

**1300 REIMBURSABLE BUDGET**

- 1300.1 Prior to October 1st of each fiscal year, the Commission and the Office of the People's Counsel shall obtain from the Office of the Deputy Mayor for Financial Management, a certified written statement of the amounts of appropriations requested by the Mayor and the Council for the two (2) agencies for the fiscal year beginning October 1st of the same year, excluding amounts allocated for security regulations.
- 1300.2 Amounts, as adjusted from time to time by amendments, supplemental requests, reprogrammings, and final action by the Congress, excluding amounts to be reimbursed by non-utility common carriers, shall represent the reimbursable budgets of the respective agencies.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3246 (July 30, 1982); as amended by Notice of Final Rulemaking published at 59 DCR 4230 (May 4, 2012).

## **1301 DETERMINATION OF REIMBURSEMENTS**

- 1301.1 Each public utility, competitive electric supplier, competitive natural gas supplier, and competitive local exchange carrier (“CLEC”) shall be assessed according to D.C. Official Code § 34-912(b) (2016 Supp.) for the reimbursable budgets of the Commission and the Office of the People’s Counsel in the following manner:
- (a) For CLECs, competitive electric suppliers, and competitive natural gas suppliers (collectively “alternative providers”), the assessments shall be equal to the ratio of the alternative provider’s calendar year gross jurisdictional revenues to the sum of the calendar year gross jurisdictional revenues of all public utilities and all alternative providers times the budgets of the Commission and the Office of the People’s Counsel; or
  - (b) For public utilities, the assessment shall be the public utility’s proportionate share of the calendar year gross jurisdictional revenues of all public utilities times the budgets of the Commission and the Office of the People’s Counsel less the amount to be reimbursed by the alternative providers in paragraph (a).
  - (c) If an alternative provider’s assessment is less than or equals twelve dollars (\$12), then the Commission may waive the payment of this assessment.
- 1301.2 By March 1st of each year the Commission shall send to each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC an Annual Survey and Affidavit for assessment purposes. Each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC shall file its responses to the Annual Survey with the Commission by April 1st. Each response shall include a report of the responder’s gross jurisdictional revenues for the proceeding calendar year ending December 31st.
- 1301.3 Failure to respond to the Commission issued Annual Survey by April 1st shall result in a penalty of one hundred dollars (\$100.00) per day for each day that the filing is late.
- 1301.4 Responders who under-report their gross jurisdictional revenues in their Annual Survey, shall be subject to a penalty equal to twice the correct assessment amount, up to but not to exceed five thousand dollars (\$5,000), in addition to paying the correct assessment amount.
- 1301.5 Responders who file incomplete or incorrect information in their Annual Survey shall be subject to a penalty not to exceed five thousand dollars (\$5,000).
- 1301.6 Responders shall receive notice of any penalty that the Commission intends to impose and shall be given an opportunity for a hearing pursuant to D.C. Official Code §§ 34-706 (c), 34-1508(a), 34-1671.11(a), or 34-2002(h-1).

This Errata Notice's correction to the Notice of Final Rulemaking is non-substantive in nature and does not alter the intent, application, or purpose of the proposed rules. The rules are effective upon the original publication date of July 8, 2016.

Any questions or comments regarding this notice shall be addressed by mail to Victor L. Reid, Esq., Administrator, Office of Documents and Administrative Issuances, 441 4<sup>th</sup> Street, N.W., Suite 520 South, Washington, D.C. 20001, email at [victor.reid@dc.gov](mailto:victor.reid@dc.gov), or via telephone at (202) 727-5090.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3246 (July 30, 1982; as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006); as amended by Final Rulemaking published at 53 DCR 8486 (October 20, 2006); as amended by Final Rulemaking published at 59 DCR 4230 (May 4, 2012); as amended by Final Rulemaking published at 61 DCR 9863 (September 26, 2014); as amended by Final Rulemaking published at 63 DCR 1304 (February 5, 2016); as amended by Final Rulemaking published at 63 DCR 9405 (July 8, 2016); as corrected by Errata Notice published at 64 DCR 4229 (May 5, 2017); amended by Final Rulemaking published at 64 DCR 12447 (December 8, 2017).

**1302 PUBLIC NOTICE OF REIMBURSEMENTS**

1302.1 Not later than thirty (30) days following the start of each fiscal year, the Commission shall publish the following information in the *District of Columbia Register*:

- (a) The net reimbursable budgets for the Commission and the Office of the People's Counsel for that fiscal year; and
- (b) The total of the gross jurisdictional revenues of each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC for the preceding calendar year.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3246 (July 30, 1982); as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006); as amended by Final Rulemaking published at 59 DCR 4230, 4231 (May 4, 2012); as amended by Final Rulemaking published at 63 DCR 9405 (July 8, 2016).

## **1303            PAYMENT OF REIMBURSEMENTS**

- 1303.1            By June 1<sup>st</sup> of each year, the Commission shall send each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC separate Notices of Proposed Assessment for the Commission and the Office of the People's Counsel. The Notices of Proposed Assessment shall contain the proposed assessment due from each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC for the Commission and for the Office of the People's Counsel. The Notices of Proposed Assessment shall indicate a specific time period for objections to the assessments contained in the Notices of Proposed Assessment to be filed with the Commission.
- 1303.2            If a public utility, competitive electric supplier, competitive natural gas supplier, or CLEC for the Commission and for the Office of the People's Counsel believes that the Proposed Assessment is incorrect, it may file a Notice of Objection with supporting documentation with the Commission before the objection period specified in the Notices of Proposed Assessment has expired. The Commission will not consider Notices of Objection that are not timely filed.
- 1303.3            Once the objection period specified in the Notices of Proposed Assessment has expired and, if no objections have been filed, the Commission shall send each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC separate Orders of Assessment for the Commission and the Office of the People's Counsel no later than August 31st of each year.
- 1303.4            If a timely Notice of Objection is filed, the Commission shall review and decide on the objection on or before July 15th. If an objection is determined to be valid, the Commission may, if necessary, send revised Notices of Proposed Assessment to each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC and allow an additional abbreviated comment period for Notices of Objection to the revised Notices of Proposed Assessment. If no further objections are filed by the closed on the comment period, the Commission shall send each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC separate Orders of Assessment for the Commission and the Office of the People's Counsel no later than August 31st of each year.
- 1303.5            The amounts set out in the Orders of Assessment shall be paid in full to the Treasurer of the District of Columbia within thirty (30) days of the date of the Order of Assessment.
- 1303.6            Failure to pay the assessments in full within thirty (30) days of the Orders of Assessment shall result in a penalty of ten percent (10%) of the assessment due but not to exceed one hundred dollars (\$100.00) per day for each day that the assessment is late. Failure to pay the assessments and the penalty due, if any, in full may also result in a suspension or revocation of the license of the public utility, competitive electric supplier, competitive natural gas supplier, or CLEC.
- 1303.7            In the event the Commission determines that a penalty may be appropriate pursuant to § 1303.6, the Commission shall provide a Notice of any penalty that it intends to impose for non-payment to the public utility, competitive electric supplier, competitive natural gas supplier, or CLEC and shall give the recipients

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of the notice an opportunity for a hearing pursuant to D.C. Official Code §§ 34-706(c), 34-1508(a), 34-1671.11(a), or 34-2002(h-1) and 15 DCMR § 1301.6.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3246 (July 30, 1982); as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006); as amended by Final Rulemaking published at 59 DCR 4230, 4231 (May 4, 2012); as amended by Final Rulemaking published at 63 DCR 1304 (February 5, 2016).

**1304 SUPPLEMENTAL REIMBURSEMENTS**

1304.1 Pursuant to the formula in § 1301, each public utility, competitive electric supplier, competitive natural gas supplier, and CLEC shall be required to reimburse:

- (a) A fraction of any supplemental appropriation received by the Office of the People's Counsel or the Commission during the fiscal year; or
- (b) A fraction of any supplemental assessment caused by a recalculation of assessments that would result in an under-collection of funds to reimburse the appropriated budgets of the Office of the People's Counsel or the Commission in a given fiscal year.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3247 (July 30, 1982); as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006); as amended by Notice of Final Rulemaking published at 59 DCR 4230, 4232 (May 4, 2012); as amended by Notice of Final Rulemaking published at 66 DCR 1498 (February 1, 2019).

**1305**            **[DELETED]**

SOURCE: Final Rulemaking published at 29 DCR 3245, 3247 (July 30, 1982); as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006).



## **1306 REFUNDS**

- 1306.1 If total obligations of the Commission or the Office of the People's Counsel are less than ninety-five percent (95%) of total appropriations for the Commission or the Office of the People's Counsel as determined by the Office of the Chief Financial Officer in the annual audit released in the month of February of each year, the Commission or the Office of the People's Counsel shall cause the difference to be refunded or credited against the next year's assessment to the public utilities, competitive electric suppliers, competitive natural gas suppliers, and CLECs according to the formula under § 1301, within one hundred fifty (150) days following the end of the fiscal year. The decision to refund or credit the difference shall be at the Commission's discretion.
- 1306.2 If a recalculation of assessments would result in an over-collection of funds to reimburse the appropriated budgets of the Office of the People's Counsel or the Commission in a given fiscal year, this over-collection shall be refunded or credited against the next year's assessments to the public utilities, competitive electric suppliers, competitive natural gas suppliers, and CLECs according to the formula under § 1301. The decision to refund or credit the difference shall be at the Commission's discretion.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3247 (July 30, 1982); as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006); as amended by Final Rulemaking published at 59 DCR 4230, 4232 (May 4, 2012); as amended by Final Rulemaking published at 63 DCR 1304 (February 5, 2016); as amended by Notice of Final Rulemaking published at 66 DCR 1498 (February 1, 2019).

**1307 WAIVER OF RULES**

1307.1 The Commission may grant exceptions to this chapter, in a manner consistent with D.C. Official Code § 34-912, for good cause shown to promote justice or to prevent hardship.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3247 (July 30, 1982); as amended by Notice of Final Rulemaking published at 59 DCR 4230, 4232 (May 4, 2012); as corrected by Errata Notice published at 59 DCR 4772 (May 11, 2012); as amended by Notice of Final Rulemaking published at 66 DCR 1498 (February 1, 2019).

**1308 MISCELLANEOUS PROVISIONS**

1308.1 Nothing contained in this chapter shall limit or alter the Commission's authority under D.C. Official Code § 34-912(a) (2010 Repl. & 2011 Supp.) to require reimbursement of the expenses, including the expenses of the Office of the People's Counsel, of any investigation, valuation, revaluation, or other proceeding by the Commission concerning a particular public utility.

SOURCE: Final Rulemaking published at 29 DCR 3245, 3248 (July 30, 1982); as amended by Notice of Final Rulemaking published at 59 DCR 4230, 4232 (May 4, 2012).

## 1399            **DEFINITIONS**

1399.1            When used in this chapter, the following terms and phrases shall have the meaning ascribed:

**Behind-the-meter generator** – an on-site generator that is located behind a retail customer’s meter such that no Electric Company-owned transmission or distribution facilities are used to deliver the energy from the generating unit to the on-site load.

**Commission** – the Public Service Commission of the District of Columbia.

**Competitive Electric Supplier** – a person, including an aggregator, broker or marketer, who generates electricity; sells electricity; or purchases, brokers, arranges, or markets electricity for sale to 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) Any person who purchases electricity for its own use or for the use of its subsidiaries or affiliates or Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not:
  - (1) Take title to electricity;
  - (2) Market electric services to the individually-metered tenants of his or her building; or
  - (3) Engage in the resale of electric services to others;
- (c) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property; and
- (d) A consolidator.

**Competitive Local Exchange Carrier (CLEC)** – any provider of telecommunications service that was not an incumbent local exchange carrier on January 31,1996.

**Competitive Natural Gas Supplier** – a person including an aggregator, broker, or marketer, who sells natural gas or purchases, brokers, arranges or markets natural gas for sale to customers. The term shall not include a person that supplies natural gas exclusively for its own consumption or the consumption of one or more of its affiliates. The term shall not include the following:

- (a) Building owners, lessees, or managers who manage the internal distribution system serving the building and who supply natural gas solely to occupants of the building for use by the occupants;
- (b) Any person who purchases natural gas for its own use or for the use of its subsidiaries or affiliates or Any apartment building or office building manager who aggregates retail natural gas sales requirements for his or her building, and who does not:
  - (1) Take title to natural gas;
  - (2) Market retail natural gas sales to the individually-metered tenants of his or her building; or
  - (3) Engage in the resale of natural gas to others;
- (c) Property owners who supply small amounts of natural gas, at cost as an accommodation to lessors or licensees of the property;
- (d) A consolidator; or
- (e) The gas company.

**District** – the District of Columbia.

**Electricity supplier** – means a person, including an Aggregator, Broker, or Marketer, who generates electricity; sells electricity; or purchases, brokers, arranges or markets electricity for sale to 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 the occupants of the building for use by the occupants;
- (b) Any Person who purchases electricity for its own use or for the use of its subsidiaries or affiliates;
- (c) Any apartment building or office building manager who aggregates electric service requirements for his or her building or buildings, and who does not: (i) Take title to electricity; (ii) Market electric services to the individually-metered tenants of his or her building; or (iii) Engage in the resale of electric services to others;
- (d) Property owners who supply small amounts of power, at cost, as an accommodation to lessors or licensees of the property;

- (e) Consolidators;
- (f) Community Renewable Energy Facilities (CREFs) as defined in Section 4199.1 and as described in Sections 4109.1 through 4109.3 of Title 15, pursuant to the Community Renewable Energy Amendment Act of 2013 (D.C. Law 20-47; D.C. Official Code §§ 34-1518 *et seq.*);
- (g) An Electric Company; and
- (h) Any Person or entity that owns a behind-the-meter generator and sells or supplies the electricity from that generator to a single retail customer or customers behind the same meter located on the same premise.

**Gross jurisdictional revenue** – gross revenues derived from operations regulated by the Commission in the District of Columbia.

**Office of the People’s Counsel** – the Office of the People’s Counsel of the District of Columbia.

**Public Utility** – any public utility, as defined under D.C. Official Code § 34-214 (2010 Repl.), other than a common carrier.

SOURCE: Final Rulemaking published at 29 DCR 3245 (July 30, 1982); as amended by Final Rulemaking published at 53 DCR 4141 (May 19, 2006); as amended by Notice of Final Rulemaking published at 59 DCR 4230, 4232 (May 4, 2012); as corrected by Errata Notice published at 59 DCR 4772 (May 11, 2012) ; as amended by Final Rulemaking published at 63 DCR 1304 (February 5, 2016); as amended by Final Rulemaking published at 65 DCR 11025 (October 5, 2018).