

BEFORE THE  
COMMITTEE ON  
PUBLIC SERVICES AND CONSUMER AFFAIRS  
*Of the*  
COUNCIL OF THE DISTRICT OF COLUMBIA  
PUBLIC OVERSIGHT HEARING  
*For the*  
OFFICE OF THE PEOPLE'S COUNSEL  
TESTIMONY  
*Of*  
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Good Afternoon Chairperson Alexander and members of the Committee. I am Sandra Mattavous-Frye, People's Counsel. I am pleased to appear before you today to update you on the progress of my plan and my vision for the future of the Office of the People's Counsel.

Appearing with me today are key members of my managerial staff. The Deputy People's Counsel Karen Sistrunk Esq., Nauhnihal Gumer, Director of Regulatory Finances, and Herbert Jones, Manager of Consumer Services. Also in attendance

are other senior members of my staff. Ms. Gurmeet Scoggins, Agency Fiscal Officer, assigned by the OCFO to this agency, is also here today and she is available to present information relative to the OCFO's responsibilities specific to this Agency's fiscal affairs.

Last June, I had the honor of appearing before this committee during my Confirmation Hearing. I explained my view of the pivotal and critical role of the People's Counsel in the regulatory arena with respect to governing the provision of vital utility services to D.C. Consumers and noted that the People's Counsel is the "voice of the people" and by law must advocate to protect the interests of utility users in the District of Columbia to ensure their entitlement to "safe, reliable and affordable service." I vowed to carry forth the legacy of my predecessors and meet the challenges of the future with a clear and focused eye.

I would be remiss if at the outset I did not recognize the efforts of my Staff during this transition period. OPC staff carried on the mission of the agency during the transition in a professional and supportive manner without any interruption in the operation and performance of the agency. I would like to publically thank them for their hard work.

The past ten (10) months has been exciting and challenging. I am proud of the accomplishments, both large and small, OPC has achieved under my leadership. We continue to pursue excellence, and to advocate zealously on behalf of DC consumers. My three biggest accomplishments are directly related to the goals and objectives I have established for the Office: reliability, affordability and consumer empowerment.

I am most proud of OPC's advocacy that successfully persuaded the Public Service Commission (PSC) to include electric reliability as a major part of Pepco's pending rate case (F.C. 1087). This is an issue that OPC has pursued for many years. It is the first time in over a decade that the Commission has linked reliability to cost recovery, a position that OPC has long advocated. OPC believes it has presented substantial evidence to support its position that Pepco must be held accountable for its poor reliability. Consumer participation and interest in this case have increased exponentially with public citizens not only attending community hearings, but also sitting through the evidentiary hearings and contacting the PSC via emails and mailings.

I am likewise very pleased to report on the establishment of a new multi-divisional section within the office, comprised of OPC litigation, technical and consumer education and outreach staff, called the Energy Efficiency and Sustainability Section (EES). I established this section to increase awareness of energy efficiency, renewable and sustainable energy options to the broad base of DC consumers in all wards and income levels. Energy efficiency and sustainability has a direct short term and long term impact on the provision of utility service. Policy decisions made now will affect both price and service for years to come. The District is in the vanguard of energy efficiency and sustainability achievement and is emerging as a leader in the field. Consistent with the broad objectives of the city and new statutory mandates, requiring consideration of environmental and conservation issues, the new section has conducted over 43 energy efficiency workshops throughout the city; participates in federal proceedings involving transmission and renewable issues; and formed alliances with the local environmental community, as well as with proponents of solar energy as a viable supply source.

Finally, we have expanded our outreach and educational efforts in new and innovative ways. For example, the Office is utilizing the services of DC Cable Television to broadcast Public Service Announcements (PSAs) to educate the public about the work of OPC and emerging utility issues and pending cases. In addition we have convened town hall meetings to solicit community input on matters of local concern and worked with other organizations such as AARP to broaden and expand our client base. The end result of our efforts has produced measurable achievements. For example, OPC successfully petitioned the PSC to investigate the quality of service provided by Verizon. This was a direct result of complaints and concerns raised by consumers at our various outreach events. In addition, consumer inquiries resulted in the Office bringing to the Commission's attention alleged shady sales tactics of alternative energy providers.

I would now like to take a few minutes to describe how OPC has met its goals over the past 10 months.

## **HIGHLIGHTS OF OPC'S ACTIVITIES**

### **ENERGY EFFICIENCY**

With the creation of the Office's EES Section, OPC broke new ground in its efforts to make energy efficiency and sustainability real. OPC's EES section has introduced a series of workshops in our community libraries, community centers and recreation centers where residents can learn about energy efficiency measures they can do themselves; "Keeping it Simple" for do-it-yourself results at any age, at any skill level.

OPC's efforts complement and support the City's ongoing energy efficiency initiatives including the Sustainable Energy Utility (SEU); and the Mayor's

Sustainable DC Initiative. I serve on the thirteen (13) members SEU Advisory Board and I am working diligently to help the group meet its statutory mandate and the goal of transitioning the District to a “Clean Energy Economy” as established by the Chief Executive. My specific goal is to ensure that residential ratepayers, who are paying their fair share of funding costs, are not left out of the dialogue and receive their fair share of the benefits and savings.

In May, OPC hosted its first Distributed Generation (DG) Workshop. It is important for District residents to know that DG includes numerous emerging technologies. While many of those in attendance have focused on integrating solar panels into their energy portfolio, other issues such as necessary modifications to the smart grid will have a profound impact on service in the near future.

## **EDUCATION AND OUTREACH**

OPC is committed to assuring a place at the table for lay advocates, government and individuals. OPC has conducted briefings for governmental and non governmental agencies servicing a broad base of constituencies ranging from the very young to our senior community. We have partnered with the DC Office of Disability Rights, United Planning Organization, Seniors Centers, AARP, Council Constituent Services, DC Office on Aging, Tenant Associations, Mount Pleasant Solar Coop, DC Solar United Neighborhoods and the Vote Solar Project to name but a few, to bring our message directly to their constituents.

OPC provides technical assistance to help lay advocates grasp many of the technical terms and concepts they need to understand to fully participate in the regulatory process.

In addition, OPC regularly produces and disseminates through electronic means thousands of notices of hearings, important articles, updates and schedules regarding utility developments.

OPC conducted a series of community leader briefings to help consumers prepare to participate in Pepco's most recent rate request.

**OUTREACH EVENTS, LANGUAGE ACCESS award/compliance,**

OPC Initiated Quality of Service Town Hall meetings in October and November specifically to open a dialogue with consumers that would help us learn what they are experiencing in the utility marketplace and to inform our advocacy going forward. Over 60 DC Consumers testified at the two town hall meetings. OPC's report on the Town Hall meetings found that there is widespread discontent among District consumers regarding the quality, reliability and cost of utility services regardless of the ward, economic class or customer type of the respondent.

In 2011, OPC staff conducted 174 educational outreach meetings with ANC's Community and Civic Associations, tenant groups and others upon request. In our advocacy role, OPC has handled over 3,215 consumer complaints.

OPC has received an award for its outstanding service to the ESOL communities in 2011. Our language access coordinators have helped the agency meet all language access requirements of the Language Access Act of 2004, including conducting targeted information workshops in Amharic, French, Spanish and Chinese. We have also made excellent progress in our service to the physically challenged and hearing impaired communities. It is my goal to ensure that all District residents,

regardless of their proficiency with the English language understand our mission, the services we provide and how we are available to assist them.

OPC has conducted extensive education around smart meters, sponsoring 13 consumer workshops throughout the city including workshops fully translated into Cantonese and Mandarin Chinese dialects and a workshop fully translated to Spanish.

### **MEDIA, ELECTRONIC MEDIA, FACEBOOK**

I have expanded the agency's outreach to include working with the DC Office of Cable Television to produce and air multiple public service announcements on a variety of issues critical to consumers, including information about the services provided by OPC, the Pepco rate proceeding, and installation of smart meters.

In recognition of changes in our mobile society and the leadership of the Mayor, OPC has moved to using email, list serve groups and Face book notification to desktop and mobile devices as our primary real time communications tools. Consumers now indicate that they prefer to receive written communications through these means.

### **PUBLICATIONS AND NEW WEBSITE, NEW WEB PORTAL**

At my direction, OPC has revised numerous outreach publications and is using electronic media distribution to curtail or eliminate most production costs. Also a new agency website has just launched this month. The new site will offer a web portal devoted to the work of the new Energy Efficiency and Sustainability section, it will also include a new web portal for smart meter education.

## **LITIGATION**

### **VERIZON INVESTIGATION ON SERVICE RELIABILITY**

Consumers of Verizon's traditional land line service in the District have voiced their frustrations over the company's poor service quality. Inability to achieve repairs, missed appointments and difficulty communicating with representatives even after 30 minutes of waiting on the line, led to OPC's petition asking the Commission to examine a broad array of service quality issues including infrastructure and customer service concerns. It is an unfortunate state of affairs when consumers are forced to provide affidavits that should be handled in the normal course of business communications. But this is where we find ourselves with our largest and oldest telecommunications service provider. I commit to you that this is not the path forward.

### **WASHINGTON GAS LIGHT**

OPC's review of Washington Gas's 2010 Depreciation Rate Study resulted in the Commission's conclusion that a base rate investigation of Washington Gas was warranted. This review is expected to begin March 1, 2012.

### **PEPCO**

Any discussion of service reliability in the District is certain to involve electricity issues. District consumers were again the victims of a prolonged outage that demonstrated the challenges to Pepco's ability to provide reliable service. Between May 31, and June 2, some 1500 customers, including District and federal agencies and neighboring schools, lost power due to an underground cable failure.

On June 1, power was restored to many customers for about one hour until the very same cable failed, again. Pepco later reported that its own limited knowledge of infrastructure and inaccurate maps of its underground system contributed to delays in repair. This was again confirmation that Pepco's system reliability needed a thorough review. For years OPC advocated for the adoption of stricter Electric Quality of Service Standards, including the provision for the Commission to impose fines. The PSC recently issued new standards that include stricter provisions.

OPC vigorously opposes Pepco's \$42.5 Million rate increase request. The Company has submitted a deeply flawed and unsupported request that in OPC's view should be summarily dismissed. OPC is encouraged that the PSC has recognized the flaws in Pepco's case as presented. At this time the case procedural schedule is in suspension, primarily due to Pepco's failure to include, on the record, critical data necessary to allow the PSC and the parties to fully evaluate their proposal.

## **INVESTIGATION OF ALTERNATIVE ENERGY PROVIDERS**

Alerted by consumers that a new utility service provider had entered the marketplace using not only aggressive but potentially abusive tactics to access consumer accounts, OPC reacted quickly, petitioning the DC-PSC to investigate the solicitation practices of Horizon Power and Light. OPC's research indicated that Horizon has a history of reprimands for unfair and deceptive practices in another jurisdiction. OPC requested, and Horizon has since agreed to comply with 30-days notice before reentering the District Market and to provide randomly selected samples of sales calls for the next six months. OPC continues to monitor the activities of other alternative service suppliers.

## **SMART METER OPT OUT**

An emerging issue in the District of Columbia is the ongoing deployment of smart meters. Pepco has deployed nearly 270,000 smart meters since October 2010. Consumer concerns regarding the presence of the meters in and around their homes have mounted, particularly in light of actions taken in jurisdictions such as Maine and California, allowing opt-out provisions. Responding to concerns of residents, on December 7, 2011 OPC filed a petition with the Commission requesting consideration of the feasibility of an OPT-out provision for DC consumers. The Commission has declined to do so.

## **MARKET MONITORING**

OPC has increased its participation in FERC and Regional Transmission Organization based proceedings, specifically at the PJM, which manages energy planning and transmission in the Mid-Atlantic region. OPC has filed comments regarding the Capacity Market, Price Response Demand and Transmission Incentives. In our comments, OPC stressed support for the integration of advanced technologies and clean resources into system planning and markets because of the potential to produce immense economic and environmental benefits for consumers.

## **CLOSING**

As I bring my testimony to a close, I would like to ask that you look back in time with me at how the Office of the People's Counsel came to be; and also share the recent observation of the DC Court of appeals.

In an earlier period of unfettered utility power (1926), congress recognized that utility consumers required an active advocate to protect them. Their response was

to create OPC, not only as a bulwark between the perils of a “profits first, last and only” marketplace, but also as a skilled advocate that understands that we must have stable utilities that are not doomed by poor choices or poor performance of their management, if consumers are to enjoy safe, adequate and reliable services.

In 1952 a governmental reorganization ended OPC’s advocacy. But by 1976, the pendulum had once again swung out of balance and the Office was reestablished.

I believe that we are again victims of the arc of that regulatory pendulum. What do ratepayers receive for their more than \$1 Billion in utility receipts? Deregulation, utility consolidation, technology and regulatory philosophy have shifted with little or no regard for the economic, environmental and essential service needs of consumers. Ironically it is these everyday people who must pay dearly to undergird the utility’s “bottom line.”

To further illustrate how far the pendulum has swung toward the singular interest of utility profits, late last year while investigating key aspects of electric reliability, OPC was forced to challenge a series of DC PSC rulings that denied the consumer advocate meaningful access to Pepco maps and data.

OPC appealed these decisions to the DC Court of Appeals. The Court affirmed OPC’s position stating the **“Commission also appears to have lost sight of OPC’s critical role as an independent investigatory authority and a statutory party in the regulatory scheme.”** The court’s decision restated the importance of OPC’s *independent investigatory authority and its status as a statutory party in the regulatory scheme.*

The Court of Appeals has unequivocally ruled for consumers, whose interests must be fully represented.

Eliminating arbitrary limits on OPC's authority or scope is how OPC must exist. Unwavering, unequivocal advocacy for utility consumers is why OPC must exist.

I thank you and I look forward to working with you to follow through on the promise that is OPC.

I am available to respond to any questions you may have.

## **SPEAKERS NOTES:**

### **MANAGERIAL/ADMINISTRATIVE INITIATIVES**

#### **VACANCIES AND HIRING**

Over this period I have filled three attorney vacancies (3 FTEs). I have backfilled the Deputy People's Counsel Vacancy and I am actively recruiting to fill the existing Director of Litigation and Director of Operations vacancies which I anticipate will be staffed within the next 60 days.

#### **PERSONNEL TRAINING AND EVALUATION**

The Office has further enhanced the performance management system in critical areas of performance planning, performance execution, and performance review, through implementation of the District's PeopleSoft Performance Management System. We offer in-house training through webinars and brown bag sessions and I have also mandated courses through the District's Workforce Development Training courses.

#### **GENERAL ADMINISTRATIVE INITIATIVES**

I have executed extensive procurement reforms to move the agency toward 100% compliance with District Government policies and procedures, including development of the Agency's first Procurement Manual; issuance of an Administrative Order for Invoice Tracking and Compliance with the District of Columbia's "Quick Payment Act;" development of Spending Plans for long range procurement objectives; plans to move toward full compliance with the District Government's goal of fulfilling 100% of the Agency's expendable budget through certified small business contractors; and implementation of a new Contract Management policy.