

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF RESCHEDULED* PUBLIC HEARING**

TIME AND PLACE: **Thursday, July 22, 2004, at 6:30 p.m.
Office of Zoning Hearing Room
441 4th Street, N.W. – Suite 220 South
Washington, D.C. 20001**

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING:

Case No. 02-19 (Forest Hills – Tree Slope Overlay)

THIS CASE IS OF INTEREST TO ANC 3F:

The Zoning Commission for the District of Columbia hereby gives notice of its intent to hold a further public hearing at the above-stated date, time and place concerning the Zoning Commission Case No. 02-19.

On April 5, 2002, the Office of Zoning received a petition from the Forest Hills Citizens Association requesting a text and map amendment to the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The purpose of the petition was to create the Forest Hills Tree and Slope Overlay District. A hearing on the proposal began on June 27, 2002, and was continued on September 5 and 30, 2002. At the time that final action was scheduled for this case, the Commission expressed an interest in finding an alternative to the approach advocated in the petition. The Office of Planning, at a public meeting on November 11, 2003, presented such an alternative, which will be the subject of the hearing advertised by this notice.

For the purposes of 11 DCMR § 3202.5 (also known as the set down rule), the applicable text shall be the text in the notice of proposed rulemaking for this case, as published in the *D.C. Register* on December 13, 2002 at 50 DCR 50.

Title 11 DCMR (Zoning) is proposed to be amended by adding new sections 1516 and 1517, and three new definitions, to read as follows:

1516 FOREST HILLS TREE PROTECTION OVERLAY DISTRICT

1516.1 The Forest Hills Tree Protection (FH/TP) Overlay District is established for Forest Hills, which includes all lots in Squares 2030 through 2033, 2040 through 2043, 2046, 2049 except for lots 804 (Van Ness North), 805 (Van Ness Center), 806 (Van Ness South), 2231, 2232, 2238, 2239, 2241,

* Previously scheduled for May 6, 2004.

2242, 2244 through 2251, 2256, 2258, 2262 through 2270, 2272, 2274 through 2277 and 2282.

1516.2 The purposes of the FH/TP Overlay District is to preserve the tree canopy of Forest Hills, to preserve wooded areas in Forest Hills, to promote conservation practices appropriate within an urban context, and to encourage the replanting of trees.

1517 GENERAL PROVISIONS (FH/TP)

1517.1 The FH/TP Overlay District is mapped in combination with the underlying zoning district, and not in lieu of the underlying district.

1517.2 Any applicant for the construction of a building, accessory building, or an addition to a building shall provide certification from a certified landscape architect or an ISA certified arborist that a tree canopy, resulting from trees within the lot lines of the subject property, will cover the following percentages of the lot after construction is completed or no later than ten (10) years after the date of the application:

(a) For a lot less than 9,500 square feet in area, twenty percent (20%);

(b) For a lot 9,500 square feet but not less than 20,000 square feet in area, twenty-five percent (25%); or

(c) For a lot 20,000 square feet in area or greater, forty percent (40%).

1517.3 The percentages in § 1517.2 may be reduced for a particular lot by the Board of Zoning Adjustment to avoid one or more of the following:

(a) Overcrowding of existing trees;

(b) Planting in an unsuitable soil type;

(c) Planting in areas with a lack of adequate root space; or

(d) Any other factors that may jeopardize the health of a tree.

1517.4 Any application filed under § 1517.3 shall be referred to the Urban Forestry Administration.

1517.5 Any tree planted to meet the requirement of this section shall be a nursery stock tree of at least a two (2) inch caliper, balled and burlaped, in good health, and shall not be of a species that has been identified as appropriate for removal by regulations promulgated by the District Department of Transportation pursuant to the Urban Forest Preservation Act of 2002.

- 1517.6 The certification required by §1517.2 shall be accompanied by a tree protection plan that will show:
- (a) The location, size, and species of all existing trees measured at four and one half (4½) feet above the ground;
 - (b) The location, size, and species of all trees to be removed;
 - (c) The location, number and species of any trees to be planted in replacement;
 - (d) Proposed grade changes or other potentially injurious work to be performed adjacent to trees to be retained; and
 - (e) Methods to be used to protect existing trees during construction including, but not limited to:
 - (1) Drip line protection, including construction or snow fencing, around all tree preservation areas; and
 - (2) Installation of tree wells, retaining walls or other structures necessary to protect individual trees.
- 1517.7 The Zoning Administrator shall not take final action on a building permit application until a report is received from the Urban Forestry Administration or until twenty-one (21) days have passed since the tree protection plan was submitted to the Urban Forestry Administration, whichever is sooner.
- 1517.8 No building permit shall be granted if a tree protection report received pursuant to § 1517.5 fails to demonstrate that the tree canopy requirements of this section will be met.
- 1517.9 No earlier than two (2) years and no later than three (3) years after the building permit is issued, the property owner shall present to the Zoning Administrator a certification from an ISA certified arborist or certified landscape architect that the applicable tree canopy percentage has been maintained or will be achieved by the date stated on the original certification. If trees were planted to achieve the canopy requirement, the certification shall also state that the replacement trees met the requirements of §1517.3. Failure to present a certification that meets the requirements of § 1517.9 within the time provided therein shall be a violation of this section.
- 1517.10 No further building permits shall be issued for the subject property until the certification required by §1517.9 is received by the Zoning Administrator.

- 1517.11 No person shall remove a tree identified in the tree plan in § 1517.6 so as to reduce the canopy percentage below the applicable level established in § 1517.2 unless the tree is determined to be dying, diseased or hazardous by an ISA certified arborist.
- 1517.12 The issuance of a tree removal permit by the Department of Transportation- Urban Forestry Administration does not relieve any person from meeting the requirements of this section.

The following definitions are proposed:

199 DEFINITIONS

Caliper - the diameter of the trunk of a tree, when measured at a height of four feet, six inches (4'6").

Drip Line - an imaginary line on the ground beneath a tree, which delineates the extent of the tree's canopy.

ISA - International Society of Arboriculture.

Proposed amendments to the Zoning Regulations and Map of the District of Columbia are authorized pursuant to the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01) (2001)).

The public hearing on this case will be conducted in accordance with the provisions of § 3021 of the District of Columbia Municipal Regulations, Title 11, Zoning. Pursuant to that section, the Commission will impose time limits on testimony presented to it at the public hearing.

All individuals, organizations, or associations wishing to testify in this case should file their intention to testify in writing. Written statements, in lieu of personal appearances or oral presentations, may be submitted for inclusion in the record.

Information should be forwarded to the Secretary of the Zoning Commission, Office of Zoning, Suite 210, 441 4th Street, N.W., Washington, D.C., 2001. Please include the number of this particular case and your daytime telephone number. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

CAROL J. MITTEN, ANTHONY J. HOOD, JOHN G. PARSONS, JAMES H. HANNAHAM, AND KEVIN HILDEBRAND ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY JERRILY R. KRESS, FAIA, DIRECTOR, AND BY ALBERTO P. BASTIDA, AICP, SECRETARY TO THE ZONING COMMISSION.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the D.C. Department of Human Services, pursuant to the authority set forth in the Burial Assistance Program Reestablishment Emergency Amendment Act of 1999 (D.C. Act 13-180), effective November 2, 1999, as amended by the Technical Amendment Act of 1999 (D.C. Law 13-91; D.C. Official Code § 4-1001), effective April 12, 2000 and Mayor's Order 2000-13, dated January 21, 2000, hereby gives notice of the adoption of the following amendment to Title 29 of the District of Columbia Municipal Regulations, which includes a new Chapter 26. No comments were received on the text of emergency and proposed rules, which were published in the *D.C. Register* on March 26, 2004 (51 DCR 3227). No substantive changes have been made to final rules. However, technical changes have been made to clarify the concept of "financially responsible relatives". These final rules will become effective upon publication of this notice in the *D.C. Register*.

Title 29 DCMR is amended by deleting chapter 26 in its entirety and inserting in lieu thereof the following:

CHAPTER 26 BURIAL ASSISTANCE PROGRAM**2600 SCOPE**

- 2600.1 This chapter establishes the requirements for the Burial Assistance Program (Program), which shall include:
- (a) The process for applying for burial assistance;
 - (b) The eligibility criteria for burial assistance;
 - (c) The benefit and payment levels for the Program; and
 - (d) The appeal procedures for aggrieved applicants.
- 2600.2 The Burial Assistance Program shall not be an entitlement and shall be subject to the availability of appropriations for the Program.
- 2600.3 The Program shall only provide assistance toward the burial and/or cremation costs for qualified District residents through funeral homes that are under contract with the District to receive funds from the Program.
- 2600.4 All payments shall be made directly to the funeral home or provider rendering the services.

2601 APPLICATION PROCESS

- 2601.1 Each applicant for burial assistance shall:
- (a) Submit a written application on a Department "Burial Assistance Application" form and be signed by a relative, preferably the next of kin; and
 - (b) Establish that the deceased person is the person for whom assistance is being sought.
- 2601.2 The body of a deceased person shall not have been released to a funeral home that is not under contract with the District to receive funds from the Program at the time of the request for assistance. If the body of the deceased person is released to a contracted funeral home, the request for assistance must be made prior to receipt of burial or cremation services.
- 2601.3 An authorized representative may apply on behalf of the applicant, if the applicant provides a written statement stating why he or she cannot attend an interview in person and provides the name and address of the person authorized to act on the applicant's behalf.
- 2601.4 An authorized representative shall be at least eighteen (18) years of age and have sufficient knowledge of the circumstances of the death to provide the requisite information, or be a person with legal authorization to act on behalf of the applicant.
- 2601.5 Each applicant shall be interviewed on the date burial assistance is requested or, if that is not possible, on the following business day.
- 2601.6 Each applicant shall cooperate fully in establishing the deceased's eligibility. This shall include, but not be limited to, providing documentation or collateral proof of:
- (a) Household composition;
 - (b) Income and assets; and
 - (c) The cost of the funeral.
- 2601.7 The Department shall provide the applicant with a written request specifying the information needed to complete the application and discuss with the applicant how to obtain the information. The application shall be considered complete when all requested information is furnished to the Department.

- 2601.8 The Department shall not request that documentation be provided when it can obtain the information more easily than the person applying for burial assistance, if that determination can be made. The Department may use documents, telephone conversations, personal, collateral sources, reports, correspondence, and conferences to verify the information.
- 2601.9 If the burial is expected to occur within two (2) business days of the date of submission of the completed application, the Department shall take all reasonable steps to process the application timely.
- 2601.10 An application shall be considered abandoned if the applicant has not submitted the required information or contacted the assigned Department worker or supervisor within fourteen (14) days of the initial application.
- 2601.11 An application shall not be denied if the applicant is attempting to obtain and furnish the required information, and has informed the Department accordingly.
- 2601.12 The Department shall give each applicant, whose application has been denied, a clear concise written statement of the reasons for the denial within three (3) business days of the denial. Each written notice shall also inform the applicant of the right to an administrative review and fair hearing to contest the denial, and the steps the applicant shall take to seek review.

2602 ELIGIBILITY CRITERIA

- 2602.1 In order to be eligible for burial assistance, the eligibility criteria set forth in this section shall be met.
- 2602.2 The deceased person shall be a person who was a resident of the District of Columbia immediately prior to his or her death.
- 2602.3 Countable assets shall not exceed eight hundred dollars (\$800).
- 2602.4 A prepaid funeral plan shall not be held by the deceased person or any other person on behalf of the deceased person.
- 2602.5 The burial or cremation services shall be arranged through a funeral home under contract with the District to provide such service to persons receiving burial assistance.
- 2602.6 The total cost of the burial or cremation including the cost of the burial plot, cremation services and container, casket, preparation of the body, funeral service, transportation of the body to the funeral home and the cemetery, transportation of family members to the funeral home, grave marker, and ritual and decorative items used at the funeral, grave site or wake shall not exceed two thousand dollars

(\$2,000), except in the case of a deceased person who requires an oversized casket.

- 2602.7 The total cost of the burial for a deceased person who requires an oversized casket shall not exceed three thousand dollars (\$3,000).
- 2602.8 The limitations on the total cost of the burial and/or cremation shall not include costs associated with opening and closing the grave.
- 2602.9 The burial shall take place within the Washington Metropolitan Area.
- 2602.10 For purposes of this section, the phrase "countable assets" means:
- (a) The financial accounts (checking and savings) of the deceased person, and his or her financially responsible relatives. The financially responsible relatives are:
 - (1) The deceased person's spouse, if they were residing together at the time of death, and
 - (2) The deceased person's parent(s), if the deceased is a minor.
 - (b) The net monthly earned and unearned income of the deceased person and his or her financially responsible relatives that is received during the thirty (30) days preceding the application for burial assistance, less the Medicaid Medically Needy Income Level, based on a household size that includes the deceased, the financially responsible relatives and any dependents of the financially responsible relatives; and
 - (c) Cash available from the deceased person, or his or her financially responsible relatives.
- 2602.11 For purposes of this section, the following are excluded from countable assets:
- (a) Individual Retirement Accounts when not available to the deceased person prior to the funeral;
 - (b) Life insurance policies, unless a financially responsible relative is the beneficiary, and the funds are accessible prior to the funeral;
 - (c) Trust funds when not available to the deceased person or his or her financially responsible relative prior to the funeral;
 - (d) Vehicles;
 - (e) Real Property; and

(f) Other assets not immediately accessible prior to the funeral.

2602.12 For purposes of this section, the phrase "District resident" means:

- (a) A person who is living voluntarily and not for a temporary purpose within the District;
- (b) A person that a District agency places in an institution located in another state; or
- (c) A person who resides in an institution outside the District including, but not limited to, a hospital or nursing facility and he or she retains a home or his or her spouse or financially-responsible parent maintains residence in the District.

2603 BENEFITS AVAILABLE FOR BURIAL AND CREMATION

2603.1 When a deceased person meets the eligibility criteria described in section 2602 and an application has been filed and approved as required under section 2601, one (1) of the following shall occur:

- (a) Eight hundred dollars (\$800) shall be paid for burial assistance; or
- (b) Four hundred and fifty dollars (\$450) shall be paid for cremation assistance.

2604 APPEALS

2604.1 Each aggrieved applicant shall have the right to appeal a denial of burial or cremation assistance.

2604.2 An applicant shall have the right to request a fair hearing by giving a clear expression, oral or written, that he or she would like the opportunity to present the issue by which he or she is aggrieved to a higher authority.

2604.3 The request for a fair hearing shall be accepted by any staff member involved in the eligibility determination process.

2604.4 The applicant shall have ten (10) calendar days from the date of the notice described in subsection 2601.12 to file an appeal.

2604.5 An administrative review shall be held, unless waived by the applicant, as soon as possible but no later than ten (10) business days following the request for appeal.

2604.6 The purpose of the administrative review shall be to ascertain the validity of the Department's position and, if possible, resolve the claim.

- 2604.7 If the applicant is not satisfied with the results of the review or has waived the review, or he or she does not appear at the review, the hearing shall be held as scheduled.
- 2604.8 The hearing shall be held at a time, date, and place designated by the Department.
- 2604.9 During the hearing, an applicant shall have the right to:
- (a) Examine the contents of the case record and all documents and records to be used by the Department at the hearing;
 - (b) Represent himself or herself, or use an authorized representative;
 - (c) Present witnesses; and
 - (d) Question or refute any testimony or evidence presented by the Department, including having the opportunity to confront and cross-examine witnesses.
- 2604.10 The Department shall not be represented by an attorney at the hearing or administrative review, unless the applicant is represented by an attorney.
- 2604.11 Hearings shall be conducted by an impartial official who is designated by the Director.
- 2604.12 The recommendations of the impartial official shall be based solely on evidence and other material introduced at the hearing and in the Department's case file.
- 2604.13 A copy of the hearing official's findings of fact, conclusions of law and recommendations shall be sent to the applicant and his or her authorized or legal representative.
- 2604.14 The Director, or his or her designee, shall make the final decision on all appeals, which are binding and shall have immediate effect. A written notice of the decision shall be sent to the applicant and his or her authorized or legal representative.
- 2604.15 The Department will take all reasonable steps to hold a hearing, make a final decision, and where the decision is to grant benefits, provide burial assistance in a timely manner.
- 2604.16 In each case where a decision favorable to the applicant is rendered, the Department shall issue payment within thirty (30) business days after the completion of the administrative review or hearing.

2604.17 Any applicant who is dissatisfied with a final decision may seek judicial redress by filing in the District of Columbia Court of Appeals a written petition for review within thirty (30) business days following the receipt of the final decision of the Department.

2604.18 The applicant shall be informed in writing of his or her right to appeal an adverse final decision of the Department to the District of Columbia Court of Appeals.

2699 DEFINITIONS

2699.1 When used in this chapter, the following terms shall have the meanings ascribed:

Department - the Department of Human Services.

Director - the Director of the Department of Human Services.

Spouse - the husband or wife of the deceased person.

**DISTRICT OF COLUMBIA
DEPARTMENT OF INSURANCE AND SECURITIES REGULATION**

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance and Securities Regulation, pursuant to the authority set forth in section 12(f) of the Compulsory/No-Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982, (D.C. Law 4-155; D.C. Official Code § 31-2411(f) (2001)), hereby gives notice of the adoption of the following amendments to be included in Title 26 of the District of Columbia Municipal Regulation ("DCMR"). Notice of the Proposed Rulemaking was published April 2, 2004 (51 DCR 3468). These final rules will be effective upon the publication of this notice in the D.C. Register.

These rules are being republished so as to renumber and reconcile two separate sets of amendments that were published in final form on December 20, 2002 (49 DCR 11395) and October 3, 2003 (50 DCR 8192), respectively. In relevant part, the former set of amendments require the District of Columbia Automobile Insurance Plan ("Plan") to: establish a procedure for the distribution of risks assigned to insurance companies, make assignments to any company with a private passenger nonfleet quota; provide the basis of distribution of premiums, losses and expenses of the Commercial Automobile Insurance Procedure ("CAIP"); describe CAIP eligibility requirements and taxicab risks with the option of higher bodily injury and property damage liability limits; describe date provisions for all CAIP risk manual users; and designate types of applicants eligible for CAIP to the Plan.

The latter set of amendments will afford producers registered with the Plan the option of filing application submissions through the Electronic Application Submission Interface ("EASi"). The amendments provide for the registration for access to EASi, operating procedures for the retraction of an EASi reference number, the forwarding of completed and original applications to the Plan, the performance standards pertaining to EASi, and the procedures for handling violations of EASi standards. The EASi will be used to establish the immediate coverage and future effective dates of coverage.

TITLE 26, CHAPTER 6 DCMR IS AMENDED TO READ AS FOLLOWS:

**616 DESIGNATION OF COMPANY AND EFFECTIVE DATE OF
 COVERAGE**

Section 616 is repealed and is amended to read as follows:

- 616.1 Upon receipt of a properly completed application for insurance showing that the applicant is eligible for assignment, and the deposit specified in § 614 of these rules:
- (a) The Plan shall designate a company to which the risk shall be assigned and shall so notify the producer of record; and
 - (b) The notice shall state the date when the coverage is to become effective, which date shall be at 12:01 a.m. on the day following the date of mailing of the properly completed application form

to the Plan Office, as shown by the postmark on the transmittal envelope.

- 616.2 If the postmark is not legible, is a metered mail postmark, electronic stamp, or other Postage service or stamp, the coverage shall be effective 12:01 A.M. on the day the application is received by the Plan Office.
- 616.3 If an application is delivered to the Plan Office by means other than the United States Postal Service (including delivery by means of overnight mail, courier, or other delivery service), the effective date of coverage under the Plan shall be determined as follows:
- (a) at 12:01 a.m. on the following receipt of the application in the Plan Office;
 - (b) if the applicant does not desire coverage until a later date, not to exceed 30 days from the date of application, the applicant shall indicate such date in his application and the Plan shall fix the date when coverage becomes effective at 12:01 a.m. on the desired date of coverage; or
 - (c) in the event there is an in-force policy termination at a date later than the dates under paragraphs (a) and (b) of this subsection, the applicant shall indicate such date in the application and the Plan shall fix the date when coverage becomes effective at 12:01 a.m. on the termination date of coverage of the in-force policy.
- 616.4 If the applicant does not desire coverage until a later date, not to exceed 30 days from the date of application, the applicant shall indicate such date in his application and the Plan shall fix the effective date of coverage as of 12:01 a.m. on the desired date of coverage.
- 616.5 If there is in force a policy terminating at a date later than the date which would be fixed pursuant to this section, the applicant shall indicate that date in his or her application and the Plan shall fix the date when the coverage becomes effective at 12:01 a.m. on the stated termination date of the policy in force.
- 616.6 For the purposes of this section, the postmark date which is to be recognized by the Plan shall be the postmark date of the United States Postal Service and shall not include a metered mail postmark, electronic stamp, or other postage service or stamp.
- 616.7 If the applicant requires that the coverage applied for become effective at the time of application, the producer of record shall indicate the time and date when coverage is required. The coverages and limits for which the applicant is applying shall become effective as of the time the application is completed. The producer of record and the applicant shall certify in the application the date (day, month, and year) and time (hour, a.m. or p.m.) that the application was written.
- 616.8 The producer of record shall forward to the Plan Office, no later than the first working day after the application is written, two copies of the application, and shall supply the applicant with a copy of the application duly executed by the producer.

- 616.9 The producer of record shall maintain appropriate records of all risks for which he or she has designated the time and data of coverage. The producer of record shall permit inspection or photocopying of such office records by the Manager or by a company representative. This inspection or photocopying shall be limited to situations where the date or hour of coverage is in question due to the occurrence of an accident or claim arising under the policy issued under this section.
- 616.10 In no event shall coverage be effective prior to the time shown on the application, nor shall any failure on the part of the producer of record to properly perform under the provisions of this section prejudice the rights of an applicant with respect to the 30-day period of coverage provided in the Evidence of Insurance section of the application.
- 616.11 The Plan shall forward to the designated company the original copy of the application form, the notice of the effective date of coverage, and the deposit. The deposit shall be credited by the company against the policy premium.
- 616.12 Applications assigned through Commercial Automobile Insurance Procedure ("CAIP") are subject to the provisions of §§ 616.1 through 616.13 and § 633.57, unless otherwise stated below.
- 616.13 For CAIP applications requiring filings and limits in excess of \$ 500,000 combined single limit coverage, upon receipt of the application for insurance properly completed and the deposit specified in § 614, and if the application form shows that the applicant is eligible for coverage, the Plan shall designate a servicing carrier to which the application shall be assigned and shall so advise the producer of record and state in such notice when the coverage shall be effective.
- 616.14 For those CAIP applicants requiring filings or a limit in excess of \$ 500,000 combined single limit coverage, coverage is effective on a date specified by the applicant, which may not be earlier than 15 calendar days following the Plan assignment date shown on the Notice of Designation if:
- (a) An applicant is found ineligible for coverage through the Plan within 15 calendar days following the Plan assignment date shown on the Notice of Designation, a notice of ineligibility will be mailed by the servicing carrier prior to the date upon which coverage would have been effective. Such notice shall state the reason for ineligibility and shall be mailed to the insured with a copy to the producer of record;
 - (b) An applicant is found ineligible for coverage through the Plan after 15 calendar days have lapsed following the Plan assignment date shown on the Notice of Designation, cancellation shall be in accordance with § 625; or
 - (c) For CAIP risks which were assigned under §§ 616.1 through 616.13 but following the assignment date request either limits in excess of \$

500,000 combined single limit or filings (ICC, PUC, etc.), the requested endorsement may take effect no earlier than 15 calendar days following the receipt of the request for higher limits or filings.

- 616.15 The producer of record may use Electronic Application Submission Interface (EASi) to transmit the application electronically to the Plan Office.
- 616.16 Coverage shall become effective in accordance with Section 616.1, 616.2, 616.3, 616.4 or 616.5 provided all of the following requirements are met:
- (a) the producer of record and the applicant shall certify on the application prescribed by the Plan the date (day, month, and year) and time (hour, A.M. or P.M.) that the application information was completed;
 - (b) the producer uses EASi described above; and
 - (c) the original and one copy of the paper application produced by EASi and deposit premium must be mailed to the Plan in accordance with Section 616.8. If the original and one copy of the paper application produced by EASi and deposit premium are not mailed or delivered to the Plan Office in accordance with Section 616.8, the Plan will consider this a producer violation of performance standards.
- 616.17 For the purposes of this Section, the Postmark to be recognized by the Plan shall be the Postmark of the United States Postal Service. A metered mail postmark, electronic stamp, or other postage service or stamp shall not be considered a postmark of the United States Postal Service for the purpose of effecting coverage.
- 616.18 The producer of record completing and signing the application may not transmit the application using EASi until the deposit premium has been received and the application for coverage has been completed.
- 616.19 Appropriate records of all risks submitted using EASi must be maintained. The producer agrees to permit the inspection or photocopying of such office records by the Plan or by a company representative.
- 616.20 Following assignment of an EASi reference number and prior to the mailing of a completed signed application to the Plan, the producer of record may complete and mail a Retraction Form to the Plan if:
- (a) the applicant has notified the producer of record that coverage through the Plan is no longer required, or
 - (b) the producer of record has made an error in the information provided, or
 - (c) the producer of record has, in error, requested more than one reference number for the same application.
- 616.21 The producer of record shall complete the Retraction Form and forward it to the Plan no later than the first working day after the date the application is voided. If the Plan does not receive the Retraction Form within 20 days after the date of assignment of the EASi reference number, the producer to

whom the reference number is assigned will be considered in violation of performance standards.

- 616.22 If EASi is not available due to the failure of transmission or receiving equipment as a result of a disaster or emergency, the producer of record must submit an original and one copy of the application form in accordance with Section 616.
- 616.23 The Plan shall maintain a record of producer violations of EASi in accordance with Section 630. Violation of procedures of EASi outlined in this section may result in referral to the Governing Committee.
- 616.24 Access to EASi shall not be construed as constituting the producer as an agent of the Plan or any company to which an applicant is assigned. In all transactions between the applicant and the Plan, the producer shall be deemed to be the agent of the applicant and not the agent of the Plan or any company to which an applicant is assigned.
- 616.25 If for any reason the applicant refuses to accept the policy, the designated company shall retain the short rate earned premium for the period of coverage, or the minimum policy premium prescribed in the Automobile Insurance Plan Manual of Rules and Rates, whichever is greater, and return the balance to the applicant.
- 616.26 If the Applicant is eligible under the Plan, and the applicant or spouse requires a financial responsibility certificate (SR-22), the Plan shall, on behalf of the assigned carrier, issue the certificate and file with the proper authority and send a copy to the company. All certificates shall be effective at 12:01 a.m. on the date specified in the notice of assignment. Filing of the certificate by the Plan shall be limited to original assignments.

631 CHANGE OF OWNERSHIP OR TRANSFER OF LOSS EXPERIENCE

Section 631 is repealed and amended to read as follows:

- 631.1 All experiences of commonly owned entities (as determined in §§ 631.5 through 631.7 of these rules) and insured in the Plan, should be written on the same policy and combined for rating purposes. All entities of a risk will be combined when determining eligibility for experience rating. All previous experience of a risk will continue in the experience rating subject to the provisions of §§ 631.2 through 631.6.
- 631.2 The experience for any entity undergoing a change in ownership shall be excluded from future experience ratings only if each of the following conditions are met:
- (a) The change must be a material change such that the entire ownership interest after the change had no ownership interest before the change. A transfer of ownership to a family member (whether natural or by law), a household resident, or a previous owner is not considered a change in ownership; and

- (b) The change in ownership is accompanied by a change in company management. A change in company management is defined as including all of the following, but not limited to, the chairman of the board, president, partners, and other executive officers.
- 631.3 Entities with a majority (more than 50%) common ownership interest will be combined for rating purposes.
- 631.4 Determination of majority ownership is based on the following:
- (a) Majority of issued voting stock;
- (b) Majority of the members if no voting stock is issued;
- (c) Majority of the board of directors of comparable governing body if (a) or (b) of this subsection are not applicable; or
- (d) Participation of each general partner in the profits of a partnership. Limited partners are not considered in determining majority interest.
- 631.5 If the rules above provide for more than one possible combination of entities, the combination involving the most entities shall be made. However, the experience of any entity may be used in only one combination.
- 631.6 Any change in ownership, including legal status and reincorporation, necessitates a new application, with the appropriate deposit, be submitted to the Plan for assignment.
- 631.7 The insured must report any change to the insurer, in writing, within 30 days of such change. The type, nature, and details of the change must be provided to the insurer for purposes of determining eligibility for such change as stated in §§ 631.2 through 631.6. The appropriate information must be provided on the Name or Ownership Change form, approved for use in the Plan, fully completed and signed by the insured. The Name or Ownership Change form is available from the Plan or insurer upon request. Failure of the insured or producer to provide complete information on the approved form may delay a return premium due the insured pending receipt of the completed form. Upon the request of the insurer, a Name or Ownership Change form must be fully completed and signed by the insured within 10 days of the date of the request. Failure of the insured or producer to return the fully completed and signed form following two written requests by the insurer, could result in loss of coverage as stated in § 625 of these rules.

634 REGISTRATION TO ACCESS THE ELECTRONIC APPLICATION SUBMISSION INTERFACE (EASi)

A new section 634 is added to read as follows:

- 634.1 Producers licensed to transact automobile insurance in the District of Columbia, must be registered to access EASi, which is available for

private passenger applications. A producer cannot access EASi unless registered with the Plan. Each producer will be provided with the rules and prescribed procedures for EASi.

- 634.2 A registration identification code may be obtained by completing an Application for Registration to Access the Electronic Application Submission Interface. The application may be obtained by contacting the Plan Office or in electronic format by accessing www.aipso.com/dc. The completed application accompanied by a copy of a valid producer's license must be submitted to the Plan by mail or by fax (804) 217-9950.
- 634.3 Within five working days following receipt of the application, the Plan shall approve any application that meets all requirements. However a producer whose privilege to use EASi has been previously revoked or suspended shall be subject to the following exceptions:
- (a) A producer whose access to EASi has been revoked shall not be eligible to reapply for registration until all outstanding violations are resolved. Upon reapplication, the producer must demonstrate to the satisfaction of the Governing Committee the producer's ability to comply with EASi standards and procedures. In its review of the reapplication, the Governing Committee may deny or grant the reapplication or grant the reapplication with certain restrictions or conditions.
 - (b) If a producer's access to EASi has been suspended, the producer's access to EASi shall automatically be reinstated effective the day following the termination date of the suspension provided all outstanding violations have been resolved.

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

NOTICE OF FINAL RULEMAKING

FORMAL CASE NO. GT97-3, IN THE MATTER OF THE APPLICATION OF
WASHINGTON GAS LIGHT COMPANY FOR AUTHORITY TO AMEND ITS
GENERAL SERVICE PROVISIONS

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice of its final rulemaking action taken on May 14, 2004, in Order No. 13193,¹ approving the request of the Washington Gas Light Company ("WGL") to withdraw its previously filed tariff amendments.²

2. On February 14, 2003, WGL requested authority to amend its Rate Schedule No. 3A Interruptible Delivery Service and Rate No. 6 Small Commercial Aggregation Pilot.³ The Commission, by order issued July 17, 2003, approved the request in part and rejected it in part.⁴ Pepco Energy Services ("PES") filed a request for reconsideration of that order on August 15, 2003.⁵ However, on March 18, 2004, WGL proposed to withdraw the tariff amendments.⁶

3. The Commission issued a Notice of Proposed Rulemaking, published in the *D.C. Register* on April 2, 2004, inviting comments on WGL's request to withdraw its proposed tariff amendments.⁷ No comments were filed. By Order No. 13193, the

¹ *Formal Case No. GT97-3, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions, Order No. 13193 (May 14, 2004).*

² *Formal Case No. GT97-3, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions, Letter to Sanford M. Speight, Acting Commission Secretary, from Bernice K. McIntyre, Senior Counsel for Washington Gas Light Company, re: Formal Case No. GT96-1 and GT97-3, filed February 14, 2003 ("Application").*

³ *See id.*

⁴ *Formal Case No. GT97-3, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions, Commission Order No. 12792, rel. July 17, 2003.*

⁵ *Formal Case No. GT97-3, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions, Pepco Energy Services Request for Reconsideration filed on August 15, 2003.*

⁶ *Formal Case No. GT97-3, In the Matter of the Application of Washington Gas Light Company for Authority to Amend its General Service Provisions, Washington Gas Light Company's Motion to Withdraw its Proposed Tariffs, filed on March 18, 2004.*

⁷ *50 D.C. Reg. 3477-3478 (2004).*

Commission subsequently granted WGL's request because no opposition was filed to the Company's request for withdrawal and because WGL would be filing new tariffs regarding the same Rate Schedule No. 3A and Rate Schedule No. 6 in the future. Order No. 13193 shall become effective upon publication of this Notice of Final Rulemaking in the *D.C. Register*.