

DEPARTMENT OF MENTAL HEALTH

SECOND NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Mental Health, pursuant to the authority set forth in sections 105 and 114 of the Department of Mental Health Establishment Amendment Act of 2001 (Act), effective December 18, 2001, D.C. Law 14-56, D.C. Official Code §§ 7-1131.05 and 7-1131.14 (2005 Supp.), hereby gives notice of his intent to adopt the following amendments to rules governing the provision of community-based intervention (CBI) services contained in Chapter 34 of Title 22A of the District of Columbia Municipal Regulations (DCMR), entitled "Mental Health Rehabilitation Services Provider Certification Standards", in not less than fifteen (15) days after the publication of this notice in the *D.C. Register*.

The purpose of these amendments is to make changes to the requirements for certification of specialty providers of community based intervention (CBI) services for children and youth, to amend the eligibility requirements for receipt of CBI and to establish three (3) levels of CBI services. The amendments also clarify the required membership of a CBI team of qualified practitioners.

This notice supersedes the Notice of Proposed Rulemaking that was published on April 21, 2006 at 53 *D.C. Register* 3276 and completed a thirty (30)-day public comment period. Several minor changes were made to these amendments in response to comments to clarify the description of CBI services, lengthen the deadline for provision of diagnostic/assessment services and clarify billable units for services provided. In view of the limited changes to the amendments as originally proposed, the previous opportunities for public comment and the importance of having regulations in place to differentiate types of CBI services as quickly as possible to ensure that providers have enforceable standards for the delivery of CBI services, the Director finds that there is good cause to reduce to public comment period to fifteen (15) days for this second notice of proposed rulemaking. DMH will also e-mail notice to certified providers of mental health rehabilitation services of the date of publication of this Second Notice of Proposed Rulemaking in the *D.C. Register* together with a copy of these proposed rules.

Title 22A DCMR, Chapter 34 (Mental Health Rehabilitation Services Provider Certification Standards) is amended as follows:

Section 3422 is amended to read as follows:

3422 COMMUNITY-BASED INTERVENTION

3422.1 CBI services are time-limited, intensive, mental health services delivered to children and youth ages six (6) through twenty-one (21). CBI services are intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI services may be provided at the time a child or youth is identified for a service, particularly to meet an urgent or emergent need during his or her course of treatment.

- 3422.2 Consumers of CBI services shall have:
- (a) Insufficient or severely limited individual or family resources or skills to cope with an immediate crisis; and
 - (b) Either individual or family issues, or a combination of the two, that are unmanageable and require intensive coordinated clinical and positive behavioral interventions.
- 3422.3 There shall be three (3) levels of CBI services available to children and youth. A provider may be certified to offer one or more level(s) of CBI services.
- 3422.4 All levels of CBI services shall consist of the services described in §3422.7, as medically necessary and clinically appropriate for the consumer.
- 3422.5 The CBI provider shall be responsible for coordinating the treatment planning process for all consumers authorized to receive CBI. CBI services shall be delivered primarily in natural settings and shall include in-home services.
- 3422.6 The basic goals of all levels of CBI services are to:
- (a) Defuse the consumer's current situation to reduce the likelihood of a recurrence, which, if not addressed, could result in the use of more intensive therapeutic interventions;
 - (b) Coordinate access to covered mental health services and other covered Medicaid services;
 - (c) Provide mental health services and support interventions for consumers that develop and improve consumer and family interaction and improve the ability of parents, legal guardians, or caregivers to care for the consumer; and
 - (d) Transition the consumer to an appropriate level of care following the end of CBI treatment services.
- 3422.7 All levels of CBI services shall include the following services, as medically necessary and clinically appropriate for the consumer:
- (a) Immediate crisis response for enrolled consumers;
 - (b) Stabilization services to:
 - (i) Reduce family conflict;

- (ii) Stabilize the family unit;
 - (iii) Maintain the consumer in the home environment;
 - (iv) Increase family support; or
 - (v) Assure that the consumer has and is taking prescribed psychiatric medications;
- (c) Environmental assessment to:
- (i) Identify risk factors that may endanger either the consumer or the consumer's family; and
 - (ii) Assess the strengths of the consumer and the consumer's family;
- (d) Individual and family support interventions that develop and improve the ability of parents, legal guardians or significant others to care for the consumer's serious emotional disturbance;
- (e) Skills training related to:
- (i) Consumer self-help;
 - (ii) Parenting techniques to help the consumer's family develop skills for managing the consumer's emotional disturbance;
 - (iii) Problem solving;
 - (iv) Behavior management;
 - (v) Communication techniques, including the facilitation of communication and consistency of communication for both the consumer and the consumer's family; and
 - (vi) Medication management, monitoring and follow-up for family members and other caregivers; and
- (f) Coordination and linkage with other covered MHRS and supports and other covered Medicaid services in order to prevent the utilization of more restrictive residential treatment, including one or more of the following activities:
- (i) Referral of consumers to other MHRS providers;

- (ii) Assisting consumers in transition to less-intensive or more-intensive MHRS;
- (iii) Referral of consumers to providers of other Medicaid covered services (e.g., physician); or
- (iv) Supporting and consulting with the consumer's family or support system, which is directed exclusively to the well-being and benefit of the consumer.

3422.8 CBI Level I services are intended for children and youth who are experiencing serious emotional disturbance with either of the following:

- (a) A documented conduct disorder with externalizing (aggressive or violent) behaviors; or
- (b) A history of chronic juvenile offenses that has or may result in involvement with the juvenile justice system.

3422.9 CBI Level I services shall not be authorized for:

- (a) Children or youth who require the safety of a hospital or other secure setting;
- (b) Children or youth in independent living programs; or
- (c) Children or youth without a long-term placement option.

3422.10 Eligible consumers of CBI Level I services shall have a permanent caregiver who is willing to participate with service providers for the duration of CBI Level I treatment services and be:

- (a) At imminent risk for out-of-home placement within thirty (30) days; or
- (b) Currently in out-of-home placement due to the consumer's disruptive behavior, with permanent placement expected to occur within thirty (30) days.

3422.11 CBI Level I Service providers shall obtain prior authorization of CBI Level I services from DMH for an initial thirty (30) day period. CBI Level I services may be reauthorized by DMH for an additional five (5) months immediately following the initial thirty (30) day period. CBI level I services shall only be reimbursable for a total duration of six (6) months.

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- 3422.12 Re-admission to CBI level I services, after the six-month period, may be considered for prior authorization by DMH in accordance with medical necessity requirements specified by DMH.
- 3422.13 CBI Level I services shall be delivered in accordance with the Multisystemic Treatment (MST) Model. Necessary and appropriate non-Medicaid reimbursable MST therapies shall be reimbursed by DMH and shall not be billed as CBI Level I services.
- 3422.14 Eligible consumers of CBI Level II services shall have any one or combination of the following:
- a) A history of involvement with the Child and Family Services Agency (CFSA) or the Department of Youth Rehabilitation Services (DYRS);
 - b) A history of negative involvement with schools for behavioral-related issues; or
 - (c) A history of either chronic or recurrent episodes of negative behavior that have or may result in out-of-home placement.
- 3422.15 CBI Level II services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.
- 3422.16 CBI Level II service providers shall obtain prior authorization of CBI Level II services from DMH for an initial thirty (30) day period. CBI Level II services may be reauthorized by DMH for an additional five (5) months immediately following the initial thirty (30) day period. CBI level II services shall only be reimbursable for a total duration of six (6) months.
- 3422.17 Re-admission to CBI level II services, after the six-month period, may be considered for prior authorization by DMH in accordance with medical necessity requirements specified by DMH.
- 3422.18 CBI Level II services shall be delivered in accordance with the Intensive Home and Community-Based Services (IHCBS) model as adopted by DMH. IHCBS services, activities and interventions that are not required under § 3422.7 shall not be billed as CBI Level II services.
- 3422.19 A consumer shall be eligible for CBI Level III services if the consumer:
- (a) Has situational behavioral problems that require short-term, intensive treatment;
 - (b) Is currently dealing with stressor situations such as trauma or violence and requires development of coping and management skills;

- (c) Recently experienced out of home placement and requires development of communication and coping skills to manage the placement change; or
 - (d) Is undergoing transition from adolescence to adulthood and requires skills and supports to successfully manage the transition.
- 3422.20 CBI Level III services shall not be authorized for children or youth who require the safety of a hospital or other secure setting.
- 3422.21 CBI Level III service providers shall obtain prior authorization for CBI Level III services from DMH for an initial thirty (30) day period. CBI Level III services may be reauthorized by DMH for an additional sixty (60) days immediately following the initial thirty (30) day period. CBI level III services shall only be reimbursable for a total duration of ninety (90) days.
- 3422.22 Re-admission to CBI level III services, after the ninety-day period, may be considered for prior authorization by DMH in accordance with medical necessity requirements specified by DMH.
- 3422.23 CBI Level III services shall be delivered in accordance with the IHCBS model as adopted by DMH. IHCBS services, activities and interventions that are not required under § 3422.7 shall not be billed as CBI Level III services.
- 3422.24 Discharge from all levels of CBI services shall occur when the consumer's level of functioning has improved with respect to the goals outlined in the IPC and ISSP or the consumer no longer benefits from CBI services. Discharge decisions shall be based on one or a combination of the following:
- (a) The consumer is performing reasonably well in relation to goals contained in the IPC and ISSP and discharge to a lower level of care is indicated (e.g., the consumer is not exhibiting risky behaviors or family functioning has improved);
 - (b) The consumer, the consumer's family or caregiver has developed the skills and resources needed to step down to a less intensive service;
 - (c) The consumer is not making progress or is regressing, and all realistic CBI treatment options have been exhausted;
 - (d) A family member or caregiver requests discharge and the consumer is not imminently dangerous to self or others;
 - (e) The consumer requires a higher level of care (e.g., inpatient hospitalization or psychiatric residential treatment facility); or

- (f) The consumer no longer resides in the District.

3422.25 Eligible providers of CBI Level I services shall:

- (a) Meet the specialty service provider requirements in § 3412;
- (b) Be licensed MST providers in good standing and utilize the MST treatment model;
- (c) Have the capacity to provide the non-Medicaid reimbursed wraparound services required by eligible consumers;
- (d) Have the capacity to deliver CBI Level I services to four (4) to six (6) consumers for each full time team member; and
- (e) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3422.26 Eligible providers of CBI Level II services shall:

- (a) Meet the specialty service provider requirements in § 3412;
- (b) Utilize the IHCBS treatment model adopted by DMH to deliver CBI Level II services;
- (c) Meet CBI Level II training requirements specified by DMH;
- (d) Have the capacity to provide the non-Medicaid reimbursed wraparound services required by eligible consumers;
- (e) Have the capacity to deliver CBI Level II services to at least four (4) to six (6) consumers for each full-time team member; and
- (f) Be available to consumers twenty-four (24) hours per day, seven (7) days per week;

3422.27 Eligible providers of CBI Level III services shall:

- (a) Meet the specialty service provider requirements in § 3412;
- (b) Utilize the IHCBS treatment model adopted by DMH to deliver CBI Level III services;
- (c) Meet CBI Level III training requirements specified by DMH;

- (d) Have the capacity to deliver CBI Level III services to at least four (4) to six (6) consumers for each full-time team member; and
- (e) Be available to consumers twenty-four (24) hours per day, seven (7) days per week.

3422.28 Providers of CBI services shall meet the staffing requirements applicable to the level of services offered in order to render CBI Level I, Level II or Level III services.

3422.29 Providers of all levels of CBI services shall:

- (a) Individually design CBI services for each consumer and family to minimize intrusion and maximize independence;
- (b) Provide more intensive services at the beginning of treatment and decrease the intensity of treatment over time as the strengths and coping skills of the consumer and family develop;
- (c) Provide services utilizing a team approach;
- (d) Maintain appropriate back-up coverage for team member absences and facilitate substitution of team members as necessary;
- (e) Conduct face-to-face transition planning with consumers and families no later than thirty (30) days prior to the anticipated discharge date, including meetings with providers of more intensive or less intensive services;
- (f) Conduct continuity of care planning with consumers and families prior to discharge from any level of CBI services, including facilitating follow-up mental health appointments and providing telephonic support until follow-up mental health services occur;
- (g) Provide all of the components of treatment specified in §3422.7, as appropriate, based on each consumer's needs;
- (h) Provide CBI services with a family-focus;
- (i) Assist the consumer and his or her family with the development of mental health relapse prevention strategies and plans, if none exist;
- (j) Assist the consumer and his or her family with the development of a safety plan to address risk factors identified during the environmental assessment;

- (k) Have policies and procedures included in its Service Specific Policies that address the provision of CBI (CBI Organizational Plan) which include the following:
 - (i) A description of the particular treatment models utilized, types of intervention practiced, and typical daily curriculum and schedule;
 - (ii) A description of the staffing pattern and how staff are deployed to ensure that the required staff-to-consumer ratios are maintained, including how unplanned staff absences and illnesses are accommodated; and
 - (iii) A description of how the ISSP is modified or adjusted to meet the needs specified in each consumer's IPC;
- (l) Directly conduct or arrange for the provision of Diagnostic/Assessment services within thirty (30) days before or after the initiation of CBI services through either an agreement with a CSA or a CSA's affiliated sub-provider. DMH may approve alternative sources to serve as the diagnostic assessment instrument if similar assessments have been conducted within the past twelve (12) months of an individual's referral to CBI services.
- (m) Collect and submit clinical outcome data using the process, timeline and tools specified or approved by DMH.

3422.30 Each CBI Level I team shall include:

- (a) A full-time clinical supervisor;
- (b) A full-time team leader; and
- (c) Four (4) to six (6) CBI clinicians.

3422.31 The CBI Level I team clinical supervisor shall be a Master's level qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy in accordance with applicable District laws and regulations, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3422.32 The CBI Level I team leader shall be a Master's level clinician with a minimum of one (1) year of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.

3422.33

The CBI Level I team clinicians shall be either Master's level clinicians or Bachelor's level clinicians with a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.

- 3422.34 Each CBI Level II team shall include:
- (a) A full-time clinical supervisor; and
 - (b) Four (4) to six (6) clinicians.
- 3422.35 The CBI Level II team clinical supervisor shall be a Master's level qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy in accordance with applicable District laws and regulations, with a minimum of two (2) years of post-graduate experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.36 The CBI Level II team clinicians shall be either Master's level clinicians or Bachelor's level clinicians with a minimum of one (1) year of experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.37 Each CBI Level III team shall include:
- (a) A full-time clinical supervisor; and
 - (b) Four (4) to six (6) clinicians;
- 3422.38 The CBI Level III team clinical supervisor shall be a Master's level qualified practitioner experienced in providing individual, group, marital or family counseling or psychotherapy in accordance with applicable District laws and regulations, with a minimum of two (2) years post-graduate experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.39 The CBI Level III team clinicians shall be either Master's level qualified practitioners or Bachelor's level clinicians with a minimum of two (2) years of experience working with behaviorally challenged youth and their families in community-based settings.
- 3422.40 Providers of all levels of CBI services shall ensure the availability and provision of alcohol and other drug addiction treatment services as well as services to facilitate consumers' transition from adolescence to adulthood, as medically necessary for consumers.
- 3422.41 Prior authorization from DMH is required for enrollment in all levels of CBI services.
- 3422.42 CBI shall not be billed on the same day as Rehabilitation/Day Services, Intensive Day Treatment or ACT.

- 3422.43 CBI shall not be billed on the same day as Counseling without the prior approval of DMH.
- 3422.44 CBI shall not be billed on the same day as Community Support unless the Community Support services are provided within thirty (30) days prior to the consumer's discharge from CBI.
- 3422.45 CBI shall be provided in:
- (a) MHRS provider service sites; or
 - (b) Natural settings, including the consumer's home or other community setting.
- 3422.46 Qualified practitioners of CBI are:
- (a) Psychiatrists;
 - (b) Psychologists;
 - (c) LICSWs;
 - (d) APRNs;
 - (e) RNs;
 - (f) LPCs;
 - (g) LISWs; and
 - (h) Addiction counselors.
- 3422.47 All credentialed staff, including recovery specialists, shall be authorized to provide CBI under the supervision of a qualified practitioner as set forth in §3413.3.
- 3422.48 CBI services shall typically not exceed thirty-two (32) units in a twenty-four (24) hour period. DMH may conduct clinical record reviews to verify the medical necessity of services provided.

Section 3424.4 is amended to read as follows:

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Diagnostic/ Assessment	<ul style="list-style-type: none"> • One (1) every six (6) months • Additional units allowable when pre-authorized for periodic assessment, pre-hospitalization screening, neuropsychological assessment and re-admission to Rehabilitation/Day Services • Shall not be billed the same day as ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	An assessment, which is at least three (3) hours in duration
Medication/ Somatic Treatment	<ul style="list-style-type: none"> • No annual limit • Shall not be billed the same day as ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Counseling	<ul style="list-style-type: none"> • One hundred sixty (160) units per year • Additional units allowable with prior authorization by DMH • Shall not be billed the same day as Rehabilitation/Day Services, Intensive Day Treatment or ACT • Shall not be billed on the same day as CBI, without prior approval from DMH • Shall be rendered face-to-face, when consumer is present, unless there is adequate documentation to justify why the consumer was not present during the session • May be provided in individual on-site, individual off-site or group • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Community Support	<ul style="list-style-type: none"> • No annual limits • Shall not be billed on the same day as ACT • May be provided individually or in a group • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes
Crisis/ Emergency	<ul style="list-style-type: none"> • No annual limits • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes

MHRS	LIMITATIONS AND SERVICE SETTING	BILLABLE UNIT OF SERVICE
Rehabilitation/ Day Services	<ul style="list-style-type: none"> • Prior authorization from DMH required for enrollment • Shall not be billed on the same day as Counseling or ACT • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	One (1) day (which shall consist of at least three (3) hours)
Intensive Day Treatment	<ul style="list-style-type: none"> • Seven (7) days • Additional units allowable after seven (7) days or for the second and any additional episodes of care within a twelve (12) month period with prior authorization by DMH • Shall not be billed on the same day as any other MHRS, except for Crisis/Emergency, Community Support or CBI • Up to three (3) hours of Diagnostic/Assessment may be billed during each episode of Intensive Day Treatment • Provided only in a community-based MHRS provider -- Intensive Day Treatment Facility 	One (1) day (which shall consist of at least five (5) hours)
CBI	<ul style="list-style-type: none"> • Prior authorization to the CBI provider from DMH required for enrollment • Shall not be billed on the same day as ACT or Intensive Day Treatment • Shall not be billed on the same day as Counseling, without prior approval from DMH • Shall not be billed on the same day as Community Support, unless the Community Support services are provided within thirty (30) days of discharge from CBI • Provided only in a community-based MHRS provider or other community setting, or residential facility of sixteen (16) beds or less 	Fifteen (15) minutes not to exceed thirty-two (32) units in a twenty-four (24) hour period
Assertive Community Treatment	<ul style="list-style-type: none"> • Prior authorization from DMH required for enrollment • Shall not be billed on the same day as any other MHRS, except for Crisis/Emergency with retrospective authorization 	Fifteen (15) minutes

Section 3499.1 is amended as follows:

The following definitions are added:

“Authorized” - MHRS services that are prior authorized or reauthorized by DMH, in accordance with these standards.

“Child and Family Services Agency” or “CFSA” – The District agency responsible for the coordination of foster care, adoption and child welfare services and services to protect children against abuse or neglect.

“Clinical supervisor” – The qualified practitioner responsible for monitoring consumer welfare, ensuring compliance with professional standards of service delivery, monitoring clinical performance and professional development of team members, and evaluating team members for performance, service delivery and credentialing purposes.

“Clinician” – An individual with either a Bachelor’s or Master’s degree in social work, counseling, psychology, family therapy or related social science or appropriate therapeutic experience with the target population. Clinicians are credentialed staff.

“Conduct disorder” – A behavioral and emotional disorder of childhood and adolescence that manifests by children acting out aggressively, expressing anger inappropriately, and engaging in a variety of antisocial and destructive acts, including violence towards people and animals, destruction of property, lying, stealing, truancy, and running away from home.

“Department of Youth Rehabilitative Services” or “DYRS” - The District agency responsible for providing security, supervision and residential and community support services for committed and detained juvenile offenders and juvenile persons in need of supervision.

“Foster home” – a residence in which a foster parent is licensed by the District to provide care to a foster child in accordance with the requirements of Title 29, DCMR Chapter 60.

“Independent Living Program” – A residential program licensed by the District in accordance with Title 29 DCMR Chapter 63, Licensing of Independent Living Programs for Adolescents and Young Adults.

“Intensive Home and Community-Based Services” or “IHCBS” – an intensive model of treatment adapted by DMH to prevent the utilization of out-of-home treatment resources by emotionally disturbed children and youth.

“Long-term placement option” – either a permanent caregiver or permanent home. A group home or other residential placement is not a long-term placement option.

“Multisystemic therapy” or “MST” – an intensive model of treatment based on empirical data and evidence-based interventions that target specific behaviors with individualized behavioral interventions.

“Permanent caregiver” – a natural or adoptive family or foster home that has cared for the consumer for at least six (6) consecutive months within the twelve (12) month period immediately preceding the referral for CBI. A group home or other residential placement is not a permanent caregiver.

“Permanent home” – a natural or adoptive family or foster home where the consumer has lived for at least six (6) consecutive months within the twelve month (12) month period immediately preceding the referral to CBI with a permanent caregiver. A group home or other residential placement is not a permanent home.

“Out of home therapeutic resource” – a psychiatric hospital or psychiatric residential treatment facility.

“Prior authorization” – approval by DMH in advance for the initiation of MHRS to a consumer, including the commencement of services such as Diagnostic/Assessment or Crisis Emergency services before a consumer is enrolled in the MHRS program.

“Psychiatric residential treatment facility” – shall have the meaning ascribed in 42 CFR Subpart G, Section 483.352.

“Reauthorized” – having received approval by DMH for the continued provision of medically necessary MHRS that are time-limited, such as Rehabilitation/Day Services, Intensive Day Treatment, CBI or ACT.

“Residential placement” – a psychiatric residential treatment center, group home, independent living program or other residence where children or youth are temporarily receiving services. A permanent home is not a residential placement.

The following definitions are amended to read as follows:

“Community-Based Intervention” or “CBI” – Time-limited, intensive mental health services delivered to children and youth ages six (6) through twenty-one (21) and intended to prevent the utilization of an out-of-home therapeutic resource or a detention of the consumer. CBI is primarily focused on the development of consumer skills to promote behavior change in the child or youth’s natural environment and empower the child or youth to cope with his or her emotional disturbance.

“Medical necessity” or “medically necessary” – those services contained in an approved IRP/IPC reasonably calculated to prevent the worsening of, alleviate, correct, cure, or ameliorate an identified mental health condition that endangers life, causes suffering or pain, causes physical deformity or bodily malfunction, threatens to cause or aggravate a disability, or results in an illness or infirmity. For children through age twenty (20),

services reasonably calculated to promote the development or maintenance of age-appropriate functioning are also considered medically necessary.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than fifteen (15) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Anne M. Sturtz, General Counsel, Department of Mental Health, 64 New York Ave, N.E., Fourth Floor, Washington, D.C. 20002 or anne.sturtz@dc.gov. Additional copies of these rules are available from the Office of the General Counsel, Department of Mental Health.

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

NOTICE OF PROPOSED RULEMAKING

**ELECTRIC TARIFF NO. 06-1, IN THE MATTER OF THE POTOMAC
ELECTRIC POWER COMPANY'S RESERVED DELIVERY CAPACITY
SERVICE RIDER, P.S.C. OF D.C. NO. 1**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Section 2-505 of the District of Columbia Code, of its intent to act upon the proposed tariff of the Potomac Electric Power Company, ("PEPCO" or "Company")¹ in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. In its filing, PEPCO proposes to offer Reserved Delivery Capacity Service ("RDCS") to a specific customer that has requested this service, as well as to future requesting customers. PEPCO asserts that RDCS essentially provides a dedicated, redundant delivery service to electric customers from an alternative distribution substation, which offers premium reliability to customers.² Specifically, PEPCO proposes to amend the following tariff pages:

ELECTRICITY TARIFF, P.S.C.-D.C. No. 1
Thirtieth Revised Page No. R-1
Thirtieth Revised Page No. R-2
Thirtieth Revised Page No. R-2.1
Original Page No. R-43
Original Page No. R-43.1

3. PEPCO avers that RDCS requires that an additional cost be paid by the requesting customer. PEPCO contends that the proposed charges are appropriate because the alternate delivery facilities in place beyond the service connection to serve the Reserved Delivery customer's portion of the load are the equivalent of those in place to serve a full requirements customer with the same total load characteristics.³ PEPCO states the major elements of this proposal are:

a) RDCS would generally be required for customers that desire reserved capacity from an alternate substation on the Company's delivery system.

¹ *Electric Tariff No. 06-1, In the Matter of the Potomac Electric Power Company's Reserved Delivery Capacity Service Rider, P.S.C. Of D.C. No. 1 ("ET 06-1")*, filed July 28, 2006, (PEPCO tariff).

² *ET 06-1*, PEPCO tariff at 1.

³ *Id.* at 2.

Switching to the alternate source of supply is under the manual or automatic control of the customer.

b) The customer is required to make a "Contribution in Aid of Construction" ("CIAC") for any additional facilities required to provide RDCS.

c) The monthly charges for Schedule "RDCS" are based on the full delivery service billing determinants applied to the normally applicable tariff. A table of discounts will be applied to the total amount calculated to reflect the fact that certain costs recovered through the standard rate are not incurred for RDCS.

d) The applied discount will depend on whether the customer has made a CIAC to be served by new facilities, or is served through existing facilities.⁴

4. This filing may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Seventh Floor, East Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. A copy of the proposed tariff page is available upon request, at a per-page reproduction cost.

5. Comments on PEPCO's proposed tariff must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. 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 of 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 PEPCO's filing.

⁴

Id. at 1-2.