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§ 173.21 Notice to vacate.

A permittee shall within 10 days after notification in writing of the cancellation of his permit by the Secretary, vacate the premises covered by the said permit. Any person occupying lands dealt with in the act of April 4, 1938 (52 Stat. 193) without an approved permit or lease shall be notified in writing by the project engineer of the requirements of this part and that for the failure of such person to comply with these requirements and receive a permit or lease within 60 days after receipt of the written notice shall constitute a willful violation of this part, and the project engineer shall submit promptly to the Commissioner of Indian Affairs a detailed report concerning the case, together with recommendations looking to the taking of appropriate legal action to remove such person from the area and to the collection of such funds to compensate for any use made of the property or damages suffered thereto.

§ 173.22 Disposition of revenue.

Funds derived from concessions or leases under this part except those so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be available for expenditure under existing law in the operation and maintenance of the irrigation project on which collected and as provided for in part 161 of this chapter. Funds so derived from Indian tribal property withdrawn for irrigation purposes and for which the tribe has not been compensated, shall be deposited to the credit of the proper tribe.

§ 173.23 Organized tribes.

Concessions and leases on tribal lands withdrawn or reserved for the purposes specified in the act of April 4, 1938 (52 Stat. 193) and dealt with in this part, of any Indian tribe organized under section 16 of the act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476) for which the tribe has not been compensated shall be made by the organized tribe pursuant to its constitution or charter: *Provided*, No lease or concession so made shall be inconsistent with the primary purpose for which the lands were reserved or withdrawn.

PART 175—INDIAN ELECTRIC POWER UTILITIES

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AUTHORITY: 5 U.S.C. 301; sec. 2, 49 Stat. 1039–1040; 54 Stat. 422; sec. 5, 43 Stat. 475–476; 45 Stat. 210–211; and sec. 7, 62 Stat. 273.

SOURCE: 56 FR 15136, Apr. 15, 1991, unless otherwise noted.

Subpart A—General Provisions

§ 175.1 Definitions.

Appellant means any person who files an appeal under this part.

Area Director means the Bureau of Indian Affairs official in charge of a designated Bureau of Indian Affairs Area, or an authorized delegate.

Customer means any individual, business, or government entity which is provided, or which seeks to have provided, services of the utility.

Customer service means the assistance or service provided to customers, other than the actual delivery of electric power or energy, including but not limited to such items as: Line extension, system upgrade, meter testing, connections or disconnection, special meter-reading, or other assistance or service as provided in the operations manual.

Electric power utility or Utility means that program administered by the Bureau of Indian Affairs which provides for the marketing of electric power or energy.

Electric service means the delivery of electric energy or power by the utility to the point of delivery pursuant to a service agreement or special contract. The requirements for such delivery are set forth in the operations manual.

Officer-in-Charge means the individual designated by the Area Director as the official having day-to-day authority and responsibility for administering the utility, consistent with this part.

Operations manual means the utility's written compilation of its procedures and practices which govern service provided by the utility.

Power rates means the charges established in a rate schedule(s) for electric service provided to a customer.

Service means electric service and customer service provided by the utility.

Service agreement means the written form provided by the utility which constitutes a binding agreement between the customer and the utility for service except for service provided under a special contract.

Service fees means the charge for providing administrative or customer service to customers, prospective customers, and other entities having business relationships with the utility.

Special contract means a written agreement between the utility and a customer for special conditions of service. A special contract may include, but is not limited to, such items as: Street or area lights, traffic lights, telephone booths, irrigation pumping, unmetered services, system extensions and extended payment agreements.

Utility office(s) means the current or future facility or facilities of the utility which are used for conducting general business with customers.

§ 175.2 Purpose.

The purpose of this part is to regulate the electric power utilities administered by the Bureau of Indian Affairs.

§ 175.3 Compliance.

All utility customers and the utilities are bound by the rule in this part.

§ 175.4 Authority of area director.

The Area Director may delegate authority under this part to the Officer-in-Charge except for the authority to set rates as described in §§ 175.10 through 175.13.

§ 175.5 Operations manual.

(a) The Area Director shall establish an operations manual for the administration of the utility, consistent with this part and all applicable laws and regulations. The Area Director shall amend the operations manual as needed.

(b) The public shall be notified by the Area Director of a proposed action to establish or amend the operations manual. Notices of the proposed action shall be published in local newspaper(s) of general circulation, posted at the utility office(s), and provided by such other means, if any, as determined by the Area Director. The notice shall contain: A brief description of the proposed action; the effective date; the name, address, and telephone number for addressing comments and inquiries; and the period of time in which comments will be received. Notices shall be published and posted at least 30 days before the scheduled effective date of the operations manual, or amendments thereto.

(c) After giving consideration to all comments received, the Area Director shall establish or amend the operations manual, as appropriate. A notice of the Area Director's decision and the basis for the decision shall be published and posted in the same manner as the previous notices.

§ 175.6 Information collection.

The information collection requirements contained in § 175.22 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1076–0021. This information is being collected to provide electric power service to customers. Response to this request is ''required to obtain a benefit.'' Public reporting for this information collection is estimated to average .5 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the information collection. Direct comments regarding the burden estimate or any other aspect of this information collection to the Bureau of Indian Affairs, Information Collection Clearance Officer, room 337–SIB, 1849 C Street, NW., Washington, DC 20240; and the Office of Information and Regulatory Affairs, Project 1076–0021, Office of Management and Budget, Washington, DC 20502.

Subpart B—Service Fees, Electric Power Rates and Revenues

§ 175.10 Revenues collected from power operations.

The Area Director shall set service fees and electric power rates in accordance with the procedures in §§ 175.11 and 175.12 to generate power revenue.

(a) *Revenues.* Revenues collected from power operations shall be administered for the following purposes, as provided in the Act of August 7, 1946 (60 Stat. 895), as amended by the Act of August 31, 1951 (65 Stat. 254):

(1) Payment of the expenses of operating and maintaining the utility;

(2) Creation and maintenance of reserve Funds to be available for making repairs and replacements to, defraying emergency expenses for, and insuring continuous operation of the utility;

(3) Amortization, in accordance with repayment provisions of the applicable statutes or contracts, of construction costs allocated to be returned from power revenues; and

(4) Payment of other expenses and obligations chargeable to power revenues to the extent required or permitted by law.

(b) *Rate and fee reviews.* Rates and fees shall be reviewed at least annually to determine if project revenues are sufficient to meet the requirements set forth in paragraph (a) of this section. The review process shall be as prescribed by the Area Director.

§ 175.11 Procedures for setting service fees.

The Area Director shall establish, and amend as needed, service fees to cover the expense of customer service. Service fees shall be set by unilateral action of the Area Director and remain in effect until amended by the Area Director pursuant to this section. At least 30 days prior to the effective date, a schedule of the service fees, together with the effective date, shall be published in local newspaper(s) of general circulation and posted in the utility office(s). The Area Director's decision shall be final for the Department of the Interior.

§ 175.12 Procedures for adjusting electric power rates except for adjustments due to changes in the cost of purchased power or energy.

Except for adjustments to rates due to changes in the cost of purchased power or energy, the Area Director shall adjust electric power rates according to the following procedures:

(a) Whenever the review described in § 175.10(b) of this part indicates that an adjustment in rates may be necessary for reasons other than a change in cost of purchased power or energy, the Area Director shall direct further studies to determine whether a rate adjustment is necessary and, if indicated, prepare rate schedules.

(b) Upon completion of the rate studies, and where a rate adjustment has been determined necessary, the Area Director shall conduct public information meetings as follows:

(1) Notices of public meetings shall be published in local newspapers of general circulation, posted at the utility office(s), and provided by such other means, if any, as determined by the Area Director. The notice shall provide: The date, time, and place of the scheduled meeting; a brief description of the action; the name, the address, and the telephone number for addressing comments and inquiries; and the period of time in which comments will be received. Notices shall be published and posted at least 15 days before the scheduled date of the meeting.

(2) Written and oral statements shall be received at the public meetings. The record of the public meeting shall remain open for the filing of written statements for five days following the meeting.

(c) After giving consideration to all written and oral statements, the Area Director shall make a decision about a rate adjustment. A notice of the Area Director's decision, the basis for the decision, and the adjusted rate schedule(s), if any, shall be published and posted in the same manner as the previous notices of public meetings.

(d) Rates shall remain in effect until further adjustments are approved by the Area Director pursuant to this part.

§ 175.13 Procedures for adjusting electric power rates to reflect changes in the cost of purchased power or energy.

Whenever the cost of purchased power or energy changes, the effect of the change on the cost of service shall be determined and the Area Director shall adjust the power rates accordingly. Rate adjustments due to the change in cost of purchased power or energy shall become effective upon the unilateral action of the Area Director and shall remain in effect until amended by the Area Director pursuant to this section. A notice of the rate adjustment, the basis for the adjustment, the rate schedule(s) shall be published and posted in the same manner as described in § 175.12(c) of this part. The Area Director's decision shall be final for the Department of the Interior.

Subpart C—Utility Service Administration

§ 175.20 Gratuities.

All employees of the utility are forbidden to accept from a customer any personal compensation or gratuity rendered related to employment by the utility.

§ 175.21 Discontinuance of service.

Failure of customer(s) to comply with utility requirements as set forth in this part and the operations manual may result in discontinuance of service. The procedure(s) for discontinuance of service shall be set forth in the operations manual.

§ 175.22 Requirements for receiving electrical service.

In addition to the other requirements of this part, the customer, in order to receive electrical service, shall enter into a written service agreement or special contract for electrical power services.

§ 175.23 Customer responsibilities.

The customer(s) of a utility subject to this part shall:

(a) Comply with the National Electrical Manufacturers Association Standards and/or the National Electrical Code of the National Board of Fire Underwriters for Electric Wiring and Apparatus as they apply to the installation and operation of customer-owned equipment;

(b) Be responsible for payment of all financial obligations resulting from receiving utility service;

(c) Comply with additional requirements as further defined in the operations manual;

(d) Not operate or handle the utility's facilities without the express permission of the utility;

(e) Not allow the unauthorized-use of electricity; and

(f) Not install or utilize equipment which will adversely affect the utility system or other customers of the utility.

§ 175.24 Utility responsibilities.

A utility subject to this part shall:

(a) Endeavor to provide safe and reliable energy to its customers. The specific types of service and limitations shall be further defined in the operations manual;

(b) Construct and operate facilities in accordance with accepted industry practice;

(c) Exercise reasonable care in protecting customer-owned equipment and property;

(d) Comply with additional requirements as further defined in the operations manual;

(e) Read meters or authorize the customer(s) to read meters at intervals prescribed in the operations manual, service agreement, or special contract, except in those situations where the meter cannot be read due to conditions described in the operations manual;

(f) Not operate or handle customer-owned equipment without the express permission of the customer, except to eliminate what, in the judgment of the utility, is an unsafe condition; and

(g) Not allow the unauthorized use of electricity.

Subpart D—Billing, Payments, and Collections

§175.30 Billing.

(a) *Metered customers.* The utility shall render bills at monthly intervals unless otherwise provided in special contracts. Bills shall be based on the applicable rate schedule(s). Unless otherwise determined, the amount of energy and/or power demand used by the customer shall be as determined from the register on the utility's meter at the customer's point of delivery. A reasonable estimate of the amount of energy and/or power demand may be made by the utility in the event a meter is found with the seal broken, the utility's meter fails, utility personnel are unable to obtain actual meter registrations, or as otherwise agreed by the customer and the utility. Estimates shall be based on the pattern of the customer's prior consumption, or on an estimate of the customer's electric load where no billing history exists.

(b) *Unmetered customers.* Bills shall be determined and rendered as provided in the customer's special contract.

(c) *Service fee billing.* The utility shall render service fee bills to the customer(s) as a special billing.

§ 175.31 Methods and terms of payment.

Payments shall be made in person or by mail to the utility's office designated in the operations manual. The utility may refuse, for cause, to accept personal checks for payment of bills.

§ 175.32 Collections.

The utility shall attempt collection on checks returned by the customer's bank due to insufficient funds or other cause. An administrative fee shall be charged for each collection action taken by the utility other than court proceedings. An unredeemed check shall cause the customer's account to become delinquent, which may be cause for discontinuance of service. Only legal tender, a cashier's check, or a money order shall be accepted by the utility to cover an unredeemed check and associated charges.

Subpart E—System Extensions and Upgrades

§ 175.40 Financing of extensions and upgrades.

(a) The utility may extend or upgrade its electric system to serve additional loads (new or increased loads).

(b) If funds are not available, but the construction would not be adverse to the interests of the utility, a customer may contract with the utility to finance all necessary construction.

(1) A customer may be allowed to furnish required material or equipment for an extension or upgrade or to install such items or to pay the utility for such installation. Any items furnished or construction performed by the customer shall comply with the applicable plans and specifications approved by the utility.

(2) The utility may arrange to refund all or part of a customer's payment of construction costs if additional customers are later served by the same extension or if the Area Director determines that the service will provide substantial economic benefits to the utility. All arrangements for refunds shall be stipulated in a special contract.

Subpart F—Rights-of-Way

§ 175.50 Obtaining rights-of-way.

Where there is no existing right(s)-of-way for the utility's facilities, the customer shall be responsible for obtaining all rights-of-way necessary to the furnishing of service.

§ 175.51 Ownership.

All rights-of-way, material, or equipment furnished and/or installed by a customer pursuant to this part shall be and remain the property of the United States.

Subpart G—Appeals

§ 175.60 Appeals to the area director.

(a) Any person adversely affected by a decision made under this part by a person under the authority of an Area Director may file a notice of appeal with the Area Director within 30 days of the personal delivery or mailing of the decision. The notice of appeal shall be in writing and shall clearly identify the decision being appealed. No extension of time shall be granted for filing a notice of appeal.

(b) Within 30 days after a notice of appeal has been filed, the appellant shall file a statement of reason(s) with the Area Director. The statement of reason(s) shall explain why the appellant believes the decision being appealed is in error, and shall include any argument(s) that the appellant wishes to make and any supporting document(s). The statement of reason(s) may be filed at the same time as the notice of appeal. If no statement of reason(s) is filed, the Area Director may summarily dismiss the appeal.

(c) Documents are properly filed with the Area Director when they are received in the facility officially designated for receipt of mail addressed to the Area Director, or in the immediate office of the Area Director.

(d) Within 30 days of filing of the statement of reason(s), the Area Director shall:

(1) Render a written decision on the appeal, or

(2) Refer the appeal to the Office of Hearings and Appeals Board of Indian Appeals for decision.

(e) Where the Area Director has not rendered a decision with 30 days of filing of the statement of reasons, the appellant may file an appeal with the Office of Hearings and Appeals Board of Indian Appeals pursuant to § 175.61.

§ 175.61 Appeals to the Interior Board of Indian Appeals.

(a) An Area Director's decision under this part, except a decision under § 175.11 or 175.13, may be appealed to the Office of Hearings and Appeals Board of Indian Appeals pursuant to the provisions of 43 CFR part 4, subpart D, except that a notice of appeal from a decision under § 175.12 shall be filed within 30 days of publication of the decision. The address for the Interior Board of Indian Appeals shall be included in the operations manual.

(b) Where the Area Director determines to refer an appeal to the Office of Hearings and Appeals Board of Indian Appeals, in lieu of deciding the appeal, he/she shall be responsible for making the referral.

(c) If no appeal is timely filed with the Office of Hearings and Appeals Board of Indian Appeals, the Area Director's decision shall be final for the Department of the Interior.

§ 175.62 Utility actions pending the appeal process.

Pending an appeal, utility actions relating to the subject of the appeal shall be as follows:

(a) If the appeal involves discontinuance of service, the utility is not required to resume such service during the appeal process unless the customer meets the utility's requirements.

(b) If the appeal involves the amount of a bill and:

(1) The customer has paid the bill, the customer shall be deemed to have paid the bill under protest until the final decision has been rendered on the appeal; or

(2) The customer has not paid the bill and the final decision rendered in the appeal requires payment of the bill, the bill shall be handled as a delinquent account and the amount of the bill shall be subject to interest, penalties, and administrative costs pursuant to section 3 of the Federal Claims Collection Act of 1966, As amended, 31 U.S.C. 3717.

(c) If the appeal involves an electric power rate, the rate shall be implemented and remain in effect subject to the final decision on the appeal.

PART 179—LIFE ESTATES AND FUTURE INTERESTS

Sec.
179.1 Purpose, scope, and information collection.
179.2 Definitions.
179.3 Application of State law.
179.4 Distribution of principal and income.
179.5 Value of life estates and remainders.
179.6 Notice of termination of life estate.

AUTHORITY: 86 Stat. 530; 86 Stat. 744; 94 Stat. 537; 96 Stat. 2515; 25 U.S.C. 2, 9, 372, 373, 487, 607, and 2201–11.

CROSS REFERENCE: For regulations pertaining to income, rents, profits, bonuses and principal from Indian lands and the recording of title documents pertaining thereto, see parts 150, Land Records and Title Documents; 152, Issuance of Patents in Fee, Certificates of Competency, Removal of Restrictions, and Sale of Certain Indian Lands; 162, Leasing and Permitting; 163, General Forest Regulations; 166, General Grazing Regulations; 169, Rights-of-Way over Indian Lands; 170, Roads of the Bureau of Indian Affairs; 212, Leasing of Allotted Lands for Mining; 213, Leasing of Restricted Lands of Members of the Five Civilized Tribes, Oklahoma, for Mining; 215, Lead and Zinc Mining Operations and Leases, Quapaw Agency.

SOURCE: 53 FR 25953, July 8, 1988, unless otherwise noted.

§ 179.1 Purpose, scope, and information collection.

(a) These regulations set forth the authorities, policy and procedures governing the administration of life estates and future interests in Indian lands by the Secretary of the Interior. These regulations do not apply to any use rights assigned by tribes, in the exercise of their jurisdiction over tribal lands, to tribal members.

(b) These regulations do not contain information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

§ 179.2 Definitions.

Agency means an Indian Agency or other field unit of the Bureau of Indian Affairs having the Indian land under its immediate jurisdiction.

Contract Bonus means cash consideration paid or agreed to be paid as incentive for execution of the contract.

Income means the rents and profits of real property and the interest on invested principal.

Indian Land means all lands held in trust by the United States for individual Indians or tribes; or all lands, titles to which are held by individual Indians or tribes, subject to Federal restrictions against alienation or encumbrance.

Principal means the corpus and capital of an estate, including any payment received for the sale or diminishment of the corpus, as opposed to the income.

Secretary means the Secretary of the Interior or authorized representative.

Superintendent means the designated officer in charge of an Agency.

§ 179.3 Application of State law.

In the absence of Federal law or Federally-approved tribal law to the contrary, the rules of life estates and future interests in the State in which the land is located shall be applied on Indian land. State procedural laws concerning the appointment and duties of private trustees shall not apply.

§ 179.4 Distribution of principal and income.

In all cases where the document creating the life estate does not specify a distribution of proceeds; or where the vested remainderman and life tenant have not entered into a written agreement approved by the Secretary providing for the distribution of proceeds; or where, by such document or agreement or by the application of State law, the open mine doctrine does not apply; the Secretary shall:

(a) Distribute all rents and profits, as income, to the life tenant.

(b) Distribute any contract bonus one-half each to the life tenant and the remainderman.

(c) In the case of mineral contracts, invest the principal, with interest income to be paid the life tenant during the life estate, except in those instances where the administrative cost of investment is disproportionately high, in which case § 179.4(d) shall apply. The principal will be distributed