

BEFORE THE  
COMMITTEE ON GOVERNMENT OPERATIONS  
*Of the*  
COUNCIL of the District of Columbia  
*On the*  
OFFICE OF THE PEOPLE'S COUNSEL'S  
FY 2013 AGENCY OVERSIGHT HEARING

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**February 27, 2014**

**I. Introduction**

Good Morning Chairman McDuffie and members of the Committee. I am Sandra Mattavous-Frye and I serve as People's Counsel for the District of Columbia. Appearing with me today are key members of my managerial staff and Ms. Gurmeet Scoggins, Agency Financial Officer assigned to OPC by the OCFO. Ms. Scoggins is available to present information regarding OPC's fiscal affairs.

When I came before you last year, I spoke of the rapid and ubiquitous pace of change throughout the utility industry and noted that public policy decisions would require "creative and innovative thinking as we strive to achieve public

benefits in a changing new world.” I did not realize that these words would be eerily prescient as FY 2013 unfolded.

## II. **C.A.R.E. Platform**

As People’s Counsel, my core principles which I refer to as (“CARE”)-- Consumer Empowerment, Affordability, Reliability and Energy Efficiency and Sustainability, are unchanged and are in line with the new world reality. It is a reality that utility issues are major drivers in the daily economic and lifestyle decisions consumers must make.

We have entered an age of utility service transformation and with it, consumer transformation. In the energy sector, we have residential consumers who are generating energy; and energy storage is a rapidly emerging technology and plans are being developed to modernize and strengthen the Grid.

In the telecommunications industry, policy makers are considering the impact of the transition from copper wire to fiber optics and other advanced technologies, on the obligation of the traditional telephone companies to provide regulated service to consumers. The bottom line is the utility industry is changing, and we must become the leaders of change without sacrificing basic consumer rights and entitlements. I stand vigilant to ensure that consumer rights do not fall

victim to progress. In my testimony today, I will outline how my CARE platform is designed to achieve this goal.

My testimony will also highlight a few of our major cases and initiatives, share a few of OPC's accomplishments under my leadership, and discuss briefly the challenges and opportunities I see on the horizon.

I would be remiss if I did not acknowledge my phenomenal staff. They are passionate and committed well beyond the call of duty to the mission of the Office and to our clients.

### **Consumer Empowerment**

Consumer Empowerment is a straight-forward concept. It means ensuring consumers have a voice at the table and that their concerns are seriously considered by decision makers. By statute, OPC is "the voice" of all electric, natural gas, and telecommunications services consumers in the District. Consistent with my mandate, in FY 2013, OPC continued to zealously advocate on behalf of DC consumers regarding the utility services they received.

In recognition of OPC's advocacy, I was awarded the University of the District of Columbia, David A. Clarke School of Laws', Advocate for Justice Award in May 2013. OPC was also recognized by the DC Office of Human Rights

for exemplary performance after receiving perfect scores for fulfilling all of its Language Access program requirements in FY 2013.

Starion Energy: Last spring, OPC began receiving complaints from consumers about the business practices of Alternative Energy Suppliers (“AES”) operating in the City. We heard reports of hard sell pressure tactics, misrepresentations, targeting of senior communities and un-authorized switching of customer accounts. We successfully petitioned the Commission for an immediate investigation of all AES providers. Twenty-two witnesses testified at the public hearing convened by the Commission. The Commission subsequently initiated a formal investigation of Starion Energy, the company that received the most complaints. Following the July hearing, OPC entered into settlement discussions with Starion Energy. The resulting settlement agreement was approved by the PSC on February 6, 2014.

I was convinced this was an appropriate course of action because it had the potential to deliver immediate and tangible benefits to the affected consumers.

The agreement requires Starion to “make whole” aggrieved consumers, and to provide a \$100,000 contribution to the Greater Washington Urban League for energy assistance. This unprecedented contribution for energy consumers is sorely needed during what has been a brutal winter season. More importantly, I believe this settlement establishes a quality-of-service standard for other alternative

providers. Additionally, it signals to other companies that the District is open for business, provided they abide by the rules and consumers are not harmed.

Verizon: In 2010, during the early stages of FiOS deployment, OPC began proactively informing, educating and advocating on behalf of District consumers regarding the new fiber-optic technology. In the ensuing years, consumers voiced concern about the quality of service they were receiving from Verizon. Based on numerous consumer complaints, OPC petitioned the PSC to initiate a formal investigation.

In January 2013, an investigation into Verizon's continued use of its copper infrastructure for the provision of telecommunications services was docketed. This case will review how and under what circumstances customers are to be transitioned from telecommunications services provided over copper facilities to telecommunications services provided over fiber facilities. This is another example of ensuring public concerns are heard and addressed by decision makers.

### **Affordable Rates**

Advocating for affordable rates remains a cornerstone of my policy. We litigated both a gas and electric rate case last year. These cases involve exhaustive review and analysis of complex technical issues such as depreciation and the

overall utility cost of service. As a result of our advocacy, we achieved a 71% reduction in Washington Gas' requested rate increase (FC 1093).

We also vigorously advocated for the PSC to reject Pepco's \$44.1M proposed rate increase and asked them to reduce the Company's rates by \$10M. Pepco's back-to-back rate case filing strategy has resulted in the Company receiving \$72M in additional revenues, in less than 5 years. This is unacceptable and unsupportable; particularly given that these costs are ultimately borne by ratepayers. I look forward to the PSC's decision regarding Pepco's rate-increase request (FC 1103).

### **Reliability**

As People's Counsel, I was particularly honored to represent utility consumers under the leadership of Mayor Gray on the Power line Undergrounding Task Force (Task Force). I brought to the process my understanding that while the "world" has changed for Pepco, the bottom line for District consumers is unchanged: affordable rates and improved reliability are a must. I made it my mission to ensure that any costs to consumers were kept reasonable. I dedicated myself and key members of my staff to this initiative.

Aside from the mere scale of this undertaking, development of an undergrounding process required a careful balancing of interests to ensure that tangible benefits to consumers were deliverable.

As you are aware, the Task Force proposed, and the Council has recently approved a multi-year infrastructure project to underground approximately 60 of the worse performing electrical feeders throughout five wards of the District. It is important to note that the law requires public and community involvement. As such, both before and during the roll-out, consumers must be informed and educated about how they will be impacted by the plan.

### **Energy Efficiency and Sustainability**

My commitment has ensured that OPC remains active before the Federal Energy Regulatory Commission (FERC) and PJM Interconnection (PJM). I am excited about the growth and development of OPC's Energy Efficiency and Sustainability Section ("EES" or "Section") over the past year. Our involvement is directly responsive to the District's participation in the wholesale capacity and energy markets. Within the past year OPC, has been the most active DC agency in the PJM stakeholder process. This enables OPC to guarantee that consumer interests are represented in the forums where critical decisions are being made. It is

important because wholesale capacity and energy costs, trickle down to retail customers.

Further, OPC was able to provide substantive participation on behalf of District consumers before the FERC on issues crucial to the development of renewable and distributed generation options for consumers. OPC works with other advocate offices to pursue consumer-friendly policies at the federal and regional levels. Additionally, OPC sponsored a citywide sustainability conference in October, 2013, and has expanded its energy workshops throughout all wards of the City.

In keeping with our agency outreach efforts, OPC's Energy Efficiency Section has met with 118 community groups, numerous stakeholders in the renewable energy community, and interested residents throughout FY 2013. OPC also continues to serve as a member of the SEU advisory board.

### **III. Overview of FY 2013 Accomplishments**

As detailed in our prefiled responses, 2013 was a busy year for OPC.

### **Consumer Outreach and Education**

- CSD handled in excess of 2,700 combined Consumer complaints and consumer inquiries (1,715 Consumer Complaints (and 1,020 general inquiries – issues that do not require entry into our complaints resolution process, but do require research and response).
- Presented consumer education information to 178 civic and community associations, tenant groups and Advisory Neighborhood Commission meetings.
- Conducted five (5) “Utility 101 Workshops” to educate consumers about billing issues, how to read and understand their bills and provided other helpful advice.
- Held four (4) Key Community Leader Briefings to inform community leaders of our on-going cases.

### **Litigation Division**

- LSD was involved in 43 legal issues/cases before the PSC
- 6 working groups before the PSC
- 7 cases and proceedings before FERC
- Member of 6 stakeholder committees at PJM.
- Member of MADRI (Mid-Atlantic Distributed Resources Initiative) Working Group

## **Language Access**

OPC was recognized by the DC Office of Human Rights for its exemplary performance in fully complying with all language access program requirements and its proactive outreach activities to provide services to the District's **LEP/NEP** (Limited English Proficient/Non-English Proficient) citizens. In FY 2012 and FY 2013, OPC received perfect scores by fulfilling all of its Language Access program requirements in these fiscal years. This is the fourth year in a row that the office has received a superior performance rating.

## **National Association of State Utility Consumer Advocates (NASUCA)**

- Serve as an officer on the Executive Committee of the National Association of Utility Consumer Advocate (NASUCA). This position allows me to stay abreast of national issues and trends facing utility regulation.
- Member and Co-Founder of the NASUCA Distributed Energy Resources Committee.

## **Council Testimony**

In addition to appearing before the Council for my annual Oversight and Budget Hearings, I have appeared before the Council and provided testimony on the following several proposed bills, the full list is in my prepared comments:

- The Electric Company Infrastructure Improvement Financing Act of 2013 (B20-0387)Public Service Commission and People’s Counsel Terms of Service Harmonization Amendment Act of 2013 (B20-346)
- Renewable Portfolio Standard Amendment Act of 2013 (Bill 20-418)
- Sustainable DC Omnibus Act of 2013 (B20-573)

### **Special Presentations**

- I have also participated on a speaker’s panel at the 2013 “Tenant Summit” at Gallaudet University, sponsored by The Office of the Tenant Advocate.
- NARUC, *Consumer Empowerment is a Green Button*, 2/4/13
- DC Citizens Association, 4/23/13
- DC/Maryland Utilities Association—*Evolution of Regulation*, 9/12/13
- DC Citizens Association, 10/22/13
- DC Federation of Civic Associations, *Smart Meters, Consumer Empowerment*, 10/26/13
- DC Commission on Aging, 11/27/13

## **Media and Social Media**

Throughout the year, we have also dispatched more than twenty email alerts and notifications to the thousands of residents on our email list.

Expanded our media outreach including an extended use of social media. Working with the Office of Cable Television we have produced and aired 6 issue-oriented video announcements and educational vignettes, including:

- how to participate in our “Verizon Quality of Service Town Hall” meetings,
- The Starion/Alternative Energy Supplier case;
- Citywide Energy Efficiency Summit;
- How to resolve Consumer Complaints;
- How to take advantage of the services of our Energy Efficiency Section; and;
- Updated our Agency Profile explaining the work of the Office.

## **IV. Challenges**

As we move forward in this brave new age of rapidly evolving public-utility regulation, we will face mounting challenges. Business as usual will not be a viable option.

Throughout the District, our utilities have experienced infrastructure failures both above and below ground, gas leaks, flooded vaults, and a host of other system challenges. Many of these occurrences represent long-term infrastructure choices

that must eventually be made. At the same time, customer demand, particularly for energy services is increasing. The challenge will be how best to serve this demand at a reasonable rate and maintain safe and reliable service.

Emergent consumer choice, fuel substitution, energy efficiency, environmental concerns, and the state of the District's economy are issues that will require our collective attention. It is difficult to predict the future impact of distributed generation, renewable energy portfolio requirements and energy storage technology on consumers. These evolving developments could ease the path for large customers such as hospitals and universities to abandon the grid completely, leaving smaller residential customers and any others that are unable to "flee the grid" to assume revenue responsibility for these stranded costs.

## **V. Opportunities**

For every challenge, there is an opportunity. The key goal is to protect our consumers from a future where there are utility haves and utility have-nots. We must avoid a future where the few, encased in gated enclaves connected to a "network of everything," enjoy great comfort, while others suffer in the darkness.

My charge and more importantly, the obligation of the policy makers, is to remain a viable and stable economic force in the region. As such, we need to

engage in extensive citywide energy and telecommunications planning that is not dependent upon any single technology.

First, we must take full advantage of the input of all stakeholders. In the end, regardless of how beautiful a “widget” we produce, it is worthless if there is no public buy-in. This buy-in will only occur if all stakeholders earnestly commit to work together. Consumer education will play a pivotal role in informing consumers of changes, the impact of these changes on their daily lives, and facilitate their ability to make reasoned choices.

We can use our existing tools – including the Consumer Bill of Rights and OPC’s statutory mandate – to advocate, educate, and protect consumers to find solutions to both old and new problems; such as how to keep the lights on, and new issues involving the impact of implementing advanced technology.

## **VI. Conclusion**

I close by noting that Congress created the People's Counsel because it recognized that utility consumers required an active and independent advocate to protect them against utility monopoly power. As the advocate, my singular responsibility is to represent the interests of our DC utility consumers. The role of the People's Counsel is as critical today as it was 35 years ago. The fundamental entitlement to affordable rates, high quality and reliable service, is unchanged and I remain committed to unwavering and unequivocal advocacy on behalf of District utility consumers.