

Office of the People's Counsel of the District of Columbia

2004-2005 Annual Report

education.

protection.

***Legacy of***



***Excellence***

***in advocacy & consumer outreach***

**1975-2005: 30 Years and Building**

advocacy.



# educati

# protect

# advoca

*Legacy of  
Excellence*

1975 | OPC created

1979 | OPC founding  
member of NASUCA  
UCBOR created  
Page 10

1986 | First Utility Discount Day  
Page 8

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## Contents

- 2 MAYOR'S MESSAGE
- 3 LETTER FROM THE PEOPLE'S COUNSEL
- 4 MESSAGE TO D.C. CONSUMERS AND RATEPAYERS
- 8 CONSUMER ADVOCACY
- 12 NATURAL GAS ISSUES
- 16 ELECTRIC ISSUES
- 24 TELECOMMUNICATIONS ISSUES
- 28 **AGENCY OPERATIONS**
- 29 ORGANIZATIONAL STRUCTURE
- 32 AGENCY FUNDING
- 34 PROFESSIONAL DEVELOPMENT AND EDUCATION
- 36 COMMUNITY SERVICE

The Office of the People's Counsel is the public advocate for all natural gas, electric and telecommunications ratepayers in the District of Columbia. By law, the Office represents D.C. utility ratepayers' interests before the Public Service Commission, FERC, FCC, other utility regulatory bodies and the courts. The Office is mandated to conduct consumer education and outreach and may represent individual consumers with complaints related to their utility service and bills.



1994

Telecom quality of service standards established  
Page 26

2005

OPC Energy Summit  
Page 9

1990

WG Southeast Payment Center opened  
Page 13



2001

OPC held first Energy Expo.  
Page 8





*Anthony A. Williams  
Mayor*



Dear District Residents:

It is my pleasure to present the 2005 Annual Report of the Office of the People's Counsel.

In the District, the Office of the People's Counsel is an independent agency within our government advocating for and educating consumers on utility issues affecting rates, quality of service, consumer choice, and consumer safeguards. These issues also impact the District's economic development, neighborhood stability and quality of life for our residents.

As you know, the public utility industry continues to evolve competitively, presenting new opportunities and challenges for our residents. PEPCO, Washington Gas and Verizon are no longer the only utility providers serving District consumers. The goal of providing utility service that is safe, adequate, reliable and available at a reasonable cost is as important as ever to the social and economic well being of our residential, as well as corporate consumers.

I am pleased to encourage the Office to remain vigilant in educating consumers on their rights and protecting their economic interests in the coming year.

Sincerely,

A handwritten signature in black ink that reads "Anthony A. Williams".

Anthony A. Williams  
Mayor



I am pleased to submit the “2004-2005 Annual Report of the Office of the People’s Counsel: Legacy of Excellence in Advocacy and Consumer Outreach” to the utility consumers and ratepayers of the District of Columbia.

This Annual Report is particularly significant because 2005 marks the Office’s 30<sup>th</sup> Anniversary!

The Office and the consumers we represent have come a long way since the Agency was reestablished by an act of Congress in 1975. Since then, resources have been added; staff size has increased; in-house expertise has matured; new technologies have enhanced our capability, as well as our ability to provide technical and consultative services to consumers; and of course, the Internet and our web page allow us to expand our outreach into the community to educate consumers. Yet, informing and listening to consumers remain essential “steps” in effective consumer advocacy. OPC-DC has kept pace with the changes in the utility industry. On many occasions the Office has signaled the clarion call when we believed proposed legislative, economic, or regulatory policies have not been in the best interests of our clients, D.C. consumers.

With all of this, OPC-DC remains passionate about and staunchly committed to serving consumers and to providing effective and professional consumer advocacy.

We are proud of our accomplishments and our continued commitment to represent and advocate on behalf of D.C. utility consumers.

You are our clients, and that remains and always will be foremost in our minds.

Thank you for your advice and continued support. We look forward to another 30 years!

Sincerely,

A handwritten signature in black ink that reads "Elizabeth A. Noël". The signature is written in a cursive style and is placed on a light-colored rectangular background.

Elizabeth A. Noël, Esq.  
People’s Counsel for the District of Columbia

# People's Counsel's Message to

Happy Anniversary and kudos to all D.C. consumers because 2005 marked the 30<sup>th</sup> anniversary of the establishment of the District of Columbia Office of the People's Counsel!

## **Why, you ask, should we congratulate D.C. consumers?**

It was the consumers and residents of the District who worked so hard to convince the U.S. Congress to reestablish OPC-DC as a professional, autonomous, independently funded consumer advocacy office. The objective was to create a public interest law agency to properly represent the interests of utility consumers before appropriate regulatory commissions and the courts. Their goal was to create an effective mechanism to protect consumers' stake in the proper regulation of public utilities and to better ensure the provision of safe, adequate and reliable service at just and reasonable rates!

The preparation of this Annual Report gave OPC-DC staff the opportunity to "delve" into the annals, become reacquainted with history, and reflect on the powerful reasons why the United States Congress reestablished this agency. Our reflection confirmed the need for zealous consumer advocacy remains as strong today as it was in 1975.

Ironically, concerns about such issues as fuel adjustment charges, natural gas rate design structure, rising oil and natural gas costs, and soaring energy rates empowered consumers to petition for an independent consumer advocate. Thankfully, Congress recognized it would be hard for even the most responsible regulatory commission, acting in "judicial fashion" and fairly and independently balancing the varying viewpoints of the parties appearing before it, to vigorously protect consumers' viewpoints and needs in legal proceedings. Congress knew the extent to which consumers depend on the energy companies to provide heating fuel. But because consumers had virtually no opportunity to shop around for this basic necessity, Congress recognized the need for the opportunity for close public scrutiny of the utility industries and for competing public interests in the regulatory process to be balanced.

Fast forward to 2005, and it is "Back to the Future!" Today, D.C. consumers are expressing concern and frustration at the impact of "Hurricanes Katrina and Rita" on energy costs as monthly utility bills rose immediately. Current increases are also due to fuel adjustment clauses exempt from contemporaneous regulatory review and scrutiny. Also, the abject failure of deregulation and retail competition in almost every state where enacted means there are virtually no alternative, competitive energy providers (*other than the unregulated subsidiaries of the traditional monopolies*) from which residential consumers may "shop and choose." Additionally, consumers are frustrated with lower quality of utility service. The list of annoyances goes on and on. What this all means is, that as much as has been accomplished, much work lays ahead.

This Annual Report combines content for 2004 and 2005. Our work over the last two years is indeed an extension of what the Office has methodically and painstakingly accomplished in the past 30 years on behalf of District consumers.

# *D.C. Consumers and Ratepayers*

The years have been exciting, challenging and rewarding. Our successes have been possible because of the foundation laid and the building blocks put in place by the administrations of the previous People's Counsels. Appropriate to this moment in our history and reflective of knowing OPC-DC today stands on the shoulders of and the achievements by the three previous People's Counsels, this Report includes remarks from Annice M. Wagner, Brian Lederer, and Frederick Dorsey.\*

Because consumer and community input and support are the cornerstone of OPC-DC's achievements, we have also included the thoughts of lay consumer advocates and others who have enabled the Office's success.

In the past two years we have addressed issues of first impression, as well as recurring issues, which have defied resolution, despite significant changes in the regulatory arena.

Five years after the establishment of deregulation and retail competitive choice for electric service, OPC-DC's message is, "It does *not* work!" Rather than residential consumers being able to choose, consumers have only two certified alternative suppliers willing to serve residential customers. Those being served account for only 2.5 percent of total customers. Indeed, for the 2005-06 season, even these suppliers have chosen not to sign up new residential customers. So, consumers face the reality that although PEPCO now provides energy, this time it is under an unregulated process without traditional notions of rate continuity and gradualism, reasonableness, and equity. Surely, this is not what the "Framers" had in mind when the "Retail Electric Competition and Consumer Protection Act of 1999" was enacted.

With the expiration of electric rate caps in 2005, PEPCO became the SOS supplier, and D.C. ratepayers saw a whopping 19 percent increase in their generation rate – an increase which the DC PSC was powerless to stop. Sadly, the reality is even the most effective and vigorous consumer advocacy does not always guarantee clear victories for consumers, particularly when regulatory policies or laws do not operate to protect them. Even the best advocacy also may not protect consumers when an immature retail competitive marketplace fails to yield "consumer choice" opportunities for residential users. The best advocacy may not protect consumers when transmission system configurations inhibit the flow of reasonably priced power to every region. Given these realities, OPC-DC has suggested it is time to reassess deregulation and retail competition in the District and to devise a more appropriate regulatory mechanism to protect the interests of consumers in the real world.

At the federal level, OPC-DC continues to protect consumers' interests. For example, the Office has worked assiduously to support PEPCO in preventing Mirant-in-bankruptcy from walking away from \$700 million in energy supply contracts with PEPCO. The Office's action is predicated on one concern: making sure D.C. consumers are not confronted with the bill for replacement power. OPC-DC is the only voice for consumers in this tough and lengthy

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\* Chief Judge Annice M. Wagner, D.C. Court of Appeals; Attorney Brian Lederer; and Senior Judge Frederick D. Dorsey, D.C. Superior Court.

proceeding before the U.S. District Court, the U.S. Court of Appeals for the Fifth Circuit, and the Texas Bankruptcy Court.

D.C. consumers increasingly complained about reduced attention to quality of service. Added to that is the frustration with “Katrina’s and Rita’s” impact on natural gas costs. Consumers are rightfully concerned about the “affordability” of service. These concerns are being expressed by consumers from each and every ward in the City.

Regionally, the interests of D.C. consumers have required protection. For example, the actions of the City of Alexandria, Virginia resulted in closing the Potomac River Station, which PEPCO had sold to Mirant. This “on again, off again” closure threatens PEPCO’s ability to ensure reliability of service and adequate power to the District. These issues were rarely encountered prior to PEPCO’s sale of its generation plants. As a result, the U.S. Department of Energy, the Federal Energy Regulatory Commission, and the PJM have strongly encouraged PEPCO to build new KV lines so reliance on Potomac River is no longer necessary. These lines will cost the region’s consumers more than \$73 million. While OPC-DC wholeheartedly supports safe, adequate and reliable service, the real issue of concern is not whether these KV lines are needed. Rather, it is making certain the DC PSC requires all cost causers to bear the costs of this transmission construction.

Community and consumer participation in the regulatory process fueled OPC-DC’s 2004 final victory to keep Washington Gas’s Anacostia Payment Center open. To protect consumers’ interest in this matter, OPC-DC successfully argued the case on behalf of consumers before the D.C. Court of Appeals.

In 2005, our hard work paid off when the Council of the District of Columbia enacted legislation that provided stiff consumer protections from and safeguards against “*bad actors*” in the competitive gas supply arena. Once again, responding to consumer concerns and complaints, OPC-DC succeeded in preventing Washington Gas from arbitrarily changing in mid-season the terms for consumers on the Budget Payment Plan.

Of course, litigation is only one aspect of our advocacy. It is no secret the Agency’s effectiveness is due in large part to your support and consumer participation in the regulatory process. While innovation and technology have added value, breadth and scope to our education and outreach efforts in the community, in truth, it is impossible to advocate on behalf of consumers if the Office does not listen to real people about their actual concerns.

With the growing concern about rising natural gas and energy costs, no matter what income level, in November 2005, the Office convened “*Energy Summit 2005: Answering the Wake-Up Call to Assist D.C. Energy Consumers in 2005 and Beyond*” so government, the social service and utility sectors, and the public could examine and commit to doing “all we can” to address the broad needs of all D.C. energy consumers.

OPC-DC also sponsored three “Energy Expos” to provide consumers with “hands on” demonstrations and tips on making homes more energy efficient. In response to consumers’

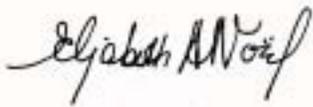
concerns about trees toppling power lines and causing electric power outages, the Office is working with appropriate D.C. agencies, the Metropolitan Washington Council of Governments, and PEPCO to create the framework for a logical and comprehensive “Vegetative Management Program” for the District. “Hurricane Isabel” showed us the problem is regional, and regional coordination is needed if all segments of Washington, D.C. are to enjoy reliable and safe service.

To be sure, OPC-DC is a markedly different place from the Office of 30 years ago: more office space, additional staff, greater technology, and more in-house expertise. Yet, some things do not and will never change: our staff’s integrity, dedication to protecting consumers, commitment, care and concern, fervency, pro-activeness, vigilance, ardency, passion, a collective sense of purpose, determination, fastidiousness, energy, creativity, professionalism, public service-mindedness. These are but some intangible qualities, without which, we submit to you, success is impossible.

Despite the changes to the regulatory landscape, the need for tough, professional and zealous consumer advocacy is as strong and important as ever. OPC-DC has strengthened its ability to provide professional and passionate legal advocacy, to do consumer education and outreach, and to resolve consumer complaints. We have kept abreast of technology. All this has been done with one clear goal – making sure we are better able to advocate for you, our clients, District of Columbia utility consumers.

It has been and remains a privilege to work on your behalf. The rewards are priceless. Our door is always open to you.

Respectfully Submitted,

A handwritten signature in black ink, reading "Elizabeth Noël". The signature is written in a cursive style with a loop at the end of the last name.

Elizabeth Noël, Esq.  
People’s Counsel for the District of Columbia

OPC-DC's primary mandate and mission is to advocate for our clients - the utility consumers and residents of the District of Columbia. While litigation and Commission proceedings are the backbone of what we do, equally important is our obligation to educate and inform the public on utility matters so they are prepared to effectively and meaningfully participate in the regulatory process. 2004-2005 proved to be an extremely busy and productive time, and our consumer advocacy took center stage.

## I. EDUCATION OF CONSUMERS AND STAKEHOLDERS

OPC-DC, through its consumer education and outreach staff, participates in numerous forums, including ANC meetings and community events, throughout the year. These engagements give the Office the opportunity to educate the public on utility matters, meet the people, hear community concerns and answer questions about utility services. Recognizing many different issues are of interest to the public at large, we have sponsored numerous District-wide events, which provided useful and meaningful educational tools to the community.



OPC-DC held its **8th Energy Expo** in 2005 at the Washington Convention Center, giving District consumers “hands-on” demonstrations to make their homes more energy efficient. The exhibitors included the U.S. Department of Energy, the Environmental Protection Agency, Home Depot, Energy and Environmental Services, Grayton Plumbing, the Alliance to Save Energy, Industrial Bank, the National Fenestration Rating Council, the American Council for an Energy Efficient Economy, Utility Services Express, the Electric Drive

Transportation Association, the Association of Home Appliance Manufacturers and many others.

The Office has also partnered with other agencies and organizations focused on energy efficiency, including UDC's Cooperative Extension Program and AARP. In direct response from residents, OPC-DC also held “mini Energy Expos” in several wards.

OPC-DC is broadening its vision and scale for Energy Expo in 2006. We will be partnering with the U.S. Department of Housing and Urban Development, AARP citywide, the YMCA, and others.

With the need for information in mind, OPC-DC looked to more educational opportunities for consumers at the **19th Annual Joint Utility Discount Day** (JUDD) at the Washington Convention Center on September 15, 2005. An annual event co-sponsored by Verizon, Pepco, Washington Gas, the D.C. Water and Sewer Authority, the D.C. Energy Office, OPC and the Commission, JUDD gives qualified D.C. residents an opportunity to apply for utility service discounts. More than 5,500 applications were taken.



In addition to OPC-DC staff serving as volunteers to receive applications, the Office invited other government agencies and private sector organizations to participate. OPC-DC continued its tradition of including a “value added” consumer assistance program with themes of employment opportunities and training, life skills, and health care. Among the 16 exhibitors invited by OPC-DC were the D.C. Department of Employment Services, the D.C. Department of Human Services, AARP, the

Washington Scholarship Fund, the Mayor’s Office of Latino Affairs, Housing Counseling Services, Howard University’s Women’s Health Institute, and the Greater Washington Urban League. The health care screening component, in its second year with JUDD, offered blood pressure tests, body fat index readings, and blood sugar and HIV screenings.

2005 brought uncertainty to consumers about rising natural gas energy prices, supply fears and the possibility of severe weather conditions. During this challenging time, the Office asked itself a series of questions. Are we doing all “We” can for D.C. consumers? Are “We” doing everything we can efficiently and effectively? Is there more “We” can or should do?

To answer those questions, in November 2005, OPC-DC sponsored and convened **“Energy Summit 2005: Answering the Wake-up Call to Assist D.C. Energy Consumers in 2005 and Beyond.”** The Office invited key stakeholders to examine, consider and commit to taking additional measures needed to better meet D.C. consumers’ energy needs. Of the 60 invitations sent, some 25 stakeholders from various sectors of the regulatory, social service and civic service communities participated. OPC-DC retained an independent professional to lead the group. In the formal report, the Office has reached two conclusions. First, there are individual and collective strategies that can be used to help ease the financial burden for District residents at this critical time. Second, all the stakeholders have an interest in making sure District energy consumers are being protected and able to meet their current and future energy needs.



**-Arnoldo Ramos**  
**Family & Community**  
**Engagement Specialist**  
**D.C. Public Schools, Office of Civil**  
**Rights and Multicultural Affairs**

*“At the 2005 Energy Summit we moved forward in the process of protecting the consumer rights of immigrant communities: we promoted linguistic and cultural competence, and demonstrated an understanding of the needs of the working poor of the District of Columbia.”*

## II. ADVOCACY AT THE LOCAL AND NATIONAL LEVELS

In January 2004, OPC-DC filed with the Public Service Commission proposed amendments to the Utility Consumer Bill of Rights.

Originally, the need for the Bill of Rights was in response to the public's complaints that ordinary consumers did not have an effective voice in the utility regulatory process. The Bill of Rights established the rights and responsibilities of both the public utility companies and consumers, covering such areas as termination of service, metering and billing, and complaint processes. In the past 26 years, the regulatory landscape has undergone significant changes. OPC-DC's proposed amendments were designed to enhance consumer protections and safeguards to reflect those changes. Many of the proposed amendments were developed in response to growing trends seen in individual consumer complaints to OPC-DC. Far too often the existing Bill of Rights did not cover many of the complaints.

In October 2004, the Commission created a working group consisting of OPC-DC, Commission staff, the public utilities and the alternative energy and telecommunications service providers.

The group's task was to assess and review the Commission's proposed amendments, many of which reflected OPC-DC's proposed revisions to the Bill of Rights. The general public will have the opportunity to comment on the proposed new rules prior to Commission approval.

In addition to OPC-DC's work on the local level, the Office actively participates nationally with the **National Association of State Utility Consumer Advocates** (NASUCA). The Office is a founding member, and the People's Counsel is a member of the Executive Committee. Working with NASUCA is a critical supplement to OPC-DC's education and outreach efforts. Understanding other states' experiences helps OPC-DC make consumer information and outreach even more effective.

### OPC-DC's International Presence

In December 2004, the People's Counsel was invited to present a paper at a conference, "**Poverty Reduction Through Better Regulation**," in Johannesburg, South Africa. Although the People's Counsel could not attend, Deputy People's Counsel Sandra Mattavous-Frye presented the paper in February 2005, on the People's Counsel's behalf. Irrespective of geographical location, consumers need and are entitled to receive quality utility services at reasonable and affordable prices. Consumers worldwide are not only demanding quality service, but also are demanding to be part of the decision-making process. Increasingly, countries are looking for best practice consumer advocacy models to follow. OPC-DC's presentation was well received, and the paper was included in the official and final report of the Conference.

In 2005, OPC-DC continued to play a major role in NASUCA, participating on several panels at the annual conference. OPC-DC Attorney Brian Edmonds addressed measures the Office is taking to help residential consumers survive the 2005-2006 winter season. Attorney Joy Ragsdale moderated a panel on whether municipal and community broadband networks can co-exist with private industry broadband networks. Rate Case Manager Naunihal Singh Gumer moderated a tax and accounting panel that addressed the financial implications of the Energy Policy Act of 2005 on utilities and consumers.

### III. ADDRESSING CONSUMER CONCERNS AND ISSUES

In 2004, the Office received 6,650 inquiries and 1,209 consumer complaints.\* In 2005, there were 5,709 inquiries and 1,174 complaints.

From 2004 to 2005, OPC-DC noticed several emerging trends. While the inquiries and complaints about quality of service, such as poor phone response systems and complicated bill formats decreased, the number of calls about higher energy costs increased. Along with complaints of “higher bills,” calls also centered on poor service repair; estimated, rather than actual meter readings from the energy utilities; failure of the utilities to notify consumers about increased budget payment plan amounts; increased costs to repair or install gas service lines; lack of competition; and failure of regulators to “balance the scales” to protect consumers from rising energy costs.

OPC-DC addresses each individual consumer inquiry and complaint received and is always alert to identifying trends suggesting broader problems and issues. In 2005, two major areas of complaint, budget payment plans and the installation of new or existing gas service lines, prompted OPC-DC to file petitions asking the Commission to investigate these areas.

Along with an increase in inquiries and complaints about higher bills, calls centered on:

- poor service repair issues
- frequently estimated meter readings
- failure of the utilities to notify consumers about increased budget payment plan amounts
- increased costs to repair or install new gas service lines
- lack of competition
- failure of regulators to “balance the scales” to protect consumers from rising energy costs

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\* “Inquiries” are walk-ins or consumer calls to the Office, which do not require OPC-DC staff intervention with a utility, but involve providing consumers with information about local utility programs, long distance services and other District agencies. Consumer complaints generally require negotiations between OPC-DC staff and utility company representatives to resolve disputes, including quality of service, disconnection and re-connection, payments and billing.



OPC-DC is deeply committed to protecting consumers' access to reliable and affordable energy service in the District of Columbia. Much of our work in 2004-2005, with natural gas regulation revolved around the protection of consumers' continued access to and the affordability of natural gas services. Despite the challenges, including the proposed closure of a WG payment center, harsh administration of the budget payment plan, and soaring natural gas costs, the Office won several important victories for District consumers.

## I. Consumer Advocacy Before the DC PSC

### WASHINGTON GAS BUDGET PAYMENT PLAN

In June 2005, the Commission agreed with OPC-DC that Washington Gas had incorrectly interpreted existing regulations about its **Budget Payment Plan** (BPP). Under the BPP, enrolled customers are charged the same monthly payment for a 12-month period, without change, unless agreed to by the consumer. Washington Gas may review and adjust the monthly payment at the end of the 12-month period or before the 12-month period ends, but only with the customer's permission.

Through OPC-DC's advocacy, Washington Gas consumers on the BPP now know exactly how much the monthly payment will be for the entire 12-month period. With energy costs soaring and little recourse for consumers, programs like the Budget Payment Plan can help if administered properly.



### OPC-DC URGES THE COMMISSION TO ADDRESS HIGH WINTER HEATING BILLS

Focusing on the need to develop reasonable and tangible programs to ease the financial burden *all* D.C. residential consumers may face during the 2005-2006 winter season, OPC-DC petitioned the Commission to develop solutions to ease the likely financial hardship for all consumers.

While OPC-DC recognizes and respects the need for programs to assist low income consumers, the Office focused its attention on making sure consumers of all income levels could receive some relief from what may be a winter with high energy bills for District consumers of all income levels. OPC-DC also understands the need for Washington Gas to be financially secure, but this must be balanced with the need consumers have in receiving safe, adequate, reliable and affordable service during the 2005-2006 winter season.





## INSTALLATION OF GAS SERVICE LINES

OPC-DC received numerous consumer complaints about the unusually high costs of installing natural gas lines to new and existing D.C. homes. In response, OPC-DC filed a series of consumer complaints before the Commission about Washington Gas’s misapplication of its regulations specifying the charges for such installations. Because WG admitted it had not followed its rules in one consumer complaint, the Commission opened an investigation on whether Washington Gas is complying with its regulations. The Office has requested data from WG to determine if consumers are being charged the appropriate rate for this and other services. Although the matter is still pending before the Commission, OPC-DC is determined to fully investigate whether consumers have fair access to energy services at a reasonable price.

## II. Court Challenges and Victories

### WASHINGTON GAS PAYMENT CENTER IN SOUTHEAST

After 12 successful years of operation in Southeast Washington, D.C., in December 2002, Washington Gas suddenly decided to close its Anacostia Payment Center. This placed a burden on consumers who would have had to travel outside their community to pay their gas bills and obtain vital customer service. OPC-DC captured the community’s concerns in a written Community Brief filed with the Commission. In addition, OPC-DC filed its own formal comments opposing the closure. The Commission, agreeing with the community and OPC-DC, ordered the Anacostia office to remain open.



*Johnny Aguilar speaks to the PSC with the assistance of a translator.*



*“OPC has been the vanguard of consumers’ rights for years. This was very evident in 2003 when Washington Gas forwarded a proposal to close its only customer payment center east of the river in a so-called cost cutting measure. OPC moved into action, briefing the community and providing technical*

*assistance to help us prepare for the hearings. The ratepayers came out in droves to protest the closing. As a result, the PSC kept the payment center open. Go OPC! We’re so glad you’re there!”*

**- Theresa H. Jones, ANC Commissioner 8D07**

Washington Gas appealed the Commission’s decision to the D.C. Court of Appeals.

In August 2004, the court of appeals upheld the Commission’s decision. In its opinion, the court specifically cited the OPC-DC-assisted Community Brief and the supporting testimony of community leaders. Washington Gas appealed, requesting review by the full court. In November 2004, the court of appeals upheld the Commission’s decision, and the Anacostia Payment Center remains open.



## WASHINGTON GAS' EAST STATION/MARITIME PLAZA

In October 1993, the Commission permitted Washington Gas to recover, from the rates paid by gas customers, money it spent to comply with federal and local environmental laws in cleaning up East Station, the site of WG's former gas manufacturing plant. In return for sharing in the costs of the cleanup, the Commission said ratepayers should receive at least 50 percent of any future revenues from the property's reuse. The amount was to be determined by future evidence brought before the Commission.

In a 2001 WG rate case, OPC-DC had its first opportunity since 1993 to present evidence showing ratepayers had in fact paid 100 percent of the cleanup costs. Despite this, the DC-PSC ruled WG's shareholders could receive 50 percent of the revenues from the former East Station site, now developed and called Maritime Plaza. OPC-DC still argued ratepayers' share of the revenues should equal the 100 percent paid for the site's cleanup costs.

The Office appealed the Commission's decision to the D.C. Court of Appeals. In March 2004, the court returned the matter to the Commission for further consideration. The court said the Commission's decision was flawed because it did not fully and clearly explain its reasons for the 50/50 allocation. The court also found the Commission lacked any evidence, other than

WG's investment in the land (which was not quantified), justifying the split.



*"OPC has long been the champion of the Utility Consumer Bill of Rights, ensuring perhaps the highest level of consumer protection to utility consumers in the nation."*

*For this reason alone, the Office would be assured of its place on the roll of outstanding public utility advocates. However, not resting on past achievements, OPC has led the way in a landmark rewrite of the UCBOR to adapt to the changes in an increasingly hostile utility marketplace.*

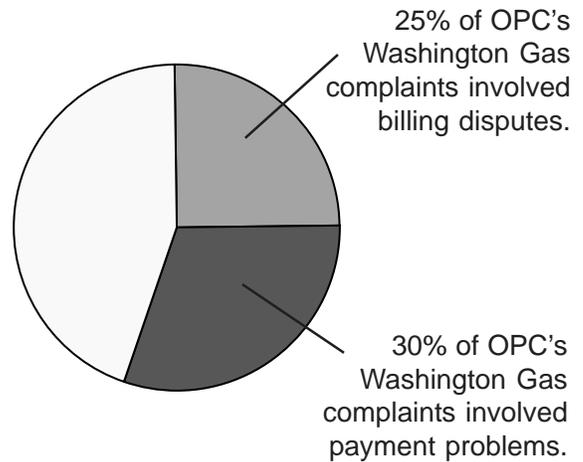
*Therefore on behalf of the Consumer Utility Board and District residential consumers I commend and support OPC in this effort."*

**- Herbert Harris  
President, Consumer Utility Board**

The Commission re-opened the case in August 2004, allowing OPC-DC and Washington Gas to provide information supporting their positions. The Office provided the Commission with evidence to support a sharing mechanism allocating 90 percent of the revenue to ratepayers in recognition of their having paid 100 percent of the environmental cleanup. As to shareholders, OPC-DC would allocate 10 percent of the revenue in recognition of WG's investment in the East Station land. The Commission has not yet issued a final decision.

## 2005 Consumer Complaints About Washington Gas

OPC received 276 Washington Gas complaints in 2005. Of these complaints, 45 percent included: disconnection, quality of service, high bills, gas leaks, meter errors, budget payment plan, repairs, gross receipts tax questions, Enscan problems, estimated billing, street cuts, right of way fee questions, and others.



## NATURAL GAS LEGISLATION

In March 2005, **“The Retail Natural Gas Supplier Licensing and Consumer Protection Act of 2004”** became law. OPC-DC pushed for this law so District consumers would receive maximum safeguards and protections when dealing with natural gas suppliers. Key to this was giving the Commission regulatory authority over natural gas suppliers.

The law assures that District consumers are not *“slammed”* (switched to another supplier without consent). Several years ago, OPC-DC received numerous complaints about PowerTrust, an alternative gas supplier, which had slammed customers, many of whom were elderly. This prompted the Office to advocate the need for regulations over natural gas suppliers. Now, there are strict guidelines for licensing requirements to protect consumers from dishonest natural gas suppliers. The Commission, in conjunction with Washington Gas, alternative natural gas suppliers, OPC-DC, and the D.C. Energy Office, must create a full consumer education program. The law also establishes penalties for natural gas suppliers’ violations.

In January 2005, the D.C. Council passed a law creating the Natural Gas Trust Fund. This fund is paid for by consumers through surcharges in their gas bills. The Fund pays for universal service programs administered by the D.C. Energy Office. These programs are supposed to promote energy efficiency, so OPC-DC has objected to those that did not. The Office worries that more programs and legal requirements could mean higher bills for consumers, *“death by a thousand surcharges,”* if the combined surcharges become greater than the cost of utility service.

Despite OPC-DC’s opposition to the law, the Office is effectively participating in the PSC-established working group composed of Washington Gas, DCEO and Commission staff to develop reasonable and cost-effective energy efficient programs for the Commission to approve. Eligible consumers in the District will receive either rate discounts or energy assistance from one of several programs developed by the working group.



In 2004-2005, District policy makers and electric consumers faced the day of reckoning from the major changes made in the electric industry over the past few years. These changes included the sale of PEPCO's generating plants; divestiture of Commission authority over generation; the subsequent expiration of the generation rate caps; the absence of a vibrant competitive electric retail market, leaving consumers with little electric choice; and reliability concerns. OPC-DC's ongoing mission is to ensure District ratepayers continue to receive reasonable, safe and reliable electric service at an affordable price in this era of change and rising costs. OPC-DC has given voice to consumer's concerns and is demanding answers to the right questions.

## I. Electric Rates and Retail Choice of Competitive Energy Suppliers

### STANDARD OFFER SERVICE

Prior to 1999, the DC-PSC regulated electric generation and distribution. PEPCO received its costs, plus a reasonable rate of return, as determined by the Commission. On January 1, 2001, with the passage of the District's electric deregulation law, the DC-PSC no longer controlled the price PEPCO charged for energy generation. Deregulation also meant consumers could shop for alternative energy providers. Under the law, PEPCO was authorized to provide electricity under capped rates to District consumers until February 8, 2005. After that date, a supplier of standard offer service (SOS) would be selected by the Commission to offer electric service at market rates. Standard offer service is the service for customers who do not choose an alternative service provider. After amending the legislation, the Commission ordered PEPCO to be the standard offer service provider.

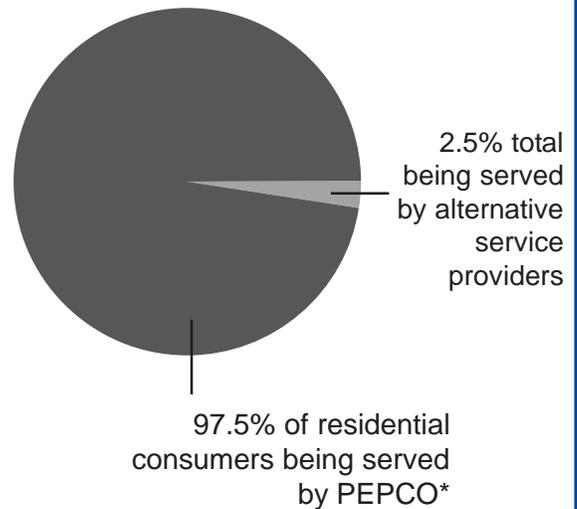
OPC-DC was active in the DC-PSC case about the SOS process. In numerous filings with and comments to the Commission about the standard offer service process, the Office specifically supported an SOS model OPC believed would have given consumers the most reasonable rates. Despite OPC-DC's efforts, the Commission adopted a different model. OPC-DC opposed PEPCO's request for additional costs to compensate PEPCO for the risk of being the SOS supplier, but the Commission granted PEPCO's request.

Since the end of capped electric generation rates in February 2005, the rate paid by District consumers consists of the average price of PEPCO's awarded contract plus the administrative charge and applicable taxes. Due to increased wholesale prices, D.C. consumers saw a 19 percent increase in their generation rate in 2005. The Commission has no control over the price of generation. When the electric restructuring law was being debated by the D.C. Council, this loss of DC-PSC control was one of OPC's strongest reservations about the proposed law.

OPC maintains an ongoing role in monitoring the SOS process by participating in the SOS working group reviewing SOS rules and proposing changes needed to the rules governing the SOS procurement process. The Office also monitors the ongoing bidding process for generation contracts that replace the contracts as they expire.

## Alternative Electric Suppliers in the District

As of December 2005, 12 alternative electric suppliers had been certified by the Public Service Commission to serve residential consumers, only two of which have chosen to serve residential consumers. These two suppliers are the unregulated subsidiaries of PEPCO and Washington Gas. For the 2005-2006 heating season, neither is taking new customers.



### So What Does This Mean?

The bottom line is despite “deregulation” of the electric retail market and legislatively proscribed retail competition, the District’s residential consumers do not have any choice in competitive energy suppliers.

*\*Source: D.C. Public Service Commission*

## ELECTRIC RETAIL CHOICE AND MARKET MONITORING

As required by law, OPC-DC monitors the retail and wholesale electric markets to ensure the markets are not being affected by anti-competitive conditions that could adversely affect D.C. customers’ rates or service. OPC-DC reviews PEPCO’s monthly switching reports and addresses any concerns with the reports or with the alternative suppliers’ actions. On occasion, OPC-DC has identified irregularities in pricing data and followed up with PEPCO and/or suppliers for corrective action.

OPC-DC has joined with other consumer advocates who also actively participate at the wholesale level. The Office is also a member of the Pennsylvania-New Jersey-Maryland Interconnection (PJM), the wholesale market operator. OPC-DC participates at the Federal Energy Regulatory Commission (FERC) to assure policies are in place to address potential market manipulation at the wholesale level and to assure the PJM’s market monitor has the tools needed to identify and address market manipulation at the wholesale level.

Although consumers theoretically have had electric choice since 2001, in 2005, as in previous years, only two alternative suppliers wanted to serve residential customers. Both suppliers are the unregulated subsidiaries of PEPCO and Washington Gas, the traditional utility monopolies. The number of customers being served by alternative suppliers decreased during the year. By December 2005, only 2.5% of residential customers were being served by alternative suppliers, while 97.5% were being serviced by PEPCO as the SOS supplier.



## II. Ensuring Electric Reliability at Reasonable Rates

### MIRANT BANKRUPTCY

The Office continues protecting consumers' interest in all matters related to Mirant's bankruptcy. In court, OPC-DC is blocking any of Mirant's efforts to pass onto D.C. consumers' rates \$700 million in energy supply contracts the company has with PEPCO. In 2003, Mirant asked the bankruptcy court to reject the Asset Purchase and Sale Agreement (APSA) it entered into with PEPCO in 2000. OPC-DC has maintained this agreement, which contains the Back-to-Back Agreement, should be rejected.

PEPCO recently asked the bankruptcy court to refer this issue to the federal district court. Earlier, OPC-DC successfully argued to the court of appeals that the basis for determining rejection of the APSA should be the public interest standard. This is the highest and toughest standard that can be imposed on parties seeking debt relief. Applying this standard, however, involves consideration of both federal law (the Federal Power Act) and the Bankruptcy Code. The bankruptcy court does not have jurisdiction to consider both, while the federal district court does. OPC-DC supports PEPCO's request and will participate in future proceedings on this issue.

### CLOSURE OF POTOMAC RIVER GENERATING STATION

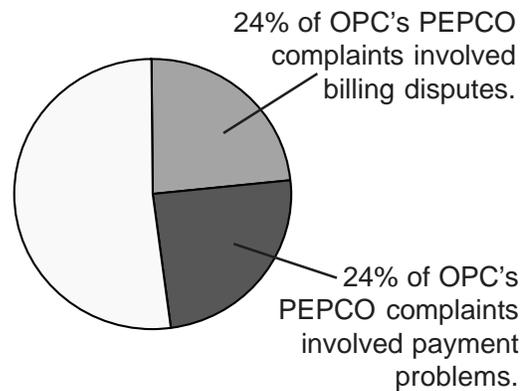
Maintaining reliability of the District's electric service also involves Mirant. Although Mirant purchased PEPCO's generation plants, they are still needed to meet the District's and the area's reliability needs. One of the purchased plants, the coal-fired Potomac River Generating Station (PRG) in Alexandria, Virginia, has created environmental concerns triggered by a study released in August 2005, by the Virginia Department of Environmental Quality.

PRG produces 482 megawatts of electricity for D.C. and surrounding communities. A computer model of the plant's five air pollutants showed that for three types of emissions, the PRG's emissions could contribute to exceeding National Ambient Air Quality Standards. In response, Mirant voluntarily shut down PRG on August 24, 2005.

That same day, the DC PSC filed an emergency petition at FERC requesting FERC and the Secretary of Energy prevent PRG's shutdown. FERC has exclusive jurisdiction over this matter, since selling the PRG to Mirant took away the DC PSC's control of any matters affecting PRG's operations.

## 2005 Consumer Complaints About PEPCO

OPC received 415 PEPCO complaints in 2005. Of these complaints, 52 percent included: quality of service, disconnection, power outages, high bills, estimated billing, blackouts, repairs, energy conservation/efficiency, meter errors, downed lines, budget payment plan, non-payment, and others.



OPC-DC immediately got involved in the proceeding. FERC's role is to decide the issues, considering varying needs and interests. The Office wants FERC to consider the impact of the PRG shut down on the provision of safe and reliable electricity to District consumers.

PJM is the transmission provider, reliability coordinator, and control area operator for the transmission system covering the District. PJM and PEPCO have identified PRG as a critical component for the reliability of the electric grid in D.C. Given PJM's substantial interest in keeping PRG operating, PJM also intervened in the FERC proceeding, supporting the position of the Commission, as well as of PEPCO, Mayor Anthony Williams, and other D.C. government agencies. The Department of Energy has ordered Mirant to restart the plant.

### PEPCO CONSTRUCTION OF TRANSMISSION LINES

In October 2005, to address the reliability concerns created by the PRG voluntary shutdown, PEPCO requested permission from the DC PSC to construct two overhead transmission lines and two underground transmission lines, asking for the DC PSC's approval by December 31, 2005.

Although OPC-DC had several concerns with PEPCO's request, the Office supported its efforts to ensure safe, adequate, and reliable service in D.C. The Office cautioned PEPCO to be certain construction complied with laws and regulations and asked that PEPCO seek and consider reasonable and meaningful public participation in the process.

The potential impact of a power outage at essential federal facilities in the District has been emphasized in virtually every document publicly filed seeking to restart the PRG. OPC-DC therefore asked for a full inquiry about PEPCO's request to the U.S. Department of Homeland Security to contribute to some portion of the construction costs.



## FEDERAL ENERGY REGULATORY COMMISSION

Since the wholesale market now affects retail consumers more than ever, OPC-DC continues to be active at FERC by intervening and filing comments in cases involving the PJM, transmission owners, and market participants, as well as in FERC rulemakings. In 2004-2005, the Office participated in 24 cases at FERC, covering issues such as PEPCO's transmission rate filing, scarcity pricing and market power. In addition, the passage of the Energy Policy Act of 2005 gave FERC increased authority, and OPC-DC, as a member of the National Association of State Consumer Advocates, has filed comments on the rulemakings resulting from the Act.

### III. OPC Advocates for Consumers through Working Groups

The logo for the DC Is Electric campaign, featuring the text "DC IS ELECTRIC" in white on a dark red background. The "IS" is smaller and positioned between "DC" and "ELECTRIC".

#### CUSTOMER EDUCATION ADVISORY BOARD

In keeping with OPC's mission to educate District consumers on electric issues and to protect consumers in the transition phase to retail competition, the Office actively participates on the Customer Education Advisory Board (CEAB), established by the Commission in 2000 to implement the District's consumer education campaign. The two-year campaign to educate consumers about electric choice was launched in 2005, and is known as "DC Is Electric." Dittus Communications, a District-based public affairs firm, was selected to manage the campaign.

The education campaign's objectives are to provide clear, concise and unbiased information to D.C. consumers about changes in the retail electricity market so they can make informed choices about their energy supplier. However, the truth is the education campaign was implemented before there was any semblance of a vigorous competitive retail market for residential consumers.

OPC is urging the working group members to use the data obtained from the first year of the campaign to determine whether the program still has value, given the absence of real retail competition in the District. OPC will continue working with the CEAB members, the D.C. Public Service Commission, the Consumer Utility Board, the D.C. Energy Office, the National Active and Retired Federal Employees Association, and PEPCO.



## RENEWABLE ENERGY

In January 2005, the D.C. Council passed the Renewable Energy Portfolio Standard Act, which established renewable energy standards that require a minimum percentage of electric providers' supply sources come from renewable energy. Renewable energy includes solar power, wind, water and other sources. Electricity from renewable energy sources is and will continue to be more expensive than that from conventional fuels. Requiring all electricity sold in the District to have a renewable component will increase the price of electricity. OPC-DC is participating in a working group to make recommendations and propose regulations for reasonable compliance with the law. As of November 2005, the working group had made initial recommendations to the DC PSC, and the Commission adopted rules in December. The working group will make additional recommendations to the DC PSC by March 2006.

## RELIABLE ENERGY TRUST FUND

The "District of Columbia Retail Electric Competition and Consumer Protection Act of 1999" established a surcharge on electric customers' bills to pay for programs promoting energy efficiency, to encourage the use of electricity from renewable energy sources, and to establish a universal service program to assist D.C. low-income customers. In January 2005, the District Council adopted the "Omnibus Utility Emergency Amendment Act of 2005", amending the RETF surcharge to set a minimum amount to be collected from ratepayers. In March 2005, the Commission approved, on a two-year pilot basis, 13 new programs, as well as three existing programs.

In November 2005, the Commission directed a working group, of which OPC-DC is part, to evaluate by February 2006, new programs proposed by the D.C. Energy Office for funding from the Reliable Energy Trust Fund. The group also recommends other RETF-funded programs for the Commission's consideration. OPC is required to see that money collected from ratepayers through the RETF surcharge is spent appropriately. The Office does not view the RETF funding mechanism as "a blank check" and cautions others to think likewise. OPC-DC insists there be accountability in developing and implementing RETF-funded programs and that those programs provide real and tangible benefits to D.C. ratepayers sooner rather than later.



*"OPC has been one of the premier consumer advocate offices in the country. Many states use OPC's Community Education and Outreach model as a measuring stick for success. OPC-DC truly believes that an educated utility consumer is our greatest resource."*

**- Richard Powell, Jr.  
Political Director  
Unite Here, Local 25**



## PRODUCTIVITY IMPROVEMENT

The Office continues to actively work in the Productivity Improvement Working Group (PIWG) with Commission staff and PEPCO representatives. The Commission-established PIWG was designed to explore and focus on the District's electric needs. The PIWG addresses issues related to PEPCO's productivity and the reliability of its electric system in the District. In 2004 and 2005, the working group discussed manhole explosions, reviewed the vegetation management plan drafted by the tree trimming working group, and discussed storm reporting and outage notifications. Annually, the PIWG reviews a Consolidated Report on PEPCO's Productivity Improvement Plan and on the Comprehensive Plan.

## TOWARD ENERGY EFFICIENCY: SMART METERS

In May 2002, the Commission approved the merger of PEPCO and Conectiv. To ensure consumers received meaningful benefits, OPC-DC secured PEPCO's agreement to donate \$2 million, not to be recovered through rates, for developing and implementing a customer smart meter pilot program. The test pilot program will determine whether it is reasonable and effective for D.C. consumers to use smart meter technology to control their energy costs.

To operate the program a non-profit corporation, the "Smart Meter Pilot Program Inc." (SMPPPI) composed of OPC-DC, PSC, PEPCO, the Consumer Utility Board (CUB), and the International Brotherhood of Electrical Workers Local 1900 (IBEW), was formed. After a bidding process, SMPPPI selected a program design consultant and hopes to have the test project underway by the summer of 2006. The test program's primary goal is to provide residential customers with meter technology to show customers price information. It is hoped this will allow customers to better control their monthly energy consumption and their electricity bills.



*"All District consumers should thank the Office for their efforts to protect ratepayers by urging the D.C. Council to amend the District's electricity deregulation act to provide for an opt-out municipal aggregation program."*

**- Ann Hume Loikow  
Ward 3 community activist**



## RELIABILITY OF SERVICE: TREE TRIMMING

In October 2004, on behalf of a District resident, OPC-DC filed a complaint about poorly trimmed trees in his neighborhood. In the complaint, OPC-DC asked the Commission to create a task force to consider vegetation management. In response, the DC PSC created a working group to address PEPCO’s and the Department of Transportation’s (DDOT) obligations to manage vegetation while balancing residents’ interests in environmental appeal and the need for safe, reliable, and adequate electric service.

In March 2005, the working group filed a comprehensive plan for vegetation management, the “District of Columbia and the Communication & Resident Education Plan,” which the Commission approved in December. All District residents will receive copies of the policies and plans guiding PEPCO and DDOT in their efforts to manage the District’s vegetation. This is the first step in regional vegetation planning to assure safe, reliable and adequate electric service for D.C. residents.



### OPC Recognizes Excellence in the Community



On October 29, 2005, at the D.C. Federation of Civic Associations Luncheon, People’s Counsel Elizabeth A. Noël presented OPC’s Consumer Advocacy Award to Len Levine of the Georgetown Citizens Association and Walter “Skip” Newcomb, PEPCO Special Projects Manager, for their work on the Georgetown Project. Mr. Levine and Mr. Newcomb were recognized for their outstanding efforts to coordinate communications to the residents and businesses of Georgetown during the nearly four-year comprehensive utility upgrade project.

The telecommunications marketplace continued its evolution throughout 2004-2005. Despite the telecommunications industry's major overhaul, consumers still experience reduced quality of service and increased network unreliability, leading to frustration and distrust of the traditional telephone company.



## I. Telecommunications

### UNIVERSAL SERVICE AND EXCESSIVE RATES FOR PRISON PAY PHONES

Congress and the Federal Communications Commission (FCC) have begun restructuring the Universal Service Fund (USF) that gives low-income residents access to affordable local phone service.

Evidence showing the USF needed to be restructured came from the numerous consumer complaints OPC-DC received about high prison payphone interstate rates, primarily being paid by low-income residents. In March 2004, OPC-DC filed joint comments with NASUCA urging the FCC to take immediate and aggressive action to ban exclusive service contracts and excessive interstate rates embedded in prison payphone rates. The Office showed these rates are monopolistic and deny D.C. consumers the benefits of competition and choice.

Industry proposals to change the rules for how carriers pay to carry and deliver calls on their networks will shift the burden of paying network costs from the companies to the consumers. If the rules are modified, consumers will likely see phone bills increase as companies place even more surcharges on phone bills.

### CONCENTRATION OF RESIDENTIAL MARKETS

The year 2005 ushered in major industry changes. Many legislators and federal regulators argued against the need for regulation, saying market forces would protect consumers, increase consumer choice, and lower rates. In response, in its Triennial Review Order (TRO) proceedings, the FCC imposed significantly fewer obligations on local phone companies, including Verizon Washington DC, Inc., to lease parts of their network to competitors. This action directly affects the number of competitive service providers in any local telecommunications marketplace. In the District, MCI and AT&T were forced to revise those marketing strategies that significantly excluded the residential market.



*"The abuse of public pay phones - both by companies that have not followed proper regulations and users (often gangs) that have defaced and broken our phones - has plagued our city for too long. The Office of People's Counsel has worked with my organization to implement rules requiring phones to be kept clean and operative, expedited removal of illegal and nuisance payphones, and thereby enhanced the quality of life in many neighborhoods across the city.*

*OPC has been a most valuable partner - both in addressing gang graffiti and by helping to fix our public payphones."*

**-Terry Lynch  
Executive Director  
Downtown Cluster of Congregations**

At the local telecommunications level, OPC-DC vigorously challenged the FCC's assumptions that local markets are competitive. In a proceeding before the DC-PSC, the Office urged the Commission to design measures to encourage competition, particularly in residential and small business markets. In the middle of the case, the telecommunications industry won a federal court challenge upholding the FCC's decision to eliminate the requirement that competitors lease their networks. The DC PSC then cancelled its hearings. The District's market is now *presumed* to be competitive.



In summer 2005, the telecommunications market shrank because of mergers between local and long-distance telephone company giants Verizon and MCI and SBC and AT&T. OPC-DC filed comments with the FCC opposing the Verizon DC and MCI merger, because it would have hurt developing competition in the residential market. The merger eliminated MCI as the only nationwide competitor giving D.C. residents a full-range of service options that could compete with Verizon DC. At the local level, OPC-DC made similar arguments before the DC-PSC against both the Verizon/MCI and SBC/AT&T mergers. Despite OPC-DC's strenuous objections at the federal and state levels, the mega-mergers were approved.

## **BROADBAND EXPLOSION**

Local phone companies, once the only source for voice services, are redefining themselves by also offering video, data and other broadband services. The face of the traditional telecommunications service provider is changing and evolving at a pace by which government regulation cannot keep up. Federal and state legislators and regulators did not anticipate Internet-based and broadband services would become as widespread in the residential and business markets as they have in the last five years.

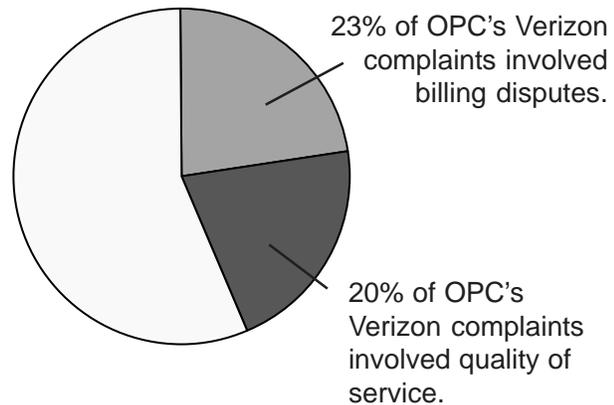
The explosive Internet market spurred congressional leaders to push for more economic and regulatory freedoms. Indeed, the FCC has questioned the role state commissions and consumer advocates now play in protecting consumers. OPC-DC supports the benefits of a competitive market, but not at the risk of D.C. consumers becoming victims of market abuses. In May 2004, OPC-DC recommended the FCC permit state commissions to pass regulations to assure full and complete deployment of broadband technologies. Recommendations included requiring Voice over Internet Protocol ("VoIP") service providers to follow state regulations governing service quality, confidential customer information, and local number portability.

Telecommunications analysts estimate VoIP will reach an estimated 18 percent of residential homes in five years. The District of Columbia government is investigating whether its D.C. Net system can handle the low-income consumers who are not being served by Verizon.

The success of the broadband market is tempting traditional telephone companies like Verizon to sell main businesses, such as its advertising unit, to focus on upgrading and building out its broadband networks and wireless systems. This sort of activity signals the focus of traditional telephone companies has now shifted to wireless and Internet-based services, away from their once core business – landline telephones.

## 2005 Verizon Complaints

OPC received 400 Verizon complaints in 2005. These complaints included: billing disputes, quality of service, repair issues, payment problems, disconnections, DSL, cramming, long distance, slamming, prison calls, low hanging wires, switchbacks, message units issues, non-payment problems, federal charges disputes, slamming, and others.



## II. Quality of Service

There has been an upward trend in consumer complaints about Verizon, increasing dramatically between 2004 and 2005. There were 313 complaints against the local company in 2004 and 400 in 2005.

In 2004, Verizon customers complained most frequently about 1) declining quality of service; 2) high surcharge fees, repair costs, and feature costs; 3) frequently missed or delayed repair service appointments; and 4) incompetent repair technicians.

Verizon accounted for the second highest number of consumer complaints OPC-DC received in 2005. Consumers complained about 1) high bills; 2) increasing repair costs; 3) missed repair appointments by Verizon service technicians; 4) difficulty in using Verizon's phone response system; 5) increasingly high surcharges, taxes and fees; and 6) length of time to restore service after storm damage to power poles.

Currently, there is a comprehensive quality of service proceeding before the DC-PSC, in which OPC actively participates. This case was initiated to investigate issues of quality of service standards for D.C. telephone suppliers. The Commission formed the Local Exchange Carrier Quality of Service working group which includes OPC-DC, Verizon DC, MCI (now Verizon Business), AT&T (which merged with SBC), and Sprint Communications (which no longer takes new consumers in the District for residential service).

The working group had to resolve several retail quality of service issues and to develop retail quality of service standards for all telecommunications carriers operating in the District. To do this, the working group had to: 1) determine a uniform measure of service quality performance; 2) make standards comprehensive; 3) formulate a basis for allegations of poor customer service in consumer complaint hearings; and 4) ensure administrative efficiency in obtaining, evaluating and comparing performance reports.

As a starting point, the working group had to consider whether the service quality standards established in 1994 still provide adequate consumer safeguards that assure industry compliance with DC PSC-established quality of service standards. It was agreed some measures were obsolete, given the technological advancements in the industry. Despite industry recommendations to relax some standards, the Office maintains standards such as how to measure an “out-of-service” problem should not be relaxed. Because the telecommunications industry is pushing toward digitalization, OPC-DC believes additional standards, not fewer, are needed to measure a telecommunications provider’s performance in the digital world.

The Commission has not yet issued a final decision.

### III. Uniform Standards for Exchanging Customer Information

In response to the FCC’s request for comment on the need for uniform standards in the exchange of customers between teleco providers, OPC-DC filed comments supporting mandatory industry standards so telephone consumers can smoothly transfer their service from one carrier to another, without substantial delay. Consistent standards would eliminate customer confusion about billing errors, and more important, would protect D.C. consumers from improper disclosure of confidential and private information and ensure service order accuracy.

*The first People’s Counsel appointed under new legislation establishing the Office of People’s Counsel in 1975 was Annice Wagner, who served in that capacity until 1977.\* The law establishing the Office gave broad authority to the People’s Counsel to represent the interests of the people of the District of Columbia in administrative and judicial proceedings related to the products and services provided by public utilities under the jurisdiction of the Public Service Commission (Commission) and to develop other means to assure that consumers’ interests were represented and protected. Implementation of the law’s broad mandate made the next two years extremely active ones for the People’s Counsel. During this period, the People’s Counsel participated on behalf of consumers in proceedings involving all of the utility services under the Commission’s jurisdiction (i.e., electric, gas, telephone and taxicabs). In addition to staffing the Office, experts were hired to act as consultants and/or witnesses to assist the Office’s legal staff in developing strategies and testimony to protect the interest of utility consumers. Procedures were established to implement the statutory authority of the People’s Counsel to assess the utility companies for the expenses of the proceedings involving public utilities operating in the District of Columbia. To keep abreast of the views of consumers and to educate and inform the public about utility issues and the work of the Office, the People’s Counsel met regularly with consumer groups and civic organizations and published a monthly newsletter, Utility Line, for distribution in the community. To ensure further consumer safeguards and protection in the regulatory process, in 1976, the People’s Counsel drafted and proposed a Utility Consumer Bill of Rights (UCBOR), which the Commission adopted ultimately. The UCBOR continues to serve as a model for consumer advocates across the nation.*

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\* Judge Wagner left the Office when appointed an Associate Judge of the Superior Court of the District of Columbia. Currently, she is a Senior Judge on the District of Columbia Court of Appeals, where she served as its Chief Judge from 1994 until August 2005.

# education

## Agency Operations

### 29 ORGANIZATIONAL STRUCTURE

### 32 AGENCY FUNDING

### 34 PROFESSIONAL DEVELOPMENT & EDUCATION

### 36 COMMUNITY SERVICE

protection

advocacy



*“One of the most enduring advances of my tenure was the creation of the D.C. Consumer Utility Board, an idea born in part from the need and value for public input in the regulatory process, as well as to develop innovative and responsive answers to the mid-1970s energy “crisis.” With the help of a Federal grant, we seized the opportunity to establish CUB. CUB’s existence would ensure the utility system’s design reflected public choice, thus effecting superior outcomes.*

*CUB also arose in part from the experiences of Seattle, Washington, which, when faced with accepting a financial share for constructing new power plants, the City explored meeting future energy needs through conservation and alternative sources. Using a cross section of end users, elected officials, and the utility company, an alternative plan was adopted. The success in having the end users voice their position was critical and provided a model for the CUB.*

*At the same time, OPC was facing its most important struggle to date: defining the Office’s legal authority to retain independent legal and technical expertise to augment litigation. OPC and CUB won battle after battle on this issue, laying the fundamental groundwork for OPC to provide effective and visionary advocacy.*

*I am encouraged CUB has remained a party in the utility process to this day and is an asset to the Office. There are many stern challenges in 2006 to maintaining dependable and reliable service at reasonable prices.”*

**- Atty. Brian Lederer  
People’s Counsel  
1977-1984**

## Organizational Structure

The **Directorate** includes the People’s Counsel, her Staff Assistant, Jean Gross-Bethel, and the management team of Sandra Mattavous-Frye, Esq., Deputy People’s Counsel; Derryl Stewart King, Associate People’s Counsel for Operations; Herbert Jones, Manager, Consumer Services Division; and Darlene Wms-Wake, Manager, Management Information Systems Division. The Directorate also provides legislative analysis and assistance on utility matters to the Executive and the Council of the District of Columbia.

Elizabeth A. Noel, Esq.  
People’s Counsel

Jean Gross Bethel  
Staff Assistant to the People’s Counsel

The **Litigation Services Division**, headed by Sandra Mattavous-Frye, Esq., consists of the Energy, Telecommunications and Technical Sections. There is also a Market Monitoring Section created pursuant to the District’s electric retail restructuring law to monitor the market for market abuses. The Division manages and presents cases involving utility companies before the Public Service Commission, federal regulatory agencies, and the D.C. Court of Appeals. This work includes developing overall litigation strategies to be pursued, preparing aspects of each case, coordinating outside counsel, and marshaling various expert technical witnesses.

Sandra Mattavous-Frye, Esq.  
Deputy People’s Counsel

Barbara Burton, Esq.  
Assistant People’s Counsel

Laurence Daniels, Esq.  
Assistant People’s Counsel

Brian Edmonds, Esq.  
Assistant People’s Counsel

Lopa Parikh, Esq.  
Assistant People’s Counsel

Brenda Pennington, Esq.  
Assistant People’s Counsel

Joy Ragsdale, Esq.  
Assistant People’s Counsel

Jennifer Weberski, Esq.  
Assistant People’s Counsel

Naunihal Singh Gumer  
Accountant, Rate Case Manager

Bahaa Seireg  
Economist

Karla Chryar  
Litigation Assistant

Tamika Chase  
Office Assistant

The **Operations Division**, headed by Derryl Stewart King, is responsible for fiscal management, editorial functions, assessments, space acquisition and management, materials and non-IT equipment, procurement, human resources, staff development, benefits administration, and legal matters related to OPC's daily operations.

Derryl Stewart King  
Associate People's Counsel for Operations

Frank Scott, Jr.  
Administrative Officer

Tara Love  
Receptionist

Bonnie Stallings  
Support Service Specialist

The **Consumer Services Division**, headed by Herbert Jones, provides education and outreach to District consumers, responds to requests for information and for speaking engagements. Consumer Services staff provide assistance and representation to individual consumers with utility complaints and complaints about public pay telephones. The Division also provides assistance and resources to the Consumer Utility Board and community civic and consumer organizations.

A Litigation Division staff attorney supervises and advises the consumer complaint staff to determine whether legal action or new policies should be developed. This function helps OPC make and argue strong cases for matters raised through individual complaints needing a policy shift or legal change.

Herbert Jones  
Manager

Elizabeth Brooks-Evans  
Community Education & Outreach Specialist

Kami Corbett  
Consumer Education Specialist

Silvia Garrick  
Community Education & Outreach Specialist

Phillip Harmon  
Public Policy Analyst

Laurence Jones  
Public Policy Analyst

Ardella Newman  
Consumer Complaints Specialist

Pamela Nelson  
Community Education & Outreach Specialist

Omica Hawkins  
Office Assistant

The **Management Information Systems Division**, headed by Darlene Wms-Wake, is responsible for all aspects of the Office's computer network and information management. MIS provides staff computer training and support, tools for production of consumer education and outreach materials, the Consumer Information Database research and other information databases, presentation and desktop publishing, and equipment and technology upgrades. OPC's website, [www.opc-dc.gov](http://www.opc-dc.gov), is also a product of the Division.

Darlene Wms-Wake  
MIS Manager

Akara "Yoshi" Chandee  
Webmaster

Anthony Lee  
Computer Specialist

*"As I look back on my tenure as People's Counsel, I am most proud of what we accomplished in creating the framework for the Office with the staff, organization, technology, equipment, facilities, and budget necessary for effective consumer advocacy in this highly sophisticated field. When I started, we had about eight positions, electric typewriters, no computers, rotary phones, one attorney with utility experience, and no other substantive specialist. We were almost entirely dependent on contracted expertise.*

*The conceptual framework for the current staffing, equipment and facilities was formulated in those years. Through the development of a staffing structure, the establishment of a multi-year budgetary planning process, and the creative procurement of necessary resources (equipment, technology, and facilities), that framework was pursued and laid the foundation for OPC to be the effective and formidable participant in the District's utility regulatory process that it is today.*

*I believe we played an important part in providing an atmosphere within the community that assures that OPC will continue to be relied upon to advocate strongly on behalf of the District's utility ratepayers.*

*Our early efforts have been significantly expanded, refined, and improved upon since my departure. What was a concept has become a reality: all I had hoped for and more. Congratulations!"*

**Hon. Frederick D. Dorsey**  
**D.C. Superior Court**  
**Senior Judge**  
**People's Counsel**  
**1984-1990**



## Source of Funds

The Office's funding is entirely revenue neutral to the District's budget. Like other agencies, OPC-DC is part of the District's annual budget process, submitting and explaining its budget request to the D.C. Office of Planning and Budget, and then to OPC-DC's Council oversight committee. All Council-approved agency budget requests become part of the District's total budget request, which is sent to Congress for final approval.

None of the Office's funding comes from general revenues, but by law each of the public utilities (PEPCO, Verizon and Washington Gas) and the alternative teleco companies and energy suppliers providing service in D.C. pays a percentage, set by law, of OPC-DC's annual budget.

There are two elements to OPC-DC's funding. As a practical matter, the Office functions with two budgets: the annual operating fund, as well as assessment funds for expenses related to specific cases. While both are paid by the utilities, the companies are permitted to "pass through" these expenses in the rates charged for utility service. Put another way, D.C. ratepayers alone pay these costs as a part of utility rates.

### I. Annual Budget

The annual budget covers office expenses such as staff salaries, fringe benefits, rent, utilities, supplies, printing, equipment and maintenance, training, and periodicals. Although OPC's annual budget is reimbursed by the telecommunications and energy companies, in practice these costs are included in the rates charged to ratepayers.

Unused funds remaining at the end of a fiscal year, if more than 5 percent of that year's budget, must be refunded to the utilities on the same pro rata basis used for assessing them.

### II. Assessment Process

OPC funds its litigation efforts by what is known as a special franchise fee tax determined by law and assessed directly against the affected utility to fund any costs associated with litigating matters before the PSC. These funds pay legal advisors, expert witnesses and technical consultants, as well as the Office's administrative expenses, associated with a particular case.

# Where Does Your Money Go?

**OPC'S MANDATE**  
OPC's funding mechanisms allow it to fulfill its statutory mandate to represent the interests of D.C. consumers and to ensure that D.C. utility rates are just, reasonable and affordable.

**CONSUMERS' BILLS**  
Consumers, through rates, pay all costs for the operation of the Office of the People's Counsel.

**OPC'S COSTS**  
These costs include OPC's overhead costs and expenses for legal representation and consumer outreach.

**OPERATING BUDGET**  
All costs associated with OPC's day-to-day operations, community outreach, and advocacy are paid through appropriated funding. On an annual basis, D.C. utilities pay a fixed percentage of OPC's costs to the District of Columbia government. In turn, the utilities recover the costs from consumers in rates.

**ASSESSMENT BUDGET**  
OPC's participation in legal cases is also paid by consumers through rates. The utilities are assessed for OPC's costs in their cases on a case-by-case basis.

Source: D.C. Code, 2001 Ed. §§ 34-912, 1402



## 2004-2005 OPC-DC Staff Professional Development and Education

### 2004

Introduction to Cost of Service, Concepts and Techniques for Electric Utilities  
Introduction to Rate Design for Electric Utilities  
*Electric Utility Consultants, Inc.*

NASUCA Washington Winter, Mid-Year, and Annual Meetings  
*National Association of State Utility Consumer Advocates*

NARUC 116<sup>th</sup> Annual Conference  
*National Association of Regulatory Commissioners*

Spearheading Renewable Energy & Demand Response in MISO, PJM, and SPP  
*Energy Foundation*

VoIP - Ensuring the Public Voice Is Heard  
*National Consumers League and Alliance for Public Technology*



*"I was a strong advocate for what the Office of the People's Counsel represents: a place at the table for ratepayers in the utility regulatory process.*

*During my D.C. City Council tenure from 1989-96, I encouraged the leadership of the Office to develop an "intelligent growth" plan whereby staffing levels could be increased commensurate with the services offered to consumers. One of the ways I felt this could be accomplished was through the use of emerging technology to work smarter, faster and more economically.*

*Encouraging the Office to take advantage of the media to get its message to the public was yet another success. The advent of D.C. Cable provided a true boost to OPC and other city agencies. OPC has since built on this early success, and I continue to see OPC featured in the media.*

*In retrospect, I am certain that these ideas were timely and that they helped the Office form a vision of an expanded regulatory role. This role included the deployment of cutting edge technology and outreach through the mass media, thus meeting the needs of thousands of District of Columbia utility consumers.*

*I am certainly proud of what the Office has achieved over the last 30 years and as a District ratepayer, I am enthused that I, too, continue to have the benefit of perhaps the premier public advocacy office in the nation. Job well done OPC!"*

**- William Lightfoot, Esq.  
Former D.C. Councilmember At-Large  
OPC-DC Oversight Committee Chair**

## 2005

WEB Conference: Energy Policy Act  
Customer Communications for Utilities  
Billing for Utilities  
*Electric Utility Consultants, Inc.*

13<sup>th</sup> Annual GMU Conference Forecasting the Greater Washington Area Economy: 2005  
*George Mason University*

Advanced Metering Infrastructure Workshop  
*Mid-Atlantic Distributed Resources Initiative*

A National Town Meeting on Demand Response  
*U.S. Demand Response Coordinating Committee*

NASUCA Washington Winter, Mid-Year, and Annual Meetings  
*National Association of State Utility Consumer Advocates*

NARUC Winter Committee Meetings, Staff Subcommittee on Accounting and Finance,  
117<sup>th</sup> NARUC Annual Conference  
47<sup>th</sup> Annual Regulatory Studies Program  
*National Association of Regulatory Utility Commissioners*

Taxation of Telecommunications Services  
*District of Columbia Bar*

Poverty Reduction Through Better Regulation  
*City of Johannesburg, South Africa*

Joint Low Income Energy Conferences  
*National Low Income Consortium, National Fuel Funds Network, and National Energy Assistance  
Directors Association*

Electricity 101  
*Energy Seminars, Inc.*

PJM-RPM Stakeholder Conference Meeting  
*Pacific Journal of Mathematics*

The Telecommunications Act of 1996  
*Catholic University School of Law*

Antitrust Policy and Vertical Restraints  
*American Enterprise Institute*

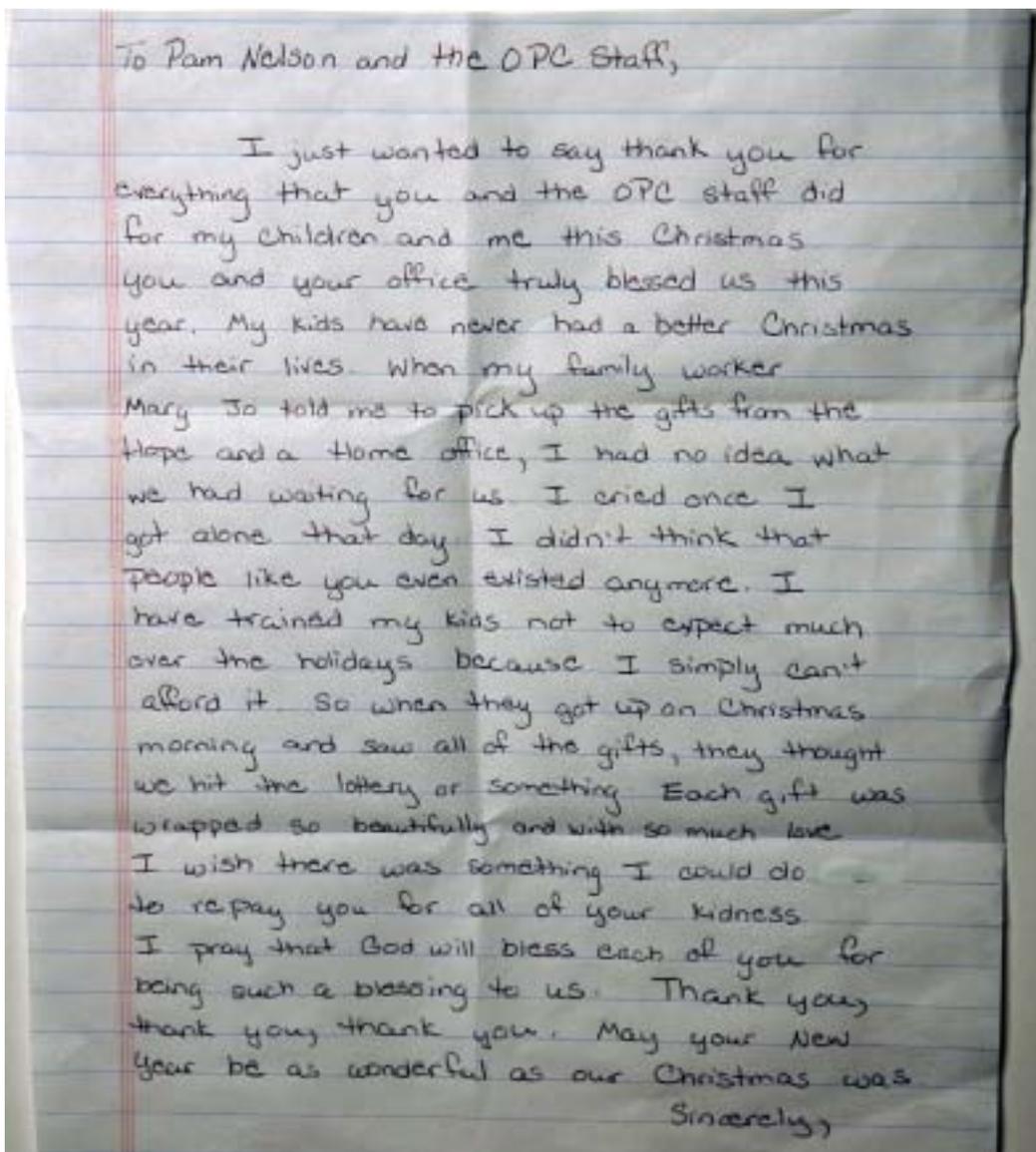
Taxation of Telecommunications Services  
*District of Columbia Bar*

Municipal Broadband: What's the Controversy About  
*Alliance for Public Technology*

Electricity Law: Current Topics 2005  
*Scott Hempling, Esq.*

## Community Service

OPC-DC believes District ratepayers and consumers are more than just our clients. We believe in giving back to the community. We are committed to serving real people, individuals who need more than our advocacy, education and outreach. To that end, we take on various staff-driven activities throughout the year. We have provided Christmas gifts for individual families. We have given food to various organizations, and we had clothing drives for Hurricane Katrina survivors. Activities such as these are special because we are meeting immediate needs. And while we do not expect thanks, this letter touched our hearts. It is our privilege to serve in any way we can in the District, and we thank you for letting us do so.



To Pam Nelson and the OPC Staff,

I just wanted to say thank you for everything that you and the OPC staff did for my children and me this Christmas. You and your office truly blessed us this year. My kids have never had a better Christmas in their lives. When my family worker Mary Jo told me to pick up the gifts from the Hope and a Home office, I had no idea what we had waiting for us. I cried once I got alone that day. I didn't think that people like you even existed anymore. I have trained my kids not to expect much over the holidays because I simply can't afford it. So when they got up on Christmas morning and saw all of the gifts, they thought we hit the lottery or something. Each gift was wrapped so beautifully and with so much love. I wish there was something I could do to repay you for all of your kindness. I pray that God will bless each of you for being such a blessing to us. Thank you, thank you, thank you. May your New Year be as wonderful as our Christmas was.

Sincerely,

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education.

protection.

advocacy.

Office of the People's Counsel of the District of Columbia

1133 15th Street, NW

Suite 500

Washington, DC 20005

