Office of the People's Counsel
District of Columbia

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Elizabeth A. Noël
People's Counsel

February 16, 2007

Ms. Dorothy Wideman
Commission Secretary
Public Service Commission of the
District of Columbia
1333 H Street, NW, 7th Floor, East Tower
Washington, D.C. 20005

Re: Formal Case No. 874
(2006 Gas Procurement Report)

Dear Ms. Wideman:

Enclosed please find for filing an original and fifteen (15) copies of the **REVISED PUBLIC VERSION** of the "Comments of the Office of the People's Counsel Regarding the 2006 Gas Procurement Report of Washington Gas Light Company" in the above-referenced proceeding.

Please contact the undersigned if you have questions regarding this matter.

Sincerely yours,

Barbara L. Burton
Assistant People's Counsel

Enclosures
cc: All parties of record

BEFORE THE
PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA

In the Matter of the Gas Acquisition	)	
Strategies of the District of Columbia	)	
Natural Gas, a Division of Washington	)	Formal Case No. 874
Gas Light Company	)	**(PUBLIC)--REVISED**

COMMENTS OF THE OFFICE OF THE PEOPLE'S COUNSEL REGARDING THE 2006 GAS PROCUREMENT REPORT OF WASHINGTON GAS LIGHT COMPANY

Pursuant to Rule 2315.5 of the District of Columbia Public Service Commission's ("Commission") Rules of Practice and Procedure,1/ and the Commission's January 11, 2007, order in this proceeding,2/ the Office of the People's Counsel of the District of Columbia ("OPC" or "Office") respectfully submits its comments concerning the 2006 Gas Procurement Report ("GPR" or "Report") filed by Washington Gas Light Company ("WG" or "Company") on November 9, 2006.

I.

SUMMARY OF OPC'S CONCLUSIONS AND RECOMMENDATIONS

OPC has reviewed WG's 2006 GPR and discussed the Report and data requests with WG at technical conferences. OPC has identified the following areas of concern and requests Commission action on these matters to ensure WG's gas procurement activities are prudent and yield the lowest reasonable costs to the District of Columbia ratepayers:

- Evaluate the appropriateness of payments to WG's affiliate, Hampshire Gas Company, under rates that appear to be premised on outdated and excessive costs,

1/ 15 D.C.M.R. § 2315.5.

2/ *In the Matter of the Gas Acquisition Strategies of District of Columbia Natural Gas, a Division of Washington Gas Light Company*, Formal Case No. 874, Order No. 14165 (2007) and take necessary steps to reduce the burden on District of Columbia ratepayers of such costs.

- **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]**

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- Require WG to structure its asset management arrangements to comply with emerging FERC policies and to evaluate the impact of such policies on its future portfolio plans.

Additionally, while the 2006 GPR adopted a previously recommended improvement to provide weather-normalized volumes in the historical periods covered by the GPR, OPC continues to believe that the Report fails to adequately address several important aspects of WG's gas procurement activity, and that the Report should be improved in the future.3/ Specifically,

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3/ OPC would point out that the comments it filed in response to WG's 2004 Gas Procurement Report have not yet been addressed by the Commission. OPC therefore will touch upon some of its earlier comments in its comments addressing the 2006 GPR, and it urges the Commission to address the earlier-filed comments in their entirety at the earliest opportunity. In its January 31, 2005, comments, OPC requested the following changes in its response to WG's 2004 Gas Procurement Report:

1. The summary of gas sales and deliveries in the GPR (Sections II and III) should be modified to include actual and weather normalized sales and delivery data for the two historical periods to permit meaningful comparisons between historical and predicted throughput.

2. The GPR should be modified to include information regarding the strategic alliance (continued...)

3/ (...continued)

and asset management agreements and activities undertaken by such parties on behalf of, or for the benefit of WG. The GPR should describe fully the asset management/strategic alliance agreements that existed within the reporting periods (Sections II and III) and that are planned or under consideration for the coming two years, and also how such agreements would impact the 2005-2009 Portfolio Plan.

3. The GPR should be modified to include information about utilization of WG's pipeline transportation and storage entitlements, the release of those entitlements (both for delivery service customers and to other third parties), and the manner in which WG is compensated for the releases.

4. The GPR should be modified to include the details concerning WG's hedging activity and its hedging reports for the previous years (Sections II and III) and to explain fully how hedging fits within the 2005-2009 Portfolio Plan. In addition, WG should provide information concerning the hypothetical financial hedging program the Commission directed it to undertake in Order Nos. 13221 and 13374.

5. The GPR should be modified to require WG to quantify the impact on sales service customers of the 50 percent limitation on the mandatory assignment of transportation resources to Competitive Service Providers adopted in Order Nos. 13201 and 13483.

6. The Commission should modify the filing dates for the annual Distribution Cost Adjustment and Balancing Charge filings to be coincident with the GPR filing (and to include such filings in the GPR).

In addition, the Office requested the Commission to take further action to protect District of Columbia ratepayers by:

1. Addressing in Formal Case No. 1020 WG's failure in the 2002-2003 winter period to hedge its natural gas purchases for the District of Columbia sales customers; and

2. Evaluating the appropriateness of payments to WG's affiliate, Hampshire Gas Company, under rates that appear to be premised on outdated and excessive costs, and take necessary steps to reduce the burden on District of Columbia ratepayers of such costs.

The Commission issued an order on November 29, 2005, in Formal Case No. 1020 dismissing OPC's complaint concerning WG's failure to hedge for the 2002-2003 winter

(continued...)

OPC makes the following additional recommendations:

- The GPR should be modified to include information regarding the strategic alliance and asset management agreements and activities undertaken by such parties on behalf of, or for the benefit of WG, and to provide information concerning WG's own asset optimization transactions. The GPR should describe fully the asset management/strategic alliance agreements and WG's own asset optimization activities within the reporting periods, discuss optimization agreements and activity that is planned or under consideration for the coming two years, and also discuss how such agreements and activities would impact the 2007-2011 Portfolio Plan.

- The GPR should be modified to include the details concerning WG's hedging activity and its hedging reports for the previous years and to explain fully how hedging fits within the 2007-2011 Portfolio Plan.

- The Commission should require WG to supplement future Reports to include a discussion of forecasting assumptions and methods and a description of WG's forecast model, to furnish forecasted jurisdictional allocations, and to provide the basis for unit cost forecasts and forecasted volume changes.

- The GAMES model output should be deleted from the Report as it serves no useful purpose.

- The GPR should be modified and expanded to include:

    - An explanation, and possibly an example of how WG values its storage inventory and its withdrawals from storage

    - Additions to the glossary for (i) storage demand charge; (ii) storage capacity charge, (iii) gas losses billed to others, (iv) Columbia FSS and SST, (v) short-term peaking, and (vi) capacity turn-back rights

    - A summary of the Company's hedging activities (as discussed above) and a separate line item for hedged purchases (separated from other base gas purchases)

3/ (...continued)
period. *See In the Matter of the Office of People's Counsel's Complaint Regarding Washington Gas Light Company's Failure to Hedge a Portion of its Natural Gas Supply Portfolio for the 2002-2003 Winter*, Formal Case No. 1020, Order No. 13827 (November 29, 2005). No action has been taken to date concerning the unjustifiably high rates paid to Hampshire Gas Storage.

- A report on the frequency and duration of interruptions to interruptible customers, along with a report of the response of these customers

- A further breakdown of the catch all "spot purchases" category among the elements of which this line is composed

- A separation of sales service revenue between GPC revenue and revenue for distribution service

- In sections II.C and III.C, added schedules showing revenue per therm

- An explanation of the derivation of interruptible rates

- A brief explanation of how weather normalization is performed, and

- Redesignation of references to "Consolidated" to use the current name for that pipeline (DTI).

OPC will elaborate on each of the foregoing points in the ensuing comments.

II.

BACKGROUND AND SUMMARY OF THE 2006 REPORT

WG submitted its 2006 GPR on November 9, 2006. After its initial review of the filing, OPC submitted data requests to WG on December 4, 2006 and January 6, 2007 in preparation for discussions at scheduled technical conferences. The Gas Procurement Working Group ("GPWG"), consisting of WG, the Commission Staff, and OPC Staff and Consultants, met on January 9, 2007, at which time WG provided verbal responses to OPC's December 4th questions. The GPWG met again on January 25, 2007, and WG responded to the remaining questions submitted by OPC at that meeting. In response to OPC's request at the January 25th technical conference, WG provided an additional document regarding WG's 2004 acquisition of Leidy East capacity and a written response to several of OPC's follow-up questions on February 2, 2007.

The 2006 GPR provides a summary recapitulation of the demand and cost of acquiring, transporting, and storing gas for WG's system requirements and its District of Columbia customers during September- August 2005 and September-August 2006 annual periods (the two most recent fiscal years). The Report also quantifies the current estimate of the probable costs and demand for the next two fiscal years. The GPR addresses the two major components of gas supply. The first is the acquisition of the gas itself. The second is the transportation and storage of gas that is delivered to WG's city gate and ultimately to WG's customers.

With reference to purchased gas, the GPR identifies the monthly volumes and dollar expenditures by pipeline separated among base load gas, "swing" gas, and spot purchases at WG's city gate. It also identifies peaking gas to the extent it is required to meet peak day loads. The GPR describes and presents monthly data on the volumes, costs and unit costs from each of its sources of gas, both historically and prospectively. The GPR also presents data on the Company's demand for gas by jurisdiction, type of customer, and firm vs. interruptible service. It reports the extent of delivery service penetration into both the firm and interruptible markets. Aside from the presentation of dollar, volume and per-dekatherm costs, the GPR devotes relatively little description to details regarding the purchase of gas during the 2005-2006 period. Instead, the GPR provides an overview of WG's gas procurement activity by reference to aggregated monthly data.

III.

DISCUSSION

A. Consistent with its Previous Comments, OPC Continues to be Concerned That Important Information and Has Been Omitted from the GPR and Accordingly Urges the Commission to Require Modifications to the Report

Any discussion regarding the 2006 GPR must be preceded by a discussion of the purpose and objectives of the report. In Order No. 10679 (rel. August 22, 1995), the Commission noted that

> . . . [T]he objective of the GPR is to inform the Commission and the public of the procurement activities of Washington Gas, including the immediate and long-term cost implications, and the benefits expected to inure both to Washington Gas and to ratepayers in the District of Columbia.
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> . . . [T]he purpose of requiring Washington Gas to file the Report annually is to ensure that Washington Gas, working in collaboration with OPC and Staff, establishes goals for cost-effective procurement. The reason for establishing these goals is to produce net benefits to ratepayers in the District of Columbia. Accordingly, Washington Gas plans its gas procurement on the basis of cost effectiveness. This emphasis on the cost of service is a reflection of the Commission's determination to protect the public interest by insuring that the costs of reliable gas service are reasonable.4/

While the 2006 GPR provides a comprehensive collection of monthly data for WG's gas procurement activity in the 2005-2006 period, and shows some improvement over the 2004 GPR,5/ OPC submits improvement is needed in the 2006 GPR so that OPC and the Commission can more easily determine what the net benefits to District of Columbia natural gas ratepayers are and whether the costs District ratepayers now pay for reliable gas service are reasonable. Accordingly, the scope and nature of information provided in the report should be improved upon and important additional data elements and explanations should be incorporated into future GPRs.

OPC's most extensive criticism of the GRP, as discussed previously in OPC's comments on

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4/ Formal Case No. 874, *In the Matter of the Gas Acquisition Strategies of District of Columbia Natural Gas, A Division of the Washington Gas Light Company*, Order No. 10679 (rel. August 22, 1995), p. 5.

5/ Specifically, in response to OPC's request in its comments concerning the 2004 GPR, WG has included weather-normalized sales and delivery therms for 2005 and 2006. This additional data permits a more meaningful comparison to be made between historical and predicted throughput. In the future, the addition of this data should permit comparisons of actual weather-normalized experience in one GPR with the predictions for the same years that were presented in the previous GPR. Such comparisons should aid in evaluating the reliability of WG's market, and hence its gas acquisition cost forecasts.

the 2004 GRP, is that the 2006 GPR continues to be an aggregation of gas procurement data that leaves out any substantive or qualitative discussion of how WG actually procures gas. The day-to-day gas procurement activity that WG undertakes is not provided either in a narrative form or by schematic explanations. The information in the GPR is aggregate cost and volume data that is allocated among WG's retail jurisdictions. The narrative portion of the report is limited to the 2007-2011 Portfolio Plan set out in Section VI, Section A. While this narrative provides a general overview of gas acquisitions strategies, its principal focus is prospective and there is no comparable narrative explanation of what WG did and how it procured gas in the 2005-2006 period covered by the GPR. With the exception of the certain charges for peak shaving services, there is no recitation in the GPR of the counter parties that WG purchases gas from, or how diversified its purchases have been among those suppliers. There is little if any discussion of the process WG uses to choose from among available supply alternatives or how that process is designed to achieve the most beneficial results for D.C. ratepayers. WG provides data showing the cost and quantity of gas received by pipeline, and it provides monthly data about the baseload, swing and spot supply resources that it purchases. Though there is aggregate quantitative data, important aspects of WG's purchasing are unaddressed, most particularly how asset management and/or strategic alliance agreements in effect during the 2005-2006 period were utilized. Asset management arrangements are completely omitted in the narrative portion of the GPR, and only appear in line item data for the asset management revenues shared with customers.6/ Nor does the GPR show how WG's pipeline transportation and

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6/ *See* Section II, Schedule A, Statement B, page 1, line 48, showing ( ) in shared asset management revenues system wide and Section II, Schedule A, Statement B, page 2, (continued...)

storage entitlements were utilized, and in particular, the extent to which capacity releases occurred (whether for assignment to delivery customers, pursuant to asset management agreements, or for other purposes) and how WG was compensated for such releases.7/ Because WG has retained certain of its transportation and storage contracts to conduct asset optimization transactions on its own account, this information may be important to understand how and why WG acquired gas and transportation services.

OPC criticized WG's 2002 GPR on grounds that the impact of its asset management and strategic alliance arrangements, the historic, present and future use of upstream capacity, and the impact of hedging activities were left unexplained in that document. The Commission in Order No. 12374 concluded that "more information is needed in some areas" and accepted the 2002 report as filed, but agreed that "it would be helpful to have more information regarding the company's asset and strategic alliance arrangements, utilization of upstream capacity, and future hedging plans for District customers."8/ The Commission's statements that WG should be more forthcoming with

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6/ (...continued)
line 25 showing (   ) in shared asset management revenues for the District of Columbia in 2005, and Section III, Schedule A, Statement B, page 1, line 49, showing (   ) in system-wide shared asset management revenues and Section III, Schedule A, Statement B, page 2, line 26 showing (   ) in District of Columbia shared asset management revenues in 2006.

7/ Capacity release revenues are only shown by month and allocated by jurisdiction for 2005 in Section II, Schedule A, Statement B, page 1, line 42 (system) and Section II, Schedule A, Statement B, page 2, line 19 (for the District of Columbia), and for 2006 in Statement III, Schedule A, Statement B, page 1, line 43 (system) and Section III, Schedule A, Statement B, page 2, line 20 (for the District of Columbia).

8/ *In the Matter of the Gas Acquisition Strategies of the District of Columbia Natural Gas, a Division of Washington Gas Light Company*, Formal Case No. 874, Order No. 12734, at P 14 (2003).

details of these components of WG's gas supply acquisition strategy have not yielded any significant discussion of asset management activity in WG's 2006 GPR. Without a detailed explanation of the missing components of WG's gas procurement activity, OPC and the Commission cannot determine that WG engaged in least-cost purchasing practices over the 2005-2006 period addressed in the GPR These shortcomings should be remedied and WG should be required to supplement its GPR.

In addition to addressing the broad shortcomings noted here, OPC recommends a variety of changes to the GPR which it addresses below. OPC further addresses several gas procurement practices that were revealed in the GPR (or in the data responses provided by WG) which require further Commission scrutiny and action.

B. The Commission Should Require WG to Supplement its Future Gas Procurement Reports

OPC urges the Commission to require the Company to supplement its 2006 GPR to improve its usefulness and enhance the Commission's ability to review WG's purchase practices. As discussed below, these changes include: (1) addressing forecast assumptions and providing a more detailed discussion of WG's gas forecasting process and methods; (2) elimination of the Gas Acquisition Model Estimating System ("GAMES") computer model output from the GPR because it is not useful; (3) adding a specific discussion of asset management/strategic alliance arrangements and how those arrangements affected WG's gas procurement; (4) including detailed hedging information in the GPR; and (5) providing additional detail, definitions, and explanations as further discussed below.

1. The Report Should Provide Additional Information on Asset Management and Optimization Arrangements and the Utilization and Release of WG's Transportation Entitlements

Confidential Information Omitted

In its comments on the 2002 GPR, OPC strongly urged that the GPR include a full and detailed discussion of all asset management arrangements with independent third parties. Similarly, OPC urged the Commission to require WG to make a full accounting of its use of interstate pipeline capacity and for the release of that capacity to third parties. Asset management arrangements are used to maximize the utilization of WG's transportation, storage and peaking assets and to provide natural gas requirements. WG explains in its Portfolio Plan that it acquires transportation and storage assets in anticipation of a "worst case" Design Day, Design Week and Most Severe Winter conditions. Because those most severe conditions rarely occur and WG's largely temperature-sensitive loads represent a relatively low load factor, WG usually has considerable surplus capacity that is available for release to other parties. Asset managers are retained due to their ability to access other markets and to dispose of excess capacity at a profit to the maximum advantage of both seller and buyer.

[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.] While multiple asset managers have performed that role for WG during the historical period covered by the GPR, the GPR itself has virtually no information about any of these arrangements. The only explicit references to asset management were in the monthly data showing the revenue sharing that resulted from the arrangements.9/

[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]10/

OPC urges the Commission to require WG to modify its GPR to include a full description of the asset management/strategic alliance agreements that existed within the historical reporting periods covered by the GPR (as set out in Sections II and III) and to provide information regarding the asset management agreements and activity it anticipates to enter into during the period covered by the 2007-2011 Portfolio Plan. Similarly, the GPR should include information about utilization of WG's pipeline transportation and storage entitlements, off-system sales with those assets, the release of those entitlements (both for delivery service customers and to other third parties), and the manner in which WG is compensated for the releases. With this additional information, both the actions by WG's asset manager and by WG itself to maximize the value of assets paid for by WG's ratepayers can be better evaluated.

2. The Report Should Contain Detailed Hedging Program Information

In comments addressed to WG's 2002 GPR, OPC recommended that WG report on its hedging activity in its GPR. While the Commission did not require WG to include such reports in the 2004 GPR, the Commission did state that "it would be helpful to have more information

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9/ *See* note 5, *supra*.

10/ In this context, asset optimization means the use of the transportation and storage assets to reach alternative markets and to generate net revenues when those assets are not required to serve the requirements of WG's on-system customers.

regarding the company's . . . future hedging plans for District customers."11/

In an even more limited presentation than was presented in the 2004 GPR, WG at pages 28-29 of Section VI, Schedule A of the 2006 GPR provides a brief narrative description of the kinds of gas purchases WG enters into under its hedging program. The GPR does not, however, provide any information on actual hedging activities during the covered historical period or any true insights about WG's plans during the period covered by the 2007-2011 Portfolio Plan. WG typically provides information about its hedging activity at the GPWG meetings and while this information is helpful, OPC believes the GPR would be more informative and complete if hedging information is included. Because WG's hedging activities are undertaken either in an historical period in 2005, or earlier in 2006, WG should have been able to provide actual hedging information in the GPR.

3. The Gas Procurement Report Should Contain a Summary of Forecasting Assumptions

Sections IV and V of the GPR present WG's projections of volumes, costs, and revenues through the two coming fiscal years, in this case the years ending September 30, 2007 and September 30, 2008. It its possible, by comparing these sections with the historical, weather-normalized data in sections II and III to identify the forecast trends assumed by the Company. However, nowhere in the report are these assumptions explicitly stated.

a. Future GPRs should identify the basis for unit cost forecasts

By examining the detail of WG's projections and from information obtained in the technical

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11/ *In the Matter of the Gas Acquisition Strategies of the District of Columbia Natural Gas, a Division of Washington Gas Light Company*, Formal Case No. 874, Order No. 12734 (May 14, 2003).

conferences, OPC has been able to identify the basis for the assumed unit costs. **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]**. Based on the GAMES model, WG also forecasts changes in the mix of transportation and storage resources. On the other hand, WG does not forecast storage inventory and withdrawal costs at all. Rather, it reports these costs at the level of the most recent historical year. **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]**

OPC recommends that future GPRs contain a summary explanation of the basis upon which it forecasts gas purchases, transportation, storage and peak shaving unit cost. Providing a summary of the forecast assumptions will allow the parties to understand such assumptions up front (instead of having to seek out additional data) and to test those assumptions based on their own analysis of future trends. The provision of forecast assumptions would expedite the review of future GPRs and provide the Commission with a more complete projection of future gas and transportation costs.

b. Future GPRs should identify the basis for forecast volume changes

The projected portions of the GPR for 2007 and 2008 show significant changes to the WG's volumes. Among those changes are **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary**

agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.] The basis for these changes is largely unexplained in the GPR.

At the technical conferences WG explained that these trends are all outputs of a complex forecasting model that takes into account demographic trends, changes in per-customer consumption and other factors. OPC does not recommend that this model be included in the GPR but it is evident that the forecast model is the principal driver in the projected gas volume data. OPC recommends that a description of this model be included in future GPRs. Accompanying this description should be a discussion of the most salient trends that the model identifies. More complete information about forecast trends will allow the parties to focus on and evaluate the legitimacy of WG's projections and provide an improved foundation for assessing WG's future needs in its Portfolio Plans.

c. Future GPRs should incorporate forecasted jurisdictional allocators

WG's failure to forecast jurisdictional allocators leads to the false appearance of fairly significant changes in future unit costs. Specifically, WG projects that the consumption of gas in the District of Columbia will decline slightly over the coming two years, and that consumption in Maryland and Virginia will increase. When these changes in relative consumption are projected to 2008, and the cost allocators are not correspondingly adjusted, it appears that the unit cost of D.C. consumption increases dramatically. System costs increase in total, therm consumption in D.C. declines, but the allocation of costs to District of Columbia consumers does not.

Given that the forecasting model projects total consumption and peak loads by jurisdiction, it should be a simple matter to project the jurisdictional allocators that are driven by these projections. Accordingly, OPC urges the addition of this projection to future GPRs.

4. Section VI.B of the GPR Presenting the GAMES Output Can Be Deleted from Future GPRs

The Gas Acquisition Model Estimating System or, as referenced in the GPR, GAMES, is an extensive computer model that identifies the lowest cost solutions for acquiring, transporting, storing and delivering gas under normal weather conditions. Section VI.B of the GPR is a dump of the output of this model for the next five fiscal years.

Neither the data nor their derivation is explained in this or any other section of the Report. Moreover, the fiscal year 2007 and 2008 data are repeated in much more understandable form in Sections IV and V of the Report. The data for the subsequent three years are of little use, as they are too far out in the future to be reliable. Furthermore, they will be revised and superseded in subsequent GPRs.

For the foregoing reasons, OPC recommends that this material be deleted from future GPRs. In its place, as discussed above, WG should insert the explanation of its forecast so that a meaningful assessment may be made regarding the bases for the forecasted gas volumes.

5. The Office Recommends a Variety of Clarifying Changes to the GPR

Based on its review of the GPR, the Office believes that certain additional information would be useful in providing a more complete picture of WG's gas acquisition activities. The following items are not included in the current GPR but should be added to provide a more complete explanation of WG's gas acquisition, transportation, storage and delivery activities:

- An explanation, and possibly an example of how WG values its storage inventory and its withdrawals from storage.

- Additions to the glossary for:
  - storage demand charge
  - storage capacity charge
  - gas losses billed to others
  - Columbia FSS and SST
  - short-term peaking
  - capacity turn-back rights
- A summary of the Company's hedging activities (as discussed above) and a separate line item for hedged purchases (separated from other base gas purchases)
- A report on the frequency and duration of interruptions to interruptible customers, along with a report of the response of these customers.
- A further breakdown of the catch-all "spot purchases" category among the elements of which this line is composed.
- A separation of sales service revenue between GPC revenue and revenue for distribution service.
- In sections II.C and III.C, added schedules showing revenue per therm.
- An explanation of the derivation of interruptible rates.
- A brief explanation of how weather normalization is performed.
- Redesignation of references to "Consolidated" to use the current name for that pipeline (DTI).

The addition of the foregoing explanations, data elements, and definitions will improve the GPR and provide additional context for the data being supplied. The additional elements should not impose a significant amount of additional work in the preparation of the GPR as the information is readily available to WG.

C. The Rates Paid By WG to its Affiliate, Hampshire Gas Company, Are Premised Upon Badly Outdated and Excessive Capital Costs; Accordingly, the Commission Should Take Steps to Initiate an Examination of the Hampshire Storage Rates

Hampshire Gas Company ("Hampshire") is a stand-alone storage company that operates a storage facility in Hampshire County, West Virginia, pursuant to a certificate of public convenience and necessity granted pursuant to the Natural Gas Act by the Federal Power Commission ("FPC") in April 1971. The FERC certificate granted to Hampshire in 1971 allows Hampshire to render a storage service solely to WG and WG operates Hampshire as a peaking resource, although the gas stored in the Hampshire field is delivered to WG via an exchange arrangement with Columbia Gas Transmission Corporation, an unaffiliated interstate pipeline. WG and Hampshire are affiliated companies.

The GPR reveals that WG pays several million dollars per year to its affiliate under the FERC-filed rates.12/ Based on OPC's review of FERC dockets, it appears that Hampshire's current rates were established in FERC Docket No. RP82-72, and have not been revised since that time. Moreover, the Hampshire rates were based on capital costs that are significantly above what is remotely justifiable under current conditions. The FERC order issued on May 27, 1982 specifically states Hampshire's rates were premised upon a 12% overall return, based on a 14% cost of equity and a 45.8% equity ratio (the long-term debt cost that yields the foregoing overall return under the

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12/ WG paid to Hampshire in the twelve months ending August 2005 (*see* Section II, Schedule B, Statement B, page 15, line 2) and to that company for the twelve months ending August 2006 (*see* Section III, Schedule B, Statement B, page 15, line 2).

approved capital structure is 10.3%).13/

While OPC does not object to WG holding Hampshire storage capacity and does not challenge the utility of the storage services WG obtains from Hampshire, the issue of whether the costs WG incurs are appropriate remains to be evaluated. Based on available data, the Hampshire rates appear very high. The Commission in WG's last rate case found WG's cost of long-term debt to be 6.65% and established a 10.6% cost of equity, which together with other components of WG's capital structure, yielded an 8.42% overall cost of capital.14/ The overall return underlying Hampshire's rates is more than 350 basis points higher than the return recently determined appropriate for WG. More recently, the FERC determined that an 11.2% return on equity was appropriate for an interstate pipeline subject to its jurisdiction.15/ Without question, under current FERC policy, the equity return that likely would be authorized for Hampshire would be materially lower than the return embedded in Hampshire's rates. Moreover, given the sharp decline in borrowing costs since the early 1970s, the debt costs of Hampshire would likely be much lower as well. Hence, the cost of capital underlying the current Hampshire rates is far out of line with current conditions.

Furthermore, in response to a complaint filed by various interested parties, the FERC recently

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13/ *Hampshire Gas Company*, 19 FERC ¶ 62,478, at p. 63,822 (1982).

14/ *In the Matter of the Application of Washington Gas Light Company, District of Columbia Division, for Authority to Increase Existing Rates and Charges for Gas Service*, Formal Case No. 1016, Order No. 12986, at P 65 (November 10, 2003).

15/ *Kern River Gas Transmission Co.*, Opinion No. 486, 117 FERC ¶ 61,077 at P 178 (2006).

set for expedited hearing a complaint challenging the rates of Southwest Gas Storage Company.16/ In its order setting the complaint for hearing, the Commission found that the complainants had provided adequate information to set the complaint for hearing and to initiate an investigation into Southwest Gas's rates under section 5 of the Natural Gas Act ("NGA").17/ The Commission ordered Southwest Gas to file a full cost and revenue study within 45 days of the date of FERC's order.18/ Though the FERC denied the complainants' request to implement immediate interim rate reductions based on the cost and revenue data filed with the complaint,19/ it indicated it would immediately order a reduction to rates if the cost and revenue study filed by Southwest Gas Storage indicates its current rates are excessive.20/ The FERC has shown it is receptive to complaint proceedings addressed to the stale rates of a stand-alone storage company, which is precisely the situation with Hampshire.

As an affiliated company that flows through the Hampshire costs to its customers, WG has no incentive to challenge the level of rates it is charged by Hampshire. The Commission, however, does have the obligation to ensure customers are not overpaying for services from WG's affiliate. Accordingly, the Commission should investigate the appropriateness of the level of Hampshire costs being passed through to WG and its ratepayers. The Commission's options include an inquiry into

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16/ *Panhandle Complainants v. Southwest Gas Storage Co.*, 117 FERC ¶ 61,318 (2006).

17/ *Order Setting Complaint for Hearing*, Docket No. RP07-34-000, 117 FERC ¶ 61,318 at P 2 (2006).

18/ *Id.*

19/ *Id.* at p. 19.

20/ *Id.* at p. 20.

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the appropriateness of the costs being passed through by WG from Hampshire, and WG's acquiescence to paying such costs, and the potential to initiate a proceeding at the FERC under Section 5 of the Natural Gas Act to seek to have rates established for Hampshire reflecting current capital and operating costs.21/ The fact that Hampshire's costs compare favorably to some of WG's other peaking or storage options does not mean that the rates WG pays for the cost-based service from Hampshire are appropriate.22/ The simple fact is that Hampshire's rates are based on outdated capital cost inputs and consequently over recover the proper cost of service. The Commission should take action to ensure that WG's ratepayers are not paying excessive rates for services from WG's affiliated company.

D. WG May be Engaging in Prohibited Buy-Sell Transactions that Violate the FERC Regulations and, Hence, Expose WG to Penalties Under the Enhanced Penalty Authority Conferred to FERC under the Energy Policy Act

[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission

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21/ The Commission could additionally seek to have WG show cause why it has not sought to reduce the rates it has been paying to Hampshire since 1982.

22/ In the past, WG has argued that Hampshire is less expensive than other options. As shown in the 2007-2011 Portfolio Plan at page 19 on an annual cost to Dth of annual contract quantity,

. Comparing Hampshire's rates to other FERC-regulated rates or market-based services, however, misses the point. If Hampshire's rates are stale and not reflective of the true cost of capital – as OPC believes – the excessiveness of Hampshire's rates cannot be explained away by reference to the cost of other services. As previously stated, OPC does not object to acquiring service from Hampshire, but it does object to paying an excessive rate that overcompensates Hampshire because the rate has not been updated to reflect current capital costs.

ruling on contention at any time in this proceeding.] 23/

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Before it issued Order No. 636, the FERC authorized pipelines to obtain certificates for capacity brokering programs that would allow customers to assign their capacity to other customers

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and to engage in certain "buy-sell" programs. A buy-sell transaction involves the sale of gas by a party at the pipeline receipt point to the capacity holder and the reacquisition of the gas by the same party at the pipeline delivery point for a fee that recoups for the capacity holder its costs of transporting the gas (and potentially a profit). In Order No. 636, the FERC decided that it could not monitor the capacity brokering programs adequately to ensure against undue discrimination in the allocation of capacity.24/ In that order, the FERC established a capacity release mechanism whereby shippers that did not require all of the firm capacity they had under contract with a pipeline could release the unneeded capacity through the pipeline to other shippers. FERC established the capacity release procedure rather than continue its previous policy of allowing shippers to directly broker their unneeded capacity to other shippers for several reasons. First, the Commission indicated that under the individual capacity brokering certificates there were "too many potential assignors of capacity and too many different programs for the Commission to oversee."25/ Second, the Commission's view that the new capacity release provisions – along with the new assignment program for pipelines' upstream capacity – would eliminate the potential for firm capacity holders to unduly discriminate in their assignment of capacity, and facilitate the development of the secondary transportation market. Accordingly, in concurrent orders, the Commission terminated the

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24/ *See Unocal Keystone Gas Storage, LLC*, 113 FERC ¶ 61,266 at n.13 (2006).

25/ Order No. 636, FERC Statutes & Regulations, Regulations Preambles January 1991-June 1996 ¶ 30,939, at p. 30,416 (1992).

capacity brokering program26/ and stated it would not authorize any more buy-sell transactions.27/

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26/ *Algonquin Gas Transmission Co.*, 59 FERC ¶ 61,032 (1992).

27/ *El Paso Natural Gas Co. and Transwestern Pipeline Co.*, 59 FERC P 61,031 (1992).

28/ The Energy Policy Act of 2005 added a new Section 22(a) to the Natural Gas Act, which states: "Any person that violates this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this Act, shall be subject to a civil penalty of not more than $1,000,000 per day per violation for as long as the violation continues."

<u>Confidential Information Omitted</u>

E. [This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]

[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.].*29/*

29/ The [ ] sum shown on Section II, Schedule B, Statement B, line 4, Column B is [ ] higher than other months on line 4 with 30 calendar days. Hence, the payment to [ ] presumably amounted to the differential between the regular Transco capacity payment from other similar months and the higher September 2004 capacity payment.

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30/ The Leidy East capacity allows WGL to transport gas from a primary receipt point at the western end of Transco's Leidy Line in western Pennsylvania to an interconnect with Transco's mainline at Princeton Junction in New Jersey. WGL can then transport that gas on the Zone 6 mainline to its city gate via a back haul. The contract term was 18 years, 1 month (the remaining term of [ ]original contract) and the negotiated daily demand charge is $0.21008 per Dth, plus applicable surcharges and commodity charges.

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31/ *See* January 9, 2007 Transcript, pages 16-20 for the discussion of the capacity release.

32/ Tr. 18 (January 9, 2007); Tr. 22-23, 25 (January 25, 2007).

33/ OPC requested a copy of any agreement between WG and [ ] which documents the agreement among those parties to enter into the permanent capacity release. Tr. 20 (January 9, 2007). WG subsequently declined to provide the document but later denied that there was any contract between WG and Reliant, claiming that the agreement was in the EBB posting associated with the capacity release. Tr. 21, 34 (January 25, 2007). **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]**

34/ Tr. 16-17 (January 9, 2007).

35/ **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]**

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In previous decisions, the FERC has ruled that all consideration associated with a capacity release must be posted (including consideration received by the replacement shipper).36/ The Commission has also made clear, both in its regulations and in adjudicated cases, that where a replacement shipper pays the pipeline the maximum rate and pays a lump sum to the releasing shipper, the capacity release violates the prohibition on releases above the maximum rate, and in that context has declared that a releasing shipper may not profit from the release of capacity by releasing the capacity at a rate higher than what it was paying the pipeline.37/ The FERC has not addressed the particular circumstances of the capacity release, **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]**. It is conceivable that the FERC could view such a payment to be contrary to its policies if it were to analyze what the maximum tariff rate would be over the life of the capacity release transaction. Moreover, if there are other terms related to the capacity release that tie the capacity release to unrelated transactions, the FERC could find the release to be contrary to its policies and regulations on alternative grounds. WG has declined to provide the agreement it apparently entered into with in connection with the capacity release, so the full scope of

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36/ *Pacific Gas Transmission Co. and Southern California Edison Co.*, 82 FERC ¶ 61,227 (1998).

37/ *Louis Dreyfus Energy Services, L.P.*, 114 FERC ¶ 61,246 (2006).

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WG's commitments in connection with the capacity release have not been disclosed at this point. Thus, there remains some question as to the consistency of WG's capacity release with FERC policy and precedent.38/

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38/ Again, given the very significant penalty exposure created by recent amendments to the NGA, potential violations of FERC policy cannot be taken lightly.

F. The Potential for FERC to Conclude that Payments in Excess of the Maximum Tariff Rate for Released Capacity Must be Taken into Account by WG in its Portfolio Plan

The FERC recently has requested comments in Docket No. RM07-4-000 to address a number of issues related to its capacity release regulations and policies, including the issue of whether payments by an asset manager to a shipper who releases its capacity to the asset manager as part of a portfolio management agreement at the maximum tariff rate is undertaking a capacity release at a rate above the maximum tariff rate (since the added compensation for the capacity release, as noted above, could be viewed as exceeding the maximum tariff rate).39/ **[This portion contains information which Washington Gas alleges to be proprietary. Please contact Washington Gas for an appropriate proprietary agreement or file with the Commission for a Proprietary Information Determination. Parties may seek a Commission ruling on contention at any time in this proceeding.]** That agreement, and similar agreements in the future, will be governed by the

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39/ *Coral Energy Resources, L.P., Chevron U.S.A. Inc., ConocoPhillips Co., Constellation Energy Commodities Group, Inc., Merrill Lynch Commodities, Inc., Nexen Marketing U.S.A., Inc., Tenaska Marketing Ventures, and UBS Energy LLC* Docket No. RM07-4-000, "Request for Comments" (January 3, 2007). The Commission's notice follows up on the "Petition for Clarification" filed by the above-named parties in Docket Nos. RM91-11-009 and RM98-10-013 on October 20, 2006. The petitioners are marketers who have concerns about the FERC policies and the potential that future asset management arrangements may be deemed to violate current FERC policies because payments by the replacement shipper/asset manager to the releasing shipper could be construed as payments in excess of the maximum tariff rate where the capacity is released to the asset manager at the maximum tariff rate. Given the expansion of FERC's authority to impose civil penalties, these marketers have sought clarification or modification of FERC policies. Similarly, in *Pacific Gas and Electric Co. and Southwest Gas Co.*, Docket No. RM06-21-000, petitioners have requested the FERC to eliminate the maximum rate cap on capacity releases. The FERC has requested comments related to each of these rulemaking proceedings on March 12, 2007.

determinations made by the FERC in Docket No. RM07-4. The concerns raised by the petitioners in Docket No. RM07-4 – that the FERC may find asset management agreements to be unlawful because they provide for compensation for capacity at a level above the maximum tariff rate – should be addressed by WG in its portfolio planning. Given the pendency of the FERC rulemaking, and the likelihood that any FERC determination will not be forthcoming in the immediate future, the appropriate future course for WG remains uncertain. But if the FERC finds that WG's contracting practices are unlawful based on its determinations in Docket No. RM07-4, the Commission should affirm that WG assumes the legal risks associated with its asset management agreement(s), and it alone will be held responsible to the extent that such actions are made subject to FERC's expanded penalty authority.

IV.

CONCLUSION

WHEREFORE, for the foregoing reasons, the Office requests the Commission take action with respect to WG's 2006 Gas Procurement Report consistent with the foregoing comments.

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Dated: February 16, 2006

CERTIFICATE OF SERVICE

Formal Case No. 874

I hereby certify that on this 16th day of February, 2007, a copy of the foregoing **REVISED PUBLIC VERSION** of the "Comments of the Office of the People's Counsel Regarding the 2006 Gas Procurement Report of Washington Gas Light Company"were served on the following parties of record by hand delivery or first class mail, postage prepaid:

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