

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

2010 Annual Report

ELECTRIC



NATURAL GAS



TELECOMMUNICATIONS

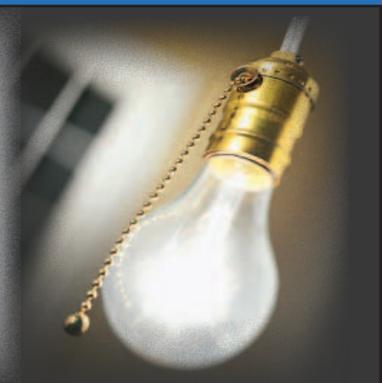


Advocating, Educating, and Protecting
D.C. Utility Consumers



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VINCENT C. GRAY
MAYOR

October 5, 2011

Dear District Residents:

It is my pleasure to present the 2010 Annual Report of the Office of the People's Counsel.

The District of Columbia Office of the People's Counsel has an exemplary record of service for consumer education and advocacy on utility issues affecting rates, quality of service, competitive choice and consumer safeguards.

As an independent agency of the District government, 2010 placed OPC at the forefront of efforts to meet the energy and telecommunications needs of all District residents. Through representation of individual consumer complainants, participation in the annual Joint Utility Discount Day, OPC's multiple "DC Energy Expo" events or efforts to support consumers adopting renewable energy, the Office has deftly provided legal, technical and educational support to our city. At the same time OPC's regulatory work calling for reliability enhancements, scrutinizing utility infrastructure plans, promoting quality of service, and ensuring a place at the table for consumers, augment our "One City" goals.

I am confident that the Office of the People's Counsel is on a path that will ensure the District of Columbia remains a national leader in the provision of utility service, customer service and consumer advocacy. Making the District a great city requires that we foster a livable environment and preserving the interests of all consumers in stable, affordable rates and reliable utility service is crucial to our success. As Mayor, I believe the high level of service offered to consumers by OPC is precisely what our residents deserve.

Sincerely,

A handwritten signature in black ink that reads "Vincent C. Gray".

Vincent C. Gray



Dear District of Columbia Utility Consumers,

The People's Counsel plays a pivotal and critical role in the regulatory arena governing the provision of vital utility services to District of Columbia consumers. The People's Counsel is the "voice of the People", and, by law, must advocate to protect the interests of utility users in the District of Columbia and to ensure their entitlement to "safe, reliable, and affordable service." These are not hollow words, but rather a reflection of the statutory mandate and mission of the Office.

As the newly sworn People's Counsel, I applaud the 35- year body of work of the prior agency heads that established the stellar reputation of the Office and I pledge to continue this legacy through strong, proactive and zealous advocacy. My priorities are reliable service, quality service, affordable rates and consumer empowerment.

In many ways, 2010 has been a year of transition and transformation for OPC. Proudly, I can report that the staff of the Office has remained steadfastly on course, unwavering with respect to our core responsibility to represent and protect the interests of utility consumers. For all who wonder how we can turn the page, I ask you to watch and listen as we embark upon a path that will set new standards for excellence in consumer advocacy.

The Year 2010 was also marked by what could be termed "The Year of Reliability Challenges." We faced repeated, unexplained, debilitating outages, customer service and communications collapses and escalating prices. This 2010 annual report captures these themes and provides a reference point to plan our future actions on behalf of consumers.

It is not a consumer folly to expect the lights or heat to come on and stay on or to lift the telephone receiver and receive a dialtone. Too often over the past months, these expectations were not met. Consumers deserve fair value for their dollar; this includes safe and reliable service. To date, reliability plans have been proposed, but results in the form of substantial improvement remain elusive.

Perhaps some utilities have lost sight of the strain maintaining basic services places on ratepayers. As your advocate, I have not. As agents of government, we must soberly accept that at the core of the regulatory compact is our responsibility to make utility services affordable, safe and reliable while protecting the entitlement of consumers to these services. It is an immutable fact that OPC, the Public Service Commission and the Council exist to serve the People of the District of Columbia.

Reliable and affordable utility service extends beyond a public entitlement, it is an economic imperative. The Nation's Capital cannot be a place where our seniors and working-class families are priced out of the marketplace. If service is off for any reason, we all suffer.

We must ensure that consumers are getting what they pay for. Utilities are routinely authorized to recover millions in operating expenditures through rates in exchange for their exclusive responsibility



to provide service that is safe, adequate and reliable; we must hold them to this baseline responsibility. Utilities have the ability to identify potential savings and to deploy new technologies cautiously and prudently. There must be zero tolerance for chronically unreliable service or continuously poor quality of service. Utilities must be directed to identify and correct reliability problems in a cost effective and equitable manner. When necessary, penalties must be imposed for failure to comply with reasonable service quality standards.

To say District utility consumers face unparalleled challenges in the coming years is an understatement. The manner by which utility service is provided is evolving. Utility performance is rightly becoming a measure for cost recovery. Demand side options and renewable resources are replacing reliance on fossil fuels and as supply side energy resources dwindle, consumers are becoming consumer-producers creating a seismic shift in stakeholder alliances.

Hundreds of District consumers are already investing in renewable energy and other alternatives, changing the very nature of the traditional distribution network and how future decisions will affect what constitutes a prudent investment and equitable sharing of the costs. These energy pioneers have also forced new thinking around distributed generation or the decentralizing of energy delivery. At my direction, OPC will work with these new stakeholders who share interests both as energy producers and energy consumers to find an equitable solution that benefits all consumers. With these many “structural” changes my fundamental mission to protect the public interest remains constant.

Recent legislation creating a Sustainable Energy Utility (SEU) is a significant step toward imagining a brighter energy future for District consumers. Collectively, SEU stakeholders, including OPC, must produce value from the \$15-20 million in annual fees that are collected from ratepayers to fund this new “3rd Party” utility, tasked with achieving citywide energy efficiency goals, reducing our carbon footprint and ultimately helping consumers maximize their energy dollar.

There must be modern consumer protections in an era of technical evolution. Meters, billing systems, payment schedules, service and repair processes must all meet the needs of modern consumers. The roles and responsibilities of consumers and each utility are not the province of the free market, they must be unambiguous.

The consumer protection offering the greatest return is consumer empowerment through participation in the regulatory process. Consumers should never be artificially or structurally buffered from the utilities that serve them. I will always support initiatives that enhance consumers’ rights in the regulatory process. Looking forward, I will work to create more opportunities for District ratepayers to have their say in the regulatory process.

We have an opportunity to pull all stakeholders together and begin to forge a new paradigm. I invite you to join me in bringing power to the people!

Respectfully Submitted,


Sandra Mattavous-Frye, Esq.



Consumer Complaints Trends 2010

District of Columbia residents continued to feel the debilitating effects of the global recession in 2010. The consumer complaints received by OPC staff were, to an extent, symptomatic of the economic downturn that affected the metropolitan region. OPC staff noted an increase in the number of complaints about payment problems and resulting service disconnections. As the District's unemployment rates rose to unprecedented levels and the local economy remained stalled, utility consumers continued to feel the financial strain caused by increasingly higher bills.

In January 2010, the U.S. Bureau of Labor Statistics reported the District's unemployment rate was 12%. That told only part of the story. Wards 5, 7 and 8 had the highest unemployment rates in the city. Unemployment in Wards 5 and 7 neared 20%, while unemployment in Ward 8 reached 30%. These three wards also had the highest percentage increases in unemployment between 2008 and 2009. Predictably, the largest percentage of consumer complaints received by OPC staff was from residents in those wards. According to recent District Department of the Environment (DDOE) statistics, the majority of Low Income Home Energy Assistance Program (LIHEAP) applicants live in those wards, as well. By October 2010, the District's overall unemployment rate had declined slightly to 9.7%. However, unemployment in Wards 5, 7 and 8 remained at an all-time high.

In 2009, OPC received 2,362 complaints. An increase in the number of complaints about high Pepco bills fueled last year's record number of complaints. OPC staff received a total of 2,145 consumer complaints about all utilities in 2010. Seniors accounted for 45% of those complaints, Spanish speaking consumers, 21.3%. Trends emerged in consumers' complaints about their energy and telephone services, quality of service and service reliability. The Office also received an increasing number of complaints about difficulty contacting utility companies to report service outages or to schedule repairs.

Complaints Concerning Pepco

Pepco's well documented service reliability problems continued through 2010. Since power outages caused by the 1998 ice storms, OPC has pressured Pepco to improve its system reliability. For example, OPC filed its comments addressing Pepco's Consolidated Report on April 26, 2010. OPC's comments addressing Pepco's Comprehensive Reliability Plans for the District of Columbia were filed November 22, 2010. OPC also provided its Comments Addressing the Commission's Study of the Feasibility and Reliability of Undergrounding Electric Distribution Lines in the District of Columbia on October 29, 2010. In these and other filings, OPC addressed Pepco's systemic reliability failures, slow service restoration response and its inability to resolve infrastructure problems that led to outages. District residents suffered several days of power outages following snowstorms in February. In July, they again experienced several days of power outages after severe storms. Following both of the sustained outages, consumers complained about very slow service restoration. OPC received a series of complaints from several neighborhoods during the summer outages, including Takoma, Shepherd Park, Edgewood and Columbia Heights. The vibrant U Street, NW and H Street, NE commercial corridors were also without power for several days, causing businesses to contact OPC and public officials about lost income. As a result, Pepco's poor service reliability impacted the District's economy. Residents also complained about periodic loss of power during calm weather, as well. Furthermore, consumers reported difficulty navigating Pepco's customer service phone system and complained about frequently estimated bills, inaccurate meter readings and expressed concerns about tree trimming and vegetation management near overhead power lines. Consumers were simply frustrated by Pepco's unexplained higher bills, failing infrastructure and overall decline in quality of service.



Complaints Concerning Verizon

Consumer dissatisfaction was not limited to Pepco. Verizon's declining quality of service and decreasing reliability also prompted numerous complaints. Reports from several neighborhoods, including Crestwood, Edgewood, and Chevy Chase, described chronic copper wire Local Access Network (LAN) failures. With unreliable LAN line service, many residents turned to cell phones or considered alternative phone service providers. Roll out of FiOS, Verizon's fiber optic platform offering cable, internet and telephone services, began the summer of 2010 in neighborhoods in Wards Three, Four and Eight. Still, consumers expressed frustration with Verizon's automated customer service phone response system and complained about difficulty scheduling repairs, the cost and frequency of repairs, billing format and costly taxes and surcharges. Again, consumer dissatisfaction centered on Verizon's increasing billing amounts and declining quality of services.

Complaints Concerning Washington Gas

Ratepayers complained about Washington Gas' aging natural gas line infrastructure, which prompted concerns about service reliability. OPC also received complaints about WG's failure to adequately notify customers about changes in their Budget Payment Plan amounts and delayed service restoration after disconnection.

Inside the Numbers

Pepco

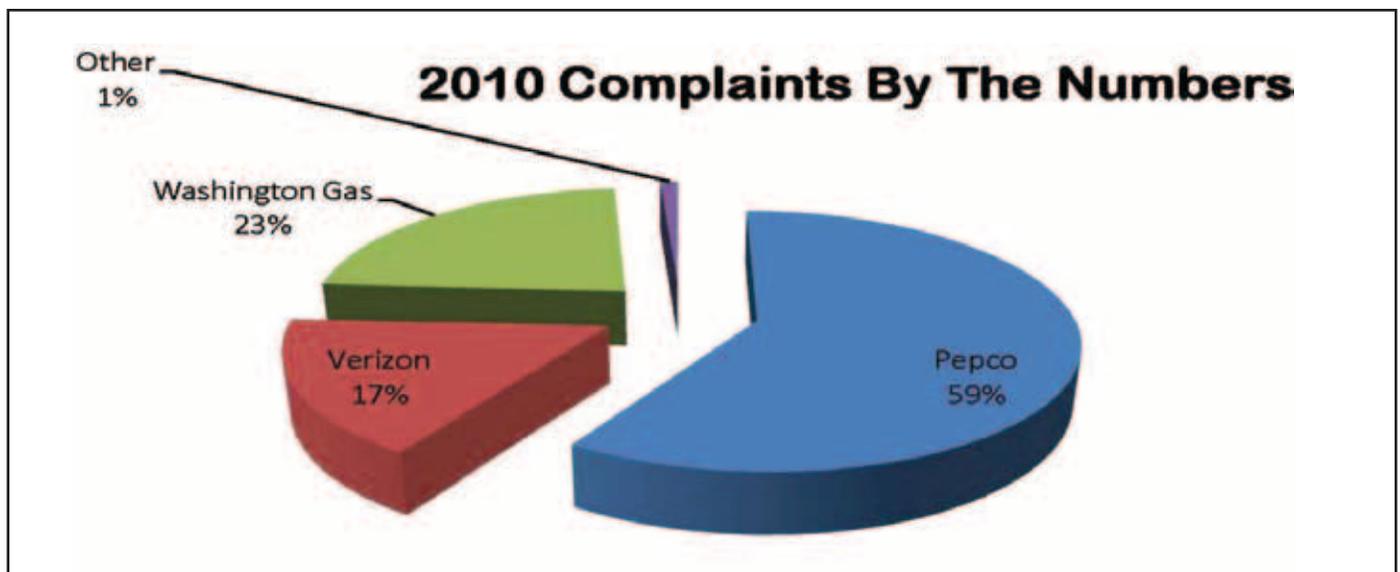
Pepco accounted for 59% of all consumer complaints OPC received in 2010. High bills, payment problems, service disconnections, concerns about accurate meter readings and power outages comprised the majority of complaints about Pepco services.

Verizon

Consumer complaints about Verizon accounted for 17% of the total complaints received and resolved by OPC staff. The majority of those complaints were about payment problems, service disconnections, difficulty scheduling repairs, the high cost and frequency of repairs, faulty DSL service and overall poor quality of service.

Washington Gas

Washington Gas (WG) received 23% of OPC's consumer complaints. Service disconnections, billing disputes and changes in Budget Payment Plan amounts were the primary causes of WG consumer dissatisfaction.



OPC Strengthens Its Outreach to the Senior Community

The 2010 U.S. Census results confirm that the District of Columbia senior population is diverse and rapidly growing. Approximately 98,512 seniors (defined as persons 60 years and older) live in the District of Columbia. This number represents a 7.2 percent increase in the senior population since the 2000 census. Moreover, 47.2 percent of seniors who are 65-years and older live alone.

Recognizing the need to support this growing population, OPC increased its advocacy, education and outreach efforts within the senior community in 2010. On the advocacy front, OPC enhanced its working relationships with the D.C. Commission on Aging and AARP. In 2010, OPC began dedicating two Consumer Outreach Specialists to provide education and outreach to the District's senior community. These staff members organize and oversee OPC's advocacy for and education of this segment of the District's population by ensuring the utility-related needs of this community are met. OPC Consumer Outreach Specialists provided information and made presentations on the role of OPC as their utility consumer advocate, emerging and current utility issues, and energy efficiency to several senior organizations and groups, and senior citizen centers throughout all wards of the District. In addition, OPC published a revised version of its "Senior Resource Guide," a compilation of utility related information specifically designed for seniors. This booklet has been well received by the senior community and the various organizations that represent them.

OPC Sponsors FiOS Education Forum

In response to consumers' inquiries about the status of Verizon's deployment of its fiber optic platform offering cable, Internet and telephone services, known as FiOS, OPC-DC sought information from Verizon about FiOS deployment in the District.

OPC-DC and Verizon decided to work together to help District consumers make informed choices about FiOS. Many consumers wanted to find out when they would be able to subscribe to FiOS, whether their copper Local Access Network (LAN phone line) connection would be removed if they selected FiOS, and the features Verizon's new product actually offered.

On August 25, 2010, OPC and Verizon held the District's first FiOS Education Forum. Verizon produced a "live" demonstration of FiOS cable television capabilities and panelists from Verizon and OPC-DC addressed questions from District residents about FiOS deployment, the system's reliability during power outages, whether the copper phone line remains after FiOS connection, consumers' contractual obligations, and FiOS features and costs.



OPC Sponsors “Energy Efficiency ‘Expo In-a-Box’

On October 9, 2010, OPC sponsored “Wards 6, 7 & 8 Energy Efficiency ‘Expo in-a-Box’” at the Matthews Memorial Baptist Church. Expo in-a-Box was designed by OPC to directly address the energy efficiency needs of District residents. As energy costs rise, District consumers have shown a growing desire to use energy saving measures. In 2001, OPC sponsored its first energy efficiency expo and has been at the forefront in providing District residents with education and information on such measures so they can see actual savings on their energy bills.

Attendees welcomed presentations on solar and geothermal insulation projects in the District. Specifically, a Ward 7 resident spoke on his reasons for installing solar panels and cited the resulting energy savings he realizes. The president of the Capitol Hill Solar Co-op, Cynthia Hartley, shared details on the formation of their solar co-op and the many energy saving benefits members are receiving. A Ward 8 energy efficiency company discussed the energy savings the residents of Wheeler Creek, a multi-family building, are realizing from his company’s installation of geothermal insulation. This is the only geothermal insulation project of a low-income multi-family dwelling in the country. The Mount Pleasant Solar Co-op addressed the nuts and bolts of going solar, including the cost and savings. The District Department of the Environment’s Energy Office discussed its weatherization, solar panel insulation, green roof, rain gardens grants and rebate programs.

Expo was further complemented by the “hands-on” exhibits of solar panels, tankless hot water heaters, rain barrels, strawbale insulation, energy efficiency windows and many other products and services. These demonstrations permitted residents to touch, feel and see alternative energy efficiency products, as well as have their questions answered.



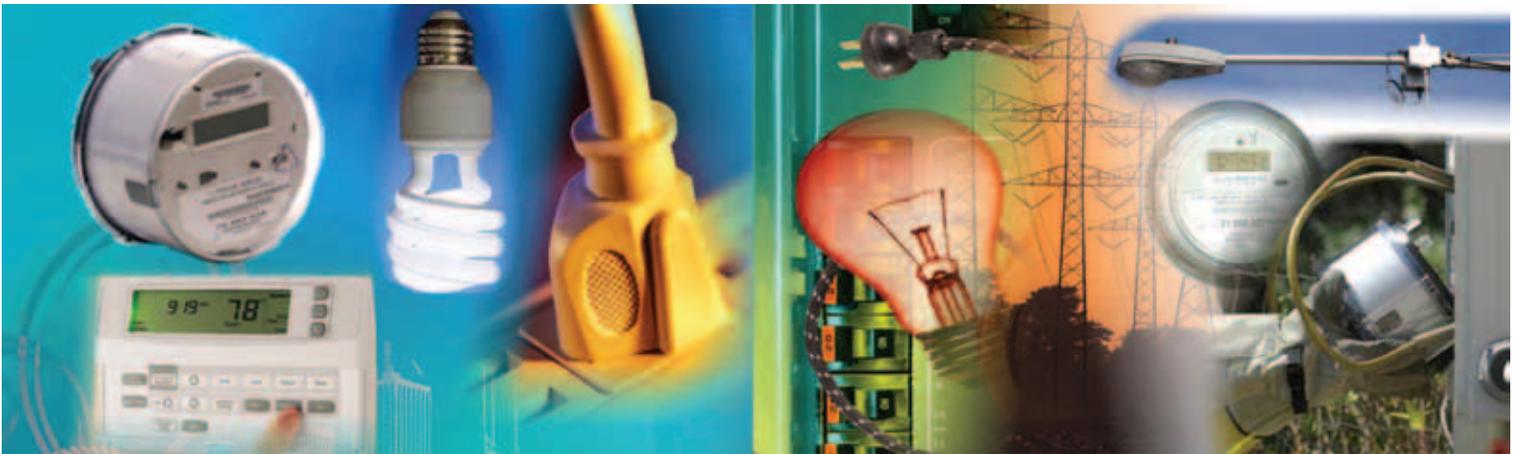
OPC Supports Net Metering Refinements Aimed at Facilitating Consumer Participation

Net metering is the distributed generation technology used by many District residential consumers who use a renewable source of energy to provide a portion of their energy needs. OPC is a strong advocate for distributed generation and seeks ways to foster its development and use.

In March 2010, OPC continued to advocate for changes to the District's net metering rules that make consumer participation easier and advance the citywide goal of increasing citizens' use of renewable energy resources. In February 2010, the Commission issued a Notice of Proposed Rulemaking proposing to repeal the net metering rules the PSC adopted in July 2008 and replace them with new rules that are consistent net metering provisions contained in the Clean and Affordable Energy Act of 2008. The proposed rules applied to residential and commercial customers who own or operate an electric generating facility that has a specified capacity and uses renewable energy resources such as solar panels and wind turbines. Specifically, the proposed rules set forth billing and credit procedures for competitive energy Pepco.

Upon review of the proposed amendments to the net energy metering rules, OPC concluded the proposed changes set forth clear procedures on how customers of competitive electric suppliers and the SOS provider will be credited and billed for net metering. OPC concluded the proposed modifications setting forth clear procedures on how customers of competitive electric suppliers and the SOS provider will be credited and billed for net metering should enhance net metering participation in the District of Columbia. The Commission adopted the proposed changes OPC supported in June 2010.

OPC plans to sponsor educational workshops on the array of technologies to increase awareness of distributed generation and available technology for residential consumers who desire to use a renewable source of energy to provide a portion of their home energy needs.



OPC Advocates for the Reliability of the Smart Grid Network, Consumer Education and Consumer Protection

Beginning in October 2010, Pepco began installing smart meters throughout the District of Columbia. This deployment is expected to be completed by December 2011. OPC focused its smart grid deployment advocacy efforts on three areas: reliability of the smart grid network, consumer education, and the development of essential consumer protection.

In June 2010, the Commission approved deployment of two types of smart meters—GE and Landis + Gyr. To ensure the reliability of the smart grid network, OPC requested the Commission have an independent party conduct a field acceptance test of Pepco's smart grid network. The Commission denied OPC's request finding Pepco's testing to be sufficient.

OPC strongly advocated for early consumer education about smart grid deployment of the smart grid and the benefits consumers should receive. OPC participated in the Advanced Metering Infrastructure Task Force, a collaborative working group comprised of representatives from Pepco, Commission staff, the Sustainable Energy Utility, and the D.C. Department of the Environment's Energy Office to develop a smart grid deployment consumer education plan. OPC and Pepco conducted joint consumer education throughout the District to educate consumers about the purpose, deployment and benefits of the smart grid. The workshops allowed consumers to express their interests and concerns about the smart grid.

In 2010, OPC requested the Commission establish a proceeding to develop smart grid consumer protections focused on privacy, data security, data management, and remote disconnections. The Commission at OPC's request, and established a proceeding to consider the smart grid policy issues including the development of consumer protection rules.



OPC Objects to Pepco's Request to Make Consumers Pay Twice for the Same Demand Side Management Programs

In 2008, the District Council enacted the Clean and Affordable Act of 2008 (Act) which, among other things, established a Sustainable Energy Trust Fund (SETF) funded by a monthly surcharge on consumer utility bills. The SETF was designed to be the source for funding energy efficiency programs operating in the District of Columbia. Pepco was authorized by the Act to receive \$6 million to administer certain demand side management (DSM) programs approved by the Commission.

In 2010, the District Council enacted legislation to eliminate further funding for Pepco administered demand side management programs. This prompted Pepco to discontinue its programs. In response, Pepco asked the Commission to impose a surcharge on utility consumer bills to fund its \$6 million DSM programs through September 2011. OPC objected to Pepco's request. In its objection, OPC stated it has consistently advocated for the development of effective, efficient and affordable energy efficiency programs for District consumers. OPC supports the objective of the Act in ensuring the District becomes more energy efficient and promotes energy renewable resources. OPC believes the District's energy efficiency goals must be achieved at a reasonable cost to the District's ratepayers who bear the entire cost of the energy efficiency programs. Every ratepayer dollar spent must be used for effective and viable programs.

Pepco's proposed DSM surcharge would require District consumers to pay twice for the same energy efficiency programs—SETF surcharge and DSM surcharge. In these difficult economic times, District consumers have to pay a second surcharge for currently-funded energy efficiency programs. OPC recommended Pepco's shareholders pay to continue Pepco's DSM programs with shareholder funds or apply to the Sustainable Energy Utility for grant funds to operate its programs in FY 2011. The PSC denied PEPCO's request in November 2010.



OPC Supports PSC Decision Denying Pepco \$23 Million from the Sale of Pepco's Plants

In 1999, Pepco obtained authorization to sell its electric generating plants in the District in exchange for sharing in the sale proceeds with District consumers following the negotiation of a Non-Unanimous Agreement of Stipulation and Full Settlement (Settlement Agreement) with various stakeholders. OPC was not a signatory on the Settlement Agreement. When the Commission denied Pepco's request to recover approximately \$23 million in transition and transaction costs associated with the sale of its generating plants, Pepco sought appellate review of the Commission's decision alleging a misinterpretation of language in the settlement agreement that would enable Pepco to extract more money for its shareholders and from District consumers.

OPC opposes Pepco's recovery of these costs because Pepco voluntarily entered into an agreement so that it could divest its generating plants, the Settlement Agreement resolved all issues among the settling parties, and Pepco actively negotiated and voluntarily agreed to limit what it could get from the money created by the divestiture proceeds. Pepco should be held to the bargain it struck and the PSC's decision denying the utility recovery of \$23 million should be sustained

However, after the Commission decided PEPCO was not entitled to the \$23 million from the proceeds consistent with the terms of the Settlement Agreement, PEPCO appealed the PSC's decision for a "do-over." OPC will present this argument to the D.C. Court of Appeals during oral argument scheduled for early 2011.



OPC Spurs Action to Address Consumer Concerns About Pepco's System Reliability

Keeping the lights on at all times continues to be a priority for OPC-DC. Despite OPC's best efforts to ensure consumers receive reliable electric service from Pepco, there was little to no improvement on Pepco's system performance in 2010. Not only do the lights continue to flicker and go out on dry, sunny, windless, low humidity and low temperature days, but the District also found itself in the midst of several snowstorms, a prolonged heat wave and a few summer storms which knocked the power out for tens of thousands of customers. Needless to say, Pepco customers and the District Council have become increasingly frustrated with the poor service Pepco provides.

OPC believes certain actions may spur Pepco to take its reliability more seriously and give consumers the service they expect and pay in rates to receive. Before the District Council and in pleadings before the D.C. Public Service Commission (DC PSC), OPC recommended:

- (1) Strengthening and modifying the PSC's current electric quality of service standards (EQSS) for reliability. The current calculations for setting the reliability benchmarks are neither ensuring nor encouraging PEPCO to improve its reliability;
- (2) Adopting provisions for financial penalties in the EQSS. One way to ensure Pepco invests in improving the distribution system would be to tie its performance to financial penalties;
- (3) Reducing Pepco's authorized return on equity (ROE) to reflect its poor performance. When Pepco's performance is poor, it is reasonable for the utility and its shareholders to be held responsible for that poor performance in the form of a reduced ROE. This is, after all, the keystone of the utility's public obligation. This ratemaking mechanism appropriately shifts the burden of poor reliability from the consumers to Pepco. At the same time, receiving a reduced ROE due to poor performance should spur Pepco to perform better in the future;
- (4) Requiring a full management audit of all public utilities operating in the District so that the management, operations, emergency response, computing systems and every aspect of a utility's processes, in this case Pepco, can be evaluated and improved;
- (5) Amending the provisions of the District Code to include the word "reliable" to clarify the DC PSC's obligation to ensure public utilities provide reliable service; in other words, service that is "safe, reliable and adequate."

OPC believes the recommendations, if implemented, will address lingering concerns and be meaningful steps in improving electric service to District consumers.



OPC Testifies Before the Council of the District of Columbia on Power Outages and Recommends Legislative Action

After consumers raised concerns following a severe heat wave resulting in power outages, the District Council convened a roundtable on July 14, 2010, to examine the cause of power outages, measures to prevent outages, the governmental response to outages, and accommodations for consumers affected by outages.

OPC recommended the District Council: (1) approve legislation requiring the PSC to consider service quality and reliability in public utility proceedings for the purpose of determining a utility company's allowed return on equity; (2) clarify the PSC's authority to impose and receive a civil penalty if a public utility violates any Commission rule, order, or regulation; (3) approve legislation requiring the PSC to impose a civil penalty if a public utility violates the Commission's quality of service standards; (4) conduct periodic oversight hearings to consider the performance of public utilities operating in the District of Columbia; (5) require public utilities to provide education on the process for submitting claims for damages sustained by a utility's operations; and (6) require the PSC to undertake a full management audit of PEPCO's distribution service operations in the District of Columbia. OPC made similar recommendations at a second public roundtable on September 30, 2010, to examine a study released by the PSC addressing the feasibility and reliability of undergrounding electric distribution lines in the District of Columbia and the reliability of the electric grid in the District of Columbia.

OPC Testifies Before the Council of the District of Columbia on AMI Deployment

In June 2009, the District Council enacted the Advanced Metering Infrastructure Implementation and Cost Recovery Authorization Emergency Act of 2009 which authorized Pepco to deploy an advanced metering infrastructure (AMI) and establish a regulatory asset to accrue AMI costs net of the \$44.6 million in federal grant received from the American Recovery and Reinvestment Act of 2009. The legislation authorized the Commission to review the prudence of accrued AMI costs and required PEPCO to net any utility cost savings resulting from AMI deployment. Pepco commenced AMI deployment in 2009.

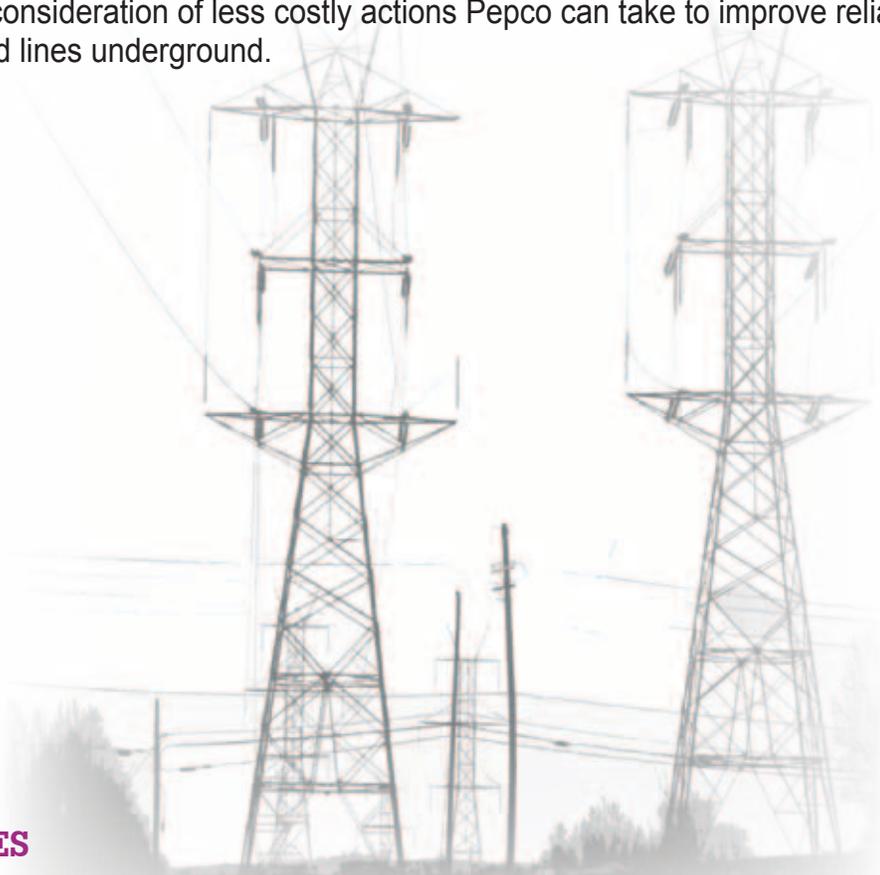
On October 27, 2010, the District Council convened a public roundtable to discuss the status of AMI deployment and allow the public to share any concerns about this new technology. OPC asked the District Council to amend D.C. law to require the PSC to: (1) select a third party to conduct an end-to-end test of the AMI network prior to the implementation of dynamic pricing in 2013; (2) establish a proceeding to set benchmarks to evaluate the costs and benefits associated with the deployment of AMI; (3) adopt enhanced consumer protections prior to the implementation of dynamic pricing in 2013; and (4) review the current net metering rules in light of the changing circumstances AMI presents to consumers who are investing in distributed generation facilities.

OPC Seeks Further Analyses Regarding Undergrounding the Overhead Distribution Lines in the District

For the past seven years since Hurricane Isabel caused massive power outages in the District, many have questioned whether placing utility lines underground would improve system reliability given the impact that trees and tree limbs have on overhead lines. In February 2008, the D.C. PSC accepted OPC's recommendation for the Commission to authorize an independent and impartially conducted study to consider the feasibility and reliability of putting above ground utility lines and cables underground. In July 2010, the PSC filed its Undergrounding Report performed by Shaw Consultants International, Inc. and requested public comments on the report. OPC filed Comments on the Undergrounding Report in October 2010.

Undergrounding Pepco's entire overhead system is estimated to cost more than \$5 billion. OPC believes there are not enough tangible benefits, particularly with regard to reliability improvements, to justify this significant cost to consumers. OPC acknowledges that undergrounding may be preferred for other reasons, such as the aesthetics of not seeing poles and wires and less trimming of the tree canopy. However, this type of decision should be made by the District as a whole, not by the Commission. If the residents of the District want the existing overhead system to be put underground, the District Council can legislatively mandate and use taxpayer funds to take such action.

As to selective undergrounding, OPC believes more analyses must be performed before the PSC mandates it. If the PSC wants to consider targeting certain poorly performing overhead areas, OPC believes it should undertake this type of resource planning, which would incorporate Pepco's planning, the PSC's directives and the impacts undergrounding will have on the District and its consumers, in a separate docket subject to full discovery and evidentiary hearings. This docket should also include the consideration of less costly actions Pepco can take to improve reliability short of placing overhead lines underground.



OPC Monitors SEU Activities to Ensure Ratepayers Receive Maximum Benefits

As a statutory member of the Sustainable Energy Utility (SEU) Advisory Board, OPC has been an active participant. Since the first official meeting of the SEU Advisory Board on September 14, 2009, OPC has attended every meeting of the SEU Advisory Board. As of June 6, 2011, OPC has spent approximately 230 hours attending meetings of the Board and its subcommittees as well as in reviewing SEU Advisory Board matters and preparing for meetings.

In 2010, OPC assisted in the development of a Request for Proposal (RFP) for an entity to create and establish the Sustainable Energy Utility, including performance benchmarks for the selected contractor to meet. The RFP was issued on July 2, 2010.

Under the SEU contract, at a minimum the SEU must reduce energy consumption and peak electricity demand, increase renewable energy generating capacity, and increase the number of green-collar jobs in the District of Columbia. While the Sustainable Energy Trust Fund (SETF), funded by a surcharge on consumer bills, is the primary source of funding for the SEU, funding for the SEU can also be obtained from other sources available to the Mayor, including federal funds, private funds, subject to approval by the District Department of the Environment (DDOE), and other District funds. No entity had been selected to be the SEU contractor by December 2010.

Protecting the SETF was also a focus of OPC's advocacy as an SEU advisory board member in 2010. OPC was vocal, on behalf of the District's ratepayers--the primary source of the multi-million funding for the District of Columbia's energy efficiency efforts--in promoting fiscal responsibility. When OPC learned of the possible transfer of SETF funds to be used for other purposes, OPC expressed its concerns in an April 21, 2010 letter to DDOE. OPC stated "[T]he Sustainable Energy Trust Fund is the sole funding source for energy efficiency programs in the District of Columbia and is funded by District of Columbia ratepayers. OPC thus remains concerned the use of the SETF be consistent with the objectives of the Act. The Office understands the FY 2011 Budget Support Act of 2010 proposes to reduce some funding of energy efficiency programs in the District of Columbia. OPC stands firm in its commitment the SETF be used to meet the objectives of the Act." Ultimately, the FY Budget Support Act of 2010 authorized the transfer of funds from the SETF to the District's General Funds.

OPC will continue to actively participate on the SEU Advisory Board to ensure ratepayers derive maximum benefits from the SEU they pay for through the SETF surcharge.

DCSEU

DISTRICT OF COLUMBIA SUSTAINABLE ENERGY UTILITY



OPC Monitors WG's Hexane Activities and Recommends Changes in WG's Reporting Requirements

In December 2009, the PSC approved the settlement agreement entered into between OPC and Washington Gas (WG) which directed WG, among other actions, to encapsulate or replace certain vintages of mechanical couplings and authorized WGL to recover hexane costs. Hexane is a commodity WGL injects into its distribution system to ameliorate the deleterious effect of liquefied natural gas on mechanical couplings and mechanical pipes.

In March 2010, WG filed proposed tariff amendments to recover costs of its program to replace and encapsulate vintage couplings. WG also filed its Master Plan to implement the replacement and encapsulation activities as the PSC directed. OPC concluded the proposed tariff amendments complied with the settlement agreement, but WG's Master Plan did not. Specifically, OPC found the Master Plan did not provide enough information for WG to manage the program. The Master Plan needed to include more detail such as street and block numbers, starting and completion dates and estimated project costs, so the PSC, OPC and other stakeholders will have a more complete picture of WG's activities. Moreover, OPC views the program's implementation as an opportunity for all parties to obtain more information about what WG is doing and the specific causes of the mechanical coupling failures. OPC recommended WG provide additional information to the PSC and OPC prior to the two-year review provided in the settlement agreement.

In October 2010, OPC filed comments on WG's annual report on the coupling replacement and encapsulation program. OPC concluded the annual report's data indicated that only a fraction of the planned activities had been accomplished and an even smaller fraction of the costs associated with the planned activities had been booked as of July 31, 2010 and August 31, 2010. OPC found the report was of extremely limited value at that time and requested the PSC direct WG to re-file an updated annual report that includes actual data, numbers and costs as of October 31 of each year. WG did not object to changing the filing date. In November 2010, the PSC directed WGL to re-file its 2010 annual report by December 15 and to file subsequent annual reports by December 15.

OPC will continue to protect the safety of District consumers by ensuring WG is honoring its commitment to replace and encapsulate vintage couplings.





OPC Successfully Advocates for the Denial of Washington Gas' Decoupling Mechanism Proposal

District consumers will not be required to pay Washington Gas (WG) an incentive to implement energy efficiency measures because OPC successfully advocated for the Commission to deny WG's proposed Revenue Normalization Adjustment (RNA). As proposed, the RNA is a decoupling mechanism designed to retroactively change customer bills on a monthly basis to true up revenues to reflect the effects of weather and conservation. The Company testified this adjustment was necessary to stabilize WG's revenues and better align its rate structure with its cost structure.

In May 2010, OPC recommended the Commission reject WG's proposed RNA mechanism. OPC asserted the RNA would not address WG's claimed problem that its current, volumetric rate design is a disincentive to WG's implementation of energy efficiency measures and thus not allow it to recover its volumetric-based fixed costs. Specifically: (i) WG did not show that energy efficiency caused a decline in natural gas consumption among its District of Columbia customers; (ii) WG's testimony and data responses did not support its claim that it was experiencing financial "stress" as a result of its volumetric rate design; (iii) WG did not offer to undertake an enforceable commitment to implement energy efficiency measures in return for RNA approval; and (iv) in the absence of any effort by WG to implement meaningful energy efficiency initiatives, the RNA stood a better chance of reducing, rather than increasing, conservation efforts by WG customers. The Commission agreed with OPC and denied WG's RNA mechanism request in December 2010.

WG asked the Commission to reconsider its decision. OPC opposed WG's request stating the Commission correctly rejected WG's proposed RNA, finding that it is "more appropriate to investigate the potential implementation of a revenue decoupling mechanism in the context of a base rate case proceeding." A decision on WG's request is pending.

OPC Participated in the Working Group that Recommended and Monitored Universal Service Enhancements

OPC participated in the D.C. Universal Service Working Group that considered new methods of qualifying consumers for Universal Service and ways to conduct more effective education all outreach to increase the number of participants in the telephone discount program. Universal Service is a telecommunications program administered by the Federal Communications Commission and is designed to assist consumers with economic challenges to have access to basic telephone service. The Universal Service Working Group in the District of Columbia advises the District of Columbia Public Service Commission on how to administer the local universal service program known as Lifeline service. In 2010, the Working Group considered amendments to the Universal Service rules to allow consumers who qualified for other social service programs to automatically qualify for Lifeline Service. The Commission is still considering this proposal.

Also in 2010, the District Department of the Environment's Energy Office (DDOE)--the agency responsible for qualifying Lifeline participants--relocated to the same building with the District Department of Human Services--the agency responsible for administering the District's social services programs. This move was made in order to make it easier for families seeking assistance to apply for all programs at one time in one place. The Working Group will monitor and track the numbers of consumers subscribing to Lifeline Service to determine the effectiveness of DDOE's relocation in increasing Lifeline participation.

In late 2010, NationsLine began offering its Lifeline and basic service package to District consumers beginning in late 2010. According to NationsLine representatives, consumers are pleased to have a second provider of Lifeline service in the District of Columbia.

OPC Urges PSC to Adopt District-Specific Code of Conduct Immediately to Provide Broader Protections for the District's Utility Consumers

The goal of a District-specific code of conduct is to prevent undue preference or cross-subsidization among energy utilities and their affiliates, prevent consumer confusion about the identity of regulated utilities and their unregulated sales affiliates, and ensure consumers make informed and intelligent selections based on knowledge and understanding, not confusion and lack of information. OPC has consistently maintained this position since 2000 and has addressed this issue both in comments on changes to the rules and in formal cases where utilities have requested additional revenues associated with affiliate transactions.

In 2010, OPC twice filed comments on versions of a proposed District-specific code of conduct issued by the Commission. OPC reiterated its concern that consumers should not subsidize the unregulated activities of regulated utilities. OPC also noted that a paradigm shift has occurred since 2001 when the PSC first began considering a District-specific code of conduct. Pepco's deployment of advanced metering infrastructure composed of advanced communications and electric components will radically alter the means of delivering electricity and communicating with consumers. This convergence of technology and service delivery will blur the boundaries between regulated and unregulated services thus prompting the need for more clarity in the applicable rules.

OPC's request for an immediate adoption of a code of conduct governing affiliate transactions for the District and a motion requesting the PSC adopt a code of conduct now to provide broader protections to the District's consumers are currently pending before the Commission.

OPC Directorate

The Directorate includes Interim People’s Counsel Brenda K. Pennington, Esq., her Staff Assistant, Chery Morse, and the management team of Sandra Mattavous-Frye, Esq., Deputy People’s Counsel and Director of Litigation; Brian Edmonds, Esq., Director of Operations; Herbert Jones, Manager, and Associate People’s Counsel Karen Sistrunk, Esq., Consumer Services Division. The Directorate determines policy consistent with the Agency mission and provides legislative analysis and assistance on utility matters to the Executive and the Council of the District of Columbia.

OPC Advocates for and Represents Consumers: Litigation Services Division

The Litigation Services Division 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, preparing aspects of each case, coordinating outside counsel, and marshaling various expert technical witnesses.

OPC’s Ability to Function Effectively

The Operations Division 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.

OPC Technology

Management Information Systems (MIS), 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. MIS is responsible for updating and monitoring OPC’s website, www.opc-dc.gov, is also a product of the Division.

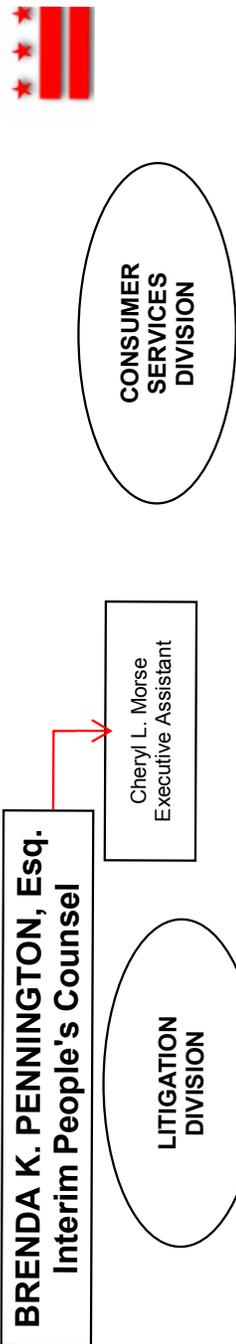
OPC Consumer Education and Outreach: Consumer Services Division

The Consumer Services Division 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 demonstrating the need for a policy shift or legal change.



ORGANIZATIONAL CHART
 Office of the People's Counsel
 for the District of Columbia
 FY 2010



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DIVISION

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LAN MGR

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Public Policy Analyst

Jean Gross-Bethel
Consumer Outreach
Specialist

31 OPC
02 OCFO
33 FTEs

OCFO
Accounting and Disbursing Analyst
Budget Analyst

SOURCE OF FUNDS

Funds for the Office are provided through two sources. The appropriated budget provides for administrative and general operating expenses (rent, salaries, equipment) of the Office and is authorized by the D.C. government in the governmental budget review process. Assessment funds are used to pay the costs of litigation and investigations. The costs are directly assessed to the affected utility.

Operating Budget

Appropriated funds are also used to support such additional activities as: 1) representing the interests of District consumer before the Council, the Congress and federal courts and agencies; 2) conducting independent investigations or audits of utility companies; 3) monitoring the implementation of utility rates; and 4) providing technical assistance to community groups. By law, these funds must be reimbursed to the District by the three regulated utility companies and the alternate energy and telecommunications providers according to an established formula as outlined in the Public Utility Reimbursement Fee Act, D.C. Code § 34-912(b)(1).

Formal Case Assessments

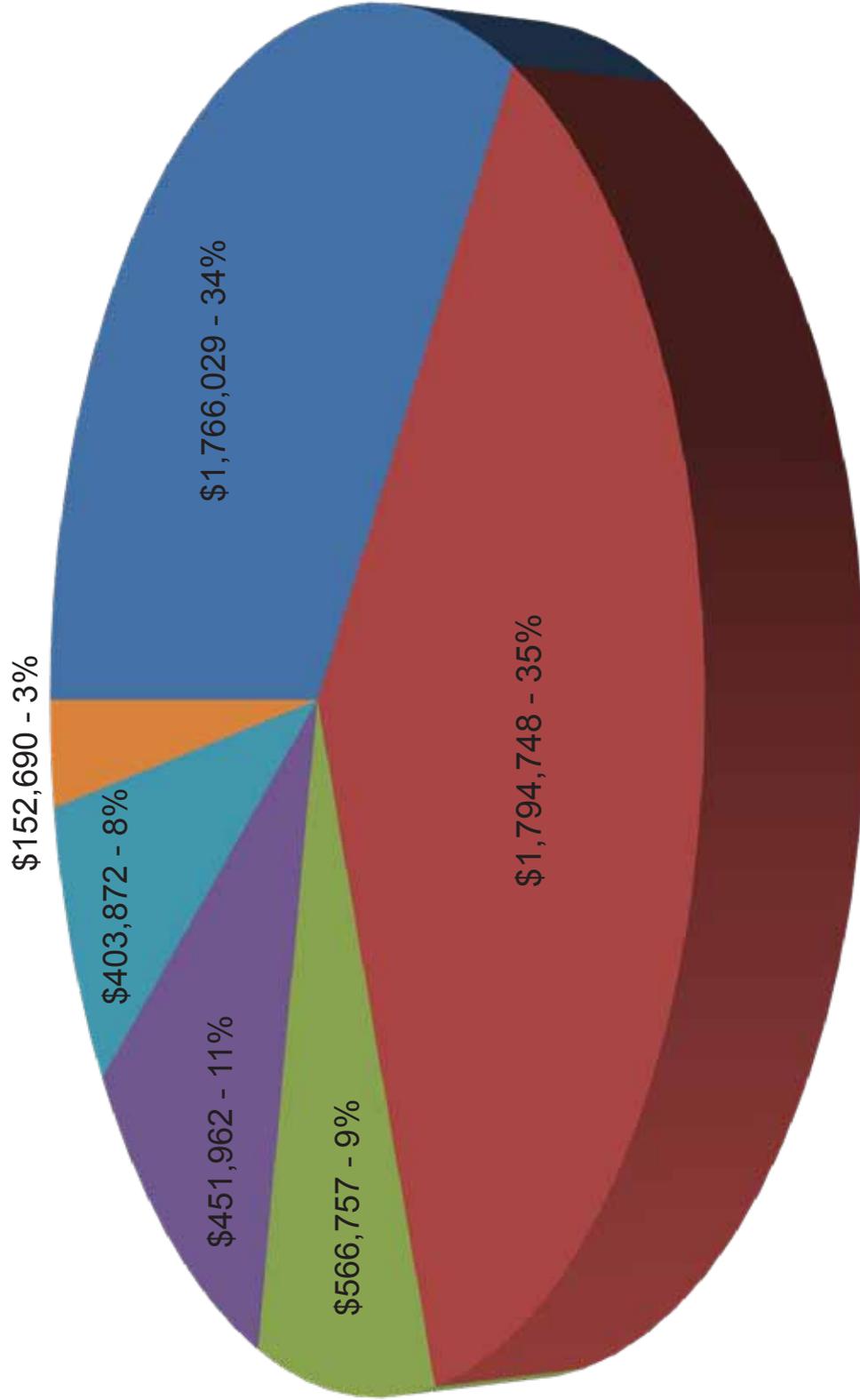
To fully participate in complex litigation before the Public Service Commission and the courts, the People's Counsel is authorized to retain the professional services of attorneys and expert technical consultants such as economists, accountants and engineers, as needed to effectively represent D.C. utility consumers. By law, the affected utility company is required to pay the costs of regulatory litigation of the Office through a special franchise tax. This applies to the PSC as well. D.C. Code § 34-912 (a)(1). In turn, the law recognizes the utility may include these costs, as well as its own litigation-related expenses, as operating expenses which are an element of rates.

There are monetary limits to the assessments of the utilities by the Office. With respect to rate cases the Office is permitted to assess no more than a total of one-quarter of one percent of a company's District revenues. With respect to all other cases or investigations (those not involving the setting of rates), the Office is permitted to assess one-twentieth of one percent of all investigations of a company per year.



Assessments of Utilities, Alternative Energy & Telco Providers for OPC's FY 2010 Operating Budget

■ PEPCO ■ Alternative Electric Providers ■ Washington Gas ■ Verizon ■ Alternative Gas Providers ■ Competitive Local Exchange Carriers



Company	Assessment	% Share
PEPCO	\$1,766,029	34.38%
Alternative Electric Providers	\$1,794,748	34.94%
Washington Gas	\$451,962	8.80%
Verizon	\$566,757	11.03%
Alternative Gas Providers	\$403,872	7.86%
Competitive Local Exchange Carriers	\$152,690	2.97%
Total	\$5,136,058	100.00%



OPC Receives High Rating For Its FY 2010 Language Access Activities

The D.C. Language Access Act of 2004 (Act) requires OPC to provide the District's limited and non-English proficient (LEP/NEP) residents with greater access to and participation in their programs, services and activities. OPC's efforts to provide these residents greater access resulted in OPC being one of four District agencies out of 33 to receive an Above Average performance rating for FY 2010 compliance with the District's Language Access program. OPC is proud of this achievement.

To ensure compliance, OPC assesses the need for and offers oral language services; provides written translation of vital documents into any non-English language spoken by an LEP/NEP population that constitute 3% or 500 individuals, whichever is less, of the population served or encountered, or likely to be served or encountered by OPC; establishes and implements a plan to implement its language access activities on a biennial basis; and identifies a Language Access Coordinator.

District agencies are evaluated on several requirements that include a determination of whether they establish a biennial language access plan, identify a Language Access Coordinator, collect data on the languages spoken by the agency's LEP/NEP clients on a quarterly basis, provide oral interpretations to LEP/NEP populations, translate contents of agency's archive of vital documents, conduct recruitment activities for bilingual staff, conduct specific training for staff, conduct outreach activities to each LEP/NEP community, conduct a minimum number of public meetings, submit mandatory quarterly reports and attend mandatory quarterly meetings.

OPC strives to provide all District utility consumers with quality service. Given the requirements of the Act, OPC will seek ways to improve its information, education and advocacy services on public utility issues to the District's LEP/NEP community.



January 2010

Outreach Barbara Chambers Children's Center
D.C. Council, Committee on Public Service and Consumer Affairs – Public Hearings
“What’s Right” and “What’s Wrong” with Utility Services in the District of Columbia
Outreach DC Statewide Independent Living
Outreach Emmaus Services for the Aging Asian & Pacific Islander Senior Center
Outreach Ethiopian Community Services and Development Council, Inc.
Outreach Jubilee Housing, Inc.
Outreach Martha’s Table, Inc.
Outreach William B. Powell Elementary School
Outreach Harriet Tubman Elementary School
Outreach La Casa Community Center (Latino Federation)
Outreach Ethiopian Community Services and Development Council, Inc.
Outreach Vietnamese-American Community Service Center

February 2010

Outreach Advisory Neighborhood Commission 4C07
Outreach Greater Washington Hispanic Chamber of Commerce
Outreach Hope and A Home
Outreach Rittenhouse Tenants Association

March 2010

Outreach CentroNía
Outreach D.C. Commission on Persons with Disabilities/Developmental Disabilities Council
Outreach Department of Disability Services/Rehabilitation Services Administration and
General Populations BR-IL
Outreach District of Columbia Statewide Independent Living
Outreach Federal Communications Commission Headquarters
Outreach Powell Elementary School

April 2010

Outreach Advisory Neighborhood Commission 1D
Outreach Advisory Neighborhood Commission 3G02
Outreach Advisory Neighborhood Commission-1B
Outreach Advisory Neighborhood Commission 8A01
DC Federation of Citizens Association
Outreach District of Columbia Courts
Outreach Dupont Park Civic Association
Outreach Outreach Fairlawn Citizens Association
Outreach Far SE Family Strengthening Collaborative, Inc.
FiOS Ward Forums
Outreach Ft. Lincoln Civic Association
Outreach Greater Washington Hispanic Chamber of Commerce
Outreach Neighbors’ Consejo
Outreach The Mayor’s Office on Latino Affairs (OLA)

May 2010

Outreach Advisory Neighborhood Commission 1B
Outreach Advisory Neighborhood Commission 1C
Outreach Advisory Neighborhood Commission 2B
Outreach Advisory Neighborhood Commission 3D
Outreach Advisory Neighborhood Commission 5D
Outreach Carlos Rosario International Career Center & Public Charter School
Outreach Change, Inc & Housing & Community Development
Outreach Dialogue on Diversity at the American Federation of Teachers
Outreach Emmaus Services for the Aging Asian & Pacific Islander Senior Center
Outreach Housing Counseling Services, Inc.
Outreach Latino Federation of Greater Washington
Outreach Mayor's Office on Asian and Pacific Islander Affairs (OAPIA)
Outreach National Association of Retired Federal Employees
OPC Key Community Leaders Briefings
Outreach Powell Academic Campus
Outreach Brightwood Community Association
Outreach Ward 6 Older Americans Month Celebration
Outreach Washington Seniors Wellness Center

June 2010

2nd Annual DC Housing Expo and Foreclosure Clinic
Outreach Advisory Neighborhood Commission 2E
Outreach Advisory Neighborhood Commission 6A
Outreach Brookland Neighborhood Civic Association
Outreach Debre Selam St. Mary Cathedral Church
Outreach Ethiopian Community Center, Incorporated
Outreach Fairlawn Citizens Association
Outreach Latin American Youth Center (LAYC)
Outreach North Michigan Park Civic Association
Outreach People's Co-Op Association Incorporated
Outreach Shrine of the Sacred Heart
Outreach Thurgood Marshall Center

July 2010

Outreach Mt. Pleasant Solar Cooperative
Outreach DC Federation of Civic Association
Outreach Neighbors' Consejo
Outreach Emmaus Services for the Aging & Pacific Islander Senior Center
Outreach Mary's Center for Maternal & Child Care

August 2010

Outreach Advisory Neighborhood Commission 1A
Outreach Advisory Neighborhood Commission 1B
Outreach Advisory Neighborhood Commission 1C
Outreach Emmaus Services for the Aging Asian & Pacific Islander Senior Center
Outreach Ethiopian Community Center, Inc., at the Washington Ethical Society
Outreach Mount Pleasant Neighborhood



August cont'd

National Association of Town Watch (Liaison Unit) and the Metropolitan Police Department
OPC Day in Ward 5
OPC/Verizon FiOS Education Forum
Outreach Pleasant Hills Community Partnerships Day
Outreach The National Night Out Campaign

September 2010

Outreach Trinity Washington University
Outreach CARECEN
Outreach Latin American Youth Center (LAYC)
Outreach Advisory Neighborhood Commission 1D
Outreach Department on Disability Services, Rehabilitation Services Administration – General Populations VR-IL
Outreach DC Center for Independent Living, DC Statewide Independent Living Council & Mid-Atlantic ADA Center
Ward 4 Pepco System Upgrade Plan
DC Tenant and Tenant Association Summit
Ward 3 Mary Cheh Back to School BBQ
Outreach Center for Green Urbanism
Outreach D.C. Language Access Coalition Meeting

October 2010

Outreach Bell Multicultural High School
Outreach Lincoln Middle School
Outreach Office of Disability Rights - Martin Luther King, Jr., Memorial Public Library
Outreach Advisory Neighborhood Commission 1C
OPC Energy Efficiency Expo 'In-A-Box'
OPC Smart Meter Education Workshop
Outreach Emery Seniors Recreation Association
Outreach DC Democratic Women's Club
Outreach Advisory Neighborhood Commission 4C
Outreach Washington Seniors Wellness Center
Outreach Kojo Nnamdi Radio Show

November 2010

Outreach Advisory Neighborhood Commission 8E
Outreach Big Brothers & Big Sisters of The National Capital Area
Outreach Carlos Rosario International Public Charter School
Outreach Housing Counseling Services
OPC/Dupont Park Civic Association Smart Meter Education Workshop

December 2010

Consumer Leadership Forum Mission
Outreach DC Commission on Persons with Disabilities/Office on Disability Rights
Outreach Dialogue on Diversity
Outreach Ethiopian Orthodox Tewahido Religion, Debre Selam Kidest Mariam Church
OPC/D.C. Office on Aging and D.C. Commission on Aging Smart Meter Education Workshop



NOTES:

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