

Testimony of Sandra Mattavous-Frye

People's Counsel for the District of Columbia

Before the

DC Council Committee on Business and Economic

Development

On the Office of the People's Counsel's

Agency Performance Oversight Hearing FY 2018

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Good Afternoon Chairman McDuffie and Members of the Committee, for the record I am Sandra Mattavous-Frye, People's Counsel for the District of Columbia. Accompanying me today are key members of my executive and management staff: Karen Sistrunk, Deputy People's Counsel; Eric Scott, Chief Operating Officer; Eric Coard, Chief of Staff; Laurence Daniels, Director of Litigation; Nick Gumer, Financial and Regulatory Director; and Aaron Ward, Director of Consumer Services.

Thank you for the opportunity to highlight OPC's unprecedented successes and accomplishments achieved last year; and to present our new initiatives and goals moving forward.

For years, I have talked about the rapidly evolving utility industry and its potential impact on District consumers. While I do not claim to be clairvoyant, my predictions of seismic change to regulated utilities have become reality and now constitute the new normal for District utility consumers. The old local utility companies and the "old ways" are now in the rear-view mirror.

OPC is a steward of the public trust and for more than 40 years we have fulfilled our statutory mandate through advocacy for "just, reliable and affordable" utility service for District consumers. Throughout my tenure, OPC has achieved extraordinary success in our mission to advocate, educate and protect consumers, while moving forward to meet the realities of the new day.

Today I will share with you our progress in **meeting our goals, our support for the city's environmental and climate change goals, our accomplishments, new initiatives, and how we are embracing the opportunities and challenges on the horizon.**

I. SETTING AMBITIOUS GOALS

OPC is unwavering in its commitment to zealously advocate for affordable rates, and safe and reliable service. We continue to follow our **CARE** principles: Consumer Empowerment, Affordable Rates, Reliable Service, and Energy Efficiency and Sustainability.

In FY 2018, OPC litigated 31 cases before the Public Service Commission (PSC) and the Federal Energy Regulatory Commission (FERC) on a broad range of utility issues. We attended more than 268 outreach meetings, resolved 1,593 consumer complaints, expanded our social media outreach two-fold, significantly increased our Small Business Enterprise (SBE) percentage and added and revised educational brochures and publications to be more user friendly. Our principal goal is to ensure District consumers, in all eight wards, receive the benefits to which they are entitled.

Keeping Customer Rates and Bills Affordable Pepco

On June 30, 2016, Pepco filed a rate case request for an increase in rates of \$55.5 Million. On July 25, 2017, the Commission issued a decision authorizing Pepco to increase its rates by \$36.9 million. Six months later, on Dec. 19, Pepco filed another rate case requesting an additional \$66.2. Million. Shortly thereafter, on December 22, the federal “Tax Cuts and Jobs Act of 2017” (“TCJA”) was signed into law. The TCJA lowered the federal corporate tax rate, reducing Pepco’s 2018 tax

obligations that they collect from ratepayers. With the passage of the new tax law, consumers were entitled to a refund of the money that was collected from them under the old tax rates. OPC urged the PSC to expedite tax refunds prior to the conclusion of the pending rate case. Pepco subsequently updated its December rate increase application to reflect the tax change.

The Office engaged in settlement discussions, which resulted in a settlement agreement that included a \$24.1 million rate decrease and a 9-month moratorium on rate case filings. The Commission approved the settlement agreement on August 9, 2018. Yes, you heard me correctly, Pepco's rates were reduced by \$24 million. Thirty-one percent of the decrease came from the federal tax cut. The remaining 69% of the reduction was due to settlement negotiations that included numerous reductions to Pepco's distribution rates.

The settlement included an \$8 million increase to the residential Customer Rate Credit that OPC secured in the Pepco Merger. The combined benefit of the reduction and the customer credit resulted in a four-year freeze on residential customer bills.

One of OPC's goals is to ensure that Pepco complies with its merger commitments. In 2018, OPC continued to monitor Pepco's merger compliance. My compliance team met quarterly and worked to resolve any concerns. For example, the compliance meetings included

discussions about the arrearage management plan (AMP) which is now scheduled to begin in August of 2019; and Exelon's commitment to build 7 MW of solar energy by December 2018.

OPC has been vigilant in protecting ratepayers from unwarranted expenses, even those falling outside of the scope of a rate case. In Pepco's Capital Grid Case, the company is requesting \$1 Billion to build a new substation. In our view, approval of a capital investment of this magnitude must consider its impact on energy conservation, the District's renewable energy goals, and the introduction or expansion of micro-grids, and energy storage options.

Last year, OPC participated in a working group convened by the PSC to develop eligibility criteria (F.C. 1149) for an experimental rate class to reduce the bills of seniors and disabled consumers receiving the Homestead deduction and the senior citizens/disabled property tax deduction. We used the data we collected from our 2017 Senior Focus Group and Outreach Report, to inform our position and enhance the public record. The Commission approved the working groups' recommendation and reduced the Customer Charge from \$15.09 to \$7.50 a month for eligible applicants and directed Pepco to file copies of any final customer education materials with the Commission and OPC before dissemination.

DC Power-Line Under Grounding

The purpose of DC PLUG is to underground the most vulnerable overhead power lines in five of the District's eight wards. OPC was a member of the public/private partnership established by former Mayor Vincent Gray in 2011. Construction was stalled by legal appeals by Apartment and Office Building Association (AOBA) and protests from GSA. OPC supported the PSC's decision approving the plan and filed an *amicus* brief before the DC Court of Appeals. In 2014 Mayor Muriel Bowser, created the Under-Grounding Project Consumer Education Task Force and charged the task force with monitoring the program and educating the public. Last year Mayor Bowser appointed Aaron Ward, OPC Consumer Services Director, to serve on the task force.

Washington Gas

Washington Gas ratepayers also received a reduction of \$8.2 Million resulting from the federal tax cut. However, the majority of OPC's time during the year was spent on the AltaGas application to acquire Washington Gas.

AltaGas/WGL Merger Proceeding:

On April 24, 2017, AltaGas and WGL filed an application seeking Commission approval of AltaGas' acquisition of WGL. Upon review of the proposal we determined that the application, as filed by the companies, was not in the public interest because while it provided a

wealth of benefits for shareholders, it failed to provide any significant benefits to consumers and exposed them to several risks, including credit downgrades and foreign currency exchange fluctuations that could dramatically increase the cost of service. The Office's policy concerns focused on ensuring that ratepayers received measurable benefits. We stressed the need for improvements in natural gas distribution reliability, non-compromised support for the District's progressive environmental and sustainability goals, and that consumers not pay higher rates than they would have paid absent the proposed acquisition. The Office also met with ANC and various civic groups to educate them about the merger.

We engaged in extensive settlement discussions with WGL and the other parties; and pressed for an agreement that would confer tangible benefits to District ratepayers and, fully shield them from financial harm. We fought for strong ring-fencing provisions to protect ratepayers from any negative financial impact caused by decisions made by AltaGas.

On May 8, 2018, the applicants, OPC and other parties to the case filed a unanimous settlement agreement with the Commission that contained 85 commitments designed to safeguard ratepayers and WGL from merger-related risks and to produce bonafide ratepayer benefits. On June 29, 2018, the Commission approved the merger, subject to the settlement conditions and certain additional financial protections. AltaGas and WGL closed the transaction on July 6, 2018.

A full description of AltaGas' 85 Commitments is attached to my testimony for your review. I will mention a few of the key provisions:

- 1) \$20.5 million in rate credits for Washington Gas' residential customers (about \$150 per WGL residential-heating customer)
- 2) \$4.2 million for energy-efficiency initiatives, \$1.5 million to provide supplemental funding for the Washington Area Fuel Fund, and \$6 million for workforce development initiatives, none of which can be recovered in rates;
- 3) A two-year, rate-case moratorium
- 4) New reporting requirements on its pipeline replacement efforts, the level of system leaks and their efforts to hire and train additional repair crews;
- 5) The development of 10 MW of an energy storage or a renewable resource, and a requirement that AltaGas file a long-term business plan on how it can evolve its business model to support the District's environmental and climate goals.

WGL Merger Compliance

OPC is monitoring WGL ongoing merger compliance and is working to ensure the merger commitments are met. For example, Merger Commitment No. 70 relates to WGL's gas meter relocation practices. It

requires WGL to develop protocols for moving meters from inside to the outside of property located in both historic and non-historic areas of the District.

Likewise, we continue to monitor the companies' financial health, particularly in view of AltaGas' falling stock prices and the downgrade of WGL's credit rating. OPC filed a motion requesting that the Commission convene a hearing for the companies to explain their financial status. Last month we met with WGL officials for an update. The Commission's final decision on the need for a hearing is pending.

II. PROMOTING THE DISTRICT'S ENVIRONMENTAL, ENERGY AND CLIMATE CHANGE GOALS

Promoting conservation, energy efficiency and distributed energy resources, has always been at the forefront of OPC's mission. Before distributed energy resources, distributed generation, solar power and other sustainable resources became household terms OPC was promoting conservation and alternatives to fossil fuel generation. We have not pulled back.

Last year we met with numerous church leaders to educate them about energy efficiency options available to them. We launched a study as a follow-up to our ground breaking 2017 "Value of Solar Study". Our new study on community solar in the District ("Optimal Mixes of Privately

and Community-Owned Solar Installations in the District of Columbia”) is designed to provide critical data we will need as infrastructure decisions are made to prepare for full compliance with the Clean Energy Act.

I continue to serve on the Sustainable Energy Utility (SEU) Advisory Board, and we work closely with DOEE’s education and outreach for the Mayor’s “Solar for All” program.

To enhance consumer education, we are creating a new “Energy Affordability Hub” at OPC that will be open to the public to serve as an educational learning laboratory on energy efficiency and technology.

Last year, we published a “DC Consumer’s Guide to Going Solar.” It is a “how to” manual written in simple terms detailing how consumers of all incomes can take advantage of solar technology.

In the PSC’s grid modernization proceeding or “MEDSIS,” OPC is a member of all six working groups. OPC staff participated in 25 meetings in 2018 and 11 meetings to date this year. The MEDSIS initiative is critical to the implementation of the District’s 2032 renewable energy mandate, as well as to the growth of solar, and future rate regulation and rate design.

III. AGENCY ACCOMPLISHMENTS and ACHIEVEMENTS PRODUCING CONSUMER BENEFITS.

Legislative Activity

OPC had a very productive year before the DC Council. We analyzed and commented on pending legislation and worked with stakeholders to propose new legislation. For example, the AARP Legal Counsel for the Elderly brought to OPC's attention instances of vulnerable, often critically ill patients suffering the impact of utility disconnection. This is because these residents are generally not the customer of record on the utility account and, therefore, are unaware of any pending disconnection. OPC brought this matter to the attention of Ward 4 Councilmember Brandon Todd and worked on legislation that resulted in the passage of his Community Residential Facilities Third-Party Notice of Utility Disconnection Requirement Act. We also testified in support of Councilmember Todd's Senior Strategic Plan Amendment Act.

Additionally, we were a member of Ward 3 Councilmember Mary Cheh's Clean Energy working group and provided input that led to the introduction of the Clean Energy Omnibus Amendment Act. Finally, OPC provided testimony on the "DC Water Consumer Protection Amendment Act," which grants OPC authority to represent DC Water consumers.

Third Party Suppliers

Last year, we stepped up our advocacy on behalf of consumers who continue to be plagued by unscrupulous Third-Party Suppliers (TPS). We met with officials from the Retail Energy Supplier Association, a TPS membership organization. We also contacted individual TPS companies and convinced them to cease marketing their services to seniors and low-income consumers entering and leaving social service agencies. We circulated several thousand copies of our Third-Party Supplier Guide to the public.

Unfortunately, the market is also flooded with non-TPS companies that target utility consumers with fraudulent and abusive practices. We routinely send out alerts to consumers about scams being perpetrated by bad actors through social media and constituent contacts. Nonetheless, we are painfully aware that much more work is needed in this area.

Consumer Engagement and Empowerment Building Strategic Alliances

I am excited to announce that OPC recently launched the Utility Consumer Advocacy Network (UCAN), to bring new consumer voices to the table and to assist us in identifying important community issues. All eight wards of the District are represented.

We have expanded the number of social service agencies we meet with on an annual basis which provides an opportunity to exchange ideas that will help us better meet the underlying needs of consumers who often face multiple challenges that contribute to utility payment problems.

Our “OPC In Your Neighborhood” events, our partnership with DC Public Schools and the DC Department of Parks and Recreation have combined to increase our outreach by 35% over FY 2017.

Increasing Agency Operational Efficiencies

The Operations Division is the hub of our agency and much of OPC’s effectiveness hinges on the efficiency and adoption of best practices by our Directorate and Operations Divisions. The Directorate has established several operational objectives that buttress staff success and the Operations Division has excelled in executing these mandates. I hired an experienced Chief of Staff to work with my divisional managers to clarify staff roles and responsibilities.

Our Operations Division developed an e-invoice portal to streamline and track expenditures and an e-travel system is under development and will soon launch. We have expanded training opportunities for staff using the services of a DC based SBE, and by sending additional staff to train on the fundamentals of utility regulatory policy, program and administrative management training, as well as utility industry training

conducted by FERC, the PJM and national and local utility conferences. We serve as speakers at various utility conferences and are active members of the “National Associations of State Utility Consumer Advocates (NASUCA).

We upgraded our Human Resources section to better meet the needs of all staff. We recently filled our HR Specialist vacancy with a professional who brings a wealth of experience from her previous employment at the District of Columbia Department of Human Resources.

I am also delighted to report that for fiscal year 2018 we exceeded expectations and met 157% of our SBE contracting goal. This represents a 34% increase over last year. In addition, OPC expended 99.1% of its FY19 appropriated agency budget. OPC’s Communications Section, develops and distributes public education information, using an array of media, social media, and consumer tools. These include our monthly digital newsletter, the “OPC Connection,” published monthly since 2016, our “Guide to Going Solar” developed with the “Clean Energy States Alliance” (CESA), the “Third-Party Supplier Guide,” “Know Your Utility Rights” rack cards, and the “OPC History” document attached to my Testimony.

Additionally, we produced three short animated videos, each in English and Spanish that we host online and have aired on DC government cable channels. ***(I'd like to share two of the short videos with you).

IV. NEW INITIATIVES: 2019 AND BEYOND

I take very seriously my responsibility to zealously address all utility actions that affect District consumers. We are proactive in initiating new programs and expanding existing policies. Some of these initiatives are an outgrowth of new cases, while others are independent endeavors. For example, the MEDSIS docket is considering what role Pepco should have in the development of infrastructure and control of the Plug-in Electric vehicle (EV) charging market. OPC is consulting with other states and jurisdictions for best practices that will facilitate the creation of programs that will equitably develop EVs.

In Pepco's last rate case, the PSC indicated its interest in alternative rate making. Pepco is proposing a Multi-Year Rate Plan (MYRP) model. The MYRP represents a fundamental change in the regulatory process. Pepco is expected to include more information on its plan in its next rate case filing expected sometime on or after May 1, 2019. OPC commissioned a White Paper to outline a consumer-centric view of what a MYRP may offer District ratepayers. Indisputably, an effective plan

must support safe, reliable and affordable electric service at just and reasonable rates.

We are in the process of reviewing responses to an RFP for an Affordability Study we issued. The white paper will assist us in determining the impact changes in rate plans could have on customers.

In F.C. 1148 we will look at energy efficiency and conservation programs designed to meet the needs of nearly half of our population living in multi-family, often older, master metered buildings, whose residents, low and limited-income consumers, would greatly benefit from a whole-Building, Deep Energy Retrofit program.

OPC Awards and Recognitions

My Staff and I work hard to meet our statutory mission and to provide high level customer service. I am always honored when my office receives public recognition. It means we are doing our job! To date, two OPC employees, Silvia Garrick and Cheryl Morse, have been nominated for Cafritz awards recognizing outstanding government service.

Attorney Erik Heinle of the Litigation Division has been recognized for his work before the FERC and PJM, on behalf of DC consumers, where key decisions are being made. OPC involvement at that level is critical because these costs constitute 70% of consumers' bills. Erik's work for OPC has been noted numerous times in the trade journal RTO Insider.

Our Annual Report received the “2018 Platinum Award” from the Association of Marketing and Communications Professionals. I am personally honored to have received the “Outstanding Citizen Award” from the DC Federation of Citizens Associations and the “2018 Government Champion Award” from the Maryland, District, Delaware, Virginia Solar Energy Industries Association.

V. OPC EMBRACES THE CHALLENGES AND OPPORTUNITIES OF THE FUTURE

OPC Welcomes its New Role Working with DC WATER

Consumers

Without doubt, OPC faces an emerging challenge with the anticipated rollout of the “DC Water Consumer Protection Amendment Act of 2018.” To prepare for our new role, we have sought guidance from other consumer advocates and water industry representatives throughout the country to help us understand the fundamentals of water advocacy. We have met several times with DC Water officials and have scheduled a tour of DC Water facilities to learn about the DC Water system and processes. I have directed my managers to identify additional technical training on water regulation for necessary staff. We are conducting research to identify the primary issues specific to District water consumers, preparing to recruit and hire staff to respond to water system

complaints and creating a targeted education and outreach plan. We are coordinating with DOEE and DC Water to develop a “Water Consumer Bill of Rights”.

VI. CONCLUSION

In closing, I remain mindful that times have changed. The District’s population now exceeds 703,000 residents and is estimated to grow beyond 713,000 in 2019. Even the most casual observer can see the widespread construction and the changing character of many of our neighborhoods and the growing economic disparity gap among residents.

Political changes, industry technology advances and demographic shifts are creating new regulatory methods, new service offerings and new consumer priorities. City-wide mandates for renewable energy, and policies that respond to climate change and environmental concerns around fossil fuels have accelerated interest in energy storage, solar expansion and distributed generation. I assure you, OPC is ready to meet the challenge.

Thank you for your time, I am available for questions.