

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF AN EMERGENCY
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION ADOPTING
**OAC 165:14, ELECTRIC VEHICLE
CHARGING STATIONS**

CAUSE NO. RM 202100004

PROPOSED DRAFT EMERGENCY RULES
(as of October 14, 2021)



Title 165. CORPORATION COMMISSION
CHAPTER 14. ELECTRIC VEHICLE CHARGING STATIONS

SUBCHAPTER 1. GENERAL PROVISIONS

165:14-1-1. Purpose, title, and authority

- (a) The purpose of this Chapter is to establish rules to implement and enforce requirements pertaining to electric vehicle charging stations, pursuant to Section 6509 of the Driving on Road Infrastructure with Vehicles of Electricity (DRIVE) Act of 2021 (hereinafter referred to as the "Drive Act"), 68 O.S. §§ 6501 et seq.
- (b) The Oklahoma Corporation Commission has authority to promulgate and enforce these rules pursuant to 68 O.S. § 6509.

165:14-1-3. Application of rules

- (a) This Chapter shall be read in context with any applicable:
- (1) Federal law and/or regulation;
 - (2) State law and/or regulation; and,
 - (3) Commission order and/or rule.
- (b) This Chapter shall be applicable to all public charging stations operating in the State of Oklahoma.

165:14-1-5 Definitions

In addition to the terms defined in 68 O.S. § 6502, the following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

"Commission" or "OCC" means the Oklahoma Corporation Commission.

"Consumer" means any person charging an electric vehicle at a public charging station.

"CSD" means the Oklahoma Corporation Commission's Consumer Services Division.

"Install", "installing" or "installation" means the major activities and actions required to connect, in accordance with applicable building and electrical codes, the conductors, connectors and all associated fittings, devices, power outlets or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the public charging

station.

"Maintain", "maintaining" or "maintenance" means the major activities and actions required to keep in an appropriate, safe condition and operation the conductors, connectors and all associated fittings, devices, power outlets or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the public charging station.

"NIST" means the National Institute of Standards and Technology.

"Person" means an individual, partnership, corporation, association, trust, and every other type of legal entity, including an officer or employee of the Commission.

"Repair" or "repairing" means the major activities and actions required to restore to a safe, sound condition and operation the conductors, connectors and all associated fittings, devices, power outlets or apparatuses mounted at the premises that are directly involved in delivering energy from the premises' electrical wiring to the public charging station.

165:14-1-7. Interpretation of rules

The words contained in this Chapter shall be given their ordinary and customary meanings, with technical terms and words being construed as generally understood within the electric and electric vehicle industries, except where otherwise expressly provided.

165:14-1-9. Relief from rules

Whenever compliance with any requirement of this Chapter would result in unreasonable hardship upon or excessive expense to a party or parties subject to the rules of this Chapter, the Commission may, upon application and for good cause shown, issue an order waiving or modifying the requirements of this Chapter. The Commission may grant temporary relief pending hearing.

165:14-1-11. Resale of electricity and amount charged to consumer

(a) The Commission does not consider the services provided by a charging station to be the resale of electricity subject to the rate setting authority of the Commission.

(b) A rate regulated public utility shall not, through its filed tariff, prohibit electric vehicle charging or restrict the method of sale of electric vehicle charging at a public charging station.

165:14-1-13. Public charging station is not a public utility

A public charging station is not a public utility under 17 O.S. §§ 151 et seq.

SUBCHAPTER 3. RECORDS AND REPORTING

165:14-3-1. Record keeping

(a) Each charging station operator shall:

(1) Maintain third-party testing and inspection reports for three (3) years. Each testing and inspection report shall contain:

(A) Sufficient information to identify the meter.

- (B) The date of the test.
- (C) Reading of the meter.
- (D) Results of the test.
- (E) The reason for making the test.
- (2) Retain documentation regarding the installation of a charging station for three (3) years.
- (3) Retain calibration records for the life of the meter. These records shall include the date when the meter was last calibrated and adjusted.
- (b) All records shall be kept and sorted by location.
- (c) All records included in this Section shall be provided to, or made available for inspection by the Commission upon reasonable request.

165:14-3-3. Contact information

- (a) Each charging station operator shall, within thirty (30) days after providing registration and contact information to the Oklahoma Tax Commission, provide updated contact information to the OCC.
- (b) The update shall include the name(s), physical street address(es), electronic mail address(es) and telephone number(s) of the designated individual(s), and shall be furnished applicable to each specific charging station, if different, so that the Commission will be able to reach the responsible person at any time. If this information is unavailable, the charging station operator may seek a waiver from the Commission by making the request in writing.
- (c) The contact name(s) provided pursuant to this subsection shall be the individual(s) primarily responsible for:
 - (1) Providing customer service;
 - (2) Repair and maintenance;
 - (3) Answering complaints;
 - (4) Authorizing and/or furnishing refunds to customers;
 - (5) Regulatory matters;
 - (6) Primary emergency;
 - (7) After hours emergency;
 - (8) Attorney for regulatory matters;
 - (9) Reporting requirements;
 - (10) Community liaison; and
 - (11) Engineering operations, meter tests, and repairs.
- (d) Each charging station operator shall promptly furnish such other information as the Commission may request.

165:14-3-5. Annual reporting requirements

- (a) On or before March 1 of each year, each charging station operator shall electronically submit information required by the Commission, which includes but is not limited to the following:
 - (1) The physical address for each public charging station that is owned, operated, managed, or maintained within the State of Oklahoma by the charging station operator.
 - (2) How many vehicles may be charged at each charging station at a single time.
 - (3) The load and technical specifications of the charging station.
 - (4) Confirmation of the contact information, as required by OAC 165:14-3-3.

- (5) The name, telephone number, electronic mail address, and mailing address of at least one person designated by the charging station operator to address questions pertaining to the report.
- (6) An attestation stating that all testing has been completed pursuant to the requirements in this Chapter.
- (b) One report may be submitted for multiple charging stations if the information, aside from the physical address, is the same.
- (c) No confidential information should be included in the report.

165:14-3-7. Regular reporting to the Commission

- (a) The charging station operator shall inform the Commission in writing within thirty (30) calendar days of opening and/or closing a public charging station, and shall provide the contact information, as required in OAC 165:14-3-3 at that time.
- (b) The Commission shall be notified in writing if a public charging station is closed due to maintenance and/or repairs for greater than five (5) business days.

SUBCHAPTER 5. TESTING, CALIBRATION, AND INSPECTION REPORTS

165:14-5-1. Inspections and tests

The Commission, or its authorized representative, shall be permitted to inspect and test the facilities located at any public charging station. Inspections and tests must be performed in compliance with all applicable state and federal regulations.

165:14-5-3. Charging station equipment and applicable standards

- (a) Each charging station operator shall provide and install at its own expense and shall continue to own, maintain, and operate proper and sufficient equipment for the accurate measurement of electricity delivered by each charging station.
- (b) Information shall be posted identifying voltage and amperage and any type of use, fee, or safety information related to the public charging station.
- (c) Public charging stations must be maintained in all respects, including the functioning of the equipment. A phone number, electronic mail address, or some other contact information must be provided on the charging equipment for reporting when it is not functioning, or for when other problems are encountered.
- (d) No meter shall be installed which is known to be defective, or to have incorrect constants or which has not been tested and adjusted, if necessary, in accordance with this Chapter.
- (e) All electrical equipment must meet the requirements of the most recent version of the National Fire Protection Association's NFPA 70, the National Electrical Code, and any updates thereto as it applies to wet, damp and hazardous conditions. All electrical wiring and equipment must be suitable for the locations in which it is installed, and required emergency switches must be installed and appropriately placed.
- (f) Charging station facilities exposed to traffic must be resistant to damage from the impact of a motor vehicle or be protected by suitable collision barriers.
- (g) All required markings, instructions, graduations, indications, or recorded representations and their defining figures, words, and symbols must be easily readable and of such character that they will not easily become illegible.

(h) Charging stations must be legibly and permanently marked to show the name and address of the person, firm, or corporation to whom application may be made in an emergency or for adjustment of any claim arising from failure of the device to deliver or to accurately measure the service provided.

(i) The Commission adopts, and all charging stations are required to follow, the standards in Section 3.40 of the NIST Handbook 44, as last updated in 2020, unless there exists a conflict with the statute or a provision of this Chapter.

(j) The Commission adopts, and all charging stations are required to follow, the standards in NIST Handbook 130, as last updated in 2020, unless there exists a conflict with the statute or a provision of this Chapter.

(k) The requirements of this subsection are applicable to all charging stations operating on or after July 1, 2022.

165:14-5-5. Equipment testing

(a) Each charging station operator shall own or arrange for equipment and facilities and follow test procedures necessary for testing its meters to limits of accuracy specified in this Chapter. The equipment facilities and procedures shall be available for inspection by the Commission or its authorized representative. A charging station operator may contract for testing of its meters by another charging station operator.

(b) To ensure accuracy, meters shall be tested in accordance with a testing schedule established by the charging station operator, but in no instance shall it be greater than three (3) years between tests.

SUBCHAPTER 7. CONSUMERS COMPLAINTS

165:14-7-1. Mediation

(a) Whenever there is a dispute between the charging station operator and the consumer as to the accuracy of the charging station meter, the matter may be brought by either party to the Commission's Consumer Services Division.

(b) CSD will review the matter and issue an informal review decision in writing. If it is the desire of the consumer, they may be represented by a third party, if the consumer is available for verification. If the dispute can be resolved by telephone with the party seeking review, the review decision need not be in writing unless requested by either party.

(c) If the CSD is unable to resolve the dispute to the mutual satisfaction of the parties, either party may file a Complaint with the Commission.

165:14-7-3. Meter testing on request of consumer

(a) Upon receipt by the charging station operator of a written request of a consumer, the charging station operator shall, within twenty (20) calendar days, test the accuracy of the meter. Notice of the request should be provided to CSD.

(b) No charge shall be made for a meter test requested by the consumer, unless the meter is found to test within limits of accuracy prescribed by law or the manufacturer of the equipment, in which case the charging station operator may require the consumer to pay for the cost of the test.

- (1) Prior to conducting the test requested by the consumer, the charging station operator shall provide the cost to conduct the test and provide the consumer notice that if the meter is found to test within the accuracy prescribed by law or the manufacturer of the equipment, the consumer will be required to pay the cost of the test. The consumer may withdraw the written request at any time prior to the test being conducted.
- (c) A consumer may make written request to be present when the charging station operator conducts the test on the meter and have an expert or other representative present at the time; in which case, the charging station operator shall conduct the test in the presence of the consumer or the consumer's representative.
- (d) A written report stating the name of the consumer requesting the test, the date of the request, the location of meter, the type, make, size, and serial number of the meter, the date of removal of the meter, the date tested, and the result of the test shall be supplied to such consumer within ten (10) business days after the completion of the test.
- (e) If the meter is found to test outside of the accuracy prescribed by law or the manufacturer of the equipment, the charging station operator shall refund any overcharge to the consumer.

165:14-7-5. Records of service complaints; investigations

Each charging station operator shall make a full and prompt investigation of every formal complaint made to it by its consumers, either directly, or through the Commission after the consumer or other interested party has contacted the charging station operator. It shall keep a record of all formal complaints received, which record shall show the name and address of the complainant, the date, the nature of the complaint, and the adjustment, or disposal made thereof, which record shall be retained for examination by the Commission. For purposes of this Section, a formal complaint is a written communication by a consumer or other interested party to the public charging station that prompts an investigation by the charging station operator. All records of formal complaints shall be retained for a period of at least two (2) years from the date of final disposition.

SUBCHAPTER 9. FEES AND FINES

165:14-9-1. Determining assessment of fees

- (a) If the Commission institutes a proceeding to enforce testing, calibration, and inspection report requirements, fees may be assessed upon the filing of a motion.
- (b) The Commission will make a determination of the estimated costs required to process and analyze charging station causes initiated by the Commission. These estimated costs will be the basis of the fee assessed to a charging station operator subject to this Chapter.
- (c) After notice to the charging station operator to be assessed and hearing, the Commission shall issue an order which shall include the following:
- (1) Whether or not the charging station operator will be assessed a fee(s);
 - (2) The amount of the fee(s) to be assessed; and
 - (3) The date payment(s) of the fee(s) shall be made.

165:14-9-3. Fines

(a) If a charging station operator fails to meet the requirements of this Chapter or any provision of the Drive Act, the Commission shall, following notice and a hearing, assess a fine not to exceed Five Hundred Dollars (\$500.00) per day, per violation. Each day on which a violation occurs will be deemed a separate and distinct offense.

(b) All fees, fines, or assessments collected shall be deposited into the Commission Revolving Fund.