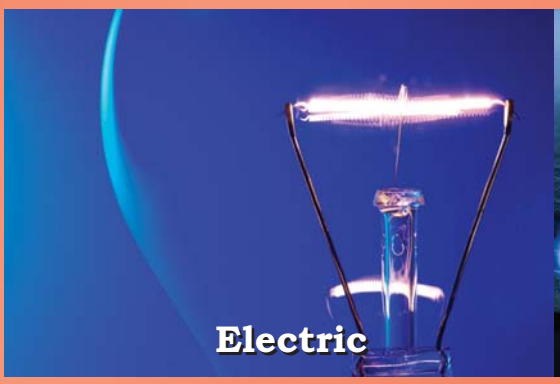
# Office of the People's Counsel for the District of Columbia

## Annual Report 2009



*A Year of Educating, Advocating, and Protecting D.C. Utility Consumers and Ratepayers*

1133 15th Street NW, Suite 500 Washington, DC 20005
Phone: 202.727.3071 TTY/TDD: 202.727.2876 Fax: 202.727.1014
Website: www.opc-dc.gov Email: ccceo@opc-dc.gov

Education Protection OPC - DC Advocacy

# Table Of Contents


| | |
|---|---|
| Message from Mayor Adrian M. Fenty | 1 |
| Letter From Interim People's Counsel Brenda K. Pennington | 2 |
| Tribute to People's Counsel Elizabeth A. Noel | 4 |
| Consumer Education, Outreach & Complaints | 7 |
| Energy | 17 |
| Telecommunications | 35 |
| Organizational Structure | 37 |
| Agency Funding | 41 |
| Where We've Been | 43 |
| Professional Development and Education | 46 |
| What People Are Saying about OPC | 47 |

ADRIAN M. FENTY
MAYOR

February 23, 2010

Dear District Residents:

It is my pleasure to present the 2009 Annual Report of the Office of the People's Counsel.

The District of Columbia Office of the People's Counsel (OPC) is mandated to provide consumer education and advocacy on utility issues affecting rates, quality of service, competitive choice and consumer safeguards.

In 2009, OPC worked to expand consumers' awareness of strategies to reduce energy consumption. OPC's DC Energy Expo and its participation in Joint Utility Discount Day brought valuable energy information to thousands of consumers. In addition, OPC's regulatory work to monitor jurisdictional revenues, scrutinize utility infrastructure plans, review quality of service, and demand higher reliability to reduce augmented the District's business and economic development goals.

I have the utmost confidence that throughout 2010, the Office of the People's Counsel will continue to build its strong tradition of advocating stable, affordable rates and reliable utility service for District residents.

Sincerely,

Adrian Fenty
Mayor

**Dear D.C. Utility Consumers and Ratepayers,**

As Interim People's Counsel, I present to you the 2009 Annual Report of the Office of the People's Counsel. The Report highlights OPC's activities and accomplishments in furtherance of the Office's mission to provide effective consumer education and advocacy on your behalf regarding utility issues affecting your quality of life.

2009 was a challenging year for ratepayers and consumers given the continual rise in energy costs, concerns about electric meter reading and unexpected high bills, service reliability concerns resulting from increasing unplanned electric power and telephone service outages. The Office, however, met these challenges through zealous advocacy for the protection of ratepayers' right to safe, adequate and reliable service at just and affordable rates. OPC's advocacy efforts were strengthened by the strong support of consumers who proactively voiced their concerns on utility issues to the Office, the Public Service Commission and the D.C. Council through phone calls, consumer complaints, written letters, emails, and written and oral testimony presented at public hearings.

As highlighted in the pages to follow, the Office remained steadfast in its commitment to educate and encourage consumers to become more energy efficient, to control their energy costs and reduce their carbon footprint for a more sustainable future. The 14th Annual Home Energy Expo, co-sponsored this year with the District Department of the Environment, was a huge success, educating more than 1,000 consumers and residents in attendance about state of the art energy efficiency technology, how to deploy it, and how to receive grants and funding to get these resources into their homes.

OPC's efforts to enable consumers to use energy more efficiently were evidenced through our work to aid in developing and implementing the requirements and process for selecting the Sustainable Energy Utility (SEU). This new legislation requires an independent third party (SEU) to implement and oversee energy efficiency and renewable energy programs in the District.

In response to major changes in the delivery of utility services locally and throughout the nation, OPC has worked tirelessly to educate its staff and consumers on the workings of the Automated Metering Infrastructure (i.e., Smart Meters) authorized by law to replace ratepayers' existing electric meters and to prepare the District of Columbia to fully benefit from the emerging Smart Grid. OPC, in conjunction with the Public Service Commission, the Consumer Utility Board, and Pepco served as a board member of the Smart Meter Pilot Program Initiative (SMPPI).

SMPPI was in fact the brainchild of the Office of the People's Counsel and was designed to make clear the challenges of introducing smart meter technology into the Pepco electric delivery system in advance of full scale launch of the technology.

It is an honor to serve you, the ratepayers and the consumers of the District of Columbia, as Interim People's Counsel. Under my leadership, and with your continued support, OPC will continue to advocate unflinchingly for quality service at affordable rates through both litigation before the PSC and legislation before the DC Council. In addition, I pledge to use every resource available to empower consumers through education on utility issues and services significantly impacting quality of life in our community, such as Verizon's FiOS and Pepco's smart meters.

I look forward to serving and working with you!

Respectfully submitted,

Brenda K. Pennington
Interim People's Counsel

# Tribute to People's Counsel Elizabeth A. Noël

Elizabeth ("Betty") A. Noël served an unprecedented five terms as People's Counsel for the District of Columbia. Her departure signaled both a beginning and an end of an era that has seen and continues to see tremendous changes in the utility regulatory arena. What did not change was the excellence and vigor of Betty's advocacy on behalf of D.C. ratepayers and consumers. What did not change was her commitment to educating consumers and ensuring meaningful outreach to all eight wards. What did not change was her commitment to uphold her statutory duty on behalf of ratepayers and consumers.

The legacy Betty left is a standard to which the Office will continue to seek to adhere. The Office, as in the past, will constantly strive to maintain the highest level of advocacy. We will continue to seek innovative ways and new forums to educate and to reach out to you, our clients.

There probably are very few people who understand utility law as well as Betty. Her vast knowledge encompasses the regulated and unregulated utility industries, electric, gas and telecommunications. She has a tremendous capacity for utility information and its nuances and applicability of the law. Her expertise, dedication and passion are widely known here, in other jurisdictions, and abroad.

Betty has a broad inquisitiveness born of the thirst for knowledge. Because of this, she was able to theorize informatively, knowledgeably support positions, and fashion thoughtful, sound and well-reasoned policy for the Office. She never failed to find an article or book or professional training that did not give rise to a need for further research or for new projects for staff. The truth is, we had difficulty keeping up with her!

When it came to utility trends, it could be said Betty had the proverbial "second sight." Her predictions, which were always based on her skills as a lawyer, trends in the industries, and knowledge, invariably came to pass.

For example, she knew with certainty that while municipal aggregation could possibly have benefitted D.C. ratepayers, it would not work if they had to opt in. Another example is Betty warning lawmakers, fellow advocates and utility executives that

deregulation would not benefit ratepayers. Sadly, both of these predictions were on target.

Teaching was a gift Betty used effortlessly. Staff frequently walked away from an "educable moment" with greater understanding or something new to ponder. This gift did not go unnoticed. The great Harry Trebing, then Director of the Institute of Public Utilities, Michigan State University, asked Betty to teach at the Annual Regulatory Program, which she did for several years. It is an honor of singular distinction to teach at "Camp NARUC" and to be asked by Harry Trebing. Everyone who sat in her class was amazed at what she knew and how skillfully she imparted that knowledge.

Betty has the courage of her convictions, and she demonstrated that countless times. Her policy initiatives were bold and innovative. All D.C. utility ratepayers have benefited greatly from her long tenure as People's Counsel of the District of Columbia. She fought tirelessly for D.C. ratepayers and consumers. We all owe her our gratitude, our appreciation, and most of all, our thanks for a tremendous job well done.

**Thank you Betty!**

# With Our Thanks For...

## Educating

## Advocating

## Protecting

...the residents of the District of Columbia.

## The Recession and High Energy Bills Lead to Record Consumer Complaints for OPC-DC

The effects of the global recession also affected the District. In 2009, unemployment in the nation's capital reached nearly 10 percent. The city's real estate market, an indicator of the District's economic health, slowed markedly. The metropolitan region's economy stagnated. In spite of the economic downturn, home energy rates increased. Ever increasing energy costs and higher bills created widespread dissatisfaction among utility consumers. As energy costs escalated, the quality of service provided by the utilities continued to decline. The total volume of complaints about energy services received by OPC-DC staff in 2009 was unprecedented. Spiraling costs, declining quality of service and problematic electricity and natural gas service infrastructure systems created a "perfect storm" of problems for the District's utility consumers.

OPC-DC staff received a combined total of 3,897 utility consumer inquiries and complaints in 2009. Of that total, there were 2,362 complaints about all utilities. Continuing a trend of the past several years, complaints about utility services from Spanish-speaking consumers increased, nearly doubling the number received in 2008. In 2009, 48 percent of the complaints were from Spanish-speaking consumers.

Utility consumers who either visited or called the Office may have had questions that did not require negotiations between OPC's consumer complaints staff and utility company representatives. These are considered "consumer inquiries." In those instances, OPC-DC staff provides information about other District government agencies' services, directs consumers to the appropriate resource, or provides a utility phone number. Consumer complaints, however, generally require negotiations between OPC-DC staff and utility company representatives to resolve disputes, primarily involving bills based on frequently estimated meter readings, service disconnection and reconnection, payment, and billing.

Over the past several years, consumers complained most frequently about Verizon's services. In 2009, however, complaints about Pepco services increased dramatically. The Office received 1,670 complaints about Pepco, the most the Office has ever received about Pepco. OPC–DC staff noted an "uptick" in Pepco complaints in November 2008. This was somewhat unusual, since the majority of complaints about Pepco generally occur during the summer cooling season. Furthermore, at least 75 percent of the District's ratepayers heat their homes with natural gas. That uptick in Pepco complaints became a full-fledged storm by January 2009. Pepco's high bill complaints resulted in the DC Public Service Commission docketing Formal Case No. 1071, "In the Matter of the Investigation of the High Energy Bills of the Potomac Electric Power Company – OPC Report on Unusually High Bill Investigation."

Billing disputes and payment problems typically are the primary causes of consumer complaints. However, in 2009, high bills became the most frequent cause for complaints.

Complaints about poor quality of service continued to increase, as well. Consumers' complaints about difficulty navigating utility companies' automated phone response systems, discourteous and poorly informed customer service representatives, coupled with increasingly higher bills and utility service systems failures caused mounting dissatisfaction and frustration among consumers. The District's utility consumers are feeling the effects of the nation's economic

recession through job loss and severely compromised household budgets. Yet, the costs of vital home energy and telecommunications services are increasing. The economic downturn and rising utility costs are taking their toll. Far too many of the District's senior citizens and low and moderate income consumers face the very difficult daily choices of paying utility, food or medical bills or rent or mortgage.

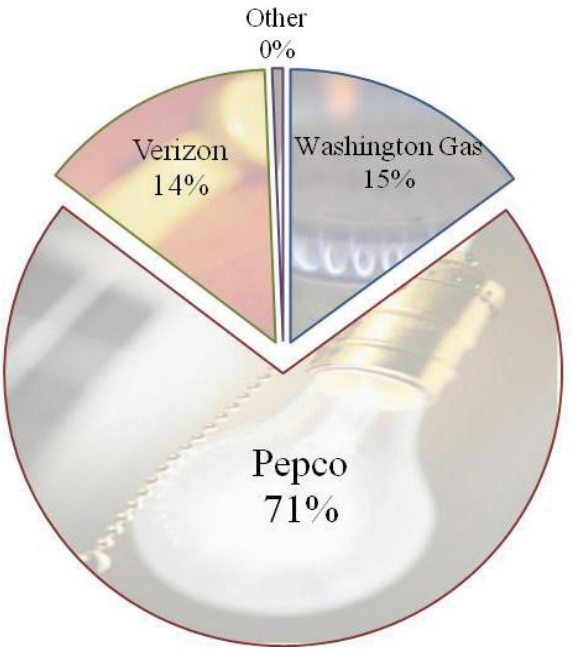
What Do the Numbers Mean?

**Verizon**
Verizon has received the most consumer complaints over the last several years. In 2009, however, Verizon accounted for 14 percent of the total complaints received and resolved. Billing disputes, difficulty scheduling repairs, high repair costs, poor quality of service, erratic Digital Subscriber Line service and limited access to customer service representatives were among the most frequent causes for Verizon complaints.

**Pepco**
Consumer complaints about Pepco accounted for 71 percent of all complaints received in 2009. The volume of complaints about high bills in particular and Pepco in general was unprecedented. Thirty seven percent of the Pepco complaints were about high bills. The causes for the high bills spike are still under investigation. Consumers also frequently complained about estimated meter readings, recalculated billing amounts, recurring power outages, an ineffective tree maintenance program and problems with the phone response system.

**Washington Gas**
Washington Gas accounted for 15 percent of the consumer complaints OPC-DC received in 2009. Billing disputes and service disconnections were the most frequent causes of complaints. Consumers also complained about ineffective customer service.

## COMPLAINTS BY THE NUMBERS



## Recession and High Energy Bills Lead to Record Consumer Complaints for OPC-DC

OPC-DC first learned of a string of high bill complaints due to an appearance by People's Counsel Elizabeth A. Noël on the Fox Morning News. Spurred in part by a Fox News producer who had unexplained estimated billing issues, the station aired a segment that led numerous consumers, claiming similar experiences, to call in. Familiar with the work of the Office from previous power outage-related stories, the station contacted OPC-DC for answers.

People's Counsel Noël told viewers OPC-DC had not yet heard from them and on air implored consumers to contact the Office directly. Viewers quickly responded, and hundreds of calls flooded the Office. Fortunately, OPC-DC's Consumer Services Division (CSD) had already set up processes to handle the influx of complaints. In a period of approximately two weeks, more than 450 consumers contacted OPC-DC about their billing issues.

CSD, with the help of other staff, conducted hundreds of interviews using a detailed survey instrument and worked at length to develop a matrix of complaint types, customer profiles, and geographic disbursement. OPC-DC also asked Pepco to create a special "task force" of Pepco staff to work directly with the Office's complaint resolution section. CSD staff continues communicating findings to consumers as the case progresses.

OPC-DC found that of the hundreds of calls received, roughly 400 actual "complaints" emerged. Most were directly related to unusually high bill amounts. Curiously, while approximately 75 percent of District residential customers heat with natural gas, these high electric bills were being received in the winter months by customers who generally did not heat with electricity. In many instances, the billing indicated they were using twice and even triple the amount of energy they had used historically during the same periods.

CSD continues working to resolve these complaints.

# OPC-DC Committed to Consumer Participation in the Regulatory Process

More than 45 consumers spoke at the 2009 October and November community hearings on Pepco's proposed rate increase. OPC-DC, as always, provided technical assistance to consumers able to come to the hearings and to those filing written letters to the PSC.

The majority of consumers spoke about Pepco's efforts to shift business risks from the Company's shareholders to ratepayers. Others criticized the Company for ignoring continuing brownouts in their communities and for not staying true to its mandate to provide reliable electric service. Consumers expressed their concern that Pepco's proposed rate increase would not guarantee more reliable service. In addition, consumers addressed estimated bills that appeared to be based on the highest possible consumption and no sense of urgency by the Company when contacted to correct errors. Most notably, consumers spoke of the catastrophic impact of incremental or arbitrary rate increases on seniors, persons with disabilities and families suffering through a recession, as well as the role and responsibility of governmental entities to recognize economic realities and to represent the interests of the public.

The community activist group, "Justice First," brought nearly a dozen witnesses who called for electric service to be considered a basic human right in a modern society and for an end to callous electricity shutoffs, citing the needs of the infirm and those living in poverty. The activists also decried Pepco's $54.7 million increase request, saying PHI earned "$10.7 Billion in 2008 ($300 Million profits) and paid its CEO $10 million or $27,000 per day."

# OPC-DC Participates in Joint Utility Discount Day 2009

More than 6,000 District residents applied for electric, gas, water and telephone service assistance through the Low Income Energy Assistance Program and Utility Discount Program grants during Joint Utility Discount Day (JUDD) 2009, a 26 percent increase from 2008. The event, held at the Walter E. Washington Convention Center, was co-sponsored by OPC-DC, Pepco, WG, Verizon DC, the Washington Water and Sewer Authority, the PSC and the D.C. Department of the Environment's Energy Office.

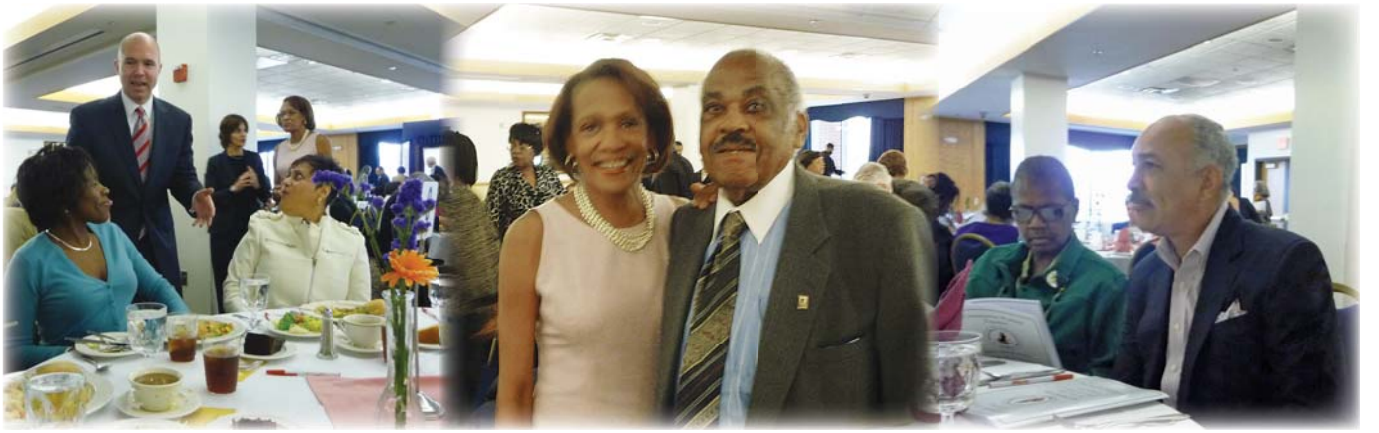
Once again, OPC-DC succeeded in making JUDD 2009 a "value added" event, inviting a variety of healthcare, social service and family counseling organizations to participate. Among the 16 exhibitors who provided information for JUDD applicants were the Mayor's Office on Latino Affairs, Big Brothers & Big Sisters of the National Capitol Area, AARP Legal Counsel for the Elderly, Change, Inc., and the D.C. Department of Employment Services.

People's Counsel Elizabeth A. Noël, speaking during the JUDD press conference, reminded JUDD applicants that "energy efficiency" remains the first defense against unmanageable energy costs and the goal to help the District become a best case example of a "green and sustainable" city continues.

# OPC-DC Names D.C. Federation of Civic Associations 2009 "Consumer Advocate of the Year"

On October 31, 2009, the Office named the D.C. Federation of Civic Association the 2009 "Consumer Advocate of the Year." During the awards banquet, Herbert H. Jones III, OPC-DC's Manager of Consumer Services, presented the award to the Federation for its work on behalf of the residents of the District, particularly given the overwhelming challenges brought on by regulatory shifts, business self-interests, and a prolonged recession. Mr. Jones noted the Federation's 88-year history of using the skill of its many member associations to influence policy and policymakers on behalf of the entire District. Member associations have long been active on utility issues, both by providing a forum for and information to their communities as issues evolve and by testifying at public hearings on behalf of their members.

The award recognizes the Federation's unseen work "in the trenches," digging into the legal and public policy issues no one really likes, but must get done so consumers continue to have reliable service at just and reasonable rates.



## OPC-DC Hosts Energy Expo 2009

On November 14, OPC-DC, with first-time co-sponsor, the District's Department of the Environment (DDOE), hosted the 14th Home Energy Efficiency Expo at the Walter E. Washington Convention Center. More than 1,200 area residents attended the event. This year's Expo theme – "Moving Towards an Energy Efficient DC" – embraced the District's initiatives for a "green" nation's capital. OPC-DC and DDOE partnered with the U.S. Department of Energy, PNC Bank, YMCA National Capital and Greenswitch/Ideal Energy Inc. to teach District residents about energy efficiency. Giant Food also donated re-useable grocery bags.

With today's increasing energy prices and the impact on consumers' heating and cooling bills, OPC-DC and DDOE designed Expo to educate consumers on how to reduce their home energy costs as they "go green." More than 60 vendors provided demonstrations on energy saving products, including high efficiency appliances and lighting, solar energy products, green roofing and insulation, and tankless hot water heaters, as well as information on green loan programs and the benefits of home energy audits. There were a variety of seminars during which presenters described various home energy efficiency and renewable energy programs and how the American Recovery and Reinvestment Act (AARA) "stimulus funds" can be used to improve home energy efficiency.

Energy Expo remains one of the District government's most popular and important events. As in the past, this year's Expo encouraged District residents to become more energy efficient and provided resources to help them make the District a "sustainable" city.

# 14th Energy Expo-
# 2009 Moving Towards and Energy Efficient DC

# OPC-DC Participates in Tenant Summit

On Saturday September 27, I and a team of OPC Staff participated in the Office of the Tenant Advocate's (OTA) first annual "Tenant Summit" at Gallaudet University's Kellogg Center. The Summit, designed as an intense one day seminar on advocacy within the government for tenant leaders, was the brainchild of Joanna Shreve, Chief Tenant Advocate, and Joel Cohn, Legislative Director.

I felt privileged to be "on stage" before the kindred spirits in attendance. My OPC team worked with the staff of the OTA to ensure our successful and substantive participation to the benefit of the 200 or more tenants and community leaders and three members of the D.C. City Council [Council member Jim Graham (Wd. 1) Council member Harry Thomas Jr. (Wd. 5) and Council member Mary Cheh (Wd. 3)] in attendance.

OPC's goal is to encourage (read: enable) OTA to step up to the challenge of "finding a way" to empower tenant/consumers and tenant/ratepayers to participate fully in energy efficiency initiatives and to reap the rewards for doing so.

OTA must also wrestle with the difficult balancing act of landlord incentivization to make their apartment buildings energy efficient, appropriate rent abatement for tenants if "sub metering" is deemed appropriate, and to otherwise, "find or make a way" for tenants to understand and accept their responsibility as part of the District's efforts to reduce its carbon footprint on this planet.

After all, approximately 55 percent of DC residents are renters. (And that is a 2007-2008 number.) If the megawatts associated with tenant energy consumption are not factored in to the "savings to be derived from energy efficiency" then, the SEU, Pepco's Blueprint and all the talk about the "Inconvenient Truth" about carbon emissions, is "mere talk" here in Washington, DC.

OPC is committed to working with OTA and the community to ensure tenants are included in this effort.

Again, I thank my OPC TEAM for giving up its' Saturday and for all the work performed to make OPC's participation a success. It was wonderful!!!!!

## D.C. Court of Appeals Rules Enforcement of PSC's Sanction of WG Belongs in Superior Court

OPC-DC filed a notice of intervention with the D.C. Court of Appeals supporting the Commission's orders imposing and upholding a $350,000 sanction for WG's willful violation of Commission rules and regulations.

While investigating WG's rate application in Formal Case No. 1054, OPC-DC requested a number of documents from WG, including its June 2007 contract with Accenture for business process outsourcing, which the Company objected to providing. OPC-DC requested the PSC compel the production of the documents. On July 23, the first day of the hearings, the PSC ordered WG to provide the documents to the parties by 5:00 pm that day. WG refused, so the PSC suspended the hearings. In a separate order issued on September 28, the PSC fined WG $350,000 for its failure to provide the Commission with a complete, unredacted copy of the Accenture contract for review when initially ordered. The Company appealed to the D.C. Court of Appeals.

The court concluded the Commission did not have the authority to enforce the sanction, holding the PSC must instead go to D.C. Superior Court to have the sanction enforced. The Commission has filed a motion, which is pending, requesting a rehearing before the entire court of appeals.

Timely resolution of the issue of how the Commission can hold utility companies accountable for knowing and willful disregard of PSC orders, rules and regulations is paramount. Without a clear understanding of the Commission's authority, utility companies can do as they please, and consumers will be adversely affected.

## OPC-DC Working to Ensure WG Purchases Gas at Lowest and Reasonable Rates

OPC-DC staff actively participates in the Gas Procurement Working Group to assure WG's gas procurement activities are reasonable and yield the lowest and reasonable costs to District consumers. One of the Office's tasks is to review and comment on WG's required biennial Gas Procurement Report (GPR). The report allows the PSC to monitor WG to ensure it is aggressively pursuing low cost gas supplies and taking full advantage of opportunities to maximize the reduction of its gas purchase costs.

In OPC-DC's January 2009 comments on the 2008 GPR, noting the ongoing changes in the gas industry, the Office asked the PSC to convene an evidentiary hearing on WG's gas procurement and related activities to evaluate the effect they are having on consumers' gas rates. The Office recommended at a minimum a hearing should address whether WG's gas procurement strategies are reasonable and whether the utility is pursuing a least-cost gas procurement strategy for its retail consumers.

Based on changed circumstances associated with WG's asset management activities, OPC-DC also asked the PSC to consider giving ratepayers more than 50 percent of the revenues WG receives for its asset management activities. An example of an asset is valuable pipeline transportation capacity or storage capacity. WG can enter into agreements with other parties who will pay to use these resources. These revenues are shared 50/50 between ratepayers and shareholders. Additionally, OPC-DC requested several revisions to the GPR reporting format to ensure transparency. Finally, OPC-DC requested the PSC address unresolved gas procurement issues such as requiring the filing dates for specific information coincide with the GPR filing.

The Office's recommendations are currently pending before the Commission.

## OPC-DC Strives to Ensure D.C. Natural Gas Consumers Have Safe Service

OPC-DC and WG entered into a settlement agreement to address the outstanding issues of hexane injections and safety concerns about WG's natural gas distribution system. The agreement provides for key safety and consumer education provisions that address OPC-DC's long-standing concerns about the vintage mechanical couplings affecting the majority of natural gas leaks in the WG system.

Over a seven-year period, the agreed upon program will focus on replacing aging mechanical couplings and service lines identified as susceptible to potential leaks. Washington Gas will replace 3.7 miles of mains per year and 495 service lines will be replaced or lined on an annual basis. The total cost of the project is not to exceed $28 million. OPC-DC and WG also agreed to conduct a joint consumer education forum on safety, the replacement program, and the hexane injection program.

This case dates to the winter of 2004, when consumers throughout the District experienced natural gas service disruptions due to water seeping into WG's natural gas distribution pipes. Early in 2008, the PSC directed WG and OPC-DC to prepare a procedural schedule and list of issues on the wisdom of WG's hexane strategy in light of Maryland's conclusions regarding the injection of hexane into the WG distribution system to stem the dramatic rise in mechanical coupling leaks. WG provided data alleging the introduction of liquefied natural gas into its system was causing certain mechanical couplings in underground pipes to fail. To remedy this circumstance, WG introduced hexane to stabilize the natural gas in its system.

On October 16, 2008, OPC-DC filed its report and recommendations on WG's leaks and the injection of hexane into its distribution system. One of the Office's main conclusions, reiterated in direct and rebuttal testimony filed in May and July 2009, was WG had not developed a plan to proactively address coupling leaks in the District. The settlement agreement directly addresses these concerns and provides a plan to proactively deal with the coupling leaks in D.C.

On October 2, 2009, OPC-DC and WG filed a joint motion of settlement with the PSC. The Commission held a public interest hearing on the proposed agreement on October 28, and approved the settlement on November 11.

## OPC-DC's Vigilance in Ensuring District Ratepayers Do Not Bear Costs They Do Not Cause

In September 2009, OPC-DC filed comments supporting WG's proposed tariff that would prevent firm customers from paying for service actually provided to another class of customers, interruptible customers. The Office agreed with WG that the utility's firm customers, those customers who receive natural gas service intended to be available at all times, should not subsidize costs caused by customers whose gas service can be curtailed on short notice, i.e., interruptible customers. In exchange for accepting gas service under the condition it can be interrupted on short notice, interruptible customers pay lower rates per therm than firm customers for natural gas. However, in practice, service is seldom interrupted. Accordingly, OPC-DC requested the PSC approve WG's proposal to revise its tariffs impacting interruptible customers so costs are properly allocated to that class of customers.

In its July 2009 application, WG proposed a new balancing fee to compensate the utility for using its storage system to adjust for differences between the amount of gas delivered and the amount of gas used by a customer on a daily basis. Additionally, WG proposed penalties for over or under delivery of gas by CSPs (competitive service providers) that will become effective for the first time. OPC-DC asserted it is important to have increased charges and penalties in place now to discourage undue reliance by interruptible customers on resources paid for by firm customers and to relieve firm customers of this unnecessary and unreasonable burden.

Additionally, OPC-DC recommended WG's proposed penalty structure be revised upward if gas prices increase, to discourage CSPs' willingness to pay penalties as the cost of doing business because the penalties are lower than the cost of interrupting. OPC-DC requested the PSC approve WG's application, provided the Commission determined WG's request is in the public interest. Specifically, that the proposed balancing charges and penalties eliminate cross-subsidization by firm customers and that WG's request be revised if increases in wholesale gas prices warrant changes to the balancing charges and penalties.

WG's application is still pending before the PSC.

## OPC-DC Opposes Guaranteed Revenues for Pepco Through a Bill Stabilization Adjustment

During the Commission's investigation of Pepco's Bill Stabilization Adjustment (BSA), OPC-DC opposed it because a decline in revenues due to colder or warmer weather than normal, consumer energy conservation efforts, energy efficiency improvements, system failures, weather-related outages, and/or adverse economic conditions would permit Pepco to recover any related lost revenues from District of Columbia ratepayers and consumers rather than shift the loss to shareholders.

The BSA essentially guarantees Pepco will earn its authorized revenues and rate of return, an outcome inconsistent with traditional ratemaking, which guarantees a utility only has an opportunity to earn a reasonable rate of return. Without the BSA, Pepco could always seek authority to increase its distribution service rates if it is unable to raise sufficient revenues to satisfy its operational costs.

Although the PSC approved the BSA in fall 2009, OPC-DC has recently challenged the decision based on the following legal errors:

- approving the BSA without providing any factual or reasoned basis for finding the BSA just and reasonable
- failing to find or to explain how the BSA will achieve its intended goals;
- failing to consider the evidence of record that as Pepco is a wires-only company, it is already effectively "decoupled"
- failing to address OPC-DC's evidence and arguments demonstrating the BSA will actually impede energy efficiency and conservation programs within the District
- failing to consider evidence the BSA will remove the economic incentive for Pepco to properly maintain the reliability of its distribution system
- approving as just and reasonable the BSA, which is a fundamental change in rate design that shifts all business risk to ratepayers and ignoring the BSA's likely adverse impact on the quality of service provided to District ratepayers

Pepco bears the burden of demonstrating the BSA is just and reasonable and that without it the Company cannot earn a reasonable rate of return. This burden has not been met, and any concerns Pepco may have about its ability to fund its distribution service operations can be cured by appropriate rate design focused on ensuring Pepco faces no impediment to collecting its distribution service operating costs.

In December, the PSC denied OPC-DC's challenge.

## OPC-DC Urges PSC to Reject Pepco's Request for Additional $51.7 Million in Revenues to Provide Distribution Service

In May of 2009, Pepco filed a rate case requesting $51.7 million in additional revenues, less than 16 months after a $28.2 million rate increase went into effect.

The evidentiary hearing was held in November. The Office's witnesses presented an exceptional case for a rejection of Pepco's requested increase. OPC-DC presented the testimony of several witnesses who supported a reduction in current revenue by $15.7 million and a return on equity of nine percent. Their conclusions were based in part on Pepco's poor performance as an electric distribution service company and its inability to provide credible evidence to support its proposed request. If Pepco's rate increase is granted in its entirety, it will result in an increase of approximately 47 percent in the monthly rate for a typical residential consumer.

OPC-DC recommended the PSC reject a number of proposals made by Pepco in its request, including:

- Pepco's request for authority to include a nearly $6.5 million difference between its 2009 pension expense and the amount of such expense in rates approved in 2008
- Pepco's proposal to include in rates an annual allowance for federal and D.C. incomes taxes at tax rates Pepco never pays to the either governments
- Pepco's allocation of affiliate charges to the District of Columbia
- Pepco's overstated depreciation rates that include future inflation costs charged to current ratepayers
- Pepco's proposed jurisdictional and class cost allocations of its distribution service rates as unreasonable

Throughout the proceeding, OPC-DC advocated that Pepco had not met its burden of proof that its request was just and reasonable. The Office maintains there is nothing wrong with continuing to protect consumers from rising electric service costs, particularly when Pepco's performance as a distribution service company is so poor.

A decision from the PSC is expected in early 2010.

# OPC-DC Protects Ratepayers from Abuse Caused by Transactions Between Utilities and Their Affiliates

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

In comments filed in 2009, and in testimony filed in Formal Case No. 1076, Pepco's rate case, OPC-DC reiterated its concern that ratepayers of regulated utilities should not subsidize the activities of unregulated utilities. OPC-DC recommended the PSC adopt a new Affiliate Transactions Code of Conduct for D.C. energy utilities, which would put in place additional ratepayer protections.

An affiliate transaction is a transaction for goods or services between two companies sharing common ownership through a holding company, the corporate structure under which Pepco operates. The holding company exercises control over its subsidiaries through the ownership of the stock of those subsidiaries. This control is enhanced by the appointment of common directors and officers throughout the corporation and the creation of agreements binding the separate subsidiaries to overall corporate goals. Since affiliated companies share common ownership, these transactions lack arm's length bargaining and have been contested in public utility rate proceedings for decades.

Charges from PHI Service Company, a subsidiary of PHI and an affiliate of Pepco, make up a significant portion of Pepco's costs in its distribution rates. PHI Service Company collects costs and charges for the administrative and support services it provides and bills to the various affiliates, like Pepco. OPC-DC opposed Pepco's request to recover these costs based on the evidence provided.

Captive ratepayers of regulated utilities like Pepco should not subsidize other ventures, especially non-regulated ventures, through inter-company arrangements. Additionally, non-regulated and other affiliates should not gain an unfair competitive advantage by under-allocating common costs to unregulated ventures and over-allocating common costs to existing regulated utility operations and their captive ratepayers.

OPC-DC urged the PSC to adopt the proposed Code of Conduct under consideration in another Commission docket without delay.

A decision is pending

# OPC-DC Investigates Consumers' Complaints of Unusually High Pepco Bills

Galvanized by increasing consumer complaints, as well as media reports on the issue of unusually high Pepco electric bills during the 2008-2009 winter heating season, OPC-DC conducted an independent investigation.

On February 18, 2009, OPC-DC asked the PSC to investigate consumers' complaints of unexpected high bills and to direct Pepco to fully explain the causes for the increases. OPC-DC limited the number of consumer complaints to be investigated and analyzed those lodged with the Office by a date certain and where written authorization was obtained. OPC-DC received 208 written, executed consent forms from complainants, who were then individually interviewed by OPC-DC staff to get additional information for use in the Office's analysis.

Pepco conducted an independent review and concluded 91 percent of the complainant accounts were billed for January and February 2009 based on actual meter readings and that "increased consumption and arrearages were the main contributors." As a result of its survey interviews, however, the Office found three trends were responsible for the high Pepco bills: (1) faulty meters; (2) meter reading error, and (3) increased consumption.

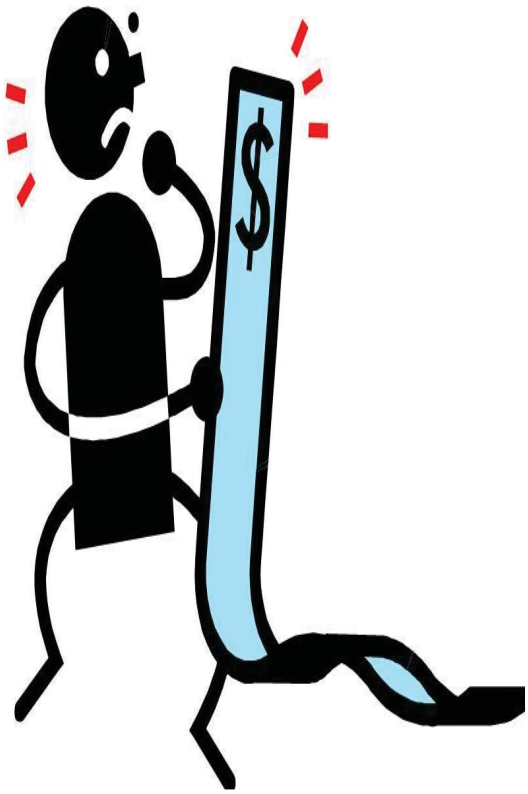
OPC-DC filed its final report on July 9, detailing its findings on the three trends. In addition, the Office recommended the Commission take the following actions:

- create a collaborative advisory group comprising consumers, city Council members, stakeholders and other policy makers to examine Pepco arrearage and termination policies
- direct Pepco to develop both short- and long-term repayment plans for all consumers in arrearage
- create a fund to provide assistance to address special hardship cases not met by other benefits programs
- direct Pepco to conduct additional educational campaigns on its budget payment plan to further assist consumers with bill management
- initiate a Commission investigation of Pepco's meters, meter reading process, and billing systems to determine whether they accurately reflect consumers' electric consumption

On August 14, Pepco replied to OPC-DC's report and challenged all the findings and recommendations. The Company did not address any ways in which it could assist consumers with unusually high electric bills during the winter heating season.

On October 1, the PSC directed the parties to file lists of proposed issues to resolve the disputed facts, which OPC-DC did on November 24.

OPC-DC is awaiting further Commission action.



The smart grid will soon be deployed in the District of Columbia at a cost of more than $88 million. In 2009, the Office focused on learning and sharing as much as it could about smart grid deployment, both in the United States and abroad, to better educate itself about the emerging technology. With greater understanding of the smart grid, OPC-DC can better educate and advocate for D.C. consumers.

In March 2009, People's Counsel Elizabeth A. Noël, travelled to Dublin, Ireland at the invitation of UtilitPoint International to participate in their "Second Annual European Executive Summit, How Smart is Your Utility." She made a presentation on the status of the PowerCentsDC pilot program in the District, outlining the steps being taken for D.C. deployment. While in Dublin, she gained greater understanding of the results of international smart grid deployment and met with industry leaders who offered insight on how to ensure deployment will deliver tangible benefits to consumers.

In May of this year, an OPC-DC staff attorney made a presentation, "A Consumer Advocate's Perspective on Smart Grid Technology," at a smart grid workshop sponsored by AMI/MDM at the National Harbor in Maryland. His remarks focused on how consumer education and empowerment are vital to the success of the smart grid.

In October, the People's Counsel and two staff attorneys attended GRIDWEEK in Washington, D.C. GRIDWEEK is the premier conference for companies and government entities focused on smart grid deployment to learn from industry experts about U.S. and international deployment. This year, the conference focused on ensuring consumers are educated on and empowered to use the smart grid. There were several panels addressing the efforts of federal agencies tasked with establishing a regulatory framework for the deployment of the smart grid. The OPC-DC team also learned how the home area network will be a key consumer empowerment tool, permitting consumers to control energy usage in their homes.

Taken together, the lessons learned from these experiences are being compiled into a comprehensive education model to be used to initiate the conversation between the Office and consumers about effective use of the smart grid to control energy costs.

# PowerCentsDC Smart Meter Pilot Program Results Will Provide Valuable Lessons for Deployment of Smart Grid

Several years ago during the settlement of a rate case, the Office of the People's Counsel conceived of and proposed Pepco fund a smart meter pilot program. The Commission approved the proposal and established a working group to implement the pilot.

The idea grew into PowerCentsDC, an innovative pilot program designed to test the responsiveness of approximately 1,200 D.C. residents to dynamic pricing and to see how smart meter technology would work in the District of Columbia. The pilot began in July 2008, and concluded in late 2009. The initial results will form the basis for deploying the smart grid in the District.

Prior to the pilot going live in July 2008, consumers in each of the three dynamic pricing programs – critical peak pricing (CPP), critical peak rebate (CPR), and hourly pricing, were taught how dynamic pricing works. Dynamic pricing involves participants being given a day's notice of when critical peak events were to occur. During the critical peak events, which last four hours, the price of electricity is artificially set higher than the normal rate for electricity. Participants were instructed to use less energy during the critical peak events by altering their consumption behavior. Every participant received an energy usage report detailing their monthly usage. Additionally, on a first come first serve basis, participants with central air conditioning were provided with a smart thermostat capable of cycling off the air conditioning unit during peak times.

After receiving empirical data covering two summers and a winter season, the Smart Meter Pilot Program Board decided to conclude the pilot on October 31, 2009. The Board produced an interim report detailing how the participants performed for the first seven months of the pilot. The results indicate the following:

- Participants reduced their electric consumption in response to dynamic pricing, particularly during the summer months.
- The reduction in electric consumption was even greater with those participants who used a smart thermostat that automatically reduced electric consumption in response to the dynamic price signal.
- Participants on the CPP plan experienced the greatest peak demand reductions.

A full empirical report is being drafted, and a consumer survey is being conducted. The final results of the entire 15-month pilot will be completed in 2010. These results will be vital to all stakeholders involved in the deployment of the smart grid and will be critical to OPC-DC in shaping its educational message to consumers about smart grid technology and pricing.

PowerCentsDC

## Advocating to Ensure Smart Grid Benefits for Consumers

Throughout 2009, the Office continued to advance its position that Pepco's deployment of smart grid technologies must be done in a manner that delivers tangible benefits to consumers. Specifically, the Office's goal is to ensure that at the end of the day when the smart grid is fully deployed, consumers receive safe, adequate and reliable electric service with just and reasonable rates.

The smart grid is changing the electric landscape of the District of Columbia. By definition, the smart grid is much more than the installation of smart meters in consumers' homes. Rather, according to Pepco, it will also include an upgrade of Pepco's entire electrical distribution network, that according to the Company, will enhance the manner in which electricity is delivered and will allow consumers to have greater control of how they consume electricity.

During the course of the active litigation of Formal Case No. 1056 (the Commission's investigation of Pepco's application to deploy smart grid in the District), the D.C. Council passed the "Advance Metering Infrastructure Act of 2009" (AMI Act) allowing Pepco to proceed with smart grid deployment pending the Commission's determination that the Company received sufficient funds from the "American Recovery and Reinvestment Act of 2009" (ARRA) (also known as the Stimulus Act). The AMI Act settled the question of whether smart grid deployment will occur in D.C. The legislation ensured it will. The Office continues to advocate for the equitable and beneficial deployment of smart grid technology for all D.C. residents.

OPC-DC, recognizing the cost to implement smart grid technology is high, strongly advocated for Pepco to apply for funding under ARRA, as every dollar received from the federal government reduces the amount consumers will have to pay to support smart grid deployment. In November 2009, the Department of Energy granted Pepco $44.6 million to deploy smart grid in D.C. Based on Pepco's assertions to both the District and federal governments, smart grid deployment for D.C. should cost no more than $89.3 million.

It is OPC-DC's position that smart grid technology will provide consumers with detailed information about their energy consumption. The Office has always held the firm belief that educated consumers can proactively work to reduce their energy costs. To maximize the benefits to consumers, smart grid technology must be coupled with energy efficiency efforts to reduce consumers' demand for energy. Without energy efficiency efforts, smart grid technologies will do little more than measure the inefficiency of home electric consumption.

## OPC-DC Supports Net Metering As an Effective Renewable Energy Tool

OPC-DC has consistently supported efforts to adopt net metering rules in the District of Columbia. The Office believes net metering is one of several renewable energy tools available for District consumers to reduce their personal energy consumption.

In 2009, OPC-DC filed comments supporting the adoption of revised net metering rules setting forth clear procedures as to how customers of either the Standard Offer Service (SOS) provider (currently Pepco) or an alternative supplier will be credited for the excess electricity they "send back" to Pepco or be billed when they consume more electricity then they generate. Consumers who receive their electricity from alternative suppliers and want to participate in net metering in the District will have clear procedures to follow, if the PSC adopts the net metering rules it proposed in October.

Currently, customers who obtain their electricity from an alternative supplier can participate in net metering. The current rules, however, do not specifically address how a billing and crediting mechanism will be handled for customers of alternative suppliers. The proposed rules now address the rate the customer-generators of both the SOS provider and an alternative supplier will pay, as well as how excess generation will be credited for customers of either the SOS provider or alternative supplier. The modifications should enhance the participation of all parties involved in net metering in the District.

## OPC-DC Encourages Development of Renewable Energy Funding Mechanisms for D.C. Residents

As the PSC considers adoption of funding mechanisms for renewable energy projects and energy efficiency measures, OPC-DC's message remains that the programs and plans must be comprehensive and designed to help every District consumer, in every ward and at every income level. Appropriate funding mechanisms are the linchpin to the ultimate success of the programs.

OPC-DC made this position clear in comments filed in March and April 2009, in the PSC's investigation into long-term financing mechanisms for consumers to purchase renewable and solar energy systems under the "Clean and Affordable Energy Act of 2008" (CAEA). The Office reaffirmed its support for and commitment to the development of effective, efficient and affordable energy efficiency programs for District consumers. Financing mechanisms should not rely on ratepayer funds; federal funding sources such as the "American Recovery and Reinvestment Act of 2009" (ARRA) could eliminate the need for ratepayer funding. Observing that financing options are evolving and no single financing option will satisfy all financing needs, accordingly, OPC-DC did not recommend a specific financing mechanism. Rather, OPC-DC recommended the District's energy agency, the District Department of the Environment's Energy Office, cast the broadest net possible to consider all reasonable program options for renewable energy and energy efficiency measures that will meet the CAEA objectives.

## Pepco's Reliability - Can We Count on It?

The simple answer is Pepco continues to ignore its obligation to provide safe and reliable service. OPC-DC has found no measureable improvement in Pepco's performance regarding the reliability of its distribution system. Power outages and their severe consequences continued to make headlines in 2009, just as they did in 2008. Unfortunately, three workers were injured while working in manholes in August and September of this year. OPC-DC remains committed to the tasks at hand - uncovering the reason(s) behind the outages, improving the reliability and safety of the system, along with the communication between Pepco and its customers, and ensuring those responsible for Pepco's extremely poor performance are held accountable.

To that end, OPC-DC conducted its own independent investigation into the reliability of Pepco's distribution system. The Office filed a reliability report prepared by its retained engineers, "Analysis of the Potomac Electric Power Company's Electric Distribution System in the District of Columbia," with the PSC on September 25. OPC-DC concurrently filed with the Commission a motion to consolidate the various dockets addressing the reliability of the distribution system into a single docket.

Due to the continued occurrence of manhole explosions and events, in particular, the August 24 and September 1 events, which resulted in injuries to the Pepco workers, OPC-DC filed a petition with the Commission asking for a broad investigation into Pepco's current standards, procedures, practices and specifications related to manholes. On November 24, the Commission denied OPC's petition.

Pepco is subject to specific reporting requirements. It must report non-major outages within five days of the event and sustained outages on a monthly basis. A sustained outage is defined as any disruption in electrical service lasting five minutes or more. An outage is designated as non-major in two ways. The first is a disruption lasting over eight hours, regardless of how many customers are affected. Typically, the outage is caused by the failure of devices such as breakers, fuses, feeder lines or substation equipment. The second designation is an outage affecting more than, 100 but less than 10,000 customers, regardless of the duration.

According to Pepco's data, there have been 2,587 sustained outages and 427 non-major outages for 2009. The number of non-major outages is included in the number of sustained outages.

To see OPC-DC's reliability report, motion to consolidate, or petition for an investigation, see the filings on the Public Service Commission's website at www.dcpsc.org under the "Current Dockets."

## OPC-DC's Role to Advocate for District Consumers Extends Beyond PSC

As part of its statutory responsibility to monitor activity in the energy markets to ensure they provide District consumers with reliable energy and reasonable rates, OPC-DC continued its vigilance in monitoring wholesale electric matters during 2009. The Office is a member of the PJM Interconnection, LLC (PJM), a regional transmission organization that manages the high-voltage electric grid and coordinates the movement of wholesale electricity in all or parts of 13 states and the District of Columbia. OPC-DC participates on a variety of PJM stakeholder committees and task forces in which issues related to PJM's operations are considered. Because PJM is a member-managed organization, all decisions are vetted among PJM members, which include transmission owners, electricity generators, utilities, and end use customers. A favorable vote by the majority of PJM members on a proposed action results in the action being taken.

PJM is regulated by the Federal Energy Regulatory Commission (FERC), the independent federal agency that regulates the interstate transmission of electricity in the United States. Once PJM decides on a proposed action to be taken that affects the interstate transmission of electricity, PJM is required to seek approval from FERC.

PJM's Reliable Pricing Model and Energy Efficiency Resources

OPC-DC joined a diverse group of PJM end use customer groups to oppose PJM's proposed tariff changes on compensation for energy efficiency resources in PJM's forward capacity market known as the Reliability Pricing Model (RPM) for up to four consecutive years. RPM is a separate market designed to ensure PJM can meet its forecasted demand for energy resources. The purpose of RPM is to develop a long-term pricing signal for capacity resources needed to meet the obligations of entities like Pepco that is consistent with PJM's regional transmission process while also adding stability and a locational nature to the pricing signal.

OPC-DC opposed PJM's proposal because it would have resulted in PJM customers, including District ratepayers, paying higher costs for capacity resources by shortening the useful life of energy efficiency resources to only four years. Furthermore, investment in energy efficiency resources helps postpone investment in capacity and energy resources and reduces investment in cutting the costs of emission reduction technologies. These benefits have not yet been fully captured by the PJM capacity market because the market has not internalized the benefits of renewable energy resources.

After significant discussions among stakeholders, three different proposals of payments for energy efficiency (EE) resources were presented. These proposals involve payment for energy efficiency resources only for year one, for four years and for the full measure life of energy efficiency resources. OPC-DC supported the payment for EE resources for the full measure life of programs. A vote by PJM members resulted in a compromise that allows payment for energy efficient resources for four years of the life of the measure. Furthermore, the Office argued the effect of demand resources should be properly accounted for in computing the installed reserve requirement.

When PJM sought FERC approval of its proposal, OPC-DC supported PJM's proposal as a reasonable interim step that would allow energy efficiency resources to participate in the market.

The Office, however, argued that in the longer term, energy efficiency resources should be paid for the useful life of the resource rather than merely for the first four years because energy efficiency measures such as compact fluorescent lights, appliances, commercial motors, and building improvements have an average measure life of 10-12 years. Consequently, any payment for such measure should be based on its useful life.

FERC indicated that in the past, PJM did not treat investment in energy efficiency as a type of capacity resource eligible to participate in the capacity market. However, FERC noted that, to the extent possible, energy efficiency solutions should be permitted to compete equally with demand response, generation, and transmission resource solutions to reduce energy costs within PJM.

While FERC approved PJM's proposal for energy efficiency providers to receive RPM capacity payments for up to four consecutive delivery years, FERC said it is not clear whether this approach fairly and adequately allows energy efficiency providers to obtain the full economic benefit of their investments. Thus, FERC directed PJM to explore with its stakeholders whether energy efficiency resources should receive RPM capacity payments for (i) up to four years, (ii) the full measure life, or (iii) some other period of time.

PJM's Load Forecasting

Another aspect of the PJM capacity market that affects electricity prices is the accuracy of load forecast. Accuracy is affected by the reliability of the assumptions and sources of data used. OPC-DC joined other PJM end use customer groups in protesting PJM's RPM assumptions and data because they do not reflect current economic conditions or the downward trend in electricity demand within PJM. Consequently, PJM's overly conservative forecast reflected a much higher growth in demand. The consultant for OPC-DC and the other PJM end use customer groups estimated that changing the assumption about load growth could reduce the forecast peak load for 2012 by approximately 3,000 MW. This could dramatically change what District ratepayers and consumers would pay for capacity resources. Accepting the consultant's 3,000 MW reduction to PJM's forecast, District ratepayers could realize an estimated $17 million reduction in capacity costs per year. This estimated reduction in capacity costs does not include any capacity cost reductions attributed to energy efficiency resources.

FERC declined the protest from OPC-DC and the other PJM end use customer groups because it felt that changing the load forecast would disrupt the market. FERC directed the protesting parties to pursue the development of more accurate load forecasting through the PJM stakeholder process. Accurate load forecasting based on projected demand is essential to ensuring PJM meet its obligation to coordinate the movement of wholesale electricity and ensure system reliability. The forecast allows PJM to establish capacity requirements to meet demand during peak periods of energy use. If the forecast exceeds actual demand (i,e., less energy is consumed than forecasted), ratepayers could pay more than necessary for PJM to maintain system reliability. OPC-DC will continue to advocate for an accurate load forecast to prevent District ratepayers from paying more than necessary.

## Suspension Statute Would Not Benefit Consumers

OPC-DC continues to support timely decision making in all PSC proceedings, including timely resolution of consumer complaint cases. However, the Office does not see the need for the enactment of an automatic suspension statute, based upon the PSC's historic resolution of most rate cases within a reasonable timeframe. Further, OPC-DC is concerned that a suspension statute could allow rates proposed by a utility to go into effect without a PSC decision.

OPC-DC stated its position in testimony on Bill 18-53, the "Public Service Commission Timeliness Standard Act of 2009," The Bill would amend Title 34 of the District of Columbia Official Code to institute time limitations on the evidentiary proceedings and issuance of orders by the PSC. The Timeliness Standard Act would apply to rate cases only. First, the bill would require the PSC to close the record in a rate proceeding 270 days after a party filed an application for a change in rates. Second, Bill 18-53 would require the PSC to issue an order in a rate proceeding within 90 days after the record closes.

OPC-DC highlighted the following concerns in its testimony:

- OPC-DC does not support a suspension statute.
- To require the PSC to decide rate cases within 270 days is redundant and is a solution in search of a problem because the PSC's current policy addresses this issue and has done so since the early 1990s.
- If the legislation goes forward, OPC-DC would support a requirement that all decisions of the PSC be issued within 90 days after the record is closed in any type of proceeding. This approach would ensure the interests of ratepayers and shareholders alike are adjudicated in a timely manner.

OPC-DC testified that it is ironic that Bill 18-53 would require the PSC to be timely only in rate proceedings when a utility's revenues are in question. Yet, the legislation would not require the PSC to be timely in other agency proceedings, such as consumer complaint cases, investigations, valuations, or other proceedings of any nature before the PSC in which the interests of consumers in receiving safe, adequate and reliable service are at stake. OPC-DC testified that appropriate legislation that would facilitate timely decision-making in all PSC proceedings, such as consumer complaint cases, is in the public interest and would be supported by the Office.

## People's Counsel Elizabeth Noël Represents Interests of District of Columbia Consumers on Sustainable Energy Utility Advisory Board

In 2008, the Council of the District of Columbia established, through the Clean and Affordable Energy Act of 2008, authority to contract with a private entity to be known as the Sustainable Energy Utility (SEU) to administer sustainable energy programs in the District of Columbia. The Act established a thirteen-member advisory board for the SEU to advise the District Department of the Environment (DDOE) on the procurement of the contract with the SEU and to monitor the progress of the SEU under its contract. People's Counsel Elizabeth A. Noël is, by law, one of the members of the SEU Advisory Board. OPC-DC has actively participated in the twice-monthly board meetings held since August 31, 2009. Each member of the SEU Advisory Board is required to have demonstrable expertise in energy efficiency or renewable energy. The SEU contract is funded by the Sustainable Energy Trust Fund (SETF), which is funded through assessments to Pepco and Washington Gas. Pepco and Washington Gas recover their respective assessments in rates as a surcharge on customers' bills.

The Act sets a number of obligations for the SEU Advisory Board that include adopting rules and procedures governing its meetings and decision-making processes; recommending to the Mayor performance benchmarks for the SEU contract; submitting to DDOE and Council comments on the draft Request for Proposal for SEU bids; submitting to DDOE and Council comments on the bids submitted for the SEU contract; meeting quarterly with representatives from the SEU to monitor the performance of the SEU and programs operated by the SEU; and presenting an annual report on the progress of the SEU to the Council. OPC-DC provides staff assistance to DDOE as necessary for the SEU Advisory Board to fulfill its mandate under the Act.

In addition, Ms. Noël and OPC-DC staff have actively participated in the drafting of the SEU Advisory Board's bylaws, conflicts policy, indemnification provisions, and in developing performance benchmarks to be established for the SEU. The bylaws have been adopted and adopting a conflicts policy, indemnification provisions, and performance benchmarks are under consideration. The SEU Advisory Board is also reviewing and commenting on the draft Request for Proposal for SEU bids. The SEU is expected to commence operations in 2012.

The SEU is required to, at a minimum, 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. OPC-DC supports these efforts and is committed to ensuring the SETF is utilized efficiently to fund SEU operations so tangible benefits can be derived for the District of Columbia and its ratepayers and consumers.

# OPC-DC Advocates for Increased Universal Service Eligibility

Hard economic times and the District's rising unemployment rate gave OPC-DC, as a member of the Universal Service Working Group (Working Group), added incentive to advocate increasing the availability of Lifeline service, the discount telephone service for income-eligible consumers.

This year OPC-DC and the other members of the Working Group focused on two priorities:

1) ways to increase the number of participants receiving Lifeline telephone service

2) adjusting to changes made by the Administration that impact the manner in which consumers will be certified and the addition of another provider of Lifeline service

In an effort to increase the Working Group's Lifeline service outreach and education OPC-DC provided a summary of a Federal Communications Commission report outlining recommendations from several states on how to increase Lifeline telephone service. Additionally, OPC-DC supplied a list of entities in the District serving low-income consumers. These entities can deliver educational material about the availability of Lifeline service to their constituents.

The other priority the Working Group focused on was the transition from DDOE to the Department of Human Services (DHS) to determine income eligibility for Lifeline service. DHS is now the sole agency that determines eligibility for public, social service programs related to and designed for low income individuals and families within the District of Columbia. The Working Group met with representatives from DHS to explain how Lifeline service works so they can communicate the benefits to consumers who are applying for other low income programs.

The Working Group also met with representatives from NationsLine, an additional entity certified by the PSC to provide Lifeline service in the District. As a result of the certification, consumers can choose between Verizon and NationsLine for Lifeline telephone service.

## Federal Telecommunications Advocacy: Consumer Advisory Committee

For the 2008-2010 term of the Federal Communications Commission's Consumer Advisory Committee (CAC), OPC-DC continues to represent the National Association of State Utility Consumer Advocates (NASUCA) on the 27-member CAC. CAC's purpose is to make recommendations to the Federal Communications Commission (FCC) about consumer issues within the FCC's jurisdiction and to facilitate the participation of all consumers in FCC proceedings. While these are national issues not under the purview of the PSC, they do impact District consumers and ratepayers.

An OPC-DC attorney chaired the Consumer Protections Working Group (CPWG), which focused on the following issues:

- truth-in-billing
- FCC consumer complaint process and handling of complaints
- increased consumer education in light of local providers offering more bundles and evaluating the true costs of bundling for consumers, particularly when providers appear to force consumers into bundling by raising the cost of basic service
- obligation to ensure Lifeline assistance to consumers when the incumbent carrier is bought by another carrier

On August 28, 2009, the FCC released a notice of inquiry seeking comments on updating and strengthening its Truth in Billing (TIB) rules for the wireline and wireless telecommunications industries since there is still significant confusion among consumers in understanding their telephone bills. In addition, the Commission is seeking guidance on TIB rules to be applied to broadband Internet access and Voice over Internet Protocol applications.

The CPWG recommended the CAC advise the FCC of the following TIB concerns:

1. Clearly written, consistent and accurate information on actual costs of service, (including taxes, surcharges, promotional periods, fees for exceeding plan limits, early termination fees and requirements for all services, including bundled packages); speeds of internet access services; long-term contracts
2. Full disclosure of service limitations on data caps, overage charges, restrictions on the type of applications that can be used, and off-network usage restrictions
3. Applying the "net impression" policy (a jointly adopted practice by the FCC and the Federal Trade Commission that considers the entire advertisement, transaction or course of dealing to determine whether information contained therein is misleading or deceptive) in evaluating a telecommunications providers' billing practices and marketing campaigns
4. Enforcing fines and penalties for false and misleading advertising

5. Establishing remedies for resolution of higher-than-expected bills due to consumer confusion

6. Full disclosure of information on actions by providers that monitor subscribers' use of services and products

7. Creating fines and penalties for continuation of obstacles related to ending or changing service plans and options, including, but not limited to early termination fees

8. Applying TIB rules and complaint resolution processes uniformly across all telecommunications providers and technologies to level the playing field between small and large service providers

9. Investigating industry practices on aggressive "noisy" marketing, which is pricing and billing of telecommunications providers that overwhelm consumers with details, making it difficult to conduct apple-to-apple comparisons in choosing a provider or services offered by a provider

10. Developing industry standards to provide effective protection to consumers seeking protection from deceptive practices

The principles sought to be adopted by the CAC follow positions advanced by consumer advocate groups, including NASUCA, in comments filed before the FCC.

**OPC Directorate**

The Directorate includes the People's Counsel, Elizabeth A. Noël, her Staff Assistant, Jean Gross-Bethel, and the management team of Sandra Mattavous-Frye, Esq., Deputy People's Counsel and Directof of Litigation; Derryl Stewart, Director of Operations; Herbert Jones, Manager, and Associate People's Counsel Karen Sistrunk, 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 IT and non-IT equipment, procurement, human resources, staff development, benefits administration, and legal matters related to OPC-DC'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-DC's website, www.opc-dc.gov.

## OPC Consumer Education and Outreach: Consumer Services Division

The Consumer Services Division, headed by Herbert Jones and Attorney Karen Sistrunk, provides education and outreach to District consumers and responds to requests for information and for speaking engagements. Consumer Services staff provide assistance and representation to individual consumers with utlity 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-DC 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 2009

**ELIZABETH A. NOEL, Esq.**
**People's Counsel**

Jean Gross-Bethel
Staff Assistant

### OPERATIONS DIVISION

Derryl D. Stewart
Director of Operations

Frank G. Scott, Jr.
Administrative Officer

Erica C. Bright
Administrative Assistant

Rosena Corsey-Perkins
Receptionist

### MIS

Vacant
Network Administrator

Anthony T. Lee
Computer Specialist

Vacant
Web Master

### LITIGATION DIVISION

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

Brian O. Edmonds, Esq.
Senor Attorney
Market Monitoring

Naunihal Singh Gumer
Accountant/Rate Case Manager

Yohannes K. G. Mariam, Ph.D.
Senior Economist

Lauren D. Shuman
Office Assistant

Barbara L. Burton, Esq.
Senior Attorney

Jennifer L. Weberski, Esq.
Supervisory Attoney

Brenda K. Pennington, Esq.
Assistant People's Counsel

Laurence C. Daniels, Esq.
Assistant People's Counsel

Maggie A. Sallah, Esq.
Assistant People's Counsel

Tamika R. Dodson
Office Assistant for Document Control

### CONSUMER SERVICES DIVISION

Karen R. Sistrunk, Esq.
Associate People's Counsel

Herbert H. Jones
Manager

Melanie L. Deggins
Consumer Outreach Specialist

Ardella A. Newman
Consumer Complaints Specialist

Linda H. Jefferson
Consumer Outreach Specialist

Pamela A. Nelson
Consumer Outreach Specialist

Phillip G. Harmon
Public Policy Analyst

Silvia V. Garrick
Consumer Outreach Specialist

Cheryl L. Morse
Office Assistant

Laurence F. Jones
Public Policy Analyst

Vacant
Consumer Education Specialist

| | |
|---|---|
| 31 | OPC |
| 02 | OCFO |
| 33 | FTEs |

* Pursuant to D. C. Code, 2001 Ed. 34-804

**OCFO POSITIONS**

Accounting and Disbursing Clerk
Budget Analyst

Effective 02/20/2009

## SOURCE OF FUNDS

Funding for the Office's operations and its litigation before the Public Service Commission is provided by the three major utilities and the alternate service providers of gas, electric and telecommunications services in the District. With respect to operations, the District is reimbursed by the utilities for OPC-DC's costs for administrative and general expenses, i.e., rent, salaries, equipment. As to litigation, the Office directly assesses the affected utility for any expenses associated with litigating utility matters before the Public Service Commission and the courts. All these costs are paid by the utilities, but by law, they may include these costs in their operating expenses, which are an element of rates. Thus, ratepayers, and ratepayers alone, fund the work of the Office.

*Operating Budget*

Funds for the operating budget are authorized by the D.C. government in the governmental budget review process. These 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).

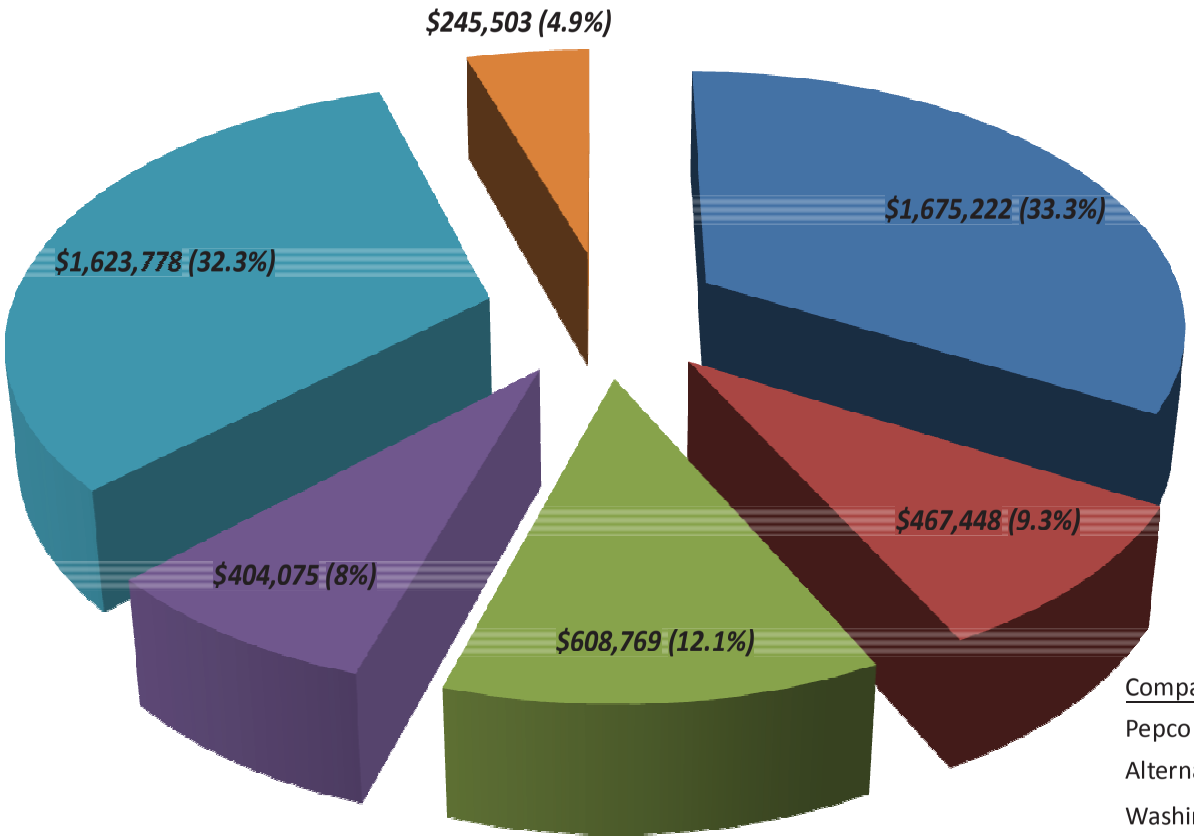
*Formal Case Assessments*

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).

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.

**DID YOU KNOW?**
Less than half a penny of each dollar you pay for utility service goes to OPC!

# Assessments of Utilities, Alternative Energy and Telecommunications Providers for OPC-DC's FY 2009 Operating Budget




| Company | Assessment | % Share |
|---|---|---|
| Pepco | $1,675,222 | 33.30% |
| Alternative electric providers | $1,623,778 | 32.30% |
| Washington Gas | $608,769 | 12.10% |
| Verizon | $467,448 | 9.30% |
| Alternative gas providers | $404,075 | 8.00% |
| Competitive local exchange carriers | $245,503 | 4.90% |
| **Total** | **$5,024,795** | **100.00%** |

■ Pepco ■ Verizon ■ Washington Gas
■ Alternative gas providers ■ Alternative electric providers ■ Competitive local exchange carriers

**January 2009**
Outreach Big Brothers Big Sisters
Outreach Free Advice Clinic "Bread for the City"
Outreach ANC 4C
Outreach "Spanish-language CBE Workshops"
Outreach Martin Luther King Jr., Memorial Library
Outreach Vietnamese Lunar New Year Celebration
Outreach CUB

**February 2009**
Outreach ANC 4A
Outreach - Workshop "Using Web Sites in Adults" – MLK Library
Outreach D.C. Mayor's Office on Latino Affairs - Seminars in Teaching Spanish Literacy
Outreach CentroNia
Outreach Latino Economic Development Corporation
Outreach ANC 4C07
Outreach ANC 4C05
Outreach Jubilee House
Outreach CUB

**March 2009**
Outreach Ward 8 Environmental Council Meeting with EPA
Consumer Workshop: Digital TV, FiOS, Cable Television
Outreach Office on Aging
Outreach CUB

**April 2009**
Outreach First Baptist Senior Services
Outreach Woodridge Civic Association
Outreach La Clínica del Pueblo
Outreach Ward 8 Environmental Council
Outreach DCLEARNs
Outreach Neighbors' Consejo
Outreach Penn Branch Citizens Association
Outreach Cool Capital at Butler Park Center
Outreach Ward 5 – AARP
Outreach Latino Federation of Greater Washington
Outreach Office of Integrity and Workforce Relations –
DDOT International Festival
Outreach CUB
Outreach Downtown Neighborhood Association

**May 2009**

Outreach Asbury Dwellings
Outreach "Asian and Pacific Islander American Heritage Month"
Outreach ANC 8A
Outreach ANC 8C
Outreach Hattie Holmes Senior Center – 2nd Annual State of the Ward 4 Senior Address
Outreach Cool Capital Challenge
Outreach Capital Hill Energy Co-op
Outreach First Baptist Senior Center
Outreach Ward 8 Environmental Council
Outreach YMCA
Outreach ANC 6A
Outreach Center for Nonprofit Advancement
Outreach CUB
Outreach Model Citizens Senior Wellness Center
AMI/MDM Smart Grid Workshop
Outreach Fort Davis Civic Association
Pepco – Smart Grid & Green Energy Forum
Outreach Coalition for Better Government
Outreach Senior Day, Barney Senior Center
Outreach May Day for Seniors, Washington Wellness Center
Outreach DDOE

**June 2009**
Outreach Job Training Programs for Self Sufficient Wages
Outreach Providence Hospital Senior Connection
Outreach "Festival de Poesia"
Outreach CentroNia "Bilingual Parenting Workshop"
Outreach DC WASA and Office of Latino Affairs – "For a Better Home, For a Better Community
Outreach Dwelling Place (SOME)
Outreach DCHA "Healthy Living Expo"
Outreach CUB
Outreach National Fuel Fund Conference
Outreach UPO Shaw Community Resouce & Health Fair
Outreach Hattie Holmes Senior Wellness Center
NASUCA Mid-Year Meeting
Outreach YMCA

**July 2009**
Outreach Housing Counseling Services, Inc.
Outreach Columbia Heights/Shaw Family Support Collaborative
Outreach Jubilee Housing
Outreach Ward 8 Environmental Council
Outreach Foster Grandparent's Program
Outreach First Baptist Senior Center
**July cont'd**

Outreach SEU Board Meeting
Outreach Palisades Citizens Association (PCA)
Outreach Big Brothers Big Sisters
Outreach CUB
Outreach YMCA

**August 2009**
Outreach "The Night Out Campaign"
Outreach Cool Capital Challenge
Outreach Youth Health Fair, Greater Washington Urban League
Outreach Martha's Table, Inc.
Outreach DDOE
Outreach Edgewood Community Health and Public Safety Fair

**September 2009**
Outreach Barbara Chambers Children's Center
Outreach Pleasant Hills Community Partnership Day
Outreach CUB
JUDD (Joint Utility Discount Day)
Committee on Public Services and Consumer Affairs Public Hearing – B18-53 Timeliness Standards Act of 2009
Outreach Industry Day (SEU) Outreach
Outreach Deanwood Senior Group
Outreach Pepco

**October 2009**
Outreach Latino Federation of Greater Washington
Outreach Health Information Training
Outreach Mayor's Annual Disability Awareness Conference
Outreach Mayor's Office on Persons with Disabilities
Climate and Energy Outreach Coordination Meeting
Outreach CUB
OPC Key Community Leader Briefings (3)
Outreach Tenant's Clinic
Outreach Hattie Holmes House
Outreach PAC (2)
PSC - Pepco Community Hearing at Chevy Chase Community Center
Outreach "Certified Business Enterprise (CBE) Spanish-language Workshop"
Outreach Central Union Mission Health Fair
Outreach Mt. Pleasant Solar Cooperative
Outreach Friends of the Earth
Outreach UPO
<u>October cont'd</u>

DC Federation of Civic Associations Annual Awards Luncheon

**November 2009**
Outreach Latino Federation of Greater Washington
Outreach Jubilee Housing, Inc.
Outreach La Clínica del Pueblo
Outreach Crestwood Neighborhood League
2009 OPC Home Energy EXPO
2009 NASUCA Annual Meeting
PSC - Pepco Community Hearing at Hillcrest Recreation Center
PSC - Pepco Community Hearing at Public Service Commission
Outreach Justice First

**December 2009**
Outreach Emmaus Services for the Aging
Outreach DC Office on Aging Annual Senior Holiday Celebration
Outreach Shrine of the Sacred Heart
Outreach Public Service Commission – DC Relay
Outreach ANC 8E/DDOE

# 2009 OPC-DC Staff Professional Development and Education

2009 Energy Information Administration Energy Conference
2009 NASUCA Mid-Year Meeting
2009 National Energy and Utility Affordability Conference
2nd Annual Good Jobs/Green Jobs Conference
Adobe InDesign I
Affordable Green Building: Improving Property Performance through Green Retrofits
AMI & MDM Smart Grid Working Group Spring 2009 Workshops
Department of Energy Raises Bar for Smart Grid/Smart Metering Initiatives
Equal Employment Opportunities Training
Electric Resource Adequacy: The D.C Circuit Rejects Connecticut's Challenge to FERC "Now Who's in Charge?"
Empowering Consumers Congressional Policy Summit
Energy and Environmental Breakfast Series
Ethics Training
FCC and National Telecommunication and Information Administraion Public Meeting on Broadband Initiatives in the Economics Stimulus Bill
FCC Broadband Conference Series: Deployment of Services: Wired & Underserved Areas
FCC Conference Series on Broadband Deployment
Tele Conference: FERC Smart Grid Policy
Five First Principals for Embracing Customers as a Co-Creator
Fundamentals of Writing
Grammar and Usage
GridWeek 2009 Conference
Web Conference: How to Write Effective Requests for Proposal(Webinar)
Mt. Pleasant Solar Cooperative: Solar as a Renewable, SEU
NARUC Summer Meetings
NASUCA Annual Meeting
National Electricity Delivery Forum
OPC Energy Engage Demo by E-Meter
PJM 101: The Basics
Web Conference: Planning Smart Meter Development
Web Conference: Renewable Energy: Communication Challenges
Smart Grid City Experience Mobil Exhibit
Smart Grid Implementation Summit
The Economic Stimulus Package
Web Conference: Throw a Glass Greenly: On Energy Efficiency
Transmission Access and Interconnection-Essential Ingredients to Successfully Integrate Renewables
Presentation by and discussion with UtiliPoint CEO Nana Baffour
Waxman-Markey American Clean Energy & Security Act of 2009, Electric Institute
Women's Congressional Broadband Summit

# What People are Saying about OPC

## Letters to the Editor

### Regulate First, Innovate Second

Commissioner Rick Morgan of the Public Service Commission for the District of Columbia based his article, "Rethinking 'Dumb' Rates" (*March 2009, p.34*), on the faulty premise that there is a consensus, either in the regulatory community or electric industry, or both, trending toward the immediate adoption of smart meters and dynamic rates and, worse yet, that such change should be embraced now just 'cause it is today's pretty amazing new stuff. *[Editor's note: the writer refers to a telecom industry term, PANS, "pretty amazing new stuff," vs. POTS, "plain old telephone service."]*

**'Placing shiny new meters on deteriorating wires is akin to putting whipped cream on an onion.'**

As People's Counsel for the District of Columbia and the advocate for the interests of utility consumers, the very interests Commissioner Morgan is statutorily mandated to balance, I say, "SLOW YOUR ROLL!"

Yes, change happens. And as the election of President Obama attests, change can be a good thing. But, when not predicated on the immediate needs or requirements of ratepayers, who must ultimately pay for such change, then change may not be such a good thing.

Timing is everything. I submit that at this time, such change would not be in D.C. consumers' interests, given the more pressing and immediate problems afflicting the District's electric system infrastructure—its corroded distribution and transmission wires and exploding manholes. And this is astonishing given that Pepco promised the commission, in return for allowing it to sell off its generation facilities, to keep a "laser-like focus" on its wires.

The change to AMI and dynamic rates, etc., is not mandated by law. Rather, District of Columbia law requires public utilities to provide safe, adequate and reliable service to consumers at rates that are just, reasonable and nondiscriminatory. As a sitting commissioner on the Public Service Commission, surely Commissioner Morgan knows his first responsibility is to address why there have been more than 2,700 sustained electric outages in 2008 (179 in January 2009). With multiple open dockets investigating Pepco's quality of service, rates and infrastructure, etc., his touting new rate designs and dazzling technologies, all the while ignoring the basics of requiring the local monopoly distributor of electricity to provide safe, adequate and reliable service, defies logic. It goes without explanation, fundamentals come first!

Over the past three years, the District has experienced more than 7,500 outages. In 2006, there were 2,638; in 2007, there were 2,180; and in 2008, there were 2,766. One notable outage in 2008 knocked out power not only to the White House, but to the Public Service Commission itself. The cause remains undetermined, and similar outages continue throughout D.C. In light of these disturbing numbers, the idea of placing shiny new meters and a new rate structure on deteriorating wires and infrastructure is akin to putting whipped cream on an onion.

While AMI and a new rate design are sexy and way more interesting than downed wires, outages, exploding manholes and aged infrastructure, AMI and new rate design will not fix the problems this city is experiencing! The Commission first needs to address the aging and broken electric infrastructure plaguing D.C. Second, the PSC should at least wait until the completion of the demand response pilot program it approved before adopting whole-hog Pepco's AMI and rate-design wish list.

Once the fundamentals of providing safe, adequate and reliable electric service to consumers are ensured, then a commission-regulator would be positioned to hold a fair and impartial hearing to determine whether some form of AMI and dynamic pricing is in the public interest, and whether, given the economics of the time, D.C. is prepared to pay. After all, the District is staring at a $550 million deficit, and its kWh rate has increased by 95 percent since 2005. Given this, and the fact that D.C. ratepayers are being crushed by extraordinarily high electric bills in 2009, that consumers at every income level have received record numbers of termination notices while experiencing poor quality of service, there should be no final regulatory decision forcing consumers to shoulder the costs of such pretty amazing new stuff at this time.

As the statutory consumer advocate, I cannot and will not, in law or in good conscience, ignore this reality facing our consumers. Frankly, I cannot imagine how any enlightened regulatory agency could.

In sum, it is critical that regulators and advocates, alike, keep their eyes on the prize. In this case, the prize is protecting the interests of overburdened consumers who continue to want the basics first: safe, adequate and reliable service at rates that are reasonable. In these days and times, this means "affordable."

**Elizabeth A. Noël, Esq.**
People's Counsel
District of Columbia

[T]hanks for the information and article by Betty Noel. She is sooo level headed. I am glad she is on our side.

- Mary Young, Idaho Terraace Tenant Association, Ward 3

Kudos to you Betty for your response to Rick Morgan's treatise on "dumb rates" in the PUF. As you know, AARP has tried to participate in Case 1056 and we have urged the evidentiary approach, to no avail as you know. Let me know what you hear.

- Barbara R. Alexander, Consumer Affairs Consultant, Winthrop, ME

Dear Ms. Noel,

*Thank you for your excellent exposition in favor of rational thinking about new stuff for utility ratepayer - in this case "smart meters" - which may resemble ISDN (innovations subscribers don't need) more than POTS - if we stretch the old telephon analogies to cover our new frontiers in power.*

*I was a State Public Utilities Commissioner back in the late 1980s/early 1990s and listened to a lot of PANs sales pitches and am now, among other things, on the board of directors of Anchorage Municipal Light & Power.*

*I am concerned that some slick smart meter sales people may have lined up with the reliability folks trying to sell us all more than we need or can reasonably afford, especially in today's economy.*

*Thank you for sharing your views with the Public Utilities Fortnightly - extremely timely and insightful.*

**- Mark Foster, Anchorage Alaska**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**
**OFFICE OF THE CHIEF FINANCIAL OFFICER**

**Cyril Byron, Jr.**
Associate Chief Financial Officer
Economic Development and Regulation Cluster

October 2, 2009

Elizabeth Noel, People's Counsel
Office of the People's Counsel
1133 15th Street NW, Suite 500
Washington, DC 20005

Dear Betty,

In recognition of National Customer Service Week, October 5-9, I would like to take this opportunity to thank you for partnering with the employees of the Economic Development and Regulation Cluster (EDRC) in the management of your agency's budget and accounting operations. Excellent customer service has been and shall always remain our primary goal as we serve your agency.

Should you or your staff have suggestions about ways in which EDRC can better serve the financial needs of your agency, I hope you will not hesitate to bring them to my attention. We plan to exceed your expectations in the coming year and need your input to help us do so.

Customer satisfaction is the single-most important measure of EDRC's business performance and we will continue to excel in this area.

Thank you for being our valued customer.

Sincerely,

941 North Capitol Street NE, Suite 9600, Washington, DC 20002
Phone: (202) 442-8684 • Fax: (202) 442-9444
edrc.in.dc.gov

# What People are Saying about OPC

**JIM GRAHAM**
COUNCILMEMBER, WARD ONE
COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

WASHINGTON DC THE AMERICAN EXPERIENCE

1350 Pennsylvania Avenue, N.W.
Suite 105
Washington, D.C. 20004

202-724-8181
202-724-8109 fax

jgraham@dccouncil.us
jim@grahamwone.com
www.grahamwone.com

Chairperson
Committee on
Public Works and Transportation

Chairman
Board of Directors, Washington
Metropolitan Area Transit Authority


March 4, 2009

Elizabeth A. Noel
Office of the People's Counsel
1133 15th Street, NW, Suite 500
Washington, DC 20005-1710

Dear Ms. Noel,

Thank you for your letter sharing with me actions the Office of the People's Counsel has taken in response to my letter dated February 24, 20009.

I am pleased to learn the Office of the People's Counsel officially filed on February 27, 2009, several data requests on Washington Gas regarding high bills and service disconnections.

In addition, I am pleased to learn the Office of the People's Counsel filed on March 3, 2009, a motion in Formal Case No. 1071, the proceedings where the D.C. Public Service Commission is investigating the high bill complaints regarding Pepco, requesting the Commission expand the investigation to include high bill complaints regarding Washington Gas.

Thank you also for providing me a copy of the "Motion of the Office of the People's Counsel for an Order Directing the Potomac Electric Power Company To Provide The Commission a Report on Its Plans and Efforts To Obtains Funds Allocated by the American Recovery and Reinvestment Act of 2009 for its Proposed Energy Efficiency Programs and Advanced Metering Infrastructure Detailed in the Blueprint Application".

Please continue to keep me informed of these developments.

Sincerely,

JG/jl


**COUNCIL OF THE DISTRICT OF COLUMBIA**
THE JOHN A. WILSON BUILDING
1350 PENNSYLVANIA AVENUE, NW
ROOM 107
WASHINGTON, DC 20004

HARRY THOMAS, JR.
COUNCILMEMBER
WARD 5

TEL: 202-724-8028
FAX: 202-724-8076
HTHOMAS@DCCOUNCIL.US


April 9, 2009

Elizabeth A. Noel
Office of the People's Counsel
1133 15th Street NW Suite 500
Washington, DC 20005

Dear Ms. Noel:

I have received your status report of the OPC investigation of high PEPCO energy bills. I thank you on behalf of the residents of Ward 5 for your hard work on this most serious matter. Please continue to keep me and my office informed of any further findings during the course of your investigation.

Sincerely,

Harry "Tommy" Thomas, Jr.
Ward 5 Councilmember

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**
**Executive Office of the Mayor**

**Adrian M. Fenty**
**Mayor**

April 8, 2009

Washington, DC 20012-1103

Dear Ms. Noel:

Thank you for your letter suggesting the use of American Recovery and Reinvestment Act (ARRA) funds for improving the District of Columbia's telecommunications infrastructure. My administration is committed to ensuring that the District of Columbia takes full advantage of the funding opportunities that are contained in the bill, also known as the "Federal stimulus bill," and that this funding is used responsibly and cost-effectively to address the needs of our city and its residents.

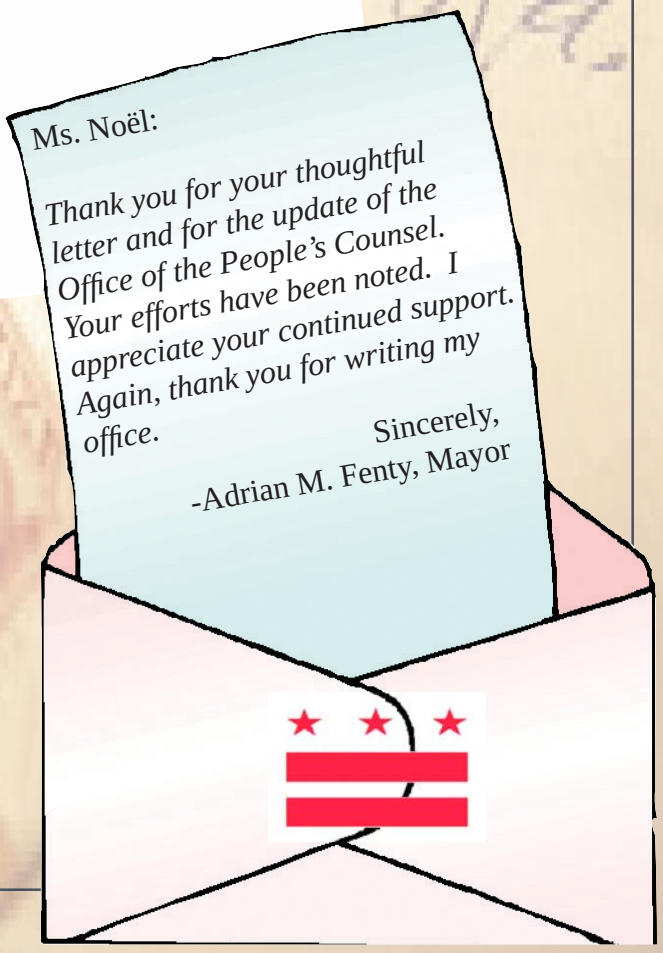
We have created a new website, www.recovery.dc.gov, to make it easier for District residents to learn about the Federal stimulus bill, the District agencies that have applied for or received stimulus funds, and how those funds will be used. In addition, you will find information about benefits for individuals and families and links to a number of Federal government websites where you can learn more about stimulus funds in a range of areas.

The website is also a great way for you to send me any suggestions you have about how stimulus funds could be used here in the District. To do so, just click on the "submit ideas" tab on the left side of the page and send me your thoughts.

Thank you again for your interest.

Sincerely,

Adrian M. Fenty
Mayor



Dear Ms. Noël:

*On behalf of Residing In Group Housing Together (RIGHT), Inc., I would like to acknowledge and thank Ms. Ardella A. Newman, Consumer Complaint Specialist, for her prompt response to a long and unresolved matter. RIGHT Inc., has questioned our utility bills, since the beginning of service. It was puzzling how our utility bills were so high and the apartment complex was empty. After writing and calling PEPCO for months we were then referred to your office. After Spencer Corbett of our staff made contact with Ms. Newman and explained our dilemma the matter was soon addressed.*

*We are grateful for the follow through and expeditions service we received. Ms. Newman was very professional in her handling of our case in which we received two refunds as a result of her diligence. Thank you for your service.*

-Respectfully,
Mary Hughes, Executive Director

Ms. Noël:

*I can only imagine the number of letters you get from residents complaining about some problem or another. I felt compelled to write this letter to you, to let you know how appreciative I am of Ms. Ardella Newman.*

*I had been trying for two years to have Verizon remove a telephone wire that had been draped across my lawn. For two years my calls to Verizon have been ignored. On April 21st, after speaking with Ms. Newman, I faxed a letter to her. Within 48 hours, someone was at my home from Verizon to remove the hazardous wire. I don't know what had to be done, but I am thankful for whatever acts Ms. Newman performed on my behalf...and so quickly.*

*I'm appreciative of her and of course you, Ms. Noel, as head of the Office of the People's Counsel.*

- Sincerely, Jacqueline C. Dixon,
Ward 5

The assistance offered by Ardella Newman and Herb Jones was wonderful. They helped successfully negogiated with Washington Gas and helped faciliated full restoration.

-Thank you,
Kathleen Rand-Reed, Ward 5

Cheryl Morse, a member of OPC's Consumer Services Division, says she was "just doing her job" when she began working with a Northwest Washington couple struggling to keep up with their electric bills.

What began as a general consumer inquiry became an increasingly complex complaint. Ms. Morse took the time to listen to the consumers' story about trying to make sense of their electricity bill, which according to the consumers, bore no resemblance to how they used electricity in their one-bedroom home.

"As we talked, I knew something had to be wrong" said Ms. Morse. "The family had tried everything they could to keep their electricity consumption down and still the high bills kept coming. Finally, through close coordination with the Public Service Commission and Pepco we were able to determine that the meter for which they were being billed was not the meter connected to their service line." This kind of cross-metering instance can go on undetected indefinitely if both customers involved use similar amounts of electricity on a monthly basis. In this case the usage patterns proved to be very different.

Ultimately, Pepco's own investigation revealed several key facts. From November 2008 through July 2009, the customers were billed for more than 15,000 kWh of service. For this same period, their actual payments should have totaled just $286. Despite disagreeing with the data, the couple continued to pay their bills in full. This led to an overpayment of $2,045.23

The Utility Consumer Bill of Rights (UCBOR) permits a utility to review its past billing to correct an error. The utility can go back as far as necessary to make the bill accurate. In this case, at the customers' request, Pepco has refunded the overpayment in full.

"This case is a prime example of why consumers must become familiar with how much electricity they use and why it is so important for consumers to check their billing statements on a regular basis. In this case the consumers found they had a resource in OPC to assist them in resolving their complaint" added Ms. Morse.

"It is rewarding to be in a customer service position and to be able to provide the level of assistance that improves consumers' lives. At the end of the day, you have to feel great about a job well done. Receiving flowers as a thank you is an added bonus" said Ms. Morse.

Dear Cheryl –

My Wife and I wanted to Thank You Very Much for Helping Us with the billing issues we had with Pepco. You got through the red tape and for that we are very grateful.

**-Amaury & Abby Cooper, Ward 1**

**C BG** *Coalition for Better Government, Inc.*

**Connie A. Fortune**
*Chairperson*
**Nathan Bossard**
*Vice Chairperson*
**Helen H. Mitchell**
*Secretary-Treasurer*

June 9, 2009

Elizabeth A. Noel, Esq.
People's Counsel
District of Columbia
1133 15th St., Northwest
Washington, D. C. 20005-2710

Ms. Noel:

This letter is sent to express our appreciation for an excellent presentation given, at our invitation, by your Consumer Services Division representatives; Mr. Lawrence F. Jones and Ms. Brenda K. Pennington., Esq. On May 27, 2009, these representatives gave an informative briefing on your Office's mission, current utility issues and initiatives being undertaken on behalf of your citizen clients.

We appreciate your Office's acceptance of our invitation and wish to commend both staff members who responded with enthusiasm and a high degree of professionalism.

As a result of their informative presentation, we are now better prepared to actively respond to the many issues facing us as utility consumers.

Sincerely,

Connie A. Fortune
Chairperson

*2827 7th Street, Northeast, Washington, D.C. 20017 • (202) 832-5281*

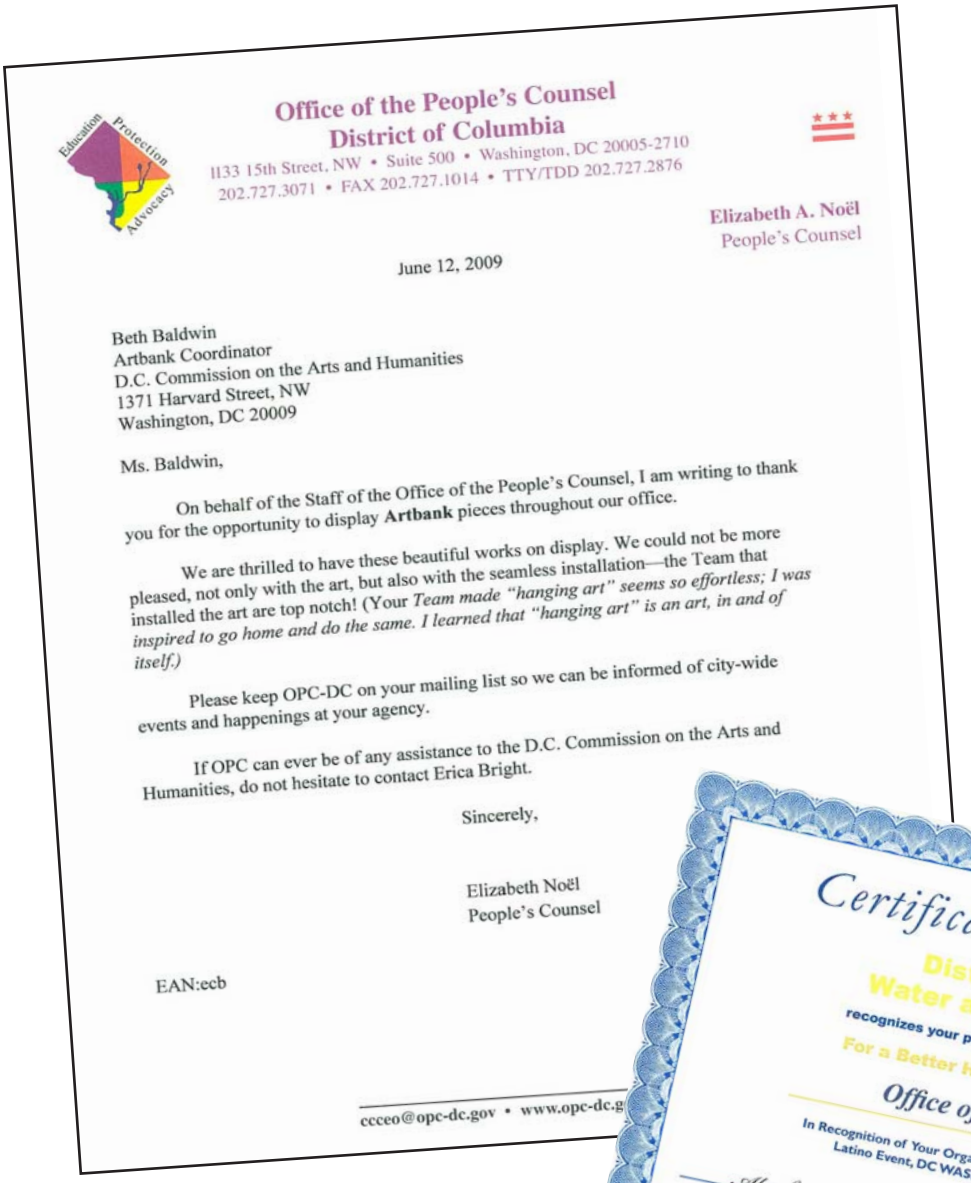
Ms. Noël:

*I am writing to let you know that I am very pleased with the response from Mr. Lawrence Jones and his staff when I called on June 5, 2009, to register a complaint against Verizon.*

*I need not go into detail, but I will say that I recevied immediate attention from Verizon when the People's Counsel got involved. The problem was resolved and I hope this time the solution will result in no more interruptions of my phone and internet service.*

*I truly congratulate your staff for giving immediate attention to consumers of these very important services.*

-Sincerely,
Doris E. McCannon, Ward 4



Office of the People's Counsel
District of Columbia
1133 15th Street, NW • Suite 500 • Washington, DC 20005-2710
202.727.3071 • FAX 202.727.1014 • TTY/TDD 202.727.2876

Education Protection Advocacy

Elizabeth A. Noël
People's Counsel

June 12, 2009

Beth Baldwin
Artbank Coordinator
D.C. Commission on the Arts and Humanities
1371 Harvard Street, NW
Washington, DC 20009

Ms. Baldwin,

On behalf of the Staff of the Office of the People's Counsel, I am writing to thank you for the opportunity to display **Artbank** pieces throughout our office.

We are thrilled to have these beautiful works on display. We could not be more pleased, not only with the art, but also with the seamless installation—the Team that installed the art are top notch! (Your *Team made "hanging art" seems so effortless; I was inspired to go home and do the same. I learned that "hanging art" is an art, in and of itself.)*

Please keep OPC-DC on your mailing list so we can be informed of city-wide events and happenings at your agency.

If OPC can ever be of any assistance to the D.C. Commission on the Arts and Humanities, do not hesitate to contact Erica Bright.

Sincerely,

Elizabeth Noël
People's Counsel

EAN:ecb

ccceo@opc-dc.gov • www.opc-dc.g

Certificate of Appreciation

District of Columbia
Water and Sewer Authority
recognizes your participation and valuable contribution to
For a Better Home...For a Better Community

Office of the People's Counsel

In Recognition of Your Organization's Valuable Contributions to the 2nd Annual Latino Event, DC WASA and OLA Wish to Express our Appreciation

Aleizha Batson
Aleizha Batson, DC WASA

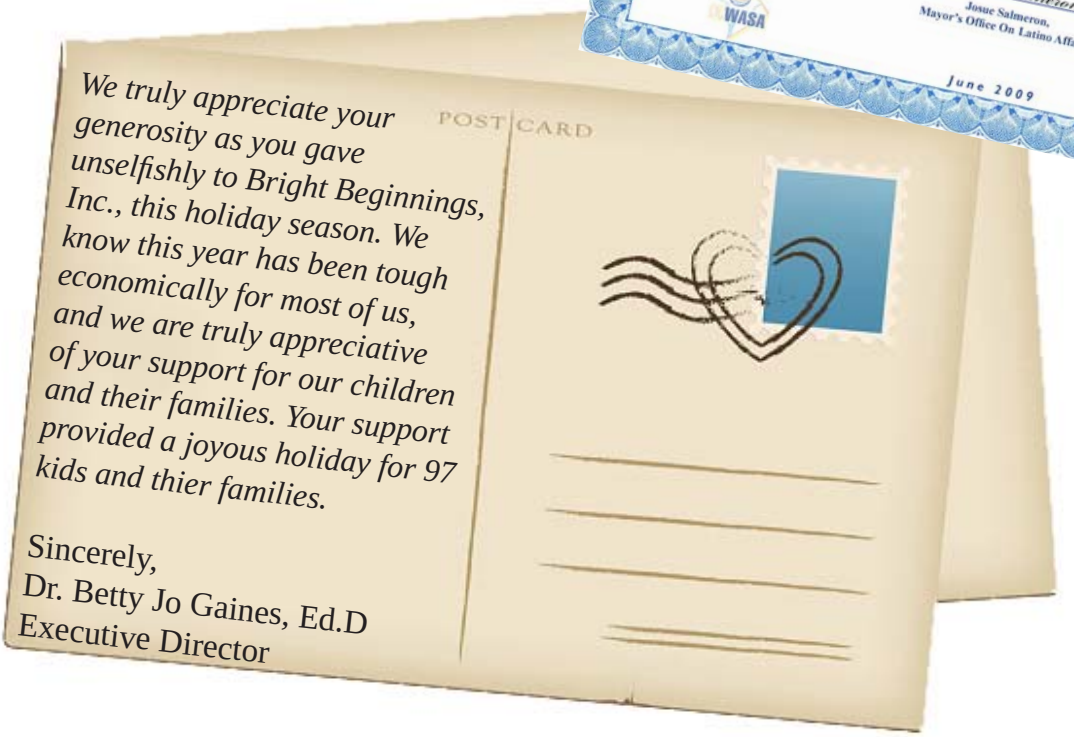
Pamela Mooring
Pamela Mooring, DC WASA

Josue Salmeron
Josue Salmeron,
Mayor's Office On Latino Affairs

DC WASA

June 2009

GOVERNMENT OF THE DISTRICT OF COLUMBIA
EXECUTIVE OFFICE OF THE MAYOR
OFFICE ON LATINO AFFAIRS



POST CARD

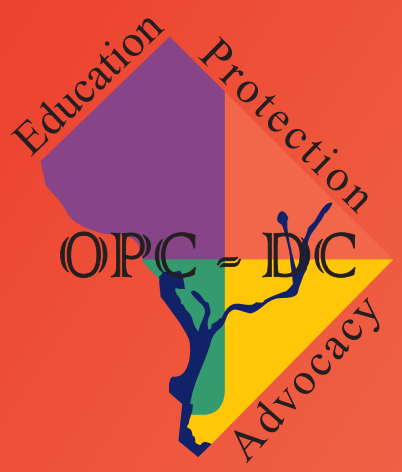
*We truly appreciate your generosity as you gave unselfishly to Bright Beginnings, Inc., this holiday season. We know this year has been tough economically for most of us, and we are truly appreciative of your support for our children and their families. Your support provided a joyous holiday for 97 kids and thier families.*

Sincerely,
Dr. Betty Jo Gaines, Ed.D
Executive Director

# NOTES:

# NOTES:

# Office of the People's Counsel




*Educating*

*Protecting*

*Advocating*

1133 15th Street NW, Suite 500 Washington, DC 20005

Phone: 202.727.3071 TTY/TDD: 202.727.2876 Fax: 202.727.1014

Website: www.opc-dc.gov Email: ccceo@opc-dc.gov

TO:

PRINTED WITH SOY INK

Mixed Sources
Product group from well-managed forests, controlled sources and recycled wood or fiber
www.fsc.org Cert no. SW-COC-002504
© 1996 Forest Stewardship Council