

BEFORE THE  
COMMITTEE ON GOVERNMENT OPERATIONS  
*Of the*  
COUNCIL of the District of Columbia  
*On the*  
OFFICE OF THE PEOPLE'S COUNSEL'S  
FY 2012 AGENCY OVERSIGHT HEARING

STATEMENT OF SANDRA MATTAVOUS-FRYE  
PEOPLE'S COUNSEL

**February 28, 2013**

Good Morning Chairman McDuffie, members of the Committee and our public viewers. For the record, 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 Fiscal Officer assigned to OPC by the OCFO. Ms. Scroggins is available to present information regarding OPC's fiscal affairs.

The utility industry, both nationally and more importantly locally, is undergoing unprecedented change as a direct result of rapid pace technological advances, globalization and changing energy and telecommunications markets. The changes are both exciting and challenging. Advance Meter Infrastructure (AMI) Technology or (Smart Grid); Aging Infrastructure replacement; Distributed Generation, Plug in Hybrid Electric Vehicles, micro grids, Solar technology; Fiber Optics and Broadband are the new realities and will play pivotal roles in the ways and means by which consumers receive utility service. This new normal,

means “business as usual” is an anachronism that must be discarded. Going forward, public policy decisions must involve creative and innovative thinking as we strive to achieve public benefits in a changing, new, world.

In shaping the direction the Office will take, I have focused on meeting these challenges. I am proud of the accomplishments, both large and small, OPC has achieved under my leadership. We continue to pursue excellence, and to advocate zealously on behalf of DC consumers. Directly related to the goals and objectives I have established for the Office are achievements made in the areas of reliability, affordability and consumer empowerment.

Today I will provide you an update on the Office’s accomplishments over the previous year. The overarching theme of our work has been what I call my C.A.R.E. agenda: to create opportunities for Consumer empowerment, protect and preserve the Affordability of utility services, ensure the Reliability of utility service and to promote Energy Efficiency options to help consumers gain control of their bills and to meet the sustainability goals of the District of Columbia government.

## **Consumer Empowerment**

Consumer empowerment puts consumers at the table where, and when, decisions are being made that directly impact them. Consumer Empowerment, is in fact, why OPC was created, then reestablished in 1975 and charged with the mission to advocate on behalf of DC consumers. Throughout 2012, OPC worked diligently to ensure consumer’s voices were heard and that they were given the opportunity to fully participate in the regulatory process.

To this end, OPC conducted briefings for governmental and non-governmental agencies servicing a broad base of constituencies ranging from the very young to our senior community.

We continue to partner with the DC Office of Disability Rights, United Planning Organization, Seniors Centers, AARP, Council Constituent Services, DC Office on Aging, Office of the Tenant Advocate, Tenant Associations, Mount Pleasant Solar Coop, DC Solar United Neighborhoods and the Vote Solar Project to name but a few, to bring our message directly to our mutual constituents.

I have heard on numerous occasions that “every day” consumers are simply not interested in details of the proceedings before the Commission, and a few dollars in increased rates are not a pressing issue.

**Nothing** could be further from the truth!

Formal Case 1087 was a Pepco rate investigation distinguished by its inclusion of reliability as a major issue. In addition to litigating the case, OPC successfully partnered with other stakeholders to facilitate and galvanize public participation in the actual case. With the help of AARP and a host of civic, citizen and community organizations, OPC provided technical assistance to consumers resulting in the PSC receiving more than 5,000 comments from members of the public and witness testimony from 42 consumers regarding the rate proposal.

In July, in response to continuous complaints from consumers regarding Verizon’s failure to meet customer expectations for basic telephone service, OPC filed a Petition with the PSC requesting an investigation of the quality of service being provided by Verizon-DC. The PSC granted OPC’s Petition and opened a proceeding. In order to ensure that the concerns of the public were considered by the PSC as it makes its decision, and because there were no separate provisions for community hearings, in January OPC held two “Town Hall” Verizon Quality of Service meetings in Wards 3 and 7. Of the 86 Town Hall attendees, 56 gave public statements

outlining their service concerns which OPC will incorporate in its comments to be submitted on the record.

Poor electric reliability, sustained power outages, and lengthy restoration times have plagued the District for over a decade. Various corrective measures have been studied and proposed, including the undergrounding of power lines. In August, OPC staff developed and deployed a public survey regarding the outage experiences of DC electric consumers. Our survey included more than 1,200 responses from individual consumers who detailed their experiences and opinions on the value of undergrounding power lines. This information has been tabulated and is a part of the public record in the Service Outage dockets (SO-02 & SO-03,) and also shared with the Mayor's Power Line Undergrounding Task Force. The survey results remain available for the public to view from the OPC website. (OPC-DC.gov)

My staff continues to work with hundreds of consumers throughout the year, attending numerous community meetings, ANC meetings and outreach events. As part of its outreach efforts, OPC provides technical assistance and education to help consumers, in all eight wards of the city, participate directly in utility matters before the Commission and the Council.

Finally, the Office is utilizing the services of DC Cable Television to broadcast Public Service Announcements (PSAs) to educate the public about the work of OPC and emerging utility issues and pending cases. We have launched a comprehensive education media program explaining the work of the office and providing other useful consumer information.

My goal is simple, to increase OPC's recognition as a community resource. I am convinced consumers want to be involved, and given the opportunity will do so.

## **Affordability**

By law, consumers are entitled to receive quality utility service at a cost that is affordable. As regulated monopolies, Pepco, Washington Gas and Verizon are the only game in town for the regulated services they provide. In Formal Case No. 1087, Pepco sought \$42.1 million in additional revenues and a new revenue mechanism, the “RIM”, (*Reliability Investment Mechanism*) which would have permitted Pepco to automatically recover certain investments it made on reliability projects without prior approval by the Commission. OPC vigorously opposed both the amount requested and the RIM as presented. OPC was particularly concerned because the \$42 million request was on the back of \$47 million the company received during the prior three year period. In its final decision, the Commission rejected the RIM and limited Pepco’s rate recovery to \$24 Million.

In February, Washington Gas Light petitioned the Commission for a \$29 million increase in natural gas rates. OPC’s analysis, (which included a review of depreciation rates) suggested that the company was already earning more than the rate of return approved by the PSC. Accordingly, OPC filed its case requesting the Commission decrease WGL’s existing rates by \$9 M. We are currently awaiting a PSC decision.

Affordability with respect to Verizon telephone service is also a consumer concern. Many District consumers believe the company intends to abandon “hardwired” phone service in favor of service provided only over fiber optic cables which are often provided in unregulated “bundled packages.”

Telephones are, for many residents of our city, their lifeline to the outside world. I believe that access to basic telephone service at an affordable rate remains a fundamental right, even as technology brings many other options to the marketplace.

## **Reliability**

OPC has been a leader in efforts to ensure that Pepco makes tangible, verifiable improvements to its system reliability and mitigate the impact of Pepco's dismal reliability performance. Such improvements could finally bring an end to the long public embarrassment Pepco's reliability record has been to the nation's capital. In the aftermath of the June storm related outages, I provided testimony at the July 13<sup>th</sup> roundtable convened by Councilmember Yvette Alexander on Pepco's Outage and restoration efforts. I focused on several critical reliability issues including Pepco's excessive reliance on outside contractors and its inability to restore service within a reasonable period after the storms. OPC continues to seek an answer as to why ratepayers are asked to pay for reliability improvements that Pepco has failed to make, and should have made on its own, over the last ten years.

In addition to challenging Pepco's rate increase, OPC also questioned Pepco's planning process and corporate culture as related to its commitment to provide reliable service. On August 2, OPC filed a petition with the PSC requesting it initiate a proceeding to create a mechanism to link Pepco's Executive Management compensation to service reliability. I am pleased to say that earlier this month the Commission opened an investigation specifically linking executive compensation to measurable reliability results.

Reliability has not gone unnoticed by the highest levels of the District government. Mayor Gray has convened a Power line Undergrounding Task Force to address the feasibility of undergrounding power lines to improve reliability. I am an active member of the Task Force and I can attest to the fact that the Task Force members have been working assiduously to develop a plan that will address these seemingly irresolvable issues.

My office has also sought to address reliability issues affecting Verizon's service. OPC's investigation into Verizon is responsive to concerns raised by consumers who have complained that the company is either incapable or refuses to remedy telephone outage problems.

### **Energy Efficiency and Sustainability**

In its first full year of operation, OPC's Energy Efficiency and Sustainability unit has made great strides in representing the interests of DC consumers at the Federal and State levels and localizing the impact of energy efficiency to everyday consumers. I established this section to increase awareness of energy efficiency, renewable and sustainable energy options to the broad base of DC consumers in all wards and income levels. This multi-divisional section comprised of OPC litigation, technical and consumer education and outreach staff, is active in our local communities and has played a major role in activities at FERC and PJM.

The District is in the vanguard of energy efficiency and sustainability achievement and is emerging as a national leader in this area. Consistent with the broad objectives of the city and new statutory mandates, OPC's EES section has conducted over 135 Energy efficiency workshops throughout the city; participates in federal proceedings involving transmission and renewable issues; and has formed alliances with the local environmental community, as well as with proponents of solar energy as a supply source.

OPC's efforts complement and support the City's ongoing energy efficiency initiatives including the Sustainable Energy Utility (SEU); and the Mayor's Sustainability Initiative. I continue to serve on the thirteen (13) member SEU Advisory Board. I am working diligently to help the group meet its statutory mandate and goal of transitioning the District to a "Clean Energy Economy" as established by the Chief Executive. In May we

jointly sponsored with the SEU a conference on *Saving Energy and Money through the DC SEU Sustainable Energy Programs*, at the DC Convention Center.

I would now like to take a few minutes to summarize other OPC activities.

### **Additional Highlights of OPC'S Activities**

#### **Town Halls**

*In addition to the January Verizon Town Halls, OPC Initiated general Quality of Service Town Hall meetings in October and November. 27 DC Consumers gave statements at the two town hall meetings. OPC's report on the Town Hall meetings found widespread discontent among District consumers regarding the quality, reliability and cost of utility services regardless of the ward, economic class or customer type of the respondent.*

#### **Community Meetings & Consumer Complaints**

*In 2012, OPC staff conducted 192 Educational outreach meetings with ANC's Community and Civic Associations, tenant groups and others upon request. In our advocacy role, OPC has handled over 4560 consumer inquiries and complaints. (2,780 complaints, 1,789 inquiries)*

#### **Language Access compliance**

*OPC continues to receive outstanding performance ratings for its exemplary service to the (NEP) Non English speaking and (LEP) Limited English speaking communities in 2012. Our language access coordinators have helped the agency meet all language access requirements of the Language Access Act of 2004, including conducting targeted information workshops in Amharic, French, Spanish and Chinese. We have also made excellent progress in our service to*

the physically challenged and hearing impaired communities. It is an agency goal to ensure that all District residents, regardless of their proficiency with the English language or physical condition, understand our mission, have access to the services we provide, and how we are available to assist them.

### Agency Operations

*I am pleased to say that under my leadership OPC has made great strides toward the District Government's goal of fulfilling the Agency's expendable budget through certified small business contractors; moving from just 18% to now 86% fulfillment through certified small businesses.*

### Publications and Website Update

While OPC has moved away from excessive printed media, our adoption of more forms of electronic media for outreach has been strategic; *OPC now communicates more frequently with consumers using web based applications including Facebook, email and specialized web portals in Spanish, Energy Efficiency, and Smart Meters) based on our agency website.*

### Investigation of Alternative Energy Providers

In addition, consumer inquiries resulted in the Office bringing to the Commission's attention alleged deceptive sales tactics of alternative energy providers.

*Early last year we were alerted by consumers that a new utility service provider had entered the marketplace using not only aggressive but potentially abusive tactics to access consumer accounts, OPC petitioned the PSC to investigate the solicitation practices of Horizon Power and Light. OPC's research indicated that Horizon has a history of reprimands for unfair and*

deceptive practices in another jurisdiction. OPC requested, and Horizon has since agreed to comply with 30-days' notice before reentering the District Market and to provide randomly selected samples of sales calls for the next six months. OPC attentively monitors the activities of alternative service suppliers as new players enter and exit the market.

### Smart Meter Opt-out Petition

Pepco has deployed nearly 270,000 smart meters since October 2010. Consumer concerns regarding the presence of the meters in and around their homes have mounted, particularly in light of actions taken in jurisdictions such as Maine, California and recently Maryland, allowing opt-out provisions. *Responding to concerns of residents, on December 7, 2011 OPC filed a petition with the Commission requesting consideration of the feasibility of an OPT-out provision for DC consumers. At the urging of the City Council, the Commission has indicated it will initiate a proceeding to investigate the feasibility of an opt- out provision to the rules.*

### **CLOSING**

OPC's CARE agenda is more than an acronym. It reflects OPC's continuing commitment to its clients and to the District of Columbia. It underscores the need for OPC as an institution, to be unapologetically consumer focused. The Office of the People's Counsel belongs solely to the people. Each year as I prepare my testimony for the Council's oversight hearing, I consider why OPC exists and why it must continue to exist. Unwavering, unequivocal advocacy for utility consumers is why OPC must exist. Accurately and honestly promoting consumer concerns is how OPC must continue to exist.

I thank the Committee and I look forward to working with you to follow through on the promise that is, OPC.

I am available to respond to any questions you may have.

**NOTES:**

**INITIATIVES VACANCIES AND HIRING**

Over this period I have filled three attorney vacancies (3 FTEs). I have backfilled the Deputy People's Counsel Vacancy and I have also filled the position of Human Resources Specialist.

**PERSONNEL TRAINING AND EVALUATION**

The Office has further enhanced the performance management system in critical areas of performance planning, performance execution, and performance review, through implementation of the District's PeopleSoft Performance Management System. We offer in-house training through webinars and brown bag sessions and I have also mandated courses through the District's Workforce Development Training courses.

**GENERAL ADMINISTRATIVE INITIATIVES**

I have executed extensive procurement reforms to move the agency toward 100% compliance with District Government policies and procedures, including development of the Agency's first Procurement Manual; issuance of an Administrative Order for Invoice Tracking and Compliance with the District of Columbia's "Quick Payment Act;" development of Spending Plans for long range procurement objectives; plans to move toward

full compliance with the District Government's goal of fulfilling 100% of the Agency's expendable budget through certified small business contractors; and implementation of a new Contract Management policy. Additionally I have issued a series of administrative orders, and I will highlight just two here; 1) to establish policies and procedures to ensure the application of Equal Employment Opportunity practices and; 2) an order to establish procedures whereby Ethical Issues are addressed, consistent with the DC Government manual, as a requirement for all employees.