, 2011, through January 1, 2020, it is the intent of the state that new fossil fuel generating facilities and added capacity to existing fossil fuel generating facilities built in this state be powered by natural gas. Any electricity generating entity in the state choosing a fossil fuel source other than natural gas may provide evidence to the Corporation Commission, or other appropriate regulatory body of those entities not regulated by the Commission, that the fossil fuel source chosen by such entity is in the best interest of this state's electric consumers.
Added by Laws 2010, c. 283, § 5 eff. Nov. 1, 2010.

§17-801.6. Utilization of energy efficiency and demand side management measures to meet renewable energy standard.

Energy efficiency and demand side management are important components to maximizing the energy resources of our state. Therefore, every electricity generating entity in Oklahoma may use energy efficiency and demand side management measures to assist the state in meeting its renewable energy standard. Provided, however, that demand side management may not be used to meet more than twenty-five percent (25%) of the overall fifteen percent (15%) renewable energy standard for the state. Energy conservation measures shall be described and quantified to the Corporation Commission on March 1 annually. The Commission shall make the final determination of the amount of generation capacity the electricity generating entity conserved and determine to what degree that will count toward meeting the renewable energy standard for the state.

Added by Laws 2010, c. 283, § 6, eff. Nov. 1, 2010.

§17-801.7. Construction of act.

Nothing in the Oklahoma Energy Security Act shall be construed to impair the authority of the Corporation Commission to ensure reasonable rates for consumers.

Added by Laws 2010, c. 283, § 9, eff. Nov. 1, 2010.

§17-802.1. Oklahoma Energy Initiative Act.

This act shall be known and may be cited as the "Oklahoma Energy Initiative Act".

Added by Laws 2012, c. 247, § 1, emerg. eff. May 14, 2012.

§17-802.2. Oklahoma Energy Initiative - Duties.

A. There is hereby created the Oklahoma Energy Initiative, referred to in this act as the Initiative, which shall serve as a strategic program designed to create, advance, and promote new and existing energy research and development efforts related to Oklahoma's core energy competencies by:

1. Promoting research and development in the areas of conventional and unconventional oil and natural gas development and production, CO_2 enhanced oil recovery, wind forecasting, advanced biofuels, energy storage, water management, energy policy and economic analysis, energy system optimization, renewable energy integration into the electrical grid, and similar energy technologies;

2. Fostering communication and collaboration between state and federal governmental agencies, institutions of higher education, nonprofit research institutions, and private entities located throughout Oklahoma;

3. Advancing research and development programs that provide benefits to all industries and regions of the state;

4. Streamlining research and development efforts between private and public industry to create synergistic relationships that coordinate, not duplicate, research efforts;

5. Establishing Oklahoma as a regional resource and clearinghouse for transformative energy technologies in the areas of traditional energy and renewable resource research and development;

6. Attracting best-in-class researchers to Oklahoma in competency areas aligned with Oklahoma's natural resource base;

7. Coordinating with the Oklahoma Department of Commerce to enhance venture capital investment in energy-related research and business opportunities; and

8. Promoting seed funding that can be leveraged against state, federal, and private-source funding to establish sufficient startup resources.

B. The Initiative may receive assistance from any state agency or public entity to implement the provisions of the Oklahoma Energy Initiative Act, including, but not limited to, administrative assistance, staffing or legal counsel and provision of office space or equipment as necessary. Assistance agreements may be made by memorandums of understanding or as otherwise provided by law. Added by Laws 2012, c. 247, § 2, emerg. eff. May 14, 2012.

§17-802.3. Oklahoma Energy Initiative Board.

A. The Oklahoma Energy Initiative shall be administered and governed by the Oklahoma Energy Initiative Board, made up of representatives of the contributing institutions of the Initiative which initially shall be the University of Oklahoma, Oklahoma State University, Oklahoma City University, the University of Tulsa, and the Noble Foundation. Additional contributing institutions may be added at the discretion of the Board, as such institutions contribute to the purpose, objectives and research coordinated by the Initiative. Additional contributing institutions may include state, federal, and private agencies, institutions of higher education, nonprofit research institutions, and private entities.

B. The Board shall initially consist of six (6) members as follows:

1. One member, who shall serve as the chair of the Board, shall be the Secretary of Energy and Environment or a member otherwise appointed by the Governor;

2. One member shall be the Vice President of Research from the University of Oklahoma or a member otherwise appointed by the President of the University of Oklahoma;

3. One member shall be the Vice President of Research from Oklahoma State University or a member otherwise appointed by the President of Oklahoma State University;

4. One member shall be the Vice President of Research from the University of Tulsa or a member otherwise appointed by the Governor;

5. One member shall be the Vice President of Research from Oklahoma City University or a member otherwise appointed by the Speaker of the House of Representatives; and

6. One member who shall represent the Samuel Roberts Noble Foundation appointed by the President Pro Tempore of the Senate.

C. Board members shall serve for a term of four (4) years, which shall begin on January 1 of the first year of the appointment and end on December 31 of the fourth year. There shall be no limit to the number of consecutive terms served. If a vacancy should occur during a member's term, the appointing authority for the vacant position shall appoint a new member to fill the remainder of the unexpired term. Board members shall serve without compensation but may be eligible for necessary travel expenses pursuant to the State Travel Reimbursement Act.

D. The Board shall be responsible for establishing procedures for the Initiative and operations of the Board. The rules may provide for protection from public disclosure of trade secrets and proprietary information of any kind, including, but not limited to, data, processes and technology, as the Board determines necessary.

E. The Board shall undertake activities and commission programs, through the contributing institutions, to achieve the purpose and satisfy the objectives of the Initiative as provided in the Oklahoma Energy Initiative Act. The Board shall have authority to distribute funding for such activities and programs. The Board may employ staff as it deems necessary.

F. The Board shall prepare an annual, written report to summarize the annual progress of the Initiative, including summaries of its programs and their progress and outcomes. The report shall be made available to the public and shall be distributed to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.

G. The provisions of The Oklahoma Central Purchasing Act shall not apply to any project, activity or contract of the Initiative or the Board.

H. No Board member or any person acting on behalf of the Board or Initiative executing any contracts, commitments or agreements issued by or on behalf of the Oklahoma Energy Initiative shall be personally liable for the contracts, commitments, or agreements or be subject to any personal liability or accountability by reason thereof. No director or any person acting on behalf of the Board or Initiative shall be personally liable for damage or injury resulting from the performance of duties hereunder.

Added by Laws 2012, c. 247, § 3, emerg. eff. May 14, 2012. Amended by Laws 2014, c. 232, § 1, emerg. eff. May 6, 2014.

§17-802.4. Oklahoma Energy Initiative Revolving Fund.

A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Energy Initiative to be designated as the "Oklahoma Energy Initiative Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Secretary of Energy and Environment or any other entity authorized to accept or expend funds on behalf of the Oklahoma Energy Initiative from any authorized source. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Energy Initiative for the purpose of satisfying the objectives of the Oklahoma Energy Initiative Act.

B. State appropriations for the Initiative shall be made as otherwise provided by law and shall be directed to the Secretary of Energy, or to an agency otherwise directed by the Governor, which shall directly allocate the appropriations to the Initiative.

C. The Initiative is authorized to accept donations, grants or endowments from any person, corporation or entity to achieve the purpose and satisfy the objectives of the Initiative as provided by this act.

Added by Laws 2012, c. 247, § 4, emerg. eff. May 14, 2012. Amended by Laws 2014, c. 232, § 2, emerg. eff. May 6, 2014.