

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

IN THE MATTER OF A PERMANENT
RULEMAKING OF THE OKLAHOMA
CORPORATION COMMISSION ADOPTING
OAC 165:14, ELECTRIC VEHICLE
CHARGING STATIONS

CAUSE NO. RM 202100005

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CORPORATION COMMISSION
OF OKLAHOMA

**PUBLIC UTILITY DIVISION'S PROPOSED DRAFT RULES
(as of January 28, 2022)**

(New Changes since January 12, 2022, are in Redline format)

**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.
- (c) This Chapter is not applicable to charging stations:
- (1) That are not available for use by the public (e.g., at a personal residence, including multifamily dwellings, workplaces, or other non-public locations).
 - (2) That dispense electrical energy at no cost to the consumer.
 - (3) Used solely for dispensing electrical energy in connection with operations in which the amount dispensed does not affect customer charges or compensation (e.g., a store provides a free charging station on its property, a paid parking lot provides a charging station for which there is no charge based on the amount of energy delivered, a car manufacturer provides free charging services for its owners, or an organization charges a monthly fee for unlimited use of its network of charging stations).

- (4) With a charging capacity of less than fifty (50) kilowatts.

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" or **"Customer"** means any person charging an electric vehicle at a public charging station.

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

"EVSE port" or **"electric vehicle supply equipment port"** means the part of charging station equipment that has the power to charge only one electric vehicle at a time even though it may have multiple connectors/plugs.

"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.

"PUD" means the Public Utility Division of the Oklahoma Corporation 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 charging of electric vehicles at a public charging station owned or operated by a person not otherwise considered to be a rate regulated public utility 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.; however, public charging stations that are owned by a public utility shall comply with the requirements of this Chapter.

SUBCHAPTER 3. RECORDS AND REPORTING

165:14-3-1. Record keeping

- (a) Each charging station operator operating a public charging station 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; and
 - (E) The reason for conducting 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 PUD upon reasonable request.

165:14-3-3. Registration and contact information

- (a) On or before January 1, 2023, or within thirty (30) days of opening a new public charging station, each ~~Each~~ charging station operator operating a public charging station shall, ~~within thirty (30) days after providing registration and contact information to the Oklahoma Tax Commission,~~ provide the following information to PUD for each public charging station:
 - (1) The station name, complete physical address, type of facility where the station is located, and if necessary, directions from the nearest intersection;
 - (2) Global positioning system ("GPS") coordinates;
 - (3) Date the station opened;
 - (4) Access days and times;
 - (5) The number of each type of EVSE port located at the charging station (e.g. Level 1, Level 2, DC fast charger);

- (6) Electric vehicle connector types usable;
 - (7) Electric vehicle charging network, if applicable; and
 - (8) How the customer is charged.
- (b) Each charging station operator shall include the name(s), mailing address(es), electronic mail address(es) and telephone number(s) of 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) Serving as primary emergency contact;
 - (7) Serving as contact for after-hours emergency(ies);
 - (8) Providing legal representation for regulatory matters;
 - (9) Reporting requirements;
 - (10) Serving as community liaison; and
 - (11) Engineering operations, meter tests, and repairs.
- (c) If the information listed in (a) or (b) is unavailable, the charging station operator may seek a waiver from the PUD Director by making the request in writing.
- (d) Any changes to the information in (a) or (b) shall be provided to PUD within thirty (30) calendar days of the change.
- (e) The contact person under (b) may be the same for one or more of the listed items and shall be furnished applicable to each specific public charging station, if different, so that the PUD will be able to reach the responsible person at any time.
- (f) Each charging station operator operating a public charging station shall promptly furnish such other information as the PUD may request.

165:14-3-5. Annual reporting requirements

- (a) On or before March 1 of each year, each charging station operator operating a public charging station shall electronically submit information required by the PUD, which includes but is not limited to the following:
- (1) Certification that the information provided under OAC 165:14-3-3(a) and (b) is accurate.
 - (2) The number of EVSE ports located at each public charging station, sorted by physical address.
 - (3) The name, telephone number, and electronic mail address of at least one person designated by the charging station operator to address questions pertaining to the report.
 - (4) A certification stating that all testing has been completed pursuant to the requirements in this Chapter.
- (b) One report may be submitted for multiple public charging stations if the information, other than the physical address and the number of EVSE ports, is the same.
- (c) No confidential information should be included in the report.

165:14-3-7. Reporting of openings and closings

- (a) The charging station operator operating a public charging station shall inform the Commission in writing within thirty (30) calendar days of opening and/or permanently closing a public charging

station.

(b) The Commission shall be notified in writing if a public charging station is closed due to maintenance and/or repairs for greater than fifteen (15) business days.

SUBCHAPTER 5. EQUIPMENT STANDARDS, 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) Public charging stations must be maintained in all respects, including the functioning of the equipment.

(b) The charging station must be legibly and permanently marked to show the name, phone number, and electronic mail address of the person to contact for emergencies, malfunctioning equipment, customer service, and for other concerns.

(c) 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 the manufacturer's requirements or industry standards.

(d) 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.

(e) Public charging station facilities must be resistant to damage from the impact of a motor vehicle or be protected by suitable collision barriers.

(f) 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.

(g) The Commission encourages all public charging stations to follow the standards in Section 3.40 of the NIST Handbook 44, and its future amendments, unless there exists a conflict with the statute or a provision of this Chapter.

(h) The Commission adopts, and all public charging stations are required to follow the Uniform Regulation for the Method of Sale of Commodities, as it pertains to retail sales of electricity sold as vehicle fuel, ~~the standards~~ in NIST Handbook 130, and its future amendments, unless there exists a conflict with the statute or a provision of this Chapter.

(i) The requirements of this Section will be enforced as follows:

(1) Beginning on January 31, 2024, for all public charging stations that began operations on or after January 31, 2024.

(2) Beginning on November 1, 2041, for all public charging stations that began operations prior to November 1, 2021.

(3) Beginning on January 31, 2028, for all public charging stations that began operations on or

after November 1, 2021, and prior to January 31, 2024.

165:14-5-5. Equipment testing

(a) Each charging station operator operating a public charging station 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 public charging station.

(b) Each charging station operator operating a public charging station shall follow test procedures necessary for testing its meters in compliance with the manufacturer's requirements or industry standards. The equipment facilities and procedures shall be available for inspection by the Commission or its authorized representative. A charging station operator operating a public charging station may contract for testing of its meters by a third party.

(c) 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. Initial certifications from the manufacturer may count toward the three (3) year certification requirement.

(d) Unless approved by the PUD Director for public interest, if charging station equipment is determined by the charging station operator or the PUD to be nonfunctional or having incorrect or inaccurate meter measurements, the equipment shall be taken out-of-service immediately. Once repairs are completed, the equipment shall be tested to confirm metered measurements and readings are within the original manufacturer's calibrations and/or specifications. Repaired equipment may be put back into service after the test results have been reported to the PUD.

~~(e) The requirements of this section will be enforced for public charging stations installed after November 1, 2021.~~

SUBCHAPTER 7. CONSUMER COMPLAINTS

165:14-7-1. Consumer services informal review

(a) Whenever there is a dispute between the charging station operator operating a public charging station and the consumer as to the accuracy of the charging station meter, the matter may be brought by either party to the Commission's CSD. A consumer may be represented by a third party, if the consumer is available for verification.

(b) CSD will review the matter and issue an informal review decision in writing. 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) During CSD's informal review, CSD may direct the charging station operator to test the accuracy of the equipment. The test shall be performed within a reasonable time and may be performed by a third party.

(1) Prior to conducting the test, 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 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.

(2) If requested in writing by the consumer, the charging station operator shall conduct the test in the presence of the consumer, the consumer's representative, and/or an expert.

(3) The charging station operator shall prepare 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 tested, and the result of the test. This report shall be provided to the consumer and CSD within ten (10) business days after the completion of the test.

(4) If the meter is found to test outside of the limits of accuracy prescribed by the manufacturer of the equipment or industry standards, the charging station operator shall refund any overcharge to the consumer.

(d) If the CSD is unable to resolve the dispute to the mutual satisfaction of the consumer or charging station operator, either may file a Consumer Services Complaint with the Commission.

165:14-7-3. Records of service complaints; investigations

Each charging station operator operating a public charging station 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. Each charging station operator operating a public charging station 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 charging station operator operating a 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. COSTS AND FINES

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

(a) If a Commission proceeding is filed to enforce testing, calibration, and inspection report requirements, costs of the proceeding may be assessed upon the filing of a motion.

(b) Pursuant to Subsection (a), the Commission will determine the estimated costs of the case. These costs will be the basis of the amount assessed to the charging station operator subject to this Chapter.

(c) After notice 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 cost;
- (2) The amount to be assessed; and
- (3) The date that the payment(s) shall be made.

165:14-9-3. Fines

(a) If a charging station operator operating a public charging station fails to meet the requirements of this Chapter or any provision of the DRIVE Act within the Commission's jurisdiction, 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 costs, fees, fines, or assessments collected shall be deposited into the Commission Revolving Fund.