

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING

FORMAL CASE NO. 945, PHASE II, IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICE, MARKET COMPETITION, AND REGULATORY PRACTICES

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

2. On November 20, 2008, Pepco filed proposed updates to Riders “DS-R”- Divestiture Sharing Credit-Residential and “DS-NR”- Divestiture Sharing Credit Non-residential.¹ In its filing, Pepco states that the proposed tariff updates are the result of the proposed resolution of all outstanding issues with respect to the divestiture of the Company's generating assets which occurred as part of the industry restructuring at the beginning of this decade and that the proposed tariff provides customers with a third divestiture sharing credit as a result of the Company's successful management of the Mirant bankruptcy.²

3. Pepco submits that: (1) the Company was a party to several power purchase agreements that constituted an economic liability under current and projected market conditions; (2) the principal power purchase agreement that was unresolved was the Panda Purchased Power Agreement (“Panda PPA”); (3) Pepco was obligated to purchase from Panda 230 megawatts of capacity and energy annually through 2021 at rates that were and currently are in excess of market prices; and (4) pursuant to the Back-to-Back Arrangement with Mirant that was part of the divestiture of the Company's generating assets, Pepco continued to be directly liable to make payments to Panda and to take delivery of the power specified in the Panda PPA, but Mirant in turn was obligated to purchase from Pepco the capacity and energy that the Company was required to purchase under the Panda PPA at a price equal to the price Pepco paid to Panda.³

4. Pepco states that, pursuant to a Settlement Agreement reached with Mirant in its bankruptcy proceeding, the Company received a monetary payment of \$413.9 million from Mirant that was used to cover the ongoing above-market costs of the Panda PPA.⁴

¹ Formal Case No. 945, Phase II, *In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices* (“F.C. 945”); Potomac Electric Power Company Proposed Updates to Riders “DS-R” Divestiture Sharing Credit Residential and “DS-NR”- Divestiture Sharing Credit Non-residential, filed November 20, 2008 (“Proposed Tariff Updates”).

² *Id.* at 1.

³ *Id.* at 2-3.

⁴ *Id.* at 3-4.

Pepco also states that it subsequently executed an agreement on June 20, 2008 (and closed on September 8, 2008) to transfer the Panda PPA to an unaffiliated third party, Sempra Energy Trading LLC ("SET"), in exchange for a payment to SET which relieved the Company and its customers of all obligations under the Panda PPA.⁵

5. The Company now proposes to share the remaining amounts from the Mirant Settlement with District of Columbia customers in accordance with the divestiture sharing formula approved by the Commission in F.C. 945. Pepco claims that this distribution will provide District of Columbia customers with an additional \$24,732,343 in divestiture sharing. According to the Company's calculation, residential customers will receive approximately \$4.4 million and non-residential customers will receive approximately \$20.3 million, which results in: (1) a one-time bill credit of \$17.04 for each individually metered residential customer of record as of October 31, 2008; (2) a one-time bill credit to Master Metered Apartment customers of record as of October 31, 2008, based on a rate of \$0.00195 per KWH applied to usage for the twelve months ended October, 2008; and (3) a one-time bill credit to non-residential customers of record as of October 31, 2008, based on a rate of \$0.00215 per KWH applied on usage for the twelve months ended October, 2008.⁶

6. To effect these changes, Pepco proposes to revise the following tariff pages:

Electricity – P.S.C. of D.C. No. 1
Forty-First Revised Page No. R-1
Forty-First Revised Page No. R-2
Thirty-Fourth Revised Page No. R-2.1
Tenth Revised Page No. R-2.2
Third Revised Page No. R-39
Second Revised Page No. R-40
First Revised Page No. R-40.1

7. The November 20, 2008, Proposed Tariff Updates and supporting documents may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., Second Floor, West Tower, Washington DC, 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. Copies of the Proposed Tariff Updates are available from the Commission Secretary at a per page reproduction cost or through the Commission's website at www.dcpssc.org.

8. Comments shall be made in writing and addressed 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 from the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on Pepco's filing.

⁵ *Id.* at 4.

⁶ *Id.* at 4-8.

OFFICE OF THE STATE SUPERINTENDENT OF EDUCATION

NOTICE OF PROPOSED RULEMAKING

The State Superintendent of Education, pursuant to the authority set forth in section 3(b)(11) of the State Education Office Establishment Act of 2000, effective October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602 (b)(11)) (2008 Supp.), as amended by the State Education Office Establishment Amendment Act of 2008, effective August 18, 2008 (D.C. Law 17-219; 55 DCR 7602), hereby gives notice of her intent to adopt this proposed rulemaking to add a new subsections section 1667, entitled “Administrative Service Credential,” of Title 5 of the *District of Columbia Municipal Regulations* (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The proposed regulation provides the State Superintendent of Education with discretion to collect fees for services related to processing applications for Administrative Services Credentials. The proposed addition of subsections 1667.10 through 1667.15 complements the recent revision of Section 1667, published as a final rule on November 28, 2008, 55 DC Register 12149.

New subsections are added to section 1667 of Title 5 of the DCMR to read as follows:

- 1667.10 Each application for an Administrative Services Credential submitted to the OSSE shall be accompanied by a fee established by the State Superintendent of Education.
- 1667.11 The State Superintendent of Education shall determine the amount of revenue that shall be required to administer the administrative services credentialing process, and shall establish an application processing fee in the amount deemed necessary for such purposes.
- 1667.12 All revenue collected by the State Superintendent of Education under this subsection for the processing of credentials shall be deposited in the Office of the State Superintendent of Education “Academic Certification and Testing Fund,” which shall be separate from the Local Operating Funds of the District of Columbia.
- 1667.13 All revenue collected by the OSSE under this subsection for the processing of an Administrative Services Credential application shall be continuously available for the uses and purposes directly related to credentialing activities, including, but not limited to:
- (a) Travel;
 - (b) Professional training;
 - (c) Meetings;

- (d) Stipends;
- (e) Honorariums;
- (f) Professional organization membership dues;
- (g) Day-to-day office operational needs;
- (h) Salaries of individuals who perform, manage, monitor or oversee the processing of credentials; and
- (i) The maintenance of credentialing program records.

1667.14 Fees shall be payable to the D.C. Treasurer by money order, certified check, cashier's check, or electronic payment.

1667.15 Administrative Services Credentialing Fee Schedule:

- | | | |
|-----|------------------------|----------|
| (a) | Initial Certification | \$ 50.00 |
| (b) | Duplicate Certificates | \$ 20.00 |
| (c) | Renewal Certification | \$ 50.00 |

Persons wishing to comment on this proposed rule should submit their comments in writing to Ms. Erika Lomax, the Office of the State Superintendent of Education, 51 N Street, NE, Room 3019, Washington, D.C., 20002, Attn: Ms. Erika Lomax. All comments must be received by the Office of the State Superintendent of Education not later than thirty (30) days after publication of this notice in the DC Register. Copies of this proposed rule may be obtained by writing to the above address, on the OSSE website at osse.dc.gov, or by calling the Office of the State Superintendent of Education at (202) 727-6436.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**REVISED NOTICE OF PROPOSED RULEMAKING****Z.C. Case No. 08-18****(Text Amendment – 11 DCMR)****(Text Amendments – Use of former public school buildings)**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01), hereby revises its previous notice of proposed rulemaking published in the June 27, 2008 edition of the *D.C. Register* at 55 DCR 7159. In that notice, the Commission proposed to amend §§ 199, 201, 222, and 2101 of the Zoning Regulations (Title 11 DCMR). This revised notice also proposed to amend those provisions in somewhat different ways and proposes a conforming amendment to § 3104.

The text amendments as originally proposed would have permitted former public school buildings owned by the District government to be used by District government agencies, medical and dental clinics, community service uses, non-profit organizations for their offices, child/elderly development centers, and community colleges that occupy less than 50,000 sq. ft. of building area. After conducting a public hearing on the subject, the Commission asked the Office of Planning to revise the text to narrow the scope of permitted uses, while allowing for others to be permitted by special exception. Under the rules as now proposed, the reference to non-profit office use is eliminated, while general not-for-profit uses would be permitted by special exception. Under the revised rules the only District government uses that would be permitted as a matter right would be the administrative offices of its agencies, with all other District uses permitted by special exception. Additional conditions were also added to several of the proposed matter of right uses, with relief from the requirements available through special exception.

As stated in the initial notice, the parking requirements for the new uses will be those that apply in the most restrictive zone district in which the use is otherwise first permitted as a matter-of-right.

Although the Commission has proposed special exception treatment for most District uses, it nevertheless invites the public to comment upon which, if any, additional District government uses should be allowed as a matter of right within former public school buildings. The Commission will consider all comments when it considers whether to take final rulemaking action on these proposed rules,

Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Title 11 of the District of Columbia Municipal Regulations (Zoning) is proposed to be amended as follows:

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1. CHAPTER 1, THE ZONING REGULATIONS, §199 Definitions, is amended by adding the following definition:

Community service use - A not for profit use established primarily to benefit and serve the population of the community in which it is located.

2. CHAPTER 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, § 201.1, is amended as follows:

A. By adding the following new paragraph.

- (v) The following uses are permitted as a matter of right if located in a building owned by the District of Columbia that formerly served as the location of a public school:
 - (1) Administrative offices of District government agencies not part of the criminal justice system, provided:
 - (A) The use shall not extend outside the building unless accessory and incidental to the principal administrative use; and
 - (B) Any storage shall be fully enclosed.
 - (2) Clinic for humans, provided that the use shall not be a substance abuse treatment facility or a community-based residential facility;
 - (3) Community service use or uses, provided:
 - (A) The application for a certificate of occupancy include evidence demonstrating that the established mission of the use will serve the community, neighborhood or District of Columbia population;
 - (B) There is no outdoor storage of materials; and
 - (C) The use shall not be a Community-based residential facility, a part of the criminal justice system, or a substance abuse treatment facility.
 - (4) Child/Elderly development center; and

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- (5) Community college, up to 50,000 sq. ft. of building area, provided:
 - (A) There shall be no external activities after 9:00 PM; and
 - (B) There shall be no use of the college space after midnight.

B. By amending § 222 to read as follows:

222. USE AND EXPANSION OF FORMER PUBLIC SCHOOL BUILDINGS R-1).

222.1 The following uses shall be permitted as a special exception in the R-1 District of approved by the Board of Zoning Adjustment under § 3104 if located in a building owned by the District of Columbia that formerly served as the location of a public school (“former school building”):

- (a) A District government use disallowed or not listed in § 201.1(v);
- (b) A use permitted by § 201.1(v) that does not meet one or more conditions of that provisions that apply to it; or
- (c) A not-for-profit use.

222.2 No former school building housing a use permitted by § 201.1 (v) or by this section may be expanded without the approval of the Board of Zoning Adjustment under § 3104.1.

222.2 In addition to any other conditions of approval, the Board of Zoning Adjustment may impose setbacks, screening, or lighting requirements, or other safeguards that the Board deems necessary for the protection of the neighborhood.

3. CHAPTER 21, OFF-STREET PARKING REQUIREMENTS, § 2101, Schedule of Requirements for Parking Spaces, § 2101.1, is amended by adding the following to the chart under the heading entitled “Schools”:

<p style="text-align: center;"><u>Uses in former public school buildings authorized by 11 DMCR §§ 201.1 (v) or 222</u></p> <p>R Districts</p>	<p>Parking requirements will be those that apply in the most restrictive zone district in which the use is otherwise first permitted as a matter of right.</p>
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4. CHAPTER 31, BOARD OF ZONING ADJUSTMENT RULES OF PRACTICE AND PROVIDED, the table of special exceptions following § 3104.1 is amended by inserting the following special exceptions in alphabetical order:

Type of Special Exception	Zone District	Sections in which the Conditions are Specified
District government use in former public school buildings.	R-1 District	§ 222
Expansion of former public school buildings District government uses.	R-1 District	§ 222
Not-for-profit use in former public school buildings	R-1 District	§ 222

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with Sharon Schellin, Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 200/210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.