

OSAGE NATION CODE
TITLE 1. PUBLIC UTILITIES AND TELECOMMUNICATIONS
CHAPTER 1. RULES OF PRACTICE
SUBCHAPTER 1. OSAGE UTILITIES REGULATORY ACT
AUTHORITY: ONCA 14-43 amended

CHAPTER 1 RULES OF PRACTICE

Subchapter

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101. Short Title

This Act shall be known and be cited as the Osage Utilities Regulatory Act and codified as Chapter 1. Title 1. of the Osage Nation Code.

102. Purpose, Intent and Scope

- A. The purpose of these regulations is to make available within the Osage Nation, safe efficient, and reasonably priced public utility and telecommunications 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.
- C. The scope of authority, unless otherwise provided by law, shall include the authority to promulgate rules and regulations:
 1. Necessary for the orderly transaction and conduct of the regulated activity;
 2. Establishing standards and procedures for the licensing and/or registration of persons and entities including, but not limited to, the issuance, suspension and revocation of licenses under this statute;
 3. Governing inspections, investigations, and enforcement actions;
 4. Establishing fees;
 5. Establishing fines and other sanctions, and taking such other actions as may be necessary to enforce statutory law, including, but not limited to, orders, directives, and other compulsory processes;
 6. Establishing procedures for administrative hearings and proceedings;
 7. Establishing procedures for service of process; and
 8. Establishing procedures for administrative appeals.

103. Definitions

104. Establishment; Composition; Staff

The Osage Nation Utility Authority (ONUA) shall carry out the duties of regulating public utility activities within the Osage Nation. The establishment and composition of the ONUA shall be governed by a plan of operation adopted by the ONUA and approved by the Gaming, Land and Commerce Committee of the Osage Nation Congress. The administrative staff to carry out the duties and responsibilities of the ONUA shall be as provided for in the ONUA's plan of operation or in the ONUA's rules and regulations.

105. Powers and Duties

- A. In accordance with the ONUA's plan of operation, the ONUA shall have the power to perform any and all acts necessary and convenient to supervise, monitor, and regulate public utilities and those persons providing public utility service within the Osage Nation as specifically designated in this Act or in any rule, regulation, decision, order or other office pronouncement adopted hereunder, in the exercise of such power 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 and authority, duties and responsibilities pursuant to this Act, and to enforce such rules and regulations;
 - 2. To act upon and regulate any and all public utility activity within the Osage Nation, including but not limited to electricity, natural gas, water, wastewater, telecommunications and waste management.
 - 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, of any provision of this Act and/or the ONUA's rules and regulations, decisions, orders or other official pronouncements; to issue and compel by power of subpoena 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 fines and/or other civil sanction(s) deemed appropriate by the ONUA, for violations of any provision of this Act and/or its rules and regulations, decisions, orders or other official pronouncement and;
 - 6. To establish and collect franchise, filing and other fees from persons at amounts which are appropriate for the matter for which such collection is being made.

106. Compliance and Enforcement

107. Jurisdiction

The provisions of this Act shall apply within the Osage Nation reservation, and other properties or facilities owned and controlled by Osage Nation law.

The provisions of the Act shall apply within the Osage Nation, as that term is defined by Osage law.

108. Cooperation with other Jurisdictions

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 utilities and telecommunication services without proper payment thereof or the authorization of the subscriber of such services.
- B. Unlawful Discrimination. No public utility and telecommunications service 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.
- C. Emergency. The ONUA, upon its determination that an emergency exists, is authorized to take any and all actions necessary to address the emergency notwithstanding and other provision in this Act.

110. Certificate of Convenience and Necessity

- A. Restriction. No person shall engage in providing public 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 in this Act. 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 activities. The ONUA may by rule or regulation exempt certain public utility services for the requirement of a Certificate of Convenience and Necessity.
- C. Construction. No person engaged, or intending to engage, in providing public 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 in this Act.

- 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 rules and regulations of the ONUA.

111. Tariffs

112. Requirements for Accounting, Annual Statement and Audits

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 10 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.
- B. Non-compliance; violations. Complaints alleging non-compliance or violations, rules, regulations, decisions, orders or other official pronouncements adopted by the ONUA concerning the quality of telecommunications shall be filed with the ONUA in accordance with the rules and regulations of the ONUA and shall be heard by the ONUA within 45 days of filing.

114. Health and Safety

- A. Compliance with health and safety codes. 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 or other 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.
- B. Non-compliance; Violations. Complaint alleging non-compliance or violations of the rules and regulations, decisions, orders or other official pronouncements adopted by the ONUA concerning the health and safety as described herein may be filed with the ONUA by any aggrieved party in accordance with the ONUA's rules and regulations.

115. Rulemaking Process; Adoption for Rules and Regulations

116. Tariff Adjustments; Complaints; Notice of Hearings; Hearing; Evidence; Decisions; Appeal

117. Violations of Civil Penalties

118. Injunctions; Show Cause Orders; Contempt

119. Protection of Customer Privacy

120. Franchise

- A. Authority. For the purpose of this Section the ONUA is vested with authority to grant franchises in defined boundaries for provision of public utility services, including telecommunication services, within the Osage Nation for a maximum period of years as stipulated by the franchise agreement. No person shall provide public utility services within the Osage Nation without having been granted a franchise by the ONUA. No exclusive franchises shall be granted for the whole part of the Osage Nation. The ONUA is authorized to issue and promulgate rules and regulations for franchise requirements, applications, franchise and other fees, tariff schedules, hearings, granting and denial procedures. The ONUA is further authorized, subject to restrictions of applicable law, to regulate the rates for provision of public utility services, including telecommunication services provided in accordance with § 111 and § 116 of this Act.
- B. No Certificate of Convenience and Necessity. A person holding a validly issued franchise from the Osage Nation to provide public utility services, including telecommunication 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 this Act 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. Regulations of Telemarketing

122. Attachments to Poles, Ducts and Conduits

- 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, and conduits located within the Osage Nation, owned or controlled by a public utility

company. All joint use agreements including the compensation provisions thereof for wire or cable attachment to a pole, duct, or conduit 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.

123. Severability

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

124. Prior Inconsistent Law Suspended

Upon the effective date of this Osage Nation Public Utilities Act, all prior inconsistent enactments, laws and rules, policies, ordinances and regulations of the Osage Nation and all branches, divisions, departments, offices and political subdivisions thereof, are superseded hereby and/or amended to comply herewith.

125. Effective Date; January 1, 2023