

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., WEST TOWER, SUITE 200
WASHINGTON, DC 20005

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 712, IN THE MATTER OF THE INVESTIGATION INTO
THE PUBLIC SERVICE COMMISSION'S RULES OF PRACTICE AND
PROCEDURE

1. The Public Service Commission of the District of Columbia ("Commission"), pursuant to its authority under Sections 2-505 and 34-1831 of the District of Columbia Official Code, hereby gives notice of its intent to amend Chapter 6 of Title 15 DCMR in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. Chapter 6, which is entitled "Pay Telephones," contains the Commission's regulations governing the registration and regulation of pay telephone service providers ("PSP") and pay telephones in the District of Columbia. The proposed revisions will enhance the Commission's administration of the pay telephone program in the District by, *inter alia*, clarifying the existing sections regarding the suspension of PSPs for failure to adhere to the Commission's rules and establishing tiers of finable offenses.

3. Currently, Section 601.1 states:

601.1 A Pay Telephone Service Provider ("PSP") seeking to provide pay telephone services within the District of Columbia ("District") shall be certified by the Public Service Commission of the District of Columbia.

The proposed amended Section 601.1 shall state:

601.1 A Pay Telephone Service Provider ("PSP") seeking to provide pay telephone services within the District of Columbia ("District") shall be certified by the Public Service Commission of the District of Columbia. This certification shall be renewed by previously approved PSPs every two years on March 31 in the same manner as the initial certification.

4. Currently, Section 601.3 states:

601.3 The Completed Certification Application shall contain:

- (a) The Applicant's D.C. Business Tax Registration Number issued by the D.C. Office of Tax and Revenue; and,
- (b) A copy of the Applicant's D.C. Master Business License issued by the D.C. Department of Consumer and Regulatory Affairs.

The proposed amended Section 601.3 shall state:

601.3 The Completed Certification Application shall contain:

- (a) **The Applicant's D.C. Business Tax Registration Number issued by the D.C. Office of Tax and Revenue;**
- (b) **A copy of the Applicant's license to do business in the District of Columbia issued by the D.C. Department of Consumer and Regulatory Affairs; and**
- (c) **The name, address, telephone number, fax number, and email address of a District of Columbia Registered Agent if the PSP does not have its principal place of business in the District of Columbia.**

5. Currently, Section 601.5 states:

601.5 The completed Certification Application shall be accompanied by a non-refundable check or money order in the amount of \$100.00, payable to the D.C. Treasurer.

The proposed amended Section 601.5 shall state:

601.5 The completed Certification Application shall be accompanied by a non-refundable check or money order in the amount of \$100.00, payable to the D.C. Treasurer. The completed Certification Renewal Application Form shall be accompanied by a non-refundable check or money order in the amount of \$50.00, payable to the D.C. Treasurer.

6. Currently, Section 602.1 states:

602.1 The Commission may cancel a PSP's certificate, after providing the PSP notice and an opportunity to be heard, for any of the following reasons:

- (a) Failure to register any pay telephone with the Commission;
- (b) Improper installation of any pay telephone; or
- (c) Any violation of applicable federal or local law or regulation.

The proposed amended Section 602.1 shall state:

602.1 The Commission may cancel a PSP's certificate, after providing the PSP notice and an opportunity to be heard, for any of the following reasons:

- (a) **Failure to register any pay telephone with the Commission;**

- (b) **Improper installation or relocation of any pay telephone;**
- (c) **Any violation of applicable federal or local law or regulation;**
- (d) **Failure to maintain pay telephones in accordance with the provisions in § 609 of this Chapter.**

7. Currently, Section 604.9 states:

604.9 If a Registration Application is approved, the Commission shall issue the PSP a Registration Number for each pay telephone.

The proposed amended Section 604.9 shall state:

604.9 If a Registration Application is approved, the Commission shall issue a Registration Number for each pay telephone to the PSP. A Registration Number may not be altered, reused, or transferred to another PSP or pay telephone.

8. A new Section 604.11 is proposed to state:

604.11 If a Registration Application or Renewal Application contains incorrect information, a PSP shall submit an amendment to the Application within 30 days of the date of notification from the Commission of the error(s). All amendments must be signed by the PSP and notarized. If a PSP fails to submit the requested information within thirty (30) days of notification, the Commission shall deny the Application, and the Registration Application or Renewal Application fees shall not be refunded.

9. Currently, Section 605.4 states:

605.4 For a period of five (5) years, the Commission shall not approve a Registration Application for any pay telephone that is proposed to be located within a one block radius of another pay telephone location against which a complaint is pending, or that has been found by the Commission, or its designee, to have constituted a public nuisance or significantly contributed to criminal activity in the surrounding community.

The proposed amended Section 605.4 shall state:

605.4 For a period of five (5) years, the Commission shall not approve a Registration Application for any pay telephone that is proposed to be located within a one (1) block radius of another pay telephone location against which a complaint is pending. When the Commission has ordered the removal of a pay telephone because the pay telephone has been found by the Commission, or its designee, to have constituted a public nuisance or significantly

contributed to criminal activity in the surrounding community, the Commission shall not approve a Registration Application for any pay telephone that is proposed to be located within a one (1) block radius of the location of the removed pay telephone.

10. Currently, Section 606.3 states:

606.3 The completed Renewal Form shall list the telephone number(s), registration number(s) and location for the existing pay telephone(s).

The proposed amended Section 606.3 shall state:

606.3 The completed Renewal Application Form shall list the telephone number(s), registration number(s), and location for the existing pay telephone(s). Renewal Applications shall also comply with § 604.11.

11. Currently, Section 607.4 states:

607.4 A pay telephone shall not be installed in an alley, vacant lot, or in front of an abandoned building, unless such installation is supported, in writing, by the local ANC.

The proposed amended Section 607.4 shall state:

607.4 A pay telephone shall not be installed in an alley, in or in front of a vacant lot, or in front of an abandoned building, unless such installation is supported, in writing, by the local ANC.

12. A new Section 608.4 is proposed to state:

608.4 A pay telephone owned by a non-certified company may have dial tone service suspended as soon as the phone is identified as non-certified by the Commission. A non-certified owner will not be afforded time for corrective action pursuant to § 618. All such equipment must be removed by the owner. The Commission will give thirty (30) days' notice to the pay telephone owners to remove their equipment. Equipment in place after the Commission gives notice may be removed by the District Department of Transportation.

13. Currently, Section 609.1 states:

609.1 All indoor and outdoor pay telephones shall provide the following operational characteristics:

The proposed amended Section 609.1 shall state:

609.1 All pay telephones shall provide the following operational characteristics:

14. Currently, Section 609.8 states:

609.8 PSPs shall make every reasonable effort to ensure that current telephone directories for the District of Columbia are available at the site of each pay telephone.

The Commission proposes to delete this section.

15. Currently, Section 609.9 states:

609.9 A PSP not in compliance with these Rules shall be notified by certified mail to bring its pay telephone into compliance within (30) days. A PSP shall be accorded forty-five (45) days from the time that it is notified to bring its pay telephone into compliance, provided the PSP can represent in good faith and in writing that the cause of the non-compliance is an administrative or technical matter.

The Commission proposes to delete this section.¹

16. Currently, Section 609.11 states:

609.11 If a PSP fails to adhere to the requirements of this section, the Commission shall suspend service to that instrument and may, in its discretion, order the termination of service to the PSP's other pay telephones until such time as the pay telephone is brought into compliance.

The Commission proposes to delete this section.²

17. Currently, Section 611.2 states:

611.2 Any interested party may file a complaint concerning the operation of a pay telephone. A complaint alleging that an existing pay telephone(s) is in violation of any of the Rules under this Chapter shall, be submitted to the Commission stating the basis for the complaint and the location or address of the existing pay telephone(s).

The proposed amended Section 611.2 shall state:

¹ The Commission proposes to delete this section because we are proposing a new section in this rulemaking entitled "Suspension for Violation" which captures all suspensions for violation of the pay telephone rules.

² The Commission proposes to delete this section because we are proposing a new section in this rulemaking entitled "Suspension for Violation" which captures all suspensions for violation of the pay telephone rules.

611.2 Any interested person may file a complaint concerning the operation of a pay telephone. A complaint alleging that an existing pay telephone(s) is in violation of any of the Rules under this Chapter must be submitted to the Commission in writing stating the basis for the complaint and the location or address of the existing pay telephone(s).

18. A new Section 618 is proposed to state:

618 SUSPENSION FOR VIOLATION

618.1 If a PSP fails to adhere to the provisions of this Chapter, the Commission may suspend service to that instrument and may order the termination of service to the PSP's other pay telephones until such time as the pay telephone(s) is brought into compliance.

618.2 For violation of both §§ 601.1 and 604.1 (an unregistered pay telephone by a non certified owner), the Commission will terminate service to the pay telephone immediately without prior notice to the owner.

618.3 For violation of § 604.1, the Commission will give the PSP thirty (30) days' notice to correct the problem before taking action to suspend service to the pay telephone.

618.4 For violation(s) of § 606.1, the Commission will give the PSP thirty (30) days' notice to correct the problem before taking action to suspend service to the pay telephone.

618.5 For violations(s) of two (2) or more operational infractions in § 609.1 or five (5) or more signage infractions in § 609.2, the Commission will give the PSP thirty (30) days' notice to correct the problem before taking action to suspend service to the pay telephone.

618.6 The Commission will take action to suspend service immediately unless the PSP notifies the Commission in writing that it has cured the violations before the expiration of the thirty (30) day notice period.

618.7 Notwithstanding § 618.5, all infractions listed in § 609.1 and § 609.2 must be cured by the pay telephone provider after receiving notice from the Commission of the violations. Failure to correct violations after sixty (60) days' notice letter may result in suspension of dial tone to the pay telephone unless the PSP notifies the Commission in writing that the violations have been cured before the expiration of the sixty (60) day notice period.

19. Comments on the proposed amendments to Chapter 6 must be made in writing to Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., Second Floor, West Tower, Washington, DC

20005. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons wishing to file reply comments may do so no later than 45 days of the date publication of this NOPR in the *D.C. Register*. Once the comment and reply comment periods have expired, the Commission will take final rulemaking action on the proposed amendments.