

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKING

**RM46-2024-01-E, IN THE MATTER OF THE INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION’S RULES GOVERNING THE LICENSURE AND BONDING OF ELECTRIC SUPPLIERS IN THE DISTRICT OF COLUMBIA;**

**AND**

**RM47-2024-01-G, IN THE MATTER OF THE INVESTIGATION INTO THE PUBLIC SERVICE COMMISSION’S RULES GOVERNING THE LICENSURE AND BONDING OF NATURAL GAS SUPPLIERS AND NATURAL GAS CONSUMER PROTECTION STANDARDS IN THE DISTRICT OF COLUMBIA,**

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Code,<sup>1</sup> of its final rulemaking action adopting amendments to Chapter 46 (Licensure of Electricity Suppliers) and Chapter 47 (Licensure of Natural Gas Suppliers), of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR).

2. On April 5, 2024, the Commission published a Notice of Proposed Rulemaking (NOPR) in the *District of Columbia Register* proposing to amend Section 4601 (Licensing Requirements); repeal Section 4603 (Electricity Supplier Education Workshop); and amend Section 4604 (Bond Requirements for Electricity Suppliers Collecting Deposits or Prepayments (“Customer Payments Bond”)), Section 4605 (Bond Requirements for Financial Integrity (“Integrity Bond”)), Section 4609 (Sanctions and Enforcement), and Section 4698 (Waiver), of Chapter 46 (Licensure of Electricity Suppliers) of Title 15 DCMR. The NOPR also proposed to amend Section 4701 (Licensing Requirements); repeal Section 4703 (Natural Gas Supplier Education Workshop); and amend Section 4704 (Bond Requirements for Natural Gas Suppliers Collecting Deposits or Prepayments (“Customer Payments Bond”)), Section 4705 (Bond Requirements for Financial Integrity (“Integrity Bond”)), Section 4709, (Sanctions and Enforcement), and Section 4798 (Waiver), of Chapter 47 (Licensure of Natural Gas Suppliers) of Title 15 DCMR.<sup>2</sup>

3. Specific changes to Chapter 46 include amendments to licensing requirements in Subsections 4601.2 (f) and (m), the addition of new Subsection (n), and the renumbering of the previous Subsection (n) to new (o). Section 4603 (Electricity Supplier Education Workshop) is repealed in its entirety. Subsections 4604.1 to 4604.3 are amended to permit an electricity supplier applicant or licensee to submit a copy of a customer payments bond, if so required, and Subsections 4605.2 and 4605.3 are amended to permit an electricity supplier applicant or licensee required to provide and maintain an integrity bond to do so in copy form. Subsection 4609.1 is amended to describe the process for suspension and revocation of an electricity supplier license. Subsection

<sup>1</sup> D.C. Official Code § 34-802 (2019 Repl.) and § 2-505 (2016 Repl.).

<sup>2</sup> 71 *D.C. Reg.* 003981 (April 5, 2024).

4698.1 is revised to include the insertion of a missing word to the sentence on waiver of the Commission's rules.

4. Similarly, the proposed changes to Chapter 47 include amendments to licensing requirements in Subsections 4701.2 (f) and (m), the addition of new Subsection (n), and the renumbering of the previous Subsection (n) to new (o). Section 4703 (Natural Gas Supplier Education Workshop) is repealed in its entirety. Subsections 4704.1 to 4704.3 are amended to permit a natural gas supplier applicant or licensee to submit a copy of a customer payments bond, if so required, and Subsections 4705.2 and 4705.3 are amended to permit a natural gas supplier applicant or licensee required to provide and maintain an integrity bond to do so in copy form. Subsection 4709.1 is amended to describe the process for suspension and revocation of a natural gas supplier license. Subsection 4798.1 is revised to include the insertion of a missing word to the sentence on waiver of the Commission's rules.

5 The proposed amendments to the supplier rules are meant to clarify certain aspects of the filing requirements for electricity and natural gas suppliers. In addition, a mature and informed alternative energy supplier market in the District of Columbia suggests that the periodic supplier workshop requirement is no longer necessary and will therefore be no longer required. An electricity or natural gas supplier applicant or licensee required to submit a customer payments bond or integrity bond, or both, will be permitted to submit a copy of the bond, rather than the original, with all of the same legal consequence and effect as the original. Furthermore, the procedures for license revocation for licensees who do not commence service or are not active for a period of time in the energy market are detailed in the Sanctions and Enforcement section. Lastly, the Waiver sections are revised to include a previously omitted word.

6. No Comments were filed in response to the NOPR published April 5, 2024, and no substantive changes have been made to the rulemaking. Accordingly, the Commission adopted the rules as final at the Commission's June 12, 2024, Open Meeting and they will become effective upon publication of this Notice of Final Rulemaking in the *District of Columbia Register*.

**Chapter 46, LICENSURE OF ELECTRICITY SUPPLIERS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**Section 4601, LICENSING REQUIREMENTS, is amended as follows:**

**§ 4601.2 is amended to include revised (f) and (m), new (n), and to renumber the previous (n) to (o), as follows:**

4601.2 **Application Information Requirements for Electricity Suppliers.** An Application for an Electricity Supplier License and an Application for renewal of an Electricity Supplier License shall include the following information, in a manner and form specified by the Commission:

...

- (f) Proof that the Applicant has registered with the District of Columbia Department of Licensing and Consumer Protection and the District of Columbia Office of Tax and Revenue to conduct business in the District of Columbia;

...

- (m) A sample copy of each of the Electricity Supplier’s electricity supply Customer contracts (e.g., fixed or variable rates) and a sample bill except brokers and aggregators shall be exempt from this requirement;
- (n) All electronic filings of bonds and similar instruments shall be accepted in such form, and possess the same standing of physical versions; and
- (o) Any other information required by the Commission.

**Previous Section 4603, ELECTRICITY SUPPLIER EDUCATION WORKSHOP, is repealed in its entirety. New Section 4603 is RESERVED, as follows:**

**4603 [RESERVED]**

**Section 4604, BOND REQUIREMENTS FOR ELECTRICITY SUPPLIERS COLLECTING DEPOSITS OR PREPAYMENTS (“CUSTOMER PAYMENTS BOND”), is amended as follows:**

**§§ 4604.1 to 4604.3 are amended as follows:**

4604.1 **Applicability.** Any Applicant that states on its Application that it intends to charge Deposits or collect Prepayments or that does in fact require a Deposit or collects a Prepayment, shall post a copy of a Customer Payments Bond with the Commission, in addition to any Integrity Bond that may be required or submitted and shall submit the certification described in this section. Any Applicant that states on its Application that it does not intend to charge Deposits or collect Prepayments and that does not in fact require a Deposit or collect any Prepayment will not be required to post a Customer Payments Bond or provide the certification described below. Any Licensee that charges a Deposit or collects a Prepayment without posting the required Customer Payments Bond may be subject to suspension, revocation, or other action against its license, as well as be held liable for restitution to any Customers who paid such Deposits or Prepayments. Any Licensee requiring, charging, collecting or holding Deposits, or Prepayments may not request a return of a current Customer Payments Bond or waiver of the requirements for a future Customer Payments Bond, unless and until the Licensee returns the Deposits or Prepayments to its Customers.

4604.2 **Procedure for Determining Amount of a Customer Payments Bond.**

- (a) **Initial Bond:** Before accepting any Deposits or Prepayments, a Licensee shall post a copy of an initial Customer Payments Bond of fifty thousand dollars (\$50,000).
- (b) **Six Month Certification:** Within six (6) months after the initial copy of the Customer Payments Bond is posted, the Licensee shall provide the Commission with any appropriate confidentiality designations: (1) a certification, subject to review by the Commission, of the amount of the Deposits and Prepayments held by the Licensee; and (2) a copy of a Customer Payments Bond in an amount that is at least equal to the amount reflected in that certification.
- (c) **Annual Certification:** By December 31<sup>st</sup> of each year, the Licensee shall provide to the Commission with any appropriate confidentiality designations: (1) certification of the amount of the Deposits and Prepayments held by the Licensee; and (2) a copy of a Customer Payments Bond in an amount that is at least equal to the amount reflected in that certification.

4604.3 **Form of the Bond.** Any Applicant or Licensee required to provide a bond under this section shall provide a bond issued by a company authorized to do business in the District of Columbia in a form required by the Commission. The Applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part of its application for a license. At a minimum, the bond form shall:

...

**Section 4605, BOND REQUIREMENTS FOR FINANCIAL INTEGRITY (“INTEGRITY BOND”), is amended as follows:**

**§§ 4605.2 and 4605.3, are amended as follows:**

...

4605.2

- (a) **Exclusion.** An Applicant or Licensee that cannot provide evidence to the satisfaction of the Commission that it meets the standards listed in § 4605.1 will be required to submit a copy of an initial Integrity Bond of fifty thousand dollars (\$50,000), unless that Applicant or Licensee is applying to provide service as an Aggregator (as defined in D.C. Official Code § 34-1501(2) and § 4699.1 who does not take title to electricity or as a Broker (as defined in D.C. Official Code § 34-1501(7) and §4699.1), in which case a copy of a ten thousand dollar (\$10,000) Integrity Bond will be required. However, an Applicant or Licensee that meets the standards listed in § 4605.1 may still be

required to provide a bond to demonstrate financial integrity for the Application on a case-by-case basis.

...

(c) **Requests for Bond Return and Waiver.**

(1) A Licensee that has provided two (2) years of continuous and uninterrupted service to customers and has previously submitted and maintained a copy of an Integrity Bond with the Commission in compliance with these requirements may file a request with the Commission for a determination of the Licensee’s financial integrity and whether the maintenance and continuation of the Licensee’s bond is necessary;

(2) Upon such request, the Commission shall make a determination of the Licensee’s financial integrity, whether maintenance and continuation of a bond is necessary, and shall inform the Licensee of its decision in writing. If the Commission determines that a bond is no longer necessary, the Licensee may subsequently file an application with the Commission to request the return of the previously posted copy of the Integrity Bond and to waive the requirement for a future bond;

...

(4) The Commission may require the Licensee to submit a copy of an Integrity Bond at a later date if the Commission deems the requirement of an Integrity Bond to be necessary and appropriate; and

...

4605.3

**Form of the Bond.** Any Applicant or Licensee required to provide a bond under this section shall provide a bond issued by a company authorized to do business in the District of Columbia in a form required by the Commission. The Applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part of its application for a license. At a minimum, this form shall:

...

Section 4609, SANCTIONS AND ENFORCEMENT, is amended as follows:

§ 4609.1 is amended to include revised (e), additions of (1) – (4) under Paragraph (e), and deletion of (f), as follows:

4609.1       **Sanctions.** Licensees are subject to sanctions for violations of federal and District of Columbia law and applicable Commission regulations and orders. The following sanctions may be imposed by the Commission:

...

(e)       **Suspension and Revocation of a Licensee’s Supplier License;**

- (1)       If a Licensee fails to provide electricity service to customers in the District of Columbia within two (2) years from the issuance of its license, the Commission shall suspend the Licensee’s electricity supplier license and issue a notice of revocation. The Commission shall provide the Licensee an opportunity to submit evidence of service or permit the Licensee to request a hearing, either orally or in writing.
- (2)       If a Licensee reports the absence of any jurisdictional revenue from its electricity service in its response to the annual assessment survey required by 15 DCMR § 1301.2 for any consecutive two (2) year period, the Commission shall suspend the Licensee’s electricity supplier license and issue a notice of revocation. The Commission shall provide the Licensee an opportunity to submit evidence of service or permit the Licensee to request a hearing, either orally or in writing.
- (3)       If a Licensee is no longer providing electricity service in the District of Columbia or has failed to comply with any of the filing requirements prescribed in this Chapter or has not filed an application to surrender its electricity supplier license under § 4602.10, the Commission shall suspend the Licensee’s electricity supplier license and issue a notice of revocation. The Commission shall provide the Licensee an opportunity to submit evidence of service or permit the Licensee to request a hearing, either orally or in writing.
- (4)       Failure of the Licensee to submit a response to its suspension and notice of revocation within thirty (30) days of its issuance shall result in the permanent revocation of the Licensee’s electricity supplier license.

**Section 4698, WAIVER, is amended as follows:**

**§ 4698.1 is amended to insert an omitted word “to” in the sentence.**

4698.1           The Commission may upon request, or on its own initiative after notice to the parties of its intention to do so, waive any provision of this chapter for good cause.

**Chapter 47, LICENSURE OF NATURAL GAS SUPPLIERS, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**Section 4701, LICENSING REQUIREMENTS, is amended as follows:**

**§ 4701.2 is amended to include revised (f) and (m), new (n), and to renumber the previous (n) to (o), as follows:**

4701.2           **Application Information Requirements for Natural Gas Suppliers.** An Application for a Natural Gas Supplier License and an Application for renewal of a Natural Gas Supplier License shall include the following information, in a manner and form specified by the Commission:

...

(f)           Proof that the Applicant has registered with the District of Columbia Department of Licensing and Consumer Protection and the District of Columbia Office of Tax and Revenue to conduct business in the District of Columbia;

...

(m)           A sample copy of each of the Natural Gas Supplier’s natural gas supply Customer contracts (e.g., fixed or variable rates) and a sample bill except brokers and aggregators shall be exempt from this requirement;

(n)           All electronic filings of bonds and similar instruments shall be accepted in such form, and possess the same standing of physical versions; and

(o)           Any other information required by the Commission.

**Previous Section 4703, NATURAL GAS SUPPLIER EDUCATION WORKSHOP, is repealed in its entirety. New Section 4703 is RESERVED, as follows:**

**4703           [RESERVED]**

**Section 4704, BOND REQUIREMENTS FOR NATURAL GAS SUPPLIERS COLLECTING DEPOSITS OR PREPAYMENTS (“CUSTOMER PAYMENTS BOND”), is amended as follows:**

**§§ 4704.1 to 4704.3 are amended as follows:**

4704.1 **Applicability.** Any Applicant that states on its Application that it intends to charge Deposits or collect Prepayments or that does in fact require a Deposit or collects a Prepayment, shall post a copy of a Customer Payments Bond with the Commission, in addition to any Integrity Bond that may be required or submitted and shall submit the certification described in this section. Any Applicant that states on its Application that it does not intend to charge Deposits or collect Prepayments and that does not in fact require a Deposit or collect any Prepayment will not be required to post a Customer Payments Bond or provide the certification described below. Any Licensee that charges a Deposit or collects a Prepayment without posting the required Customer Payments Bond may be subject to suspension, revocation, or other action against its license, as well as be held liable for restitution to any Customers who paid such Deposits or Prepayments. Any Licensee requiring, charging, collecting or holding Deposits, or Prepayments may not request a return of a current Customer Payments Bond or waiver of the requirements for a future Customer Payments Bond, unless and until the Licensee returns the Deposits or Prepayments to its Customers.

4704.2 **Procedure for Determining Amount of a Customer Payments Bond.**

- (a) **Initial Bond:** Before accepting any Deposits or Prepayments, a Licensee shall post a copy of an initial Customer Payments Bond of fifty thousand dollars (\$50,000).
- (b) **Six Month Certification:** Within six (6) months after the initial copy of the Customer Payments Bond is posted, the Licensee shall provide the Commission with any appropriate confidentiality designations: (1) a certification, subject to review by the Commission, of the amount of the Deposits and Prepayments held by the Licensee; and (2) a copy of a Customer Payments Bond in an amount that is at least equal to the amount reflected in that certification.
- (c) **Annual Certification:** By December 31<sup>st</sup> of each year, the Licensee shall provide to the Commission with any appropriate confidentiality designations: (1) certification of the amount of the Deposits and Prepayments held by the Licensee; and (2) a copy of a Customer Payments Bond in an amount that is at least equal to the amount reflected in that certification.

4704.3 **Form of the Bond.** Any Applicant or Licensee required to provide a bond under this section shall provide a bond issued by a company authorized to do business in

the District of Columbia in a form required by the Commission. The Applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part of its application for a license. At a minimum, the bond form shall:

...

**Section 4705, BOND REQUIREMENTS FOR FINANCIAL INTEGRITY (“INTEGRITY BOND”), is amended as follows:**

**§§ 4705.2 and 4705.3, are amended as follows:**

...

**4705.2**

- (a) **Exclusion.** An Applicant or Licensee that cannot provide evidence to the satisfaction of the Commission that it meets the standards listed in § 4705.1 will be required to submit a copy of an initial Integrity Bond of fifty thousand dollars (\$50,000), unless that Applicant or Licensee is applying to provide service as an Aggregator (as defined in § 4799.1) who does not take title to natural gas or as a Broker (as defined in § 4799.1), in which case a copy of a ten thousand-dollar (\$10,000) Integrity Bond will be required. However, an Applicant or Licensee that meets the standards listed in § 4705.1 may still be required to provide a bond to demonstrate financial integrity for the Application on a case-by-case basis.

...

(c) **Requests for Bond Return and Waiver.**

- (1) A Licensee that has provided two (2) years of continuous and uninterrupted service to customers and has previously submitted and maintained a copy of an Integrity Bond with the Commission in compliance with these requirements may file a request with the Commission for a determination of the Licensee’s financial integrity and whether the maintenance and continuation of the Licensee’s bond is necessary;
- (2) Upon such request, the Commission shall make a determination of the Licensee’s financial integrity, whether maintenance and continuation of a bond is necessary, and shall inform the Licensee of its decision in writing. If the Commission determines that a bond is no longer necessary, the Licensee may subsequently file an application with the Commission to request the return of the previously posted copy of the Integrity Bond and to waive the requirement for a future bond;

...

- (4) The Commission may require the Licensee to submit a copy of an Integrity Bond at a later date if the Commission deems the requirement of an Integrity Bond to be necessary and appropriate; and

...

4705.3 **Form of the Bond.** Any Applicant or Licensee required to provide a bond under this section shall provide a bond issued by a company authorized to do business in the District of Columbia in a form required by the Commission. The Applicant shall file a copy of this bond, with a notarized verification page from the issuer, as part of its application for a license. At a minimum, this form shall:

...

**Section 4709, SANCTIONS AND ENFORCEMENT, is amended as follows:**

**§ 4709.1 is amended to include revised (e), additions of (1) – (4) under Paragraph (e), and deletion of (f), as follows:**

4709.1 **Sanctions.** Licensees are subject to sanctions for violations of federal and District of Columbia law and applicable Commission regulations and orders. The following sanctions may be imposed by the Commission:

...

**(e) Suspension and Revocation of a Licensee’s Supplier License;**

- (1) If a Licensee fails to provide natural gas service to customers in the District of Columbia within two (2) years from the issuance of its license, the Commission shall suspend the Licensee’s natural gas supplier license and issue a notice of revocation. The Commission shall provide the Licensee an opportunity to submit evidence of service or permit the Licensee to request a hearing, either orally or in writing.
- (2) If a Licensee reports the absence of any jurisdictional revenue from its natural gas service in its response to the annual assessment survey required by 15 DCMR § 1301.2 for any consecutive two (2) year period, the Commission shall suspend the Licensee’s natural gas supplier license and issue a notice of revocation. The Commission shall provide the Licensee an opportunity to submit evidence of service or permit the Licensee to request a hearing, either orally or in writing.

- (3) If a Licensee is no longer providing natural gas service in the District of Columbia or has failed to comply with any of the filing requirements prescribed in this Chapter or has not filed an application to surrender its natural gas supplier license under § 4702.10, the Commission shall suspend the Licensee’s natural gas supplier license and issue a notice of revocation. The Commission shall provide the Licensee an opportunity to submit evidence of service or permit the Licensee to request a hearing, either orally or in writing.
- (4) Failure of the Licensee to submit a response to its suspension and notice of revocation within thirty (30) days of its issuance shall result in the permanent revocation of the Licensee’s natural gas supplier license.

**Section 4798, WAIVER, is amended as follows:**

**§ 4798.1 is amended to insert an omitted word “to” in the sentence.**

4798.1 The Commission may upon request, or on its own initiative after notice to the parties of its intention to do so, waive any provision of this chapter for good cause.

**A TRUE COPY:**

**BY DIRECTION OF THE COMMISSION**



**CHIEF CLERK:**

**BRINDA WESTBROOK-SEDGWICK  
COMMISSION SECRETARY**