

DISTRICT OF COLUMBIA
OFFICIAL CODE

TITLE 34.
PUBLIC UTILITIES.

CHAPTER 15A.
INSTALLATION OF SUBMETERING EQUIPMENT.

2001 Edition

DISTRICT OF COLUMBIA OFFICIAL CODE
CHAPTER 15A. INSTALLATION OF SUBMETERING
EQUIPMENT.

TABLE OF CONTENTS

[§ 34-1551. Definitions.](#)

[§ 34-1552. Commission to promulgate rules, including standards.](#)

[§ 34-1553. Energy submetering and energy allocation equipment.](#)

CHAPTER 15A. INSTALLATION OF SUBMETERING EQUIPMENT.

§ 34-1551. DEFINITIONS.

For the purposes of this chapter, the term:

- (1) "Building" means all of the individual units served through the same utility-owned meter within a property defined as Class 2 Property under § 47-813(c-6).
- (2) "Building owner, operator, or manager" means any person or entity responsible for the operation and management of a building.
- (3) "Commission" means the Public Service Commission.
- (4) "Energy allocation equipment" means any device, other than submetering equipment, used to determine approximate electric or natural gas usage for any nonresidential rental unit within a building.
- (5) "Electricity supplier" shall have the same meaning as in § 34-1501(17).
- (6) "Natural gas supplier" shall have the same meaning as in § 34- 1671.02(12).
- (7) "Nonresidential rental unit" means real property leased for commercial purposes.
- (8) "Owner-paid areas" means the portion of the real property for which the owner bears financial responsibility for energy costs, which portions include areas outside individual units or in owner-occupied or shared areas.
- (9) "Public utility," "utility," or "utility company" shall have the same meaning as in § 34-214.
- (10) "Submetering equipment" means equipment used to measure actual electricity or natural gas usage in any nonresidential rental unit when the equipment is not owned or controlled by the electric or natural gas utility serving the building in which the nonresidential rental unit is located.

(Oct. 22, 2008, D.C. Law 17-250, § 701, 55 DCR 9225.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 701 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

Legislative History of Laws

Law 17-250, the "Clean and Affordable energy Amendment Act of 2008", was introduced in Council and assigned Bill No. 17-492 which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-497 and transmitted to both Houses of Congress for its review. D.C. Law 17-250 became effective on October 22, 2008.

Miscellaneous Notes

Section 801 of D.C. Law 17-250 provides:

"Sec.801. Applicability."

"This act shall apply on the later of October 1, 2008, or the effective date of this act."

§ 34-1552. COMMISSION TO PROMULGATE RULES, INCLUDING STANDARDS.

- (a) The Commission shall promulgate rules, including standards, under which any owner, operator, or manager of a building which is not individually metered for electricity or gas for each nonresidential rental unit may install submetering equipment or energy allocation equipment for the purpose of fairly allocating:

- (1) The cost of electrical or gas consumption for each nonresidential rental unit; and
 - (2) Electrical or gas demand and customer charges made by the utility and electricity and natural gas supplier.
- (b) In addition to other appropriate safeguards for the tenant, the rules shall require that a building owner, operator, or manager:
- (1) Shall not impose on the tenant any charges over and above the cost per kilowatt hour, cubic foot or therm, plus demand and customer charges, where applicable, which are charged by the utility company, the electricity supplier, and natural gas supplier to the building owner, operator, or manager, including any sales, local utility, or other taxes, if any; provided, that additional service charges permitted by § 34-1553 may be collected to pay administrative costs and billing; and
 - (2) Shall maintain adequate records regarding submetering and energy allocation equipment and shall make such records available for inspection by the Commission during reasonable business hours.
- (c)(1) For the purposes of Commission enforcement of the rules adopted under this section, building owners, operators, or managers shall be treated as public utilities for the purposes of making a complaint under § 34-917 and any rules governing the making of complaints adopted under § 34-902.
- (2) All submetering equipment shall be subject to the same rules, including standards, established by the Commission for accuracy, testing, and recordkeeping of meters installed by electric or gas utilities and shall be subject to the meter requirements of § 34-303.
 - (3) All energy allocation equipment shall be subject to rules, including standards established by the Commission to ensure that such systems result in a reasonable determination of energy use and the resulting costs for each nonresidential rental unit.
 - (4) Violations of Commission rules and orders issued under this section shall be subject to the penalty provisions set forth in §§ 34-708 and 34-731.
- (d) In implementing this section, no building owner, operator, or manager shall be considered a public utility engaged in the business of distributing or reselling electricity or gas except as provided in subsection (c) of this section. The building owner, operator, or manager may use submetering or energy allocation equipment solely to allocate the costs of electric or gas service fairly among the tenants using the building.

(Oct. 22, 2008, D.C. Law 17-250, § 702, 55 DCR 9225.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 702 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

Legislative History of Laws

For Law 17-250, see notes following § 34-1551.

§ 34-1553. ENERGY SUBMETERING AND ENERGY ALLOCATION EQUIPMENT.

- (a) Energy submetering equipment or energy allocation equipment may be used in a building if it is authorized in the rental agreement or lease for the nonresidential rental unit. All energy submetering equipment and energy allocation equipment shall meet the requirements and standards established and enforced by the Commission pursuant to subsection (b) of this section.
- (b)(1) If energy submetering equipment or energy allocation equipment is used in any building, the building owner, operator, or manager shall bill the tenant for electricity or natural gas for the same billing period as the utility, the electricity supplier, or the natural gas supplier serving the building, unless the rental agreement or lease expressly provides otherwise.
- (2) A late payment charge shall not be imposed on all amounts, including deferred payment installments, paid by the due date or on amounts in dispute before the Commission. Amounts paid after the due date shall bear a late payment charge of 1%, and an additional late payment charge at the rate of 1 1/2 % on the remaining unpaid balance per billing month thereafter.
- (c) Energy allocation equipment shall be tested periodically under Commission rules by the building owner, operator, or manager. Upon the request by a tenant, the building owner, operator, or manager shall test the energy allocation equipment without charge. The test shall be conducted without charge to the tenant and shall not be conducted more frequently than once in a 24-month period for the same tenant. The tenant or his designated representative may be present during the testing of the energy allocation equipment. A written report of the results of the test shall be made to the tenant within 10 business days

after the completion of the test.

(d) A building owner, operator, or manager shall maintain adequate records regarding energy submetering equipment or energy allocation equipment. A tenant may inspect and copy the records for the nonresidential unit during reasonable business hours at a convenient location within the building. The building owner, operator, or manager may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.

(e) Notwithstanding any enforcement action undertaken by the Commission pursuant to its authority under § 34-1552, tenants and owners, operators, or managers shall retain any private right of action resulting from any breach of the rental agreement or lease terms required by this section or § 34-1552.

(Oct. 22, 2008, D.C. Law 17-250, § 703, 55 DCR 9225.)

HISTORICAL AND STATUTORY NOTES

Emergency Act Amendments

For temporary (90 day) addition, see § 703 of Clean and Affordable Energy Emergency Act of 2008 (D.C. Act 17-508, September 25, 2008, 55 DCR 10856).

Legislative History of Laws

For Law 17-250, see notes following § 34-1551.