

**BEFORE THE
BOARD OF DIRECTORS OF THE
DISTRICT OF COLUMBIA
WATER AND SEWER AUTHORITY**

**COMMENTS OF THE OFFICE OF THE PEOPLE’S COUNSEL FOR THE DISTRICT
OF COLUMBIA
REGARDING THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
NOTICE OF EMERGENCY AND PROPOSED RULEMAKING TO ESTABLISH “DC
WATER CARES: EMERGENCY RELIEF PROGRAM FOR LOW-INCOME
RESIDENTIAL CUSTOMERS”**

INTRODUCTION

Pursuant to the Notice of Emergency and Proposed Rulemaking to Establish “DC Water Cares: Emergency Relief Program for Low-Income Residential Customers”, published in the District of Columbia Register on November 20, 2020, the Office of the People’s Counsel for the District of Columbia (OPC or Office), the statutory representative of the District of Columbia ratepayers and consumers with respect to utility matters, respectfully submits these Comments.

OPC is the statutory consumer advocate for District of Columbia ratepayers of natural gas, electric, and local telephone service, and now, with the passage of the DC Water Consumer Protection Amendment Act of 2018 (Act), OPC is also the statutory representative of District of Columbia ratepayers and consumers in proceedings related to products, services, and rates of the District of Columbia Water and Sewer Authority (DC Water). OPC’s primary mission in all matters pertaining to utility services and rates, including water, is to zealously advocate for the provision of safe, reliable, and high-quality utility services for all District of Columbia consumers at equitable and affordable rates. To this end, OPC has worked to ensure that District residents in all eight wards of the city have access to clean, affordable, and reliable water services. Our mandate to protect and assist District water consumers is especially relevant in the midst of the COVID-19 pandemic.

OPC hereby offers these Comments and accompanying OPC Exhibit 1, in response to the Notice to amend Section 4102 (Customer Assistance Programs) of Chapter 41 (Retail Water and Sewer Rates and Charges), of Title 21 (Water and Sanitation) District of Columbia Municipal Regulations (DCMR), consistent with Resolution No. 20-82,¹ as previously approved by the Board of Directors (Board) of DC Water on November 5, 2020.

BACKGROUND

OPC's comments in the DC Water rate adjustment proceeding in the Summer of 2020 urged DC Water to reflect and account for the negative economic impacts on DC Water customers and the overall financial uncertainty resulting from the COVID-19 pandemic. OPC observed that the initial impact of the economic crisis had been severe, resulting in closed businesses, disruption to the economy, and many consumers struggling to meet basic needs, such as buying food and medicine, paying for shelter, and paying for vital utility services.

District residents have experienced the loss of employment and corresponding income, consequently decreasing the amount of household income available to pay for utility services.² At the same time, the consumption of water has increased due to the number of residents staying at home. In addition, a large number of businesses have also been impacted, putting into question

¹ DC Water Board of Directors, Resolution No. 20-82 (November 5, 2020) (Resolution No. 20-82).

²https://does.dc.gov/sites/default/files/dc/sites/does/release_content/attachments/DC%20Ward%20Data%20Jun20-May20-Jun19.pdf and https://does.dc.gov/sites/default/files/dc/sites/does/release_content/attachments/CESareaJun20.pdf.

their ability to return to full operations, if at all.³ Therefore, both residential and commercial customers are and may continue to face difficulty paying for essential water services.

At the start of the pandemic, the ultimate depth and duration of the economic crisis was unknown at both the national and local District economies. This economic uncertainty remains today. Unfortunately, the end of the COVID-19 public health emergency will not immediately end the economic crisis for DC Water consumers⁴. It is recognized that access to water and sewer service is essential for the health, safety, and welfare of all people, especially during this unparalleled crisis.⁵ It is against this economic and financial backdrop that OPC presents its recommendations.⁶

SUMMARY OF OPC'S POSITION

Based on a careful review of DC Water's proposal, OPC provides the following recommendations on behalf of DC Water consumers, as detailed in these Comments:

³ See Zickuhr, Kathryn, *How COVID-19 is affecting small businesses in D.C.*, DC Policy Center, April 30, 2020. Heather Long, *Small business used to define America's economy. The pandemic could change that forever.* The Washington Post, May 12, 2020.

⁴ See Robert Shiller, *Why We Cannot Foresee the Pandemic's Long-Term Effects*, New York Times, May 29, 2020. Peter S. Goodman, *Why the Global Recession Could Last a Long Time*, The New York Times, April 1, 2020; https://www.bls.gov/regions/mid-atlantic/district_of_columbia.htm; Heather Long, *Small business used to define America's economy. The pandemic could change that forever.* The Washington Post, May 12, 2020.

⁵ *The Human Right to Water and Sanitation*, G.A. Res. 64/292, UN Doc. A/RES/64/292 (July 28, 2010), retrieved from <https://undocs.org/A/RES/64/292>); *Human Rights and Access to Safe Drinking Water and Sanitation*, UN Human Rights Council Res 15/9, A/HRC/RES/15/9 (September 30, 2010), retrieved from <https://undocs.org/A/HRC/RES/15/9>; Patricia A. Jones and Amber Moulton, Unitarian Universalist Service Committee, *The Invisible Crisis: Water Unaffordability in the United States*, at p. 29 (May 2016), retrieved from <http://uswateralliance.org/sites/uswateralliance.org/files/Invisible%20Crisis%20-%20Water%20Affordability%20in%20the%20US.pdf>.

⁶ See generally <https://www.nasuca.org/nwp/wp-content/uploads/2020/05/2020-01-NASUCA-COVID-19-Policy-Resolution-Final-5-12-20-.pdf>.

1. **The Proposal is a Positive Development to Assist Low- and Middle-Income Consumers.** OPC supports DC Water’s proposal to assist DC Water consumers, as it is consistent with its duty to mitigate rate increases for its low-income and middle-income consumers. OPC recommends that DC Water, in its outreach efforts, make the eligibility requirements for this program clear to consumers so that those who qualify do indeed apply for this customer assistance.
2. **DC Water Should Engage Community-Based Organizations (CBOs) to Expand Outreach and Education Efforts to Eligible Consumers.** OPC strongly encourages DC Water to implement a well-rounded outreach program that emphasizes outreach to CBOs. OPC is willing to assist in such efforts in light of its history, experience, and visibility in the local District communities.
3. **DC Water Should Provide Arrearage Data Currently Provided to the District Department of the Energy and Environment (DOEE) to OPC to Benefit and Assist Consumers.** OPC recommends that DC Water provide arrearage data to OPC on a monthly basis for the benefit of DC Water consumers.

DISCUSSION

1. **The Proposal is a Positive Development to Assist Low- and Middle-Income Consumers**

Affordability is a key concern for OPC as we strive to keep utility rates low as possible and reduce the financial burden on utility consumers. Any rates for water service should be affordable for all District residents in all eight wards. The COVID-19 pandemic makes the need for affordable rates for water service even more critical. In earlier comments in the Rate Adjustment proceeding in 2020, OPC recommended that DC Water explore other options to assist customers. This instant proposal is in line with OPC’s recommendation.

Here, the purpose of this emergency and proposed rulemaking is to amend the Customer Assistance Program regulations to establish this program where DC Water will provide assistance to eligible residential customers with outstanding past due balances up to \$2,000 during the fiscal year. DC Water’s stated rationale for the emergency rulemaking is to address the negative economic impacts of COVID-19 on consumers, where the number of potential eligible customers

in arrears will increase and customers continue to accumulate outstanding balances. While the proposal's program name references "low-income" residential customers, the DC Water make the eligibility requirements for the program clear so that consumers who qualify will indeed apply.

DC Water's proposal is consistent with its duty to mitigate rate increases for its low- and middle-income consumers, and DC Water has stated its commitment to hold the program open while funding remains available. Pursuant to Section 34-2202.16(b-1)(1) of the D.C. Code, DC Water has an obligation to "offer financial assistance programs to mitigate the impact of any increases in retail water and sewer rates and the impervious area charge on low-income residents of the District." D.C. Code § 34-2202.16(b-1)(1). The Board also approved, via Resolution No. 14-56, its *General Principles of Affordability for Low-Income Customers*, which reinforce the obligation codified in Section 34-2202.16(b-1)(1) of the D.C. Code. Accordingly, OPC supports the proposal to expand assistance to DC Water consumers.

2. DC Water Should Engage Community-Based Organizations (CBOs) to Expand Outreach and Education Efforts to Eligible Consumers.

OPC recognizes DC Water's earlier efforts to educate its consumers about the Customer Assistance Programs through various channels – social media campaigns, bill inserts, robocalls, press release across media contacts, and advertisements in local print media. Direct communication as a marketing method should be supplemented with partnerships with Community-Based Organizations (CBOs) trusted by the consumers targeted for participation. OPC recommends a comprehensive outreach program involving direct communication and outreach to CBOs, such as civic associations, Advisory Neighborhood Commissions, nonprofit community organizations, and faith-based organizations. Analysis conducted by the University of North Carolina's Environmental Finance Center supports utility partnerships with CBOs as a

means to engage “Hard to Reach” low-income households.⁷ Accordingly, OPC strongly encourages DC Water to emphasize this aspect of its outreach and is willing to assist with such efforts. OPC has extensive hands-on experience and visibility in local communities due to our long history representing and advocating for District consumers of utility services. In response to Board Member Rachna Bhatt’s request during the January 13, 2021 public hearing, a list of CBOs operating in the District is attached and incorporated herein as OPC Exhibit 1.

3. DC Water Should Provide Arrearage Data Currently Provided to the District Department of Energy and the Environment (DOEE) to OPC to Benefit and Assist Consumers.

OPC understands that DC Water currently provides arrearage data to the District Department of Energy and the Environment (DOEE). OPC respectfully requests that the same arrearage data provided to DOEE be provided to OPC as well on a monthly basis. Gathering this information will assist OPC and policymakers at all levels to evaluate the effectiveness of existing practices and policies and to identify areas for improvement, as well as quantify the number of consumers experiencing payment problems, the financial impact of the arrearages, and any geographic disparities of impact. This data would also assist in evaluating the adequacy of financial assistance programs, including those at the federal level, and community assistance resources. Accordingly, this information would enable a better understanding of whether and how customer assistance is utilized, and its impact on customer affordability, as well as the effectiveness of available resources to benefit and assist consumers.⁸

⁷ Sarah Isaac Berahzer, *How Utilities and Cities Can Develop CAPs and Rate Based Solutions to Affordability*, UNC Environmental Finance Center (May 31, 2018).

⁸ See generally <https://www.nasuca.org/nwp/wp-content/uploads/2018/11/2019-07-NASUCA-Data-Collection-Resolution-Joint-with-NARUC-Final.pdf>; <https://www.nasuca.org/nwp/wp-content/uploads/2018/01/2018-04-NASUCA-Data-Collection-Resolution-Final-11-11-2018.pdf>; <https://pubs.naruc.org/pub.cfm?id=53976517-2354-D714-5123-0DB132D8026B>.

CONCLUSION

In conclusion, OPC presents these comments in furtherance of our common goal of ensuring quality service at affordable rates and other tangible benefits to all DC Water ratepayers and consumers. For the above reasons, OPC requests that the Board accept the recommendations made herein and grant such other relief as deemed appropriate.

Respectfully submitted,

By /s/ Sandra Mattavous-Frye

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Dated: January 18, 2021

Listing of Community-Based Organizations (CBOs)

District of Columbia Housing Authority (DCHA)

1133 North Capitol Street, NE Washington, DC 20002 Phone: (202) 535-1000 dchousing.org

Office on Aging (DCOA)

500 K Street, NE Washington, DC 20002 Phone: (202)724-2008 dcoa.dc.gov

Office of Disability Rights

441 4th Street, NW, Suite 729 North, Washington, DC 20001 Phone: (202) 724-5055 odr.dc.gov

Office of Human Rights (OHR)

One Judiciary Square 441 4th Street, NW, Suite 570-N Washington, DC 20001
Phone: (202) 727-4559 Fax: (202) 727-9589 ohr.dc.gov

Legal Aid Society of the District of Columbia

1331 H Street, NW, Suite 350 Washington, DC 20005

2041 Martin Luther King Jr Avenue, SE, Suite 201 Washington, DC 20020
Phone: (202) 628-1161 Fax: (202) 727-2132 legalaiddc.org

Wash. College of Law Clinic, American Univ.,

4300 Nebraska Avenue, NW, Suite Y265 Washington, DC 20016
Phone: (202) 274-4140 Fax: (202) 274-0659 wcl.american.edu/clinical/general.cfm

Columbus Comm. Legal Services, Catholic Univ.

3602 John McCormack Road, NE
Washington, DC 20064

Phone: (202) 319-6788 Fax: (202) 319-6780 clinics.law.edu/CCLS.cfm

Neighborhood Legal Services Program

64 New York Avenue, NE Washington D.C. 20002 Phone: (202) 832-6577

4609 Polk St., NE Washington, DC 20019 Phone: (202) 832-6577

2412 Minnesota Avenue, SE Washington D.C. 20020 Phone: (202) 832-6577 www.nlsp.org