

**BEFORE THE
COMMITTEE ON GOVERNMENT OPERATIONS
Of the
COUNCIL OF THE DISTRICT OF COLUMBIA
On the
OFFICE OF THE PEOPLE'S COUNSEL'S
FY 2015 BUDGET REQUEST**

**STATEMENT OF SANDRA MATTAVOUS-FRYE
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MAY 1, 2014

I. Introduction

Good morning Chairman McDuffie, members of the Committee on Government Operations and staff. I am Sandra Mattavous-Frye, People's Counsel for the District of Columbia. Thank you for the opportunity to appear before you this morning to present the Office of the People's Counsel's Fiscal Year 2015 budget request.

Appearing with me today is Ms. Gurmeet Scoggins, OPC Agency Fiscal Officer from the Office of the Chief Financial Officer. Ms. Scoggins is here and available to provide specific details regarding OPC's FY 2015 proposed budget. I am also joined by key members of my management team.

Pursuant to the Committee's request, OPC provided comprehensive responses to five (5) questions. These responses provide the Committee with the requested information regarding the Office's proposed budget.

II. Fiscal Year 2015 Budget Request

As you know, our costs as well as the costs of the Public Service Commission are fully funded by DC utility ratepayers. The source of our funding, and more importantly, my fiduciary responsibility to my clients and to the public trust, compels me to fully commit to strong fiscal management and accountability in the continued development of OPC's financial affairs.

As People's Counsel, I continue to seek means to strengthen our financial management practices and policies. My primary objective is to ensure that all funds requested and expended by OPC provide direct, tangible and measurable benefits to our consumers and ratepayers. I am results driven with a focus on deliverables. I am proud to say OPC has delivered and will continue to pursue real-time benefits to our clients.

OPC's FY 2015 budget request is \$6.9 Million (\$6,911,031.) This represents an increase of \$345,508 or 5.3 percent over the approved FY 2014 budget. The increase is primarily attributed to expenses associated with: (1) an increase in personal services of \$339,977, consisting of two additional FTE positions and associated fringe benefits, which will bring my staff to a total of 40.4 FTE positions, and (2) an increase of \$93,991 in rent adjustments, pursuant to the terms of our FY 2015 lease agreement.

Specifically, these increased costs and the two new positions are directly linked to projected expenditures that are needed and necessary to support new outreach initiatives developed in response to major changes in the utility industry. These changes include infrastructure enhancements such as the electric powerline undergrounding project, Washington Gas' proposed accelerated gas pipeline replacement plans, the introduction of renewable sustainable energy resources, and the emergence of competitive energy suppliers in the market place. These are the emerging issues of today at both the local and national level. In many ways, they defy precedent and will require the charting of new regulatory paths.

As I stated when I came before you a few weeks ago during my agency performance hearing, we are grappling with rapid changes in the utility industry coupled with major advances in utility technology. The resulting transformation portends a very different future for both regulators and consumers.

In order to ensure that OPC is adequately equipped to meet the evolving needs of consumers, we must have access to technical and legal advisors with expertise in the most current and complex issues facing our clients. The objective is to create a level playing field with the well-financed and well-resourced utility Goliaths. Hence, at the very least, it is imperative that my objectives and vision for the office are supported by a reasonable and adequate budget that positions consumers to receive the benefits to which they are entitled. In my testimony today, I will provide the details of how my FY 2015 budget will facilitate that end-result.

III. Discussion

Enabling Consumer Empowerment

As you know, consumer empowerment is a core principle of my administration. In order to be empowered, consumers must be educated, have access to information, and have ample opportunity to participate in the regulatory process. This does not just happen. It takes leadership, hard work, and dedicated resources. OPC's consumer services division has been recognized not just for our representation of consumers in the complaint process, but also for the outstanding effort my staff and I make to educate and empower consumers to fully participate in the regulatory process. This is reflected both in policy and practice. For example, my staff has negotiated thousands of dollars of credits and savings to individual consumers on an annual basis.¹

During my tenure, consumer empowerment and involvement has fueled both utility and regulatory action. For example, most recently, OPC responded to growing complaints and concerns about ongoing outages in a community in Columbia Heights. OPC took the initiative to arrange a community meeting bringing together the utility, the affected Councilmember and his staff, residents and community leaders to openly address and gain commitments around common concerns.² This is an example of a successful cooperative collaboration.

¹ Attachment CSD letters (TBA)

² Attachment P. Flynn letter

Advocacy on Undergrounding

Another prime example of OPC's advocacy is the unprecedented development of the District's powerline undergrounding project. Consumers for decades complained about Pepco's poor reliability performance. They championed for the undergrounding of power-lines as a solution to the problem. The power line task force initiated by Mayor Gray set the stage. As a result of OPC's involvement at the table when decisions were made, the costs to residential customers were kept minimal levels. Engineering and financial projections calculate that the charges will start at about \$1.50 per month and will not exceed \$3.25 after seven (7) years. The cost to ratepayers was a critical consideration particularly since early projections calculated the cost as high as \$25 per month.

Soon to be the law, the District's undergrounding plan will demand awareness campaigns, public events, surveys, and reporting requirements. OPC will actively participate in the regulatory approval process before the PSC. The Office will incur additional consumer-education related expenditures and will require additional man-hours to deliver service and value to District residents on powerline undergrounding issues, and other infrastructure projects being undertaken by various utilities, including Verizon's transition from copper wire to fiber optic infrastructure and Washington Gas Light's accelerated pipeline replacement plan.

Our statutory mandate also requires OPC to consider environmental issues as part of its policy. As such, OPC has taken an active role in supporting energy efficiency and sustainability programs. Resources will also be required to support the needs of community groups and individuals who seek information and technical assistance to deploy renewable and energy efficiency resources. As you

know, because of similarly coordinated efforts DC has become a national leader on sustainability issues.

Delivering Tangible Benefits

OPC has consistently delivered tangible benefits to consumers. As I mentioned at the March hearing, OPC was able to quickly respond to hundreds of consumer complaints filed against certain competitive energy suppliers regarding hard sell pressure tactics, misrepresentations, targeting of senior communities and unauthorized switching of customer accounts. We subsequently petitioned the PSC for an investigation focusing on their customer solicitation practices. We achieved a settlement that not only provided direct compensation to the individually affected consumers, but a \$100,000 energy assistance grant to low-income consumers. I am pleased to report that these funds have been received and are being used to assist District consumers at this time. These are all measurable benefits.

OPC's outreach activities also involve considerable resources that are necessary to further buttress our Energy Efficiency and Sustainability section which conducted over 118 Energy efficiency workshops throughout the city this year; participated in federal proceedings involving transmission and renewable issues; and formed alliances with the local environmental and solar community. OPC's efforts support the District's ongoing energy efficiency and sustainability initiatives.

The newly-added Consumer Outreach Specialist position will be instrumental in enhancing our citywide education efforts, increasing our community presentations, expanding our key leader briefings, and broadening our ongoing

dissemination of education and outreach materials to an expanding base of stakeholders. The Administrative Support position will support the needs of the office's growing staff.

As we plan for the future of educating and engaging consumers, we fully anticipate that the frequency of utility rate case filings will continue. For example, only months after Pepco was awarded \$24 million in its 2012 rate case (FC 1087), it filed a new \$52.1 million electric rate case, \$24 Million of which was approved by the PSC in March. Pepco has already indicated it will file another rate case by June 2014. OPC will continue to vigilantly advocate against unreasonable and unnecessary rate increases.

It is important to keep in mind that the PSC's recent approval of a \$24 million (21 percent) increase in Pepco's distribution rates is wholly separate from and in addition to the market-based generation rate (energy supply), over which the PSC has no control. Generation costs are set by the wholesale market as a result of deregulation and electric restructuring. They are no longer under the purview of the PSC. We must always keep in mind that consumers bear all the risk of increases in the distribution rate as well as when the cost of electricity supply or generation increases.

Ongoing Challenges

I would like to now briefly detail the breadth of consumer issues OPC has addressed through litigation in just the past year. In the telecommunications sector, I have advocated to protect consumer's interest during Verizon's transition

from a copper wire network to a fiber optic network and an investigation of Verizon billing errors affecting Lifeline customers.

OPC has actively participated in the Washington Gas accelerated pipeline replacement case. We are also active parties in the Commission's ongoing Washington Gas Procurement proceeding.

In addition to litigating the Pepco rate case, we submitted comments and participated in an informal hearing on the Dynamic Pricing Plan and submitted comments on Pepco's annual reliability performance report.

OPC also appears before the FERC and PJM Regional Interconnection, to participate in a number of proceedings that may impact local utility rates. Our expanded participation before FERC and PJM is critical because generation costs account for up to 70% of what consumers pay on their monthly bills.

In addition to its core mandates, OPC provides other direct and indirect benefits to District consumers. For instance, OPC is an active member of several PSC working groups, including as the Productivity Improvement Working Group, the Washington Gas Gas Procurement Group, the Advanced Metering Infrastructure Working Group, and the Residential Aid Discount Working Group. We are also involved with Language Access issues with the DC Office of Human Rights. We also have an OPC staff member serving as a NASUCA representative, (our national trade association), on the FCC Consumer Advisory Committee. This list of activities does not include the open cases and rulemakings pending before the PSC. Nor does it include our involvement and participation in national debates on emerging utility issues such as customer privacy.

Staff training and development is a priority for me. I have devoted substantial time and resources on staff training and development to foster and facilitate OPC's in-house staff's ability to fully participate in these cases and related consumer outreach and education activities. We have in-house training through webinars and brown bag briefings by experts in various fields. This is a value added component of my policy.

OPC's Total FY2015 Budget Request for \$6.9 is allocated as follows:

Personal Services

In the area of personal services the allocation is \$4.7 Million (\$4,692,733.) This reflects an increase of \$339,977 or 7.8 percent in the personal services category over FY2014. Primarily this increase reflects the costs associated with an additional two FTE positions and associated fringe benefits.

Non-personal Services

With respect to non-personal services our allocation is \$2.2 Million (\$2,218,298.) This reflects a net increase of \$5,531 over the FY2014 budget. The non-personal services budget decreased in the amount of \$38,661 for occupancy cost projections and a reduction in other services and charges of \$18,768. A further reduction in the amount of \$32,100 results from savings on office equipment. Increases in the amount of \$93,991 related to rental costs and \$1,192 for the telecommunications budget resulted in a nominal net increase of \$5,531 in the non-personal services category.

Cost/Benefit of OPC's Advocacy

I am sometimes asked “what is OPC’s value to consumers?” It is estimated that over the past 35 years, OPC has saved District ratepayers, \$540 million in electric rates, and \$170 million in natural gas rates and \$290 million in telephone rates. This calculates to over \$1 billion in ratepayer savings from the amounts requested and the amounts ultimately granted by the Commission. Using this metric, I would say that OPC has returned a stunning value for every ratepayer dollar budgeted. These savings are measurable benefits and suffice to say, these savings are significant to our residents and consumers who struggle on a tight budget and for whom a 20 percent increase is a financial burden

Administrative Efficiency Measures

In 2013-14, I issued an additional nine (9) Revised or New Administrative Orders directly related to improving the operations and organizational structure of the Office. This brings the total of new administrative orders added during my administration to 21. I have attached a list of the orders to my testimony. I am continuing to review all administrative orders and practices to determine which need modification, revision or new written procedures.

Conclusion

As People’s Counsel my agenda continues to be customer empowerment, affordability, reliability and energy efficiency and sustainability.

The transforming utility industry and advances in utility technology are the new drivers on the regulatory freeway. For their part, utility companies are aggressively seeking new revenue streams and methods of recovery. Consumers on the other hand, are still entitled to receive these essential services at a reasonable, affordable cost and with effective consumer protections. These entitlements do not change.

My goal, in part, is to inform and educate consumers about the changes that are occurring, thereby placing them in the best position to make meaningful choices when new options are presented. In the “Brave New Age” of regulation that I believe is emerging, we must work smarter, more flexibly and keep all available options open to produce the best possible outcome. The need for enlightened regulation is even more paramount. From OPC’s perspective, this includes rigorous litigation, win-win negotiations, proactive initiatives to achieve preferred outcomes for District consumers, and workable partnerships with stakeholders where appropriate.

We cannot and should not discount the value of our commercial sector, particularly to the extent that they provide economic benefits to our citizens. Businesses, however, thrive where there are customers with dollars to spend. In the drive to be “business friendly,” it bears remembering that many District residents continue to struggle to make ends meet. Almost 19 percent of District residents are below the poverty line, which is well above the national average and the second highest in the entire PJM (Pennsylvania – New Jersey – Maryland) regional grid; the percentage is much higher in particular demographic groups and wards of our city.

Hence, we must never forget the needs of the least protected, residential customers, seniors, tenants, and residents as we move forward. In short, we must meet the opportunity for and the challenge of change.

A startling case in point is yesterday's formal announcement of the pending Exelon/Pepco merger.

The precise details of the acquisition are not known, but what has been reported³ is that Exelon will, in a straight cash deal, pay about \$6.8 billion to acquire PHI and all of its subsidiaries, including Pepco. The deal has been approved by the boards of directors at both companies and must still be endorsed by Pepco shareholders. According to the media reports, Exelon has agreed to provide up to \$100 million toward customer benefits such as rate credits, assistance for low income customers and energy efficiency measures in the four PHI jurisdictions affected.

Before addressing the particulars of the potential agreement, I cannot ignore the irony of where we find ourselves. Fifteen years ago Pepco fought to divest itself of its generation assets. It argued that divestiture would result a win-win situation for consumers and the company. OPC opposed the sale and said there would be little or no benefits for consumers. Without a crystal ball we were able to predict the future. Now 15 years after divestiture and the promise of far reaching benefits, we are back, and the benefits for ratepayers may be even more elusive.

Pursuant to DC law any consolidation or reorganization of a public utility must be approved by the PSC as being in the public interest. DC Sec. 34-504.

³ http://www.washingtonpost.com/business/capitalbusiness/pepco-agrees-to-be-sold-to-chicagos-exelon-in-x-billion-utility-deal/2014/04/30/f762cbb2-cfdb-11e3-a6b1-45c4dfb85a6_story.html?wpisrc=nl%5Fhdln.

OPC will review the merger when filed, to ensure consumer protections and consumer benefits are provided.

- 1) Some of the issues we will be looking at include that at the end of the day ratepayers must have quality reliable service at affordable rates
- 2) We are concerned that Pepco should retain a corporate presence in the District.
- 3) That jobs for DC consumers are guaranteed.
- 4) That the company maintain continuity with respect to the DC undergrounding project, honoring the intent of the legislation as required by law--34-504.
- 5) OPC and the PSC must maintain the ability to communicate with company representatives, and the company must have sensitivity to local issues.
- 6) Finally, we are concerned about the change of scale as Pepco will potentially be a much smaller portion of a much larger parent company, Exelon.

Again, thank you for the opportunity to appear before you today. Ms. Scoggins and I are available to answer any questions.