

Energy Spain Newsflash

NEW IMPULSE TOWARDS THE ELECTRIFICATION OF THE VEHICLE POOL

The Government has approved Royal Decree 184/2022 of 8 March, which regulates the provision of energy charging services for electric vehicles (**RD 184/2022**) (in force since 20 March 2022) focused at moving towards a new sustainable transport model. The purpose of the aforementioned Royal Decree is to establish the requirements for the provision of energy charging services for electric vehicles in accordance with the provisions of article 48 of Law 24/2013 of 26 December, on the Electricity Sector (**LSE**).

From a regulatory standpoint we are faced with an interesting advance which provides some certainties and opportunities in response to the challenge currently posed by the necessary deployment of infrastructure of electric vehicle charging points, which is essential to aspire to a true electrification of the vehicles in Spain.

1. WHICH IS THE SCOPE OF RD 184/2022?

RD 184/2022 is applicable to those energy charging services providers that perform these services in publicly accessible electric vehicle charging point infrastructures, understood as those points that are located on public roads or which, not being located on public roads, are accessible to all users of electric vehicles, such as public and private parkings, service stations or shopping centres. Electric vehicles are defined as motor vehicles equipped with a propulsion unit with at least one non-peripheral electric mechanism that functions as an energy converter and is equipped with a rechargeable electric energy storage system, which can be charged from the outside.

2. WHAT IS THE ENERGY CHARGING SERVICE?

The main objective of energy charging services is to deliver energy, either free of charge or in

exchange of the corresponding fee, through vehicle charging services under conditions that allow efficient charging at minimum cost for the user and for the electricity system.

Furthermore, these services must be provided under conditions that ensure universal accessibility to the charging point infrastructures and service providers shall operate under fair and non-discriminatory market conditions.

3. WHO IS INVOLVED IN THE PROVISION OF ENERGY CHARGING SERVICES?

There are basically two parties: (i) the energy charging services providers (either charging point operators or companies providing services for electric mobility) and (ii) the users of electric vehicle energy charging services.

The energy charging services can be provided by any consumer and the provision of energy charging services at one or several locations can be done either directly or through a third party, on an aggregated basis by one operator or by several operators through interoperability agreements.

It should also be taken into account that the distribution system operator (**DSO**) shall cooperate on a non-discriminatory basis with the energy charging services providers at those charging points which are accessible to the public.

4. WHAT TYPES OF ENERGY CHARGING SERVICES PROVIDERS ARE THERE?

There are two different types of energy charging services providers:

- The charging point operator, which is identified as the natural or legal person entitled to operate the electric vehicle charging points, who are generally deemed as energy "consumers", in accordance with the provisions of Article 6 of the LSE (**CPO**).

The consumer providing energy charging services may assign or transfer, in whole or in part, the rights to operate the electric vehicle charging point infrastructure in favour of third parties. In such a case, the relevant agreement between the assignees and the consumer shall be in place and ensure compliance with the mandatory rights and obligations corresponding to the CPO. In this scenario, the third party shall assume the position of the CPO.

In no case will the ownership of the energy supply agreements be modified in the event of assignment or transfer of the aforementioned operating rights.

- The electric mobility services provider, which is defined as a company that participates, as a third party, in the provision of energy charging services, without owning neither an electric vehicle charging point infrastructure nor its operating rights, with which the electric vehicle user contracts all the services related to the charging of the electric vehicle (**EMSP**).

5. WHAT MODALITIES EXIST FOR THE PROVISION OF ENERGY CHARGING SERVICES?

There are three modalities for the provision of the energy charging services:

- Through occasional charging by the CPO, when there is no prior agreement entered into between the CPO and the user of the electric vehicle prior to the actual provision of the services, allowing both physical and electronic payment methods that safeguard the occasional nature of these vehicle charges associated with the occasional nature of the service.
- By means of the execution of an agreement between the CPO and the user of the electric vehicle, existing prior to the effective delivery of the energy.
- Through an EMSP. In this case, the CPO must have an interoperability agreement with an EMSP.

6. WHAT ARE INTEROPERABILITY AGREEMENTS?

Interoperability agreements ensure effective communication between the CPO and the EMSP in order to enable the provision of energy charging services efficiently and at minimum cost for the users and for the electricity system.

These interoperability agreements shall be executed on the basis of transparency and non-discrimination between the parties involved in the provision of energy charging services.

7. WHAT RIGHTS DO CPOS AND EMSPS HAVE?

CPOs are entitled to (i) own one or more electric vehicle charging point infrastructures or, where applicable, the operating rights associated to those premises; (ii) transfer the operating rights of the charging point infrastructure to a third party; (iii) deliver the energy for free or against payment; and (iv) enter into interoperability agreements with the EMSPs.

Regarding the EMSPs, these are entitled to (i) participate in the provision of vehicle charging services, acting as intermediaries between the CPO and the electric vehicle user; and (ii) establish interoperability agreements with CPOs.

8. WHAT ARE THE OBLIGATIONS OF CPOS AND EMSPS?

These are the common obligations for the CPOs and the EMSPs:

- Preserve the confident nature of any information they get to know in the course of their work;
- Comply with certain reporting obligations in relation to the origin of the supplied energy;
- To grant a real-time customer care services available to provide support to their users and manage complaints, claims and incidents arising as a result of the provision of the energy charging services;
- Present, in a clear and transparent manner, the price of the delivered energy as well as the energy actually supplied; and
- Comply with certain reporting obligations.

In addition, CPOs have the following obligations:

- Ensure the delivery of electrical energy in the charging process in an efficient, accessible manner and at minimum cost for the user and for the electricity system, seeking a rational use of energy;
- Comply with the applicable regulations on quality, industrial safety and metrology;
- Providing in any case the possibility of occasional charging to the users of electric vehicles, without any technical or contractual obstacles to such charging modality; and
- Provide the necessary means to enable billing according to the energy which has been actually supplied at the charging point to the user of the electric vehicle. When the services are provided through an EMSP, the CPO shall provide the information corresponding to the energy actually supplied to said company.

9. WHAT INFORMATION SHOULD BE MADE AVAILABLE TO THE PUBLIC?

Information on electric charging points available for public access will be made available to the public through the National Access Point for real-time traffic information managed by the Central Traffic Controller. In addition, the Ministry for Ecological Transition and the Demographic Challenge (MITERD) will provide the Ministry of Transport, Mobility and Urban Agenda with information on electric charging points available for public access, aiming at its publication through the National Access Point for Multimodal Transport.

To this end, the energy charging services providers (CPOs and EMSPs) must previously deliver, by electronic means, updated information on the location, characteristics and availability of these facilities to the MITERD, as well as the electricity's price and the charging service's price.

An Order issued by the head of the MITERD will establish the applicable provisions for the contents and form of submission of the above mentioned required information.

10. WHAT ROLE WILL DISTRIBUTION COMPANIES PLAY?

Distribution companies must cooperate in the deployment of electric vehicle charging point infrastructures. To this end, when the developer of an electric vehicle charging point infrastructure requests access to the distribution grid, the distributor must provide the information corresponding to the access capacity of the distribution grid to accommodate the power corresponding to the planned charging point, as well as those aspects that may contribute to a reduction in investment costs for the infrastructure developer.

11. IS IT NECESSARY FOR THE ELECTRIC VEHICLE CHARGING POINT INFRASTRUCTURES TO OBTAIN AN ADMINISTRATIVE AUTHORISATION?

Those electric vehicle charging point infrastructures with a capacity exceeding 250 kW are subject to the corresponding authorisation procedure, in accordance with article 53 of the LSE.

12. WHAT KIND OF OBLIGATIONS CAN THE PUBLIC GRANTS IMPOSE?

Royal Decree 184/2022 provides that public grants may require the maintenance and operation of the electric vehicle charging point infrastructures for a certain period of time associated with the subsidy granted.

The regulatory framework of RD 184/2022 shall be read together with the provisions of Order

TMA/178/2020 of 19 February, amending the Order of 16 December 1997, which sets out the regulations for accesses to State roads, service roads and the construction of services facilities in those roads.

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