

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01 *et seq.*), Article III of Reorganization Plan No. 1 of 1983, effective March 31, 1983, D.C Official Code §§ 47-2828 and 47-2851.20, and Mayor's Order 83-92, dated April 7, 1983, hereby gives notice of the intent to adopt, in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*, amendments to Title 14, Chapter 2 (Housing Business Licenses) of the District of Columbia Municipal Regulations (DCMR).

The rulemaking amends the housing business licensing rules to update requirements for licensure and to clarify housing inspection requirements during the period of licensure. In addition, the name of the chapter is amended.

Title 14 DCMR, Chapter 2 is amended to read as follows:**CHAPTER 2 HOUSING BASIC BUSINESS LICENSES**

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200 GENERAL LICENSING REQUIREMENTS

- 200.1 The provisions of this chapter shall be applicable to housing businesses licensed under D.C. Official Code § 47-2828.
- 200.2 Whenever any provision of this section that specifically applies to housing businesses conflicts with, or supersedes, a general provision of this chapter, the provision specifically applicable to housing businesses shall apply.
- 200.3 No person shall operate a housing business in any premises in the District of Columbia without first having been issued a basic business license for the premises by the Department of Consumer and Regulatory Affairs.
- 200.4 An applicant who is not a resident of the District of Columbia shall, as a condition to the issuance of a license, employ as his or her agent a person who is a resident of the District or who has a place of business in the District, and upon whom may

be served all notices and court processes in connection with or arising out of the licensee's business operation. The designated agent shall certify on the application that he or she has agreed to act as an agent for the licensee.

- 200.5 The appointment or employment of an agent shall be maintained during the period of time for which a license is issued; whenever any change is made in the appointment or employment of the agent required by this section, the licensee shall deliver to the Director of the Department of Consumer and Regulatory Affairs a written notice of the change not less than five (5) days after the change.
- 200.6 Each applicant shall, as a condition to the issuance of a license, indicate on the license application the name and contact information of a property manager or resident manager responsible for conducting maintenance and repairs on the property.
- 200.7 The appointment or employment of a person to conduct property maintenance and repairs shall be maintained during the period of time for which a license is issued; whenever any change is made in the appointment or employment of such person, the licensee shall deliver to the Director of the Department of Consumer and Regulatory Affairs a written notice of the change not less than five (5) days after the change.
- 200.8 A licensee shall conspicuously post the license on the premises indicated on the license, and such license shall be available for inspection by any authorized District government official or any tenant residing at the premises.

201 INSPECTION OF PREMISES

- 201.1 The Department of Consumer and Regulatory Affairs, and any other District government agency responsible for enforcement of the housing and building regulations, shall inspect every licensed housing business and any premises for which a housing business license application has been filed with the Department of Consumer and Regulatory Affairs.
- 201.2 The Director of the Department of Consumer and Regulatory Affairs shall determine whether a licensee is in compliance with all applicable provisions of the business license laws and regulations, and shall require that the building or part of the building to be licensed complies with the applicable building and housing laws and regulations.
- 201.3 The Fire Chief shall require that the premises comply with the applicable provisions of the D.C. Official Code and the District fire prevention and control laws and regulations.
- 201.4 The Department of Health shall require that the premises comply with all regulations governing the presence of rodents, waste storage and disposal, maintenance of waste containers, that the grounds and premises be maintained free of trash and debris, and that grass or weeds be maintained at a height of less than eight (8) inches.

201.5 In accordance with § 201.1, the Director of the Department of Consumer and Regulatory Affairs may develop a housing inspection program establishing a regular system of inspections for every licensee, with more frequent inspections for licensees found to be in violation of the applicable building and housing laws and regulations.

202 LICENSING OF PROPERTY MANAGERS

202.1 For purposes of this section, the term “property manager” means an agent for the owner of real estate in all matters pertaining to property management, as defined in D.C. Official Code § 47-2853.141, which are under his or her direction, and who is paid a commission, fee, or other valuable consideration for his or her services. A property manager may employ resident managers.

202.2 If the property manager of a housing business is someone other than the licensee, that property manager shall comply with the requirements of D.C. Official Code §§ 47-2853.141 through 47-2853.143, and any regulations issued pursuant thereto.

203 RENEWAL OF HOUSING BASIC BUSINESS LICENSES

203.1 The Director of the Department of Consumer and Regulatory Affairs may, upon application by a licensee, issue a renewal of a valid housing basic business license subject to subsequent determination that all provisions of the applicable laws and regulations are being observed by the licensee.

203.2 The premises of each license renewal applicant shall be subject to the inspection provisions of Chapter 1 of this title and § 201.5.

204 DENIAL, SUSPENSION, AND REVOCATION OF LICENSES

204.1 Refusal to permit any authorized District of Columbia official to inspect the premises occupied or to be occupied by a housing business shall be cause for withholding the issuance of a license for the premises until such time as inspection is permitted.

204.2 Refusal to permit any authorized District of Columbia official to inspect the premises occupied by a licensed housing business shall be cause for revocation of the license.

204.3 The Director of the Department of Consumer and Regulatory Affairs may refuse to issue or renew, or may suspend or revoke, a license issued under this chapter on any of the following grounds:

- (a) Conviction of the business license holder for any criminal offense involving fraudulent conduct arising out of or based on the business being licensed;

- (b) Willful or fraudulent circumvention by the business operator of any provision of District statute or regulation relating to the conduct of the business;
- (c) Employment of any fraudulent or misleading device, method, or practice relating to the conduct of the business; or
- (d) The making of any false statement in the license application.

204.4 All qualifications set forth in this chapter as prerequisite to the issuance of a license shall be maintained for the entire license period. Failure to maintain any qualification for license shall be cause for suspension or revocation of the license.

205 – 219 [RESERVED]

220 LICENSE AND USER FEES

220.1 For purposes of this chapter, the following fees shall apply:

- (a) A license fee for one (1) or two (2) unit properties of seven dollars (\$7.00) base fee plus twenty eight dollars (\$28.00) per unit;
- (b) A reinspection fee for routine housing inspections of ninety dollars (\$90.00) per reinspection; and
- (c) A fee to cover the administrative costs of the fund established pursuant to subsection 1(b)(1)(B) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of the District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01(b)(1)(B), of one hundred twenty-two dollars (\$122.00) base fee and twenty six dollars and forty cents (\$26.40) for each additional hour.

299 DEFINITIONS

299.1 The provisions of section 199 of chapter 1 of this title and the definitions set forth in that section shall be applicable to this chapter.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, NE, Suite 9500, Washington, D.C. 20002, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “DCRA News” link and then clicking on the “Rulemaking” tab.

**THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD**

NOTICE OF PROPOSED RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in section 4(a) of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code § 3-1306(a)), District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of his intent to amend Chapters 3 (Agent Requirements) and 99 (Definitions) of Title 30 (lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR). The purposes of this rulemaking are to add a new section 311 (Americans with Disabilities Act Requirements) and to add relevant definitions.

The Executive Director also gives notice of his intent to take final rulemaking action to adopt these rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

Chapter 3 of Title 30, DCMR is amended as follows:

A new section 311 is added to read as follows:

311 AMERICANS WITH DISABILITIES ACT REQUIREMENTS

311.1 The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in the delivery of programs offered by entities of state or local government. The purpose of this section is to ensure that the Agency is in compliance with the ADA by ensuring that people with disabilities have access to the Lottery Program.

311.2 The following general requirements shall apply to the Lottery Program:

- (a) No lottery sales agent shall discriminate against any individual on the basis of a disability in the full and equal enjoyment of lottery related goods, services, facilities, privileges, advantages, or accommodations of any lottery licensed facility;
- (b) Each sales agent is required to meet a standard of accessibility that enables people with disabilities, including those who use wheelchairs, to enter the lottery licensed facility and participate in the Lottery Program. An Accessible Route must be provided comprised of the following accessible elements:

- (1) Parking, if parking is provided to the general public;

- (2) Exterior route connecting parking (or a public way, if no parking is provided) to an accessible entrance;
 - (3) Entrance; and
 - (4) Interior route connecting the entrance to a Service Site;
 - (c) Each element shall meet the design standards set forth in the ADA Accessibility Guidelines, published in the *Federal Register* on July 26, 1991; and
 - (d) In defining the scope or extent of any duty imposed by this section, including compliance with the standard of accessibility required, higher or more comprehensive obligations established by otherwise applicable federal or District laws or regulations may be considered.
- 311.3 With respect to new license applicants, the Agency shall do the following prior to granting a license:
- (a) Inspect the site of applicants for compliance with this section; and
 - (b) Provide the applicants with an Inspection Report that shall identify barrier removal actions, if any, necessary to provide program accessibility.
 - (c) The identified barrier removal actions must be completed prior to the granting of a license. The Executive Director will not grant a license to an applicant who is otherwise not in compliance with this section.
- 311.4 With respect to licensed sales agents, the Agency shall do the following:
- (a) Inspect the site of each licensed lottery sales agent for compliance with this section; and
 - (b) Provide to the sales agents an Inspection Report that shall identify barrier removal actions, if any, necessary to provide program accessibility.
 - (c) All identified barrier removal actions must be completed within 90 days of receipt of the Inspection Report.
 - (d) For good cause shown, the Executive Director may grant an extension of up to 90 days to allow a licensed sales agent to complete barrier removal actions identified in the Inspection Report. Any request for an extension must be in writing, and shall include specific reasons for an extension and supporting documentation.
- 311.5 Permitted exemptions. The following exemptions to the requirements of this section may be granted by the Executive Director. The Executive Director shall review the circumstances and supporting documentation provided by the sales agent or applicant to determine if the request for an exemption should be granted. In deciding whether to grant an exemption, the Executive Director shall take into

consideration the overriding requirement that the Lottery Program meet all applicable accessibility requirements. The Executive Director shall determine the type and scope of documentation to be required for each exemption classification. All decisions made by the Executive Director shall be final; any sales agent whose request for an exemption is denied by the Executive Director shall be required to satisfy the requirements of this rule as a condition for maintaining its eligibility as a licensed sales agent. In determining whether to grant an exemption the Executive Director shall take into account the requirement that the Lottery Program be in compliance with the ADA and the Executive Director may deny a request for exemption if the Executive Director finds that granting the exemption would cause the D.C. Lottery and Charitable Games Control Board to become out of compliance with any legal obligation pertaining to program accessibility.

- (a) Historic properties. To the extent a historic building is exempt under federal law, and if barrier removal would threaten or destroy the historic significance of the structure, this rule shall not apply to a qualified historic building or facility that is listed in or is eligible for listing in the National Register of Historic Places under the National Historic Preservation Act or is designated as historic under any other federal or District law.
- (b) Legal impediment to barrier removal. Any law, act, ordinance, federal or District regulation, ruling or decision which prohibits the lottery sales agent from removing a structural impediment or from making a required improvement to the facility may be the basis for an exemption to this rule. A lottery sales agent requesting an exemption for a legal impediment will not be required to formally seek a zoning variance to establish such impediment, but will be required to document that they have applied for and have been refused whatever permit(s) are necessary to remove the identified barrier(s).
- (c) Landlord refusal. An exemption may be granted based on the refusal of a landlord to grant permission to a sales agent to make improvements required by the Agency under this rule or based on the refusal of a landlord to pay for improvements required by the Agency under this rule. To request such an exemption, the sales agent must submit documentation to the Executive Director that the sales agent requested the landlord's permission and financial participation to make the required structural improvements, that such request was denied by the landlord, and the reasons for the denial. In making a decision on the exemption request, the Executive Director shall take into consideration, but not be limited to, the sufficiency of the reasons provided by the landlord for denying the sales agent's request.
- (d) Undue financial hardship. A limited exemption may be granted if a sales agent can demonstrate that the cost of removing a structural barrier or of making the required structural modification(s) to the sales agent's facility is an undue financial hardship in that the cost of making such a change(s)

exceeds 25% of the sales agent's compensation from the lottery for the prior calendar year (An annualized sales figure based upon the sales agent's most current 13-week sales period shall be used for those sales agent locations with less than a full year's history of sales.) Under the terms of this limited exemption, a sales agent would be required to annually make those improvements and modifications that can be financed within an amount that is approximately equal to 25% of the total compensation earned from the Agency in the prior calendar year. This requirement would continue on a year-to-year basis until all the improvements and modifications required by this rule have been completed. A sales agent shall provide all supporting documentation requested by the Executive Director to substantiate the cost estimates of making the required improvements to the sales agent's location.

- (e) Technical Infeasibility. A permanent exemption may be granted if a sales agent can demonstrate that the removal of architectural barriers identified in the Inspection Report is not possible due to technical infeasibility. If such a claim is made, the Agency may have the barrier removal action evaluated by a person knowledgeable in accessibility codes and construction to determine the merits of the claim.
- (f) Alternative methods. Where an exemption is granted in accordance with the provisions of this rule, the sales agent shall make the lottery related goods and services available through alternative methods. Examples of alternative methods include, but are not limited to:
 - (1) Providing curb service; or
 - (2) Directing by signage to the nearest accessible Lottery sales agent.

311.6 Complaints Relating to Non-Accessibility

- (a) An aggrieved party may file an accessibility complaint with the Executive Director or designee for review. Complaints must be in writing and, where possible, submitted on an Agency ADA complaint form. As soon as practical, but not later than 30 days after the filing of a complaint, each complaint will be investigated. After the completion of the investigation, if the agency determines that the lottery sales agent is not in compliance with this regulation, a letter of non-compliance will be issued to the Lottery sales agent with a copy to the complainant. If the Lottery sales agent is determined to be in compliance, a letter so stating will be mailed to the sales agent and complainant. Regardless of whether a complaint has been filed, the agency will issue a letter of noncompliance within 30 days after the completion of an onsite inspection of the Lottery sales agent facility if the agency determines that the lottery sales agent is not in compliance with this regulation.

- (b) If the letter of non-compliance shows deficiencies in the accessibility of the sales agent facility, the lottery sales agent shall submit a plan to the agency within 30 days of the issuance of the letter of non-compliance. The plan shall describe in detail how the lottery sales agent will achieve compliance with this regulation. Compliance shall be accomplished within 90 days of the letter of non-compliance. The lottery may, upon request, grant the lottery sales agent additional time to submit the plan for good cause.
- (c) Within 20 days of the submission of the plan to the Agency, the Agency shall notify the lottery sales agent of the agency's acceptance or rejection of the plan. If the plan is rejected, the notification shall contain the reasons for rejection of the plan and the corrections needed to make the plan acceptable to the Agency. If the sales agent agrees to make the required corrections, the Agency shall accept the plan as modified.
- (d) If a sales agent fails to submit a plan within 30 days of issuance of the letter of noncompliance and has not requested an extension of time to submit a plan, the Agency may proceed to initiate enforcement proceedings.
- (e) If approved, the plan must be completely implemented within 60 days of the agency's notice of approval. The Agency may, upon request, grant the lottery sales agent additional time for good cause. Notice of any extension will also be sent to the complainant, if applicable. Any such extension will commence immediately upon expiration of the first 60 day period.
- (f) If the corrective action taken by the lottery sales agent corrects the deficiencies specified in the letter of noncompliance as originally issued or as later revised or reissued or if the onsite inspection of the lottery sales agent facility reveals compliance with this regulation, the Agency will issue a notice of compliance. Until this notice is issued, a complaint will be considered pending.
- (g) Failure to make the identified modifications in compliance with the accessibility standards and within the required time period will result in the initiation of proceedings to suspend or revoke the lottery license by the Agency.
- (h) A license will be suspended if the Agency determines that the lottery sales agent has made significant progress toward correcting deficiencies listed in the compliance report, but has not completed implementation of the approved compliance plan. If the Agency determines that the lottery sales agent has not made a good faith effort to correct the deficiencies listed in the compliance report, this inaction will result in the revocation of the sales agent license for that lottery licensed facility.

- (i) While proceedings to suspend or revoke a lottery sales agent's license are pending pursuant to this regulation, and until a notice of compliance is issued pursuant to subsection (c) of this section, the lottery shall withhold incentive payments from the lottery sales agent. In addition, if a license is revoked pursuant to this regulation, and incentive payments and other privileges have been withheld from the affected sales agent pending review of the complaint, the lottery sales agent forfeits any claim to such incentive payments or other privileges.

311.7 A sales agent may request a hearing pursuant to Chapter 4 of this title, if the Agency proposes the denial of an application for a sales agent license or the suspension or revocation of a sales agent's license pursuant to this section.

311.8 Remedies established by this section are not intended to supplant, restrict, or otherwise impair resort to remedies otherwise available under law, including those authorized by the ADA and D.C. Official Code § 2-1401.01 *et seq.*

Chapter 99 of Title 30, DCMR is amended as follows:

Subsection 9900.1 is amended by adding new definitions to read as follows:

Accessible - means complying with the technical requirements found in the ADA Accessibility Guidelines, published in the *Federal Register* on July 26, 1991.

Accessible Route - a continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

ADA - the Americans with Disabilities Act of 1990, approved July 26, 1990 (104 Stat. 329; 42 U.S.C. § 12101 *et seq.*).

Disability - shall have the same meaning as set forth in section 3 of the ADA (42 U.S.C. § 12102).

Entrance - any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).

Facility - all or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

Lottery Program - on-line and instant games offered to the public through licensed sales agents or directly by the Agency.

Inspection Report - a completed survey of the sales agent or applicant facility that identifies barriers to program accessibility, if any, and suggests possible solutions.

Service Site - an area within a sales agent facility where a customer can purchase a lottery-related product. This is usually the cashier's station.

Technically Infeasible - means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame; or because other existing or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days from the date of publication of this notice in the *D.C. Register*. Comments should be filed with the Executive Director, District of Columbia lottery and Charitable Games Control Board, 2101 Martin Luther King, Jr., Avenue, S.E., Washington, D.C. 20020. Copies of these proposed rules may be obtained at the address stated above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKINGFORMAL CASE NO. 945 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 Sections 2-505 (a) and 34-1518 of the District of Columbia Official Code,¹ of its intent to adopt the following amendments to Chapter 9 of Title 15 of the District of Columbia Municipal Regulations (“DCMR”), not less than thirty (30) days after publication of this notice in the *D.C. Register*. The proposed rules amend the provisions governing net energy metering in the District of Columbia to comport with the “Clean and Affordable Energy Act of 2008”² and the Commission’s Interconnection Rules.³ This Notice of Proposed Rulemaking (“NOPR”) replaces the prior NOPR for the proposed rules, which were published in the *D.C. Register* on April 3, 2009.⁴

Proposed Amendment: The present Chapter 9 is repealed in its entirety and is substituted by the following Chapter 9.

CHAPTER 9 NET ENERGY METERING**900 GENERAL PROVISIONS**

- 900.1 The purpose of this chapter is to set forth the policies and procedures for implementation of the net energy metering provisions of the “Retail Electric Competition and Consumer Protection Act of 1999,” as amended, and the Clean and Affordable Energy Act of 2008.
- 900.2 This chapter establishes the Public Service Commission of the District of Columbia Rules and Regulations Governing Net Energy Metering, including eligibility for participating in net energy metering, a bill crediting mechanism, net energy billing requirements for participants, net metering-related equipment requirements, a standard contract

¹ D.C. Official Code §§ 2-505 (a) (2001 Ed.) and 34-1518 (2006 Repl.).

² The Clean and Affordable Energy Emergency Act of 2008 (“CAEA”) was enacted October 1, 2008. See *D.C. Act 17-508*. The permanent version of the CAEA became law on October 22, 2008. See *D.C. Law 17-250*.

³ *Formal Case No. 1050, In the Matter of the Investigation of Implementation of Interconnection Standards in the District of Columbia (“F.C. 1050”), 56 D.C. Reg. 001415-001487 (February 13, 2009).*

⁴ *Formal Case No. 945, In The Matter of the Investigation into Electric Service Market Competition and Regulatory Practices, (“F.C. 945”), 56 D.C. Reg. 2596-2599 (April 3, 2009).*

requirement, and safety and performance standards. This chapter shall be cited as the "District of Columbia Net Energy Metering Rules."

900.3 The provisions of this chapter are promulgated pursuant to the authority set forth in Section 34-1518 of the D.C. Official Code.

901 ELIGIBLE CUSTOMER-GENERATORS

901.1 Eligible customer-generators utilizing renewable resources, cogeneration, fuel cells, or microturbines may elect and shall be afforded the opportunity to participate in net energy metering. An eligible customer-generator's facility shall meet all applicable safety and performance standards established by the National Electrical Code ("NEC"), National Electrical Safety Code ("NESC"), the Institute of Electrical and Electronics Engineers ("IEEE"), Underwriters Laboratories ("UL") and any other relevant standards specified by the Commission.

902 NET ENERGY BILLING AND CREDITING FOR CUSTOMERS OF COMPETITIVE ENERGY SUPPLIERS

902.1 A customer that has elected net energy billing may obtain generation service from any Competitive Electricity Supplier that agrees to provide service on a net energy basis. In such circumstances, the net inflow or outflow of electricity supplied to or by the customer-generator will be billed or credited at the Competitive Electricity Supplier's energy rate specified in the agreement between the customer-generator and the Competitive Electricity Supplier. The Competitive Electricity Supplier shall be responsible for calculating the net energy bill (or credit) amount for each billing period.

902.2 For customer-generators purchasing generation and transmission service from a Competitive Electricity Supplier, if the customer-generator's kilowatt-hour usage during the billing period exceeds the kilowatt-hours generated by the customer-generator during that period, the customer-generator will be billed for the net energy delivered by the Electric Company at the full retail distribution rate for distribution service. In no event shall distribution-related usage charges be applied to the kilowatt-hours generated by the customer's net metering facility.

902.3 For a customer-generator with an electric generating facility that has a capacity of not more than 100 kilowatts, if the electricity generated during the billing period by the customer-generator's facility exceeds the customer-generator's kWh usage during the billing period (excess generation), the customer-generator's next bill will be credited by the Electric Company for the excess generation at the full retail distribution rate. If the full credit for excess generation is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.

902.4 Net energy billing applies only to kilowatt-hour usage charges. Net energy billing customers are responsible for all other charges applicable to the customer's rate class and recovered through fixed amounts or over units other than kilowatt-hours, including customer and/or demand charges, as applicable.

903 NET ENERGY BILLING AND CREDITING FOR SOS CUSTOMERS

903.1 This section governs the billing practices applicable to participating net energy billing customers receiving SOS generation service during a billing period. In no event shall transmission or distribution-related usage charges be applied to the kilowatt-hours generated by the customer's net metering facility.

903.2 If the value of the generation (generation value) used to supply the customer's usage exceeds the generation value of the electricity generated by the customer's net metering facility during the billing period, the customer-generator will be billed for the difference in generation value of the energy consumed versus the energy supplied.

903.3 If the generation value of the electricity generated by the customer's net metering facility exceeds the generation value of the electricity used to supply the customer's usage during the billing period, the customer-generator's next bill will be credited for the difference in generation value of the energy supplied versus the energy consumed. If the full credit is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.

903.4 If the customer's kWh usage exceeds the electricity generated by the customer's net metering facility during the billing period, the customer-generator will be billed transmission and distribution related usage charges on the net energy supplied to the customer during the billing period.

903.5 For a customer-generator with an electric generating facility that has a capacity of not more than 100 kilowatts, if the electricity generated during the billing period by the customer-generator's facility exceeds the customer-generator's kWh usage during the billing period (excess generation), the customer-generator's next bill will also be credited for the excess generation at the retail rate for transmission and distribution service applicable during the billing period in which the excess generation occurred. If the sum of the full transmission and distribution credit for excess generation and the generation value credit is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.

903.6 Net energy billing applies only to kilowatt-hour usage charges. Net energy billing customers are responsible for all other charges applicable to the customer's rate class and recovered through fixed amounts or over

units other than kilowatt-hours, including customer, demand and/or minimum charges, as applicable.

904 NET METERING-RELATED EQUIPMENT

904.1 The metering equipment installed for net energy metering shall be capable of measuring the flow of electricity in two directions.

904.2 Nothing in this section shall prohibit the Electric Company from installing additional meters to separately record electricity supplied to an eligible customer-generator from the electric grid and the electricity generated and supplied to the electric grid by the eligible customer-generator. However, no customer-generator that elects to be billed on a net energy basis shall be charged directly for the cost of the additional meters or other necessary equipment.

905 STANDARD CONTRACT

905.1 The Electric Company shall develop a standard contract, which shall be subject to the review and approval of the Commission. Such standard contract shall be consistent with the provisions of this chapter, as well as with the Energy Policy Act of 2005 and the Commission's NOFR in Formal Case No. 1050, published in the D.C. Register on February 13, 2009.⁵

906 WAIVER

906.1 Upon request of any person subject to this chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this chapter that is not required by statute or inconsistent with the purposes of this chapter.

999 DEFINITIONS

When used in this chapter; the following terms and phrases shall have the following meaning:

“Capacity” means the maximum output, expressed in kilowatts, of an electric generator under specific conditions designated by the manufacturer, as indicated on a nameplate physically attached to the generator.

“Commission” means the Public Service Commission of the District of Columbia.

“Competitive Electricity Supplier” means a person, including an

⁵ Energy Policy Act of 2005, Pub.L. 109-58, 119 Stat. 594 (2005); *F.C. 1050, 56 D.C. Reg.* 001415-001487 (February 13, 2009).

aggregator, broker, or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale or retail customers: The term excludes the following: (A) Building owners, lessees, or managers who manage the internal distribution system serving such building and who supply electricity solely to occupants of the building for use by the occupants; (B)(1) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates; or (2) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, or who does not: (a) Take title to the electricity; (b) Market electric services to the individually-metered tenants of his or her building; or (c) Engage in the resale of electric service to others; (C) Property owners who supply small amounts of power, at cost, as accommodation to lessors or licensees of the property; and (D) A consolidator.

“Customer-generator” means a residential or commercial customer that owns (or leases or contracts) and operates an electric generating facility that: (a) has a capacity of not more than 1000 kilowatts; (b) uses renewable resources, cogeneration, fuel cells, or microturbines; (c) is located on the customer's premises; (d) is interconnected with the Electric Company's transmission and distribution facilities; and (e) is intended primarily to offset all or part of the customer's own electricity requirements.

“Electric Company” means the company that provides distribution service.

“Eligible customer-generator” means a customer-generator whose net energy metering system for renewable resources, cogeneration, fuel cells, and microturbines meets all applicable safety and performance standards.

“Generation value” means the product of the applicable SOS kilowatt-hour usage charge(s) times the number of kilowatt-hours consumed and/or supplied, during the time period(s) associated with such generation usage and/or generation supply.

“Net energy metering” means the difference between the kilowatt-hours consumed by a customer-generator and the kilowatt-hours generated by the customer-generator's facility over any time period determined as if measured by a single meter capable of registering the flow of electricity in two directions.

“Net energy billing” means a billing and metering practice under which a customer-generator is billed on the basis of net energy over the billing period.

“Standard Offer Service Provider” means a provider of standard offer service chosen pursuant to Chapter 29 of the Commission's rules.

2. All persons interested in commenting on the subject matter of this proposed rulemaking action may submit written comments and reply comments not later than thirty (30) and forty-five (45) days respectively, after publication of this notice in the *D.C. Register* with Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., 2nd Floor West Tower, Washington, D.C. 20005. If interested parties wish to have their previously filed comments considered by the Commission as applicable to this rulemaking, they should file a statement accordingly. Copies of the proposed rules may be obtained, at cost, by writing the Commission Secretary at the above address.