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THE ELECTRIC VEHICLE CHARGING AND BATTERY SWAPPING INFRASTRUCTURE GUIDELINES 2023

LEGAL ALERT

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The Electric Vehicle Charging and Battery Swapping Infrastructure Guidelines 2023

On 14th September 2023, the Energy and Petroleum Regulatory Authority ("EPRA") published the Electric Vehicle Charging and Battery Swapping Infrastructure Guidelines, 2023 (the "Guidelines"). The Guidelines, effective as of 1st September 2023, provide an enabling framework that seeks to encourage the uptake and use of electric vehicles ("EVs") in the country, by addressing the challenge of charging infrastructure.

This development closely follows on the appointment of an e-mobility taskforce by the Cabinet Secretary for Transport and Roads on 4th August 2023 to develop a national e-mobility policy, strategy and implementation plan as well as formulate legislation and regulations to govern the sector.

The scope of the Guidelines extends to individuals, firms and institutions interested in installing, operating, and maintaining both public and private charging stations and battery swapping stations. Beyond outlining the prerequisites for running these stations and addressing location considerations, the Guidelines delve into vital aspects such as data protection and dispute resolution, reflecting the holistic approach that Kenya is adopting to foster a sustainable and harmonious e-mobility ecosystem.

Purpose of the Guidelines

The Guidelines serve a multifaceted purpose, aiming to not only provide an enabling framework for the adoption of EVs but also to achieve several other significant objectives such as to promote affordable tariffs chargeable to EV owners and charging station operators/owners; to generate employment /income opportunities for small entrepreneurs and to proactively support the creation of EV charging infrastructure in the initial phase and eventually create a market for the EV charging business.

Public Charging Station

Operating a public charging station involves meeting several key requirements to ensure safe and efficient service.

Accordingly, below are some of the prerequisites that must be fulfilled as per the Guidelines:

1. a person must have applied for an electricity retail supply license from EPRA before proceeding with the installation;
2. a person must have minimum infrastructure such as an exclusive transformer and/or electric supply line with all related supply equipment including safety appliances as required by the Kenya Grid Code, adequate space for charging and entry or exit of vehicles and appropriate fire protection equipment and facilities;
3. the operator of the charging point must also ensure that the individuals installing, maintaining and operating chargers hold appropriate licenses, certifications and training;
4. the charging points must be certified and type-approved or tested by the Kenya Bureau of Standards ("KEBS") or any other accredited agency; and
5. before commencing operations, the public charging station must undergo inspection and testing and it must obtain a completion certificate issued by a licensed electrical contractor or inspector.

In terms of the location of a public charging station, the Guidelines mandate specific placement criteria. Charging stations should be strategically positioned every twenty-five kilometres (25 kms) on both sides of highways or roads to provide wide coverage.

Additionally, for long range and heavy duty EVs such as buses or trucks, at least one (1) fast charging station should be available every one hundred kilometres (100 kms), ideally positioned within or alongside charging stations on both sides of highways or roads. Within cities, heavy duty EV charging stations should be located within bus stops for enhanced accessibility and convenience.

Private Charging Stations

In contrast to the prerequisites governing the operation of fewer requirements for private charging station. For

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instance, private charging facilities located in residential, or office settings are permitted and they are exempt from the minimum public infrastructure requirements outlined earlier, provided they are intended for the personal use of individual EV owners.

As such, the following requirements apply to private charging infrastructure:

1. charging points must be certified and type-approved or tested by KEBS or any other accredited agency;
2. before commencing operations, the private charging infrastructure must undergo inspection and testing and it must obtain a completion certificate issued by a licensed electrical contractor or inspector; and
3. a separate metering arrangement must be established for charging points so as to allow consumption to be recorded and billed as per the applicable tariff for EV charging.

Battery Swapping Station

The Guidelines also outline the prerequisites for operating a battery swapping station as follows:

1. sufficient space must be available for the charging and swapping of batteries;
2. the batteries must be equipped with a Battery Management System to enable effective monitoring, data analysis and safety;
3. each battery station and EV battery must be assigned a unique identifying number to facilitate traceability throughout the battery lifecycle;
4. swappable batteries and the associated charging infrastructure must be tested and certified as per the standards developed or approved by KEBS; and
5. prior to commencing operations, every battery swapping station must undergo inspection and testing and it must obtain a completion certificate issued by a licensed electrical contractor or inspector.

Data Protection

The Guidelines permit operators of public charging stations and battery swapping stations to collect, process and retain a customer's personal information only to the extent required for delivering charging services.

Additionally, these operators must establish mechanisms through which customers can report any outages, malfunctions, and other infrastructure-related issues. Furthermore, they are required to implement cybersecurity strategies to safeguard consumer data.

Dispute Resolution

Any complaints or disputes involving EV owners, charging station operators, battery swapping service providers or other stakeholders are to be directed to EPRA for resolution in accordance with the Energy (Complaints and Disputes Resolution) Regulations, 2012.

Conclusion

The Guidelines provide direction and standards that not only support the burgeoning e-mobility sector but also contribute to a cleaner and more sustainable environment.

Looking ahead, the legislative framework to be proposed by the e-mobility taskforce will play a vital role in shaping the future of the sector in the country.

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Disclaimer

This alert is for informational purposes only and should not be taken to be or construed as a legal opinion. If you have any queries or need clarifications, please do not hesitate to contact Cindy Oraro, Partner, (cindy@oraro.co.ke) and Blenda Nyahoro, Associate, (blenda@oraro.co.ke) or your usual contact at our firm, for legal advice.

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