

OSAGE NATION UTILITY REGULATIONS
TITLE 1. PUBLIC UTILITIES AND TELECOMMUNICATIONS
CHAPTER 1. RULES OF PRACTICE
SUBCHAPTER 1. OSAGE UTILITIES REGULATIONS
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CHAPTER 1 RULES OF PRACTICE

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101. Short Title

This Rule shall be known as the Osage Utilities Regulations (OUR).

102. Purpose and Intent

- A. The purpose of these regulations is to make available within the Osage Nation, safe, reliable, and reasonably priced public utility services, that promotes a high quality of living for the Osage People.

- B. It is the intention of the Osage Nation by virtue of its inherent sovereign powers, has the authority to assert jurisdiction over public utilities not preempted by applicable law and regulation of the federal government of the United States. Federal laws now in force regulating public utilities activity which do not preempt the Osage Nation’s jurisdiction to regulate public utilities shall have the same force and effect and be binding and obligatory upon the Osage Nation to the extent that said laws benefit and protect the desires of the Osage People and are not otherwise inconsistent with the provisions of these regulations.

103. Definitions

The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise.

“Certificate of Convenience and Necessity” Means the certificate issued by the ONUA to a provider conducting utility services within defined service areas of the Osage Nation. A Certificate of Convenience and Necessity may include or require to be filed with terms, conditions, or tariffs, and may contain terms, conditions, or tariffs found within franchise agreements

“Complaint” Means a grievance made by a customer or stake holder regarding the services, practices or conduct of a provider or the ONUA. The complaint may be either written or verbal.

“Customer” Means an individual or entity that receives utility services from a provider and represents the end-users or recipients of these essential services.

“Customer Privacy” Means provider protection of customer’s personal and sensitive information in the course of providing utility services. Customer privacy in this context is essential to safeguarding individual personal information, which may include names, addresses, contact details, social security numbers, account numbers, and any other data that can be used to identify individual customers.

“Franchise” Means a legal agreement or contract that grants a provider the right to operate within a specific geographic area or jurisdiction to supply utility services to the residents and businesses in that area. This right can come with certain conditions and obligations.

“Jurisdiction” Means the legal authority or geographic area over which a specific regulatory agency or body has the power to oversee and enforce regulations pertaining to utility services.

“License” Means the permitting allowed for the controlled provision of utility services while ensuring that providers meet specific standards and obligations set by ONUA.

“Licensee” Means an entity or organization that has been granted a license by ONUA to provide specific utility services within a designated jurisdiction or service area.

“ONUA” Means Osage Nation Utility Authority

“OUR” Means Osage Utility Regulations

“Pole Attachment” Means the physical connection or installation of equipment, wires, cables, or infrastructure on utility poles, typically owned by electric or telecommunications companies. These attachments are made by entities other than the pole owner, such as telecommunications providers, cable TV companies, or internet service providers, to support the distribution of their services.

“Person” Means any individual, organization, or legal entity that is subject to or effected by ONUA regulations.

“Provider” Means an entity or organization that supplies and delivers essential public utility services to customers.

“Public Emergency” Means unforeseen or exceptional situations that may require immediate actions. These emergencies can encompass a wide range of events or circumstances that threaten the reliable delivery of utility services or the safety and well-being of the public. These may include but are not limited to; natural disasters, man-made crisis, service interruptions, etc.

“Rates” Means the charges that providers impose on their customers for the provision of utility services. These rates are set and regulated by ONUA or other government agencies in order to ensure that they are fair, reasonable, and in the public interest.

“Rule” Means specific guidelines, requirements, or directives that govern the operations, practices, and behavior of providers and their stakeholders. These rules are designed to ensure the safe, reliable, and fair provision of utility services to customers while also protecting the interests of both the providers and the public.

“Service Area” Means a specific geographic region or area within which a provider is authorized and obligated to provide utility services.

“Tariff” Means a formal document or schedule that outlines the terms and conditions, as well as the rates and charges, associated with the provision of utility services.

“Telecommunications (Telecom)” Means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. Telecom involves the exchange of information, such as voice, video and data, using electronic devices. It's a wide term that encompasses many technologies like wireless and wired phones, fiber optics (broadband), radio, TV, the internet and other means of transmitted communication.

“Utility Services” Means the services offered by a public utility service provider including but not limited to electricity, natural gas, water, wastewater, telecommunications, sanitation, renewable energy.

“Violation” Means any breaches of OUR or standards set forth by the ONUA.

104. Establishment; Composition; Staff

The Osage Nation Utility Authority (ONUA) shall carry out the duties of regulating public utility services within the Osage Nation as an instrumentality of the Executive Branch. The establishment, composition and management of the ONUA shall be governed according to bylaws adopted by the ONUA.

105. Powers and Duties

- A. In accordance with 15 ONC § 15-105, (ONUA § Organization and General Powers), the ONUA shall have the power to perform any and all acts necessary and convenient to monitor, and regulate public utility service providers within the Osage Nation as specifically designated by, regulation, decision, order or other official pronouncement adopted hereunder, in the exercise of such power, authority and jurisdiction.
- B. The ONUA shall have the following specific powers:
1. To promulgate such rules and regulations as appropriate for the accomplishment of its purpose, authority and to enforce OUR;
 2. To act upon and regulate any and all public utility services within the jurisdiction of the Osage Nation.
 3. To establish methods, procedures, conditions and fees for obtaining permits and approved tariff schedules for public utility services within the Osage Nation;
 4. To establish procedures and requirements for hearings and investigations pertinent to the functions and powers of the ONUA; to receive, consider and hear complaints concerning the noncompliance by any person, or provider of any provision of the OUR, decisions, orders or other official pronouncements; to issue and compel the presence of any person or the production of any document, or any type of evidence deemed relevant to a matter properly before the ONUA; to issue decisions and orders, opinions or other official pronouncements, on any matter properly raised before the ONUA, and as may be necessary in the enforcement and implementation of its functions;
 5. To establish and impose equitable relief and/or civil fine not to exceed Ten Thousand Dollars (\$10,000.00) for violations of any provision of the OUR, decisions, orders or other official pronouncement and;
 6. To establish and collect filing, franchise, licensing and other fees not to exceed One Thousand Dollars (\$1,000.00).

106. Compliance and Enforcement

- A. All providers engaging in public utility services shall comply with the provision of all decisions or orders, rules, and regulations or the official pronouncements issued pursuant to OUR. The ONUA will enforce rules and regulations through administrative remedies and the Osage Nation courts.
- B. Any person who violates any of the provisions of the OUR shall be subject to penalties in accordance with the provisions of the Osage Nation law.
- C. Osage Attorney General to prosecute. It shall be the duty of the Osage Attorney General's Office to prosecute to final judgment all proceedings instituted under the provisions of the OUR, for the violation of any of the orders of the ONUA.

107. Jurisdiction

- A. In accordance with 15 ONC § 15-102, ONUA's jurisdiction shall apply within the Osage Nation reservation, and other properties or facilities owned and controlled by Osage Nation law.
- B. The courts of the Osage Nation are vested with jurisdiction;
 - 1. To cover any and all persons subject to 15 ONC§15.
 - 2. To hear and determine any challenges to the validity of the OUR, either generally or as applied to any person, provided that the provisions of 15 ONC§15 and the regulations which may be adopted pursuant thereto are complied with.

108. Cooperation with other Jurisdictions

Intergovernmental Agreements. Where the extent of regulatory jurisdiction of the Osage Nation, the federal government, the states, and their subdivisions and agencies are not clearly defined or involve potential jurisdictional conflict, including, without limitation, potential jurisdictional conflict arising from the ONUA's transition to a fully operational regulatory body for the Osage Nation, the ONUA is authorized as the designated representative of the Osage Nation to negotiate and develop for approval by the Executive Branch of the Osage Nation appropriate intergovernmental agreements or joint power agreements as are necessary to resolve such jurisdictional issues, and is further authorized to represent or intervene on behalf of the Osage Nation in proceeding before the states, their subdivisions and agencies.

109. General Provisions

- A. Unlawful Use of Service. It shall be unlawful to obtain, with the intent to defraud, or with the intent to evade lawful charge, public utility services without proper payment thereof or the authorization of the subscriber of such services.
- B. Unlawful Discrimination. No provider shall, as to rates or service, make or grant any unreasonable preference or advantage to any person, or subject any person to any

unreasonable prejudice or disadvantage based upon race, creed, national origin, sex, age, religion. Exception: Osage Preference in the context that Osage Member/Citizen benefits are adopted and approved by official action of the Osage Nation or utility providers.

- C. Emergency. The ONUA is authorized to take actions necessary to mitigate the loss of utility service resulting in safety and health hazards notwithstanding other provisions in the OUR.

110. Certificate of Convenience and Necessity

- A. No person shall engage in providing utility services within the Osage Nation, nor shall exercise any right or privilege under any franchise or permit, without first having obtained from the ONUA a Certificate of Convenience and Necessity, unless otherwise authorized by OUR. The ONUA shall promulgate and issue specific rules and regulations establishing filing and informational requirements for applications for Certificates of Convenience and Necessity.
- B. Exemption of certain services. The ONUA may exempt certain utility services for the requirement of a Certificate of Convenience and Necessity.
- C. Construction. No person engaged, or intending to engage, in providing utility services within the Osage Nation shall begin construction of any line, service or system, or any extension beyond the defined boundaries of any existing Franchise or Certificate of Convenience and Necessity without first having obtained from the ONUA a Certificate of Convenience and Necessity for the territory in which such construction or extension will occur, unless otherwise authorized by the OUR.
- D. Application. Every applicant for a Certificate of Convenience and Necessity shall file with the ONUA an application disclosing such information required by the ONUA's rules and regulations, and accompanied by appropriate filing fees. Each applicant shall provide evidence of compliance with the applicable laws of the Osage Nation, in accordance with the OUR.

111. Tariffs

Any person providing utility services shall apply to the ONUA for a rate or service agreement and subsequent adjustment by filing an application in accordance with the OUR.

112. Requirements for Accounting, Annual Statement and Audits

- A. Accounting System. The ONUA may adopt rules and regulations establishing an accounting system to be kept by providers engaged in utility services, and prescribe the manner in which accounts shall be kept. It may prescribe the forms of accounts, records, and memoranda to be kept, including records covering receipts and expenditures of money and other records necessary to carry out the provisions of the OUR.

- B. Certified Annual Financial Statement. Every provider engaged in providing public utility services shall file a current annual financial statement to the ONUA by a certified public accountant and in accordance with the OUR, every year on or before the first day of May or as may otherwise be approved by the ONUA.
- C. Audits. If any person engaged in providing public utility services fails to comply with any provision of this Section or upon the discretion of the ONUA if there is good cause, the ONUA or its designated representative is authorized to conduct or cause to be conducted an audit of the financial records and management of such provider. Expenses incurred for such an audit shall be borne by the provider.

113. Quality of Telecommunication Service

- A. Rules and Regulations for Quality Service. The ONUA may adopt, promulgate, and enforce rules and regulations to ensure that the quality of telecommunication services is adequate, efficient, just and reasonable. All persons providing telecommunications services within the Osage Nation shall take all reasonable actions to ensure that the quality of service provided is equivalent or superior to similar service available in areas outside of the Osage Nation. The scope of this provision may include but shall not be limited to, adequate broadband speeds no less than 25 megabits per second (Mbps) for downloading files, and 3 Mbps for uploading, continuity of service, service availability, the extent of service, service interruptions, billing and collection procedures, quality of equipment, termination of service, deposits, and resolution of complaints.

114. Health and Safety

- A. The ONUA may adopt, promulgate, and enforce rules and regulations requiring every person engaged in public utilities to construct, maintain, and operate systems, facilities, equipment, apparatuses, and premises in such manner as to promote and safeguard the health, safety and welfare of its employees, customers, and the public; to this end, the ONUA may prescribe, among other things, the installation, use, maintenance and operation of appropriate safety controls or devices, and to require the performance of any other acts which the health, safety, or welfare of its' employees, customers or the public may demand.

115. Rulemaking Process; Adoption for Rules and Regulations

- A. Establishment of Rules and Regulations. The ONUA may promulgate rules and regulations in accordance with 15 ONC § 15-105, (ONUA § General Organization and Powers). Prior to the adoption of any rules and regulations, the ONUA shall give reasonable notice of proposed rulemaking to the public, including:
 - 1. the nature of the proposed rule or regulation;
 - 2. the meeting date of the ONUA where it will be reviewed and public comment solicited;
 - 3. the deadline date for submitting written public comments;

4. the proposed effective date of proposed rule or regulation implementation, and
 5. the location where the proposed rule or regulation will be available for public inspection.
- A. The ONUA shall take no action on any proposed rules or regulations for at least 45 days from the date of the last publication of the ONUA's notice of proposed rulemaking.
 - B. The restrictions of this section will not apply to rules or regulations adopted pursuant to § 109(C) Emergency.

116. Formal Complaints; Notice of Hearings; Hearing; Decisions; Appeal

A. **Complaint.** A written complaint may be filed with the ONUA by any person, entity, in accordance with the OUR. A complaint will detail the alleged act or omission of the provider engaged in public utility services which is asserted to be in violation of the OUR or any decision, order, rule or regulation, or other official pronouncements of the ONUA and will further contain the remedy or relief sought.

B. **Notice of Hearing.** Upon the filing of a complaint, the ONUA has ten business days to determine probable cause for a hearing to determine any interventive action. The hearing notice shall specify the charge, time, date and place of hearing.

C. **Procedures for Hearing.** The ONUA shall conduct a full hearing on all matters and evidence properly brought before it. All such hearings will be held in accordance with the requirements of the rules and regulations adopted by the ONUA.

D. **Decision and Order.** After the conclusion of the hearing, and within ten business days the ONUA shall make and enter its findings of facts, based upon the evidence presented at the hearing and supported by substantial evidence on the record as a whole. The ONUA will further issue an order of its determination and decision based upon such findings and make known the effective date of such decision and order. Every order shall be in writing and signed by a majority of the ONUA membership, and should bear the seal of the ONUA affixed thereto. A certified copy of such order shall be served upon each party to the proceeding or their legal counsel by certified mail.

E. **Appeals.** After an order or decision has been made by the ONUA, any party to the proceeding may apply for reconsideration of any matter determined in said proceeding, in accordance with the ONUA's rules and regulations. Any party adversely affected by the final decision or order of the ONUA is entitled to seek judicial review by filing a notice of appeal with the Office of the Osage Nation Attorney General within 30 days following entry of the order. No judicial review shall be allowed unless an application for reconsideration has been filed with and ruled upon by the ONUA. Review of ONUA actions in the appropriate Osage Court will be on record made in the ONUA and not de novo and will be limited to the determination of whether the decision and order of the ONUA is supported by substantial evidence, is arbitrary, capricious or an abuse of discretion, is

beyond the ONUA's authority or otherwise contrary to applicable Osage Nation or Federal Law. The appropriate Osage Court is empowered, to affirm, reverse or modify a decision an order of the ONUA, or to remand the matter to the ONUA for further action and it may stay the effect of the decision and order pending the appeal. The ONUA will determine by its rules and regulations whether the right of appeal will exist with respect to its adoption of any proposed rule or regulation.

117. Violations, Criminal and Civil Penalties

- A. Criminal Penalties. Any person engaged in public utility service who intentionally violates or fails to comply with the provisions of the OUR or decision or order, rule or regulation, or other official pronouncement issued pursuant to the OUR is guilty of an offense punishable as provided in § 106.
- B. Civil Penalties. Any person engaged in public utility service who violates any provision of the OUR or decision, order, rule or regulation, or other official pronouncement of the ONUA issued pursuant to the OUR may be subject to a civil fine imposed by the ONUA of not less than five hundred dollars (\$500.00) nor more than ten thousand dollars (\$10,000.00) for each violation provided the ONUA will have the discretion to suspend, or impose probationary conditions for avoiding, the fine.

118. Injunctions; Show Cause Orders; Contempt

- A. The ONUA may apply through the Office of the Attorney General of the Osage Nation to any court of competent jurisdiction for injunctions to prevent continuing violations of any provision of the OUR or of any rule, regulation, decision, order or other official pronouncement of the ONUA issued pursuant to the OUR.

119. Protection of Customer Privacy

- A. Customers have the right to limit a provider's use and disclosure of their sensitive personal information unless otherwise consented permission by the customer. Personal information does not include publicly available information including public real estate/property records.
- B. All providers shall implement policy and procedure to protect and prevent unauthorized disclosure and access of personal and private customer information.

120. Franchise

- A. Authority. For the purpose of this Section the ONUA is vested with authority to grant franchises for provision of public utility services within the Osage Nation. No person shall provide public utility services within the Osage Nation without having been granted a franchise by the ONUA. The ONUA is authorized to issue and promulgate rules and regulations for franchise fees, applications and tariff requirements.
- B. No Certificate of Convenience and Necessity. A person holding a validly issued franchise from the Osage Nation to provide public utility services, is not required also to hold a Certificate of Convenience and Necessity from the Osage Nation.

- C. Revocation of Franchise. Non-compliance with provision of the OUR or any duly adopted rule, regulation, decision, order, or official pronouncement of the ONUA, or for good cause found to exist after a full and fair hearing of the ONUA shall cause for revocation or termination of the franchise. Notice of such claim or complaint against the franchisee shall be given at least ten days before hearing with an opportunity for the franchisee to show why the franchise should not be revoked or terminated.

121. Attachments to Poles, Ducts, Conduits and Towers

- A. The ONUA is authorized to issue and promulgate rules and regulations governing the use of public utility facilities.
 - 1. Joint/Pole Use. In order to provide efficient and quality communication and cable services, the ONUA may authorize joint use of public utility poles, ducts, conduits or towers. located within the Osage Nation, owned or controlled by a public utility company. All joint use agreements for wire or cable attachment to a pole, duct, conduit or towers must be approved by the ONUA. Upon the approval of the joint use agreement for pole attachments, all persons to such agreement shall have the right to use or share in and enjoy the use of the right-of-way easement granted to the pole owner.
 - 2. Disputes. Disputes concerning terms and conditions, including rental rates, of the joint use agreement for attachments shall be resolved by the ONUA at a full and fair hearing conducted for that purpose pursuant § 116 of this Act, and in accordance with the ONUA's rules and regulations.

122. Severability

If any provision of these OUR or the application of such provision shall be held invalid the remainder of the rule and application of such provision other than those held invalid shall not be affected thereby.

123. Prior Inconsistent Regulations Suspended

Upon the effective date of the Osage Utilities Regulations, all prior inconsistent regulations of the Osage Nation and all branches, divisions, departments, offices and political subdivisions thereof, are superseded hereby and/or amended to comply herewith.

124. Effective Date (effective date will be 45 days after public notice)