

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 2132

By: Marlatt of the Senate

4 and

5 Sanders of the House

6  
7  
8 AS INTRODUCED

9 An Act relating to the Corporation Commission;  
10 creating the Oklahoma Wind Energy Development Act;  
11 providing short title; stating legislative findings;  
12 defining terms; creating the Oklahoma Wind Turbine  
13 Decommissioning Indemnity Program; providing short  
14 title; providing for administration of  
15 decommissioning activities and disbursement of funds;  
16 requiring for decommissioning of wind energy  
17 facilities; stating requirements and time limits for  
18 decommissioning; stating requirements and procedures  
19 for remediation of property following decommissioning  
20 of facilities; creating the Oklahoma Wind Turbine  
21 Decommissioning Indemnity Program Fund; authorizing  
22 employment of administrator; restricting monies for  
23 certain use; requiring owners or operators to make  
24 certain deposits for turbines constructed by certain  
date; authorizing opt-in procedure for certain  
operators; stating amount of certain deposits;  
authorizing administrator to determine certain amount  
of certain deposits; providing for transfer of  
property and deposits; providing for forfeiture of  
deposits; requiring operators to provide statements  
to landowners providing information relating to  
electrical energy production; stating procedures and  
requiring certain information; providing for certain  
audits; providing for reporting of certain capacity  
to the Commission; requiring certain amount of  
liability insurance prior to construction of wind  
facilities; creating a revolving fund; stating uses  
for fund; authorizing promulgation of rules;  
providing for codification; providing for

1 noncodification; providing an effective date; and  
2 declaring an emergency.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 160.11 of Title 17, unless there  
7 is created a duplication in numbering, reads as follows:

8 This act shall be known and may be cited as the "Oklahoma Wind  
9 Energy Development Act".

10 SECTION 2. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 160.12 of Title 160.12, unless  
12 there is created a duplication in numbering, reads as follows:

13 The Legislature finds that:

14 1. Oklahoma's wind energy resources are an important asset for  
15 the continued economic growth of the state and for the provision of  
16 clean and renewable power to both the people of the state and the  
17 nation as a whole;

18 2. Promotion of the development of our wind energy resources is  
19 important to the economic growth of our State;

20 3. The prudent development of wind energy resources requires  
21 balancing the needs of wind energy developers with those of the  
22 landowners who provide access to the wind energy resource, including  
23 assurances that wind turbines and wind energy facilities will be  
24 properly decommissioned, that they will have access to adequate

1 information to verify the accuracy of their payments, and that they  
2 will be adequately protected against hazards and accidents that may  
3 arise from the wind turbines or wind energy facilities;

4 4. The conversion of wind energy into power for utility-scale  
5 systems frequently requires large wind energy systems consisting of  
6 wind turbines, electrical substations, electrical lines, and other  
7 supporting systems;

8 5. Such wind energy systems, if abandoned or not properly  
9 maintained, could pose a hazard to public health, safety, and  
10 welfare through mechanical failures, electrical hazards, or the  
11 release of hazardous substances;

12 6. To protect the public against such hazards, standards for  
13 the safe decommissioning of such wind energy systems should be  
14 established and adequate financial resources set aside to ensure  
15 that such wind energy systems can be properly decommissioned at the  
16 end of their useful life; and

17 7. Such adequate financial resources may be provided by the  
18 creation of the Oklahoma Wind Turbine Decommissioning Indemnity  
19 Program as provided by this act and funded by deposits to an  
20 indemnity fund by those owning such wind energy systems.

21 SECTION 3. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 160.13 of Title 17, unless there  
23 is created a duplication in numbering, reads as follows:

24 As used in this Act:

- 1           1. "Administrator" means the administrator of the Oklahoma Wind  
2 Turbine Decommissioning Indemnity Program Fund;
- 3           2. "Commercial generation date" means the date on which the  
4 wind turbine in question first generates electrical energy in  
5 commercial quantities;
- 6           3. "Commercial quantities" means an amount of electrical energy  
7 sufficient for sale or use off-site from a wind turbine or wind  
8 energy facility, and shall not include amounts of electrical energy  
9 used only for the maintenance or testing of the wind turbine or wind  
10 energy facility itself;
- 11           4. "Decommissioning deposit" means the amount deposited into  
12 the Oklahoma Wind Turbine Decommissioning Indemnity Program by the  
13 owner and/or operator of the wind turbine;
- 14           5. "Decommission" means the disassembly of equipment and  
15 restoration of the site upon which a wind turbine or wind energy  
16 facility is located pursuant to the decommissioning plan and  
17 decommissioning standards established in Section 6 of this act;
- 18           6. "Useful life" means the time during which a wind turbine or  
19 wind energy facility is generating electricity in commercial  
20 quantities. For the purposes of the Oklahoma Wind Turbine  
21 Decommissioning Indemnity Program, a wind turbine or wind energy  
22 facility is presumed to be at the end of its useful life if it has  
23 not generated electricity in commercial quantities at any time  
24 during the most recently completed twelve-month period. The

1 presumption may be rebutted by submitting a plan for returning the  
2 wind turbine or wind energy system to service pursuant to Section 5  
3 of this title;

4 7. "Wind Turbine" means a wind energy conversion system which  
5 converts wind energy into electricity through the use of a wind  
6 turbine generator and includes the turbine, blade, tower, base and  
7 pad transformer, if any. Such a wind turbine shall only be subject  
8 to the requirements of the Oklahoma Wind Turbine Decommissioning  
9 Indemnity Program if the wind turbine has a nameplate capacity of  
10 500 kilowatts or greater, or if the wind turbine is not located on  
11 land that is owned by the owner or operator of the wind turbine; and

12 8. "Wind Energy Facility" means an electrical generation  
13 facility consisting of one or more wind turbines under common  
14 ownership or operating control, and includes substations,  
15 meteorological data towers, aboveground and underground electrical  
16 transmission lines, transformers, control systems, and other  
17 buildings or facilities used to support the operation of such  
18 facility, and whose primary purpose is to supply electricity to an  
19 off-site customer or customers.

20 SECTION 4. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 160.14 of Title 17, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. There is hereby created the "Oklahoma Wind Turbine  
24 Decommissioning Indemnity Program".

1 B. The Corporation Commission shall maintain, operate and  
2 administer the Oklahoma Wind Turbine Decommissioning Indemnity  
3 Program and is hereby authorized to employ personnel to carry out  
4 the requirements of the program including the collection of  
5 decommissioning deposits, approval of decommissioning plans,  
6 inspection of decommissioning operations, and disbursement of  
7 decommissioning funds.

8 SECTION 5. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 160.15 of Title 17, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. All wind turbines and wind energy facilities shall be  
12 decommissioned at the end of their useful life.

13 B. The owner or operator of a wind turbine or wind energy  
14 facility shall be responsible for the decommissioning of such wind  
15 turbine or wind energy facility and for all costs associated with  
16 the decommissioning of such wind turbine or wind energy facility at  
17 the conclusion of the wind turbine or wind energy system's useful  
18 life.

19 C. The decommissioning of a wind turbine or wind energy  
20 facility shall commence within six (6) months of the end of the wind  
21 turbine or wind energy facility's useful life. Decommissioning  
22 shall be completed within eighteen (18) months of the end of the  
23 wind turbine or wind energy facility's useful life, subject to the  
24

1 requirements of this act or as otherwise provided for in subsection  
2 D of this section.

3 D. The owner or operator of a wind turbine or wind energy  
4 facility may rebut the presumption of the conclusion of the useful  
5 life by submitting a plan to the Corporation Commission clearly  
6 outlining the owner or operator's steps and schedule for returning  
7 the wind turbine or wind energy facility to service. The Commission  
8 must find the plan to be feasible and commercially reasonable before  
9 approving the plan. The Commission may require the posting of an  
10 additional decommissioning deposit as a condition of approving the  
11 plan.

12 SECTION 6. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 160.16 of Title 17, unless there  
14 is created a duplication in numbering, reads as follows:

15 A. The decommissioning of a wind turbine or wind energy  
16 facility shall include those activities necessary to return the  
17 property to a condition as close to the original condition of the  
18 property as possible. Such activities shall include, but are not  
19 limited to:

20 1. Dismantling and removal of all towers, wind turbines,  
21 generators, transformers, and overhead cables;

22 2. Removal of underground cables, foundations, buildings, and  
23 ancillary equipment to a depth of forty-eight (48) inches;

24

1           3. Removal of surface road material and restoration of the  
2 roads and turbine sites to substantially the same physical condition  
3 that existed immediately before construction of the wind turbine or  
4 wind energy facility;

5           4. Restoration and reclamation of the site to the same general  
6 topography that existed prior to the beginning of the construction  
7 of wind turbine or wind energy facility and with topsoil spread over  
8 the disturbed areas at a depth similar to that in existence prior to  
9 the disturbance;

10          5. Agricultural areas shall be decompacted to a depth of at  
11 least eighteen (18) inches with a deep ripper or heavy-duty chisel  
12 plow. In areas where topsoil is stripped, soil decompaction shall  
13 be conducted prior to topsoil replacement;

14          6. Subsoil compaction shall be tested using an appropriate soil  
15 penetrometer or other soil compaction measuring device. Compaction  
16 tests will be made for each soil type identified on the affected  
17 agricultural fields. The subsoil compaction test results within the  
18 affected area will be compared with those of the adjacent unaffected  
19 portion of the site. Where representative subsoil density of the  
20 affected area exceeds the representative subsoil density of the  
21 unaffected areas, additional shattering of the soil profile will be  
22 performed using the appropriate equipment. Deep shattering shall be  
23 applied during periods of relatively low soil moisture to ensure the  
24 desired mitigation and to prevent additional subsoil compaction.

1 Oversized stone or rock material which is uplifted to the surface as  
2 a result of the deep shattering shall be removed;

3 7. Areas disturbed by the construction of the facility and  
4 decommissioning activities must be graded, topsoiled, and reseeded  
5 according to United States Department of Agriculture (USDA) Natural  
6 Resource Conservation Service technical guide recommendations or  
7 other agency recommendations, unless the landowner requests in  
8 writing that the access roads or other land surface areas be  
9 retained;

10 8. All debris shall be removed from the site; and

11 9. The owner or operator of the wind turbine or wind energy  
12 facility will conduct a monitoring and remediation phase for two (2)  
13 years following the completion of the decommissioning activities,  
14 subject to the preapproval of the site owner. Prior to the  
15 completion of decommissioning activities, the owner or operator  
16 shall address the following items:

17 a. general conditions to be monitored include topsoil  
18 thickness, trench settling, crop production, drainage  
19 and repair of severed fences, etc.,

20 b. topsoil deficiency and trench settling shall be  
21 mitigated with imported topsoil that is consistent  
22 with the quality of topsoil on the affected site.

23 Excessive amounts of rock and oversized stone material  
24 will be determined by a visual inspection of disturbed

1 areas as compared to portions of the same field  
2 located outside the construction area. All excess  
3 rocks and large stones shall be removed and disposed  
4 of by the owner or operator of the wind turbine or  
5 wind energy facility, and

6 c. when the subsequent crop productivity within affected  
7 areas is less than that of the adjacent unaffected  
8 agricultural land, the owner or operator of the wind  
9 turbine or wind energy facility, Corporation  
10 Commission, and the site owner shall jointly determine  
11 the appropriate rehabilitation measures to be  
12 implemented.

13 B. The Corporation Commission and the Oklahoma Department of  
14 Agriculture, Food, and Forestry are authorized to promulgate rules  
15 as necessary to implement the provisions of this section.

16 C. The Corporation Commission is authorized to employ  
17 inspectors to oversee the decommissioning of wind turbines and wind  
18 energy systems and to verify the proper completion of such  
19 decommissioning activities. Compensation for such inspectors shall  
20 be paid from monies collected in the revolving fund created by this  
21 act and as otherwise prescribed by this act.

22 SECTION 7. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 160.17 of Title 17, unless there  
24 is created a duplication in numbering, reads as follows:

1           A. There is hereby created within the Corporation Commission  
2 the "Oklahoma Wind Turbine Decommissioning Indemnity Program Fund".  
3 The Commission is authorized to employ an Administrator to  
4 administer the Oklahoma Wind Turbine Decommissioning Indemnity  
5 Program Fund as provided in this act, or the Commission may assign  
6 responsibility for such administration to an existing Commission  
7 employee. The compensation for the Administrator shall be paid from  
8 monies collected in the fund created by this act.

9           B. The monies deposited in the Oklahoma Wind Turbine  
10 Decommissioning Indemnity Program Fund shall at no time become  
11 monies of the state and shall not become part of the general budget  
12 of the Corporation Commission or any other state agency. Except as  
13 otherwise authorized by the Oklahoma Wind Turbine Decommissioning  
14 Indemnity Program, no monies from the Oklahoma Wind Turbine  
15 Decommissioning Indemnity Program Fund shall be transferred for any  
16 purpose to any other state agency or any account of the Commission  
17 or be used for the purpose of contracting with any other state  
18 agency or reimbursing any other state agency for any expense.

19           C. No monies from the Oklahoma Wind Turbine Decommissioning  
20 Indemnity Program Fund shall be used to pay or reimburse the  
21 Commission for the salary of any employee, except for the  
22 decommissioning inspectors and the administrator, as authorized by  
23 this act, while such employee is performing work involved in the  
24 administration of activities pursuant to the Oklahoma Wind Turbine

1 Decommissioning Indemnity Program. The Oklahoma Wind Turbine  
2 Decommissioning Indemnity Program Fund shall pay for all costs  
3 associated with administering the Oklahoma Wind Turbine  
4 Decommissioning Indemnity Program, including, but not limited to,  
5 automobile and travel costs, computer software and equipment, the  
6 cost of decommissioning activities undertaken by the fund pursuant  
7 to Section 9 of this act, and other costs incurred in administering  
8 the Oklahoma Wind Turbine Decommissioning Indemnity Program.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 160.18 of Title 17, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. The requirements of this section shall apply to the owner or  
13 operator of any wind turbine construction which commences on or  
14 after June 1, 2011. The owner or operator of any turbine  
15 constructed before such date shall be allowed to opt into the  
16 provisions of the Oklahoma Wind Turbine Decommissioning Indemnity  
17 Program Fund by complying with the requirements of this section.

18 B. The owner or operator of a wind turbine or wind energy  
19 facility shall deposit with the Oklahoma Wind Turbine  
20 Decommissioning Indemnity Program Fund a decommissioning deposit for  
21 each turbine owned or operated. Such deposit shall be in the amount  
22 specified below:

23 1. If the deposit is made on or before the commercial  
24 generation date, Seventy Thousand Dollars (\$70,000.00) per turbine;

1        2. If the deposit is made after the commercial generation date  
2 but on or before the fifth anniversary of the commercial generation  
3 date, Eighty-five Thousand Dollars (\$85,000.00) per turbine;

4        3. If the deposit is made after the fifth anniversary of the  
5 commercial generation date, One Hundred Fifteen Thousand Dollars  
6 (\$115,000.00) per turbine. Any turbine construction which commences  
7 on or after January 1, 2011, must make its decommissioning deposit  
8 on or before the tenth anniversary of the turbine's commercial  
9 generation date;

10       4. In lieu of a deposit as provided by this section, the owner  
11 or operator may opt to pay a fee of six point three hundredths of a  
12 cent per kilowatt-hour of power (\$0.00063/kWh) generated by each  
13 turbine. Such fee shall be remitted to the Oklahoma Wind Turbine  
14 Decommissioning Indemnity Program Fund commencing on the one-month  
15 anniversary of the commercial generation date and shall be remitted  
16 annually thereafter on the anniversary of the commercial generation  
17 date. Each such remittance shall be accompanied by a statement  
18 showing the gross electrical generation of the turbine or turbines  
19 for which the fee is remitted;

20       5. If the owner or operator of a wind turbine or wind energy  
21 facility opts into the provisions of this section, the administrator  
22 shall adjust the deposit amounts required in this section by taking  
23 into account the estimated remaining useful life of the wind turbine  
24 or wind energy facility in question; and

1           6. The administrator shall review the deposits required by this  
2 section on an annual basis, taking into account such factors as  
3 prevailing interest and inflation rates and research-based  
4 information regarding decommissioning costs. The administrator may  
5 adjust the deposits required in this section; however, in no  
6 circumstance shall the required deposits be reduced below the  
7 amounts specified in this section.

8           C. The owner or operator of each wind turbine or wind energy  
9 facility subject to this section shall, on or before the commercial  
10 generation date, submit to the administrator a decommissioning plan  
11 that shall set forth the anticipated useful life of the wind turbine  
12 or wind energy facility, a detailed plan for the activities that  
13 will be undertaken to satisfy the decommissioning requirements set  
14 forth in Section 6 of this act, and an objectively verifiable  
15 estimate of the decommissioning costs for the wind turbine or wind  
16 energy facility.

17           D. Each decommissioning plan shall be examined by the  
18 administrator. If the administrator determines that the  
19 decommissioning plan indicates that the decommissioning costs for a  
20 wind turbine or wind energy facility would exceed the  
21 decommissioning deposit, the administrator may require an additional  
22 deposit sufficient to cover such decommissioning costs.

23           E. Upon the successful completion of the decommissioning of the  
24 wind turbine or wind energy facility pursuant to this act, the

1 decommissioning deposit shall be returned to the owner or operator.  
2 Upon successful completion of the monitoring and remediation phase  
3 of the decommissioning activities, the interest accrued on the  
4 decommissioning deposit shall be returned to the owner or operator;  
5 however, in no case shall such interest exceed three percent (3%) on  
6 an annualized basis.

7 F. If a wind turbine or wind energy facility is sold, leased,  
8 or otherwise transferred to another party other than the owner or  
9 operator that filed the decommissioning deposit, such  
10 decommissioning deposit and interest accrued thereon shall not be  
11 returned to such owner or operator unless and until the new owner or  
12 operator shall have made the necessary deposit or deposits for the  
13 wind turbine or wind energy facility. Alternatively, a  
14 decommissioning deposit may be transferred upon written notice to  
15 the administrator of the transfer of the wind turbine or wind energy  
16 facility and a statement from the new owner or operator that it will  
17 assume responsibility for the decommissioning of the wind turbine or  
18 wind energy facility in question.

19 SECTION 9. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 160.19 of Title 17, unless there  
21 is created a duplication in numbering, reads as follows:

22 A. In the event that the decommissioning activities are not  
23 complete pursuant to the requirements of Section 6 of this act, the  
24 decommissioning deposit and any interest accrued thereon shall be

1 forfeited to the Oklahoma Wind Turbine Decommissioning Indemnity  
2 Fund.

3 B. If an owner or operator has failed complete the  
4 decommissioning activities pursuant to the requirements of Section 6  
5 of this act, the administrator is authorized to contract for the  
6 services necessary to complete such decommissioning activities using  
7 funds from the Oklahoma Wind Turbine Decommissioning Indemnity  
8 Program Fund.

9 C. In the event that the cost of the decommissioning activities  
10 exceeds the decommissioning deposit posted by the owner or operator  
11 of the wind turbine or wind energy facility in question, the  
12 Oklahoma Wind Turbine Decommissioning Indemnity Program Fund shall  
13 have a claim against such owner or operator for any such remaining  
14 amount.

15 D. In the event that the Administrator must pursue a claim  
16 pursuant to subsection C of this section, the Oklahoma Wind Turbine  
17 Decommissioning Indemnity Program Fund shall be entitled to  
18 reimbursement of any expenses, attorney fees, and other costs from  
19 the owner or operator.

20 SECTION 10. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 160.20 of Title 17, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. The owner or operator of any wind turbine or wind energy  
24 facility shall provide a statement accompanying any payment made to

1 a landowner in consideration of the use of the landowner's property  
2 to generate electrical energy from the conversion of wind energy.  
3 Such statement shall provide, at a minimum, the following  
4 information:

5 1. The legal description of the property where the wind energy  
6 facilities in question are located;

7 2. A designation that allows the landowner to readily identify  
8 the wind turbine or turbines or other portion of the wind energy  
9 facility serving as the basis for the payment;

10 3. The fractional interest of the landowner in the property, if  
11 less than fee simple absolute;

12 4. The total amount of electrical power generated by each wind  
13 turbine located on the landowner's property, which is the gross  
14 generation, expressed in kilowatt-hours (kWh);

15 5. The net amount of electrical power sold from each turbine  
16 located on the landowner's property, which is the net generation,  
17 expressed in kilowatt-hours (kWh);

18 6. A detailed statement of the electrical losses that account  
19 for the difference between the gross generation and the net  
20 generation of the wind turbine or turbines located on the  
21 landowner's property, with any references to amounts of power  
22 expressed in kilowatt hours (kWh);

23 7. The gross sales price received by the owner or operator for  
24 electrical power sold from the wind turbines located on the

1 landowner's property, expressed in dollars per kilowatt hour  
2 (\$/kWh);

3 8. The value of any renewable energy credits, carbon credits,  
4 or any other environmental attributes of the electrical power  
5 generated by the wind turbine or wind energy facility that are or  
6 may be sold or monetized by the owner or operator. Such values  
7 shall be expressed both on a per-turbine basis in dollars per  
8 kilowatt hour (\$/kWh);

9 9. A detailed itemization of any taxes that were deducted from  
10 the payment made to the landowner, expressed in dollars per kilowatt  
11 hour (\$/kWh);

12 10. A detailed itemization of any other deductions from the  
13 payment made to the owner, expressed in dollars per kilowatt hour  
14 (\$/kWh); and

15 11. Any other information reasonably necessary to provide the  
16 landowner an understanding of the basis for the landowner's payment  
17 and a means of confirming its accuracy.

18 B. In the event that the owner or operator of the wind turbines  
19 or wind energy facility sells its electrical power through an  
20 affiliate or other entity, the owner or operator shall remain  
21 responsible for obtaining the information necessary to provide the  
22 statement set forth in subsection A of this section.

23  
24

1           SECTION 11.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 160.21 of Title 17, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. Any landowner who has, through a lease, easement, or other  
5 arrangement, allowed a wind turbine or any portion of a wind energy  
6 facility to be placed on the landowner's property shall have the  
7 right to audit the records of the owner or operator of the wind  
8 turbine or wind energy facility for the purposes of confirming the  
9 accuracy of any payments made or due to be made to the landowner.

10          B. The owner or operator of any wind turbine or wind energy  
11 facility, any portion of which is located in this state, shall  
12 maintain within the state such records, documents, data, and other  
13 information, or copies thereof, as are necessary for a landowner to  
14 conduct the audit specified in subsection A of this section. Such  
15 records shall be made available in a location and manner that  
16 affords a landowner reasonable access to such records during normal  
17 business hours.

18          C. Should a landowner discover that the payments made to him or  
19 her by the owner or operator are deficient by an amount of three  
20 percent (3%) or more relative to the actual amount that should have  
21 been paid, the landowner shall have a claim against the owner or  
22 operator for the deficiency and for the reasonable costs incurred by  
23 the landowner in conducting the audit. Such costs shall include,  
24

1 but are not limited to, mileage, copying costs, time, and  
2 accounting, auditing, and/or legal services.

3 SECTION 12. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 160.22 of Title 17, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. The owner or operator of any wind turbine or wind energy  
7 facility shall report to the Corporation Commission the power  
8 generated from the wind turbine or wind energy facility, the  
9 nameplate capacity of the wind turbine or wind energy facility, and  
10 the location of the wind turbine or wind energy facility.

11 B. In the event that a wind energy facility contains wind  
12 turbines with different nameplate capacities, the information  
13 required in subsection A of this section shall be separated by  
14 generation from each nameplate capacity.

15 C. The information required by this section shall be reported  
16 on a calendar-month basis, with the information due on the last day  
17 of the immediately following calendar month.

18 SECTION 13. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 160.23 of Title 17, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Prior to commencing construction of a wind turbine or wind  
22 energy facility, the owner or operator of a wind turbine or wind  
23 energy facility shall obtain and keep in effect a broad-form,  
24 comprehensive general liability insurance policy with a limit of no

1 less than Five Million Dollars (\$5,000,000.00) of combined single-  
2 limit liability coverage per occurrence, accident or incident, with  
3 a commercially reasonable deductible.

4 B. The owner or operator shall cause the owner of the land  
5 where the wind turbine or wind energy facility is located to be  
6 named as an additional insured in such policy.

7 C. The owner or operator shall deliver to the landowner a  
8 certificate of insurance evidencing the policy, which certificate  
9 shall provide that:

10 1. The landowner shall be given at least thirty (30) days'  
11 prior notice of any modification, cancellation or termination of  
12 such insurance; and

13 2. The insurer waives all rights of subrogation against  
14 landowner in connection with any loss or damage covered by such  
15 policy.

16 SECTION 14. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 160.24 of Title 17, unless there  
18 is created a duplication in numbering, reads as follows:

19 There is hereby created in the State Treasury a revolving fund  
20 for the Corporation Commission to be designated the "Oklahoma Wind  
21 Turbine Decommissioning Indemnity Program Revolving Fund". The fund  
22 shall be a continuing fund, not subject to fiscal year limitations,  
23 and shall consist of all monies received by the Corporation  
24 Commission from monies collected pursuant to the provisions of the

1 Oklahoma Wind Energy Development Act. All monies accruing to the  
2 credit of the fund are hereby appropriated and may be budgeted and  
3 expended by the Corporation Commission for the purpose of regulating  
4 decommissioning of wind energy facilities and associated costs as  
5 authorized by the Oklahoma Wind Energy Development Act.

6 Expenditures from the fund shall be made upon warrants issued by the  
7 State Treasurer against claims filed as prescribed by law with the  
8 Director of State Finance for approval and payment.

9 SECTION 15. NEW LAW A new section of law not to be  
10 codified in the Oklahoma Statutes reads as follows:

11 The Corporation Commission or any other state agency affected by  
12 the requirements of this act are authorized to promulgate rules as  
13 necessary to implement the provisions of this act.

14 SECTION 16. This act shall become effective July 1, 2010.

15 SECTION 17. It being immediately necessary for the preservation  
16 of the public peace, health and safety, an emergency is hereby  
17 declared to exist, by reason whereof this act shall take effect and  
18 be in full force from and after its passage and approval.

19

20 52-2-2579 MJM 2/3/2010 8:02:55 PM

21

22

23

24