

Testimony of People’s Counsel
Sandra Mattavous-Frye
Before the
DC Council Committee on Business and Economic
Development
on the
Fiscal Year 2019 Office of the People’s Counsel
Agency Performance Oversight
January 22, 2020

Good Morning Chairman McDuffie, members of the Committee, staff, and the viewing public. I am Sandra Mattavous-Frye and I have the privilege of serving as the People’s Counsel for the District of Columbia. Accompanying me today are key members of my management staff. Thank you for the opportunity to share the Office of the People’s Counsel (OPC) accomplishments and my vision for the future. For years, forecasters have predicted the energy industry would undergo seismic change. We are no longer predicting the future; we are

living it. Now we must shift our paradigm to shape our evolving world.

I am proud to report we have successfully charted new ground, executed new innovative initiatives, zealously advocated for policies that will facilitate the District's ambitious sustainability and climate change goals, and taken steps to ensure consumers are informed, educated and engaged as we confront the new energy world. Change is the one constant in history. Nowhere is this more evident than in the utility industry.

Change also has come to OPC. We were given a new statutory role and responsibilities related to DC Water; our enabling statute was amended to mandate that our policies consider the District's public climate commitments. I assure you that under my stewardship, OPC will always be true to our mission "to advocate, educate, and protect utility consumers."

DC Water Consumer Protection Amendment Act of 2018

The first major change for OPC was the enactment of the DC Water Consumer Act of 2018, (the Act). In April, following congressional approval of the Act, we launched the OPC Water Services Division (WSD). We moved quickly to build out office space; hire and train staff; and handle consumer complaints. In addition, we executed an extensive consumer outreach and education program using social media and placing info-ads on the Metro system.

To date, we have responded to over 350 complaints, negotiated six settlements on behalf of DC Water consumers and represented a consumer in a formal hearing, saving her \$3,000.

Our leading water complaints are disconnections, high bills, meter issues and payment problems. The demographic data show consumers in Wards 4, 5, 7 & 8 constitute nearly 85% of all complaints received by OPC. Not surprisingly, these

complaints closely track the locational footprint of low-and moderate-income residents throughout the District.

The new law also established a limited role for OPC in the rate setting process. In compliance with the law, OPC testified and filed comments in two DC Water proceedings. One pertained to the Clean Rivers Impervious Area Charge (CRIAC) and sewer rates. The other involved DC Water's Customer Assistance Program II (CAP2), a discount program for moderate-income consumers. We supported the extension of the program. In the CRIAC proceeding, we noted that DC Water's ratemaking process lacked transparency, impeding meaningful analysis by OPC or the public. In response to our comments, DC Water has committed to post public comments and a full Cost of Service Study on their website. I believe these are important first steps.

Our relationship with DC Water is nascent. OPC staff and DC Water staff are collaborating through regular meetings and daily communications around a host of consumer issues. In addition, I recently had a productive meeting with DC Water General Manager, David Gadis and DC Water Board Chairman Tommy

Wells. I'm sure we will not agree on every issue, however, we agreed that open communications are the best way forward.

The office is facing a serious operational challenge. We have a budget issue that affects our performance and, more critically, our ability to meet our statutory mandate. We are currently unable to comply with one of the directives of the law requiring that “within one year...OPC or a contractor selected by OPC, shall prepare and submit to the Mayor and Council a study of, and recommendations on how to improve, the Authority’s billing activities, meter reading accuracy and customer service operations.” (DC Act 22-636 Sect. 5b, February 6, 2019 “or”/DC Law 22-299 Sect. 5b, April 11, 2019) Although the Council voted in December 2018 to enact the legislation, OPC lacked legal authority to begin operations until Congress approved the Act on April 11, 2019. The protracted timeframe for approval impeded our ability to retain a contractor or produce the study before the end of the fiscal year.

Climate Change

Climate change threatens the future of our world as we know it. The potential impact is a sobering reality. OPC has long championed policies developed to eradicate the man-caused destruction of our environment and to ameliorate the real-life consequences of climate change and we will continue to do so. In my view, fairness and social equity are critical to the development of effective policies. As we know, the impact of climate change disproportionately impacts our most vulnerable residents: low-and moderate-income (LMI) consumers. To make matters worse, many of our most seriously affected LMI consumers struggle to pay their already high energy bills and simply cannot afford the cost of combatting climate change. The challenge is to find an equitable solution that achieves our goals.

Given the urgency, for concrete solutions, I am establishing a Climate Change Section that will ensure climate action policy considerations are an integral part of OPC's operations.

Affordable Rates

Affordability remains a cornerstone of my platform. Throughout my tenure, I have fought to keep rates low and to reduce the energy burden on utility consumers.

My track record of saving ratepayers millions of dollars speaks for itself; between 2010 and 2019 ratepayers saved over \$251 million due to OPC's zealous advocacy.

My approach to lessening the growing consumer energy burden is all-inclusive. For example, OPC actively served as a member of the Senior Citizens and Disabled Residents Credit Working Group convened by the Public Service Commission (PSC) last year.

As a member of the DC Sustainable Energy Utility (SEU) Advisory Board, I pay close attention to how the SEU is benefitting low-income consumers. As part of our litigation before the PSC, OPC is advocating for Pepco to reduce its capital construction costs and urging the company to integrate lower cost Distributed Energy Resources (DER), such as solar, and battery storage, into their energy portfolio. We are also

actively engaged in FERC proceedings, because 70 percent of customer charges is the cost of energy, which is not regulated by the PSC.

The financial burden of utility rates on consumers can be overwhelming. According to the U.S. Census, the energy burden for low income consumers is 3X that of non-low-income consumers who spend approximately 8-10% of their budget on utilities. Recognizing the need for empirical data to support the development of sustainable and equitable solutions, I commissioned an Affordability Study to explore multiple approaches to delivering affordable, energy efficient utility services to our diverse population. The results of the study will provide, a detailed profile of residents impacted by the inability to afford utility service, and a thorough analysis of the effectiveness of existing low-income programs.

We will share the results and recommendations of the study with the Mayor's office, the Council, the PSC and other stakeholders.

Our goal is to use the results to improve the ability of consumers to afford essential utility service.

Consumer Engagement

Consumer Education and Outreach is a critical element of OPC’s mandate. Staff develops and disseminates information about utilities. OPC attorneys and outreach specialists regularly attend community meetings to explain pending cases. I have personally met with over 35 public groups on subjects—such as, our new role with DC Water, proposed increases in electric and natural gas energy rates, our affordability goals, our participation in the PSC’s “Grid of the Future” (PowerPath DC) docket and, more recently, our climate change advocacy plans.

Public Information Dissemination

OPC's Communications Section develops and distributes public education information, using an array of traditional media, social media, and communications tools. These include our monthly digital newsletter, the "OPC Connection," published since 2016. In FY 19, the newsletter added a section called: "The Water Connection," to highlight the Water Services Division. We also produced new handouts for distribution at events and meetings. They include the "OPC Works for DC Water Consumers" info card, a fact sheet, water conservation tips, and the expanded water Consumer Bill of Rights, and they also produced a colorful booklet that opens into a poster entitled: "Take Command of Your Utility Rights," available in English and Spanish. The poster also features water services information. These and other communications outreach tools are complemented by social media on Twitter and Facebook. OPC has also significantly increased use of Instagram to make more consumers aware of OPC services.

Outreach Activities

OPC's Consumer Services Division (CSD) is responsible for the bulk of our outreach activities primarily through resolving consumer complaints, attending public events and working with community groups, ANCs and non-profit organizations. CSD is our first contact with the people we serve. In 2019, we focused on enhancing operational efficiency and consumer engagement. We launched new outreach initiatives, improved the consumer complaint process, and provided new educational tools.

CSD staff has attended 348 community outreach meetings in all eight wards and hosted special-issue briefings for social service agencies, and the Utility Consumers Advisory Network or (UCAN) which is in its second year. For the fourth year in a row we set up two sites for International PARKing Day. CSD resolved a total of 1,247 consumer complaints and over 1,050 information requests.

We expanded our 10th annual city-wide "OPC Social Services Summit." On September 25th, more than 60 representatives from government, non-profits, and faith communities attended the Summit. We find these sessions facilitate OPC's and the

respective agencies' abilities to provide a wide array of services to our mutual clients.

OPC continues to service our limited and non-English proficient (LEP/NEP) communities by working with constituent agencies.

In 2019, we developed:

1) a survey that will be used to determine how OPC can better serve these populations; (2) outreach literature specifically targeted to LEP/NEP communities (e.g.,) "Take Command" Spanish language poster; and (3) we also hired interpreters to assist at outreach events.

Last year, I announced that as part of my strategic plan for FY 19, I was developing an "Energy Affordability Lab." The Lab space has been completed. Several groups have visited it. We are working on a consumer education program that will be offered to DC residents through partnerships with District agencies, schools, and summer recreation programs. We've also designed a "Smart Home" interactive webpage, to help utility consumers learn about "smart" technologies, energy efficiency

and energy savings in their homes which they can do on their own.

Unquestionably, OPC's outreach and public education programs are cutting edge. To my knowledge, no other consumer advocate organization in the nation has approached consumer education as comprehensively as we have in the District.

Management Review

Leadership is a challenge. Management skills must be refreshed and updated on a regular basis. This year, I retained a consultant to independently analyze agency management and operational structure to ensure that as we implement transformational change, we utilize best practices. The consultant has provided us with several recommendations for agency transformation that will support our ability to sustain high performance in our changing world.

Litigation

In FY 19, OPC’s Litigation Services Division (LSD), the Office’s in-house legal staff, focused on a panoply of energy-related issues—including, distribution infrastructure, grid modernization, emerging technologies, energy efficiency, traditional and alternative ratemaking. Consistent with our statutory mandate, as modified by the Clean Energy Amendment Act of 2018, full consideration was given to the environment, and the District’s public climate commitments.

Aging Utility Infrastructure

Similar to the nation’s energy delivery infrastructure, the District’s energy distribution systems are antiquated and in dire need of upgrading, which is an exceedingly expensive proposition. The goal of our litigation efforts is to ensure that any reliability or safety upgrade is equitable, prudent, cost

effective, and necessary and is consistent with the District's environmental and public climate commitments.

To this end, in FY 19, LSD represented the Office before the PSC in Phase II of Pepco's Capital Grid Project and DC PLUG proceedings; and in WGL's PROJECT*pipes* II and Mercury Service Regulator proceedings. All are major construction projects with multi-million price tags, with some costing hundreds of millions of dollars.

Phase II of Pepco's Capital Grid Project involves the Company's request to construct a new Mt. Vernon Substation. Pepco's DC PLUG proceeding relates to the Company's and the District Department of Transportation's proposed construction and financing plan for the next two years of the District's undergrounding initiative, whose purpose is to prevent outages caused by the downing of overhead power lines during extreme weather events.

Washington Gas' (WGL) Project Pipes II involves WGL's proposal to continue the accelerated replacement of leaking and

leak-prone pipe segments on its distribution system.

Washington Gas' second case involves the relocation of mercury service regulators, a device attached to natural gas meters. The PSC directed WGL to submit a plan to relocate all indoor mercury service regulators to outdoor locations after the National Transportation Safety Board found that these devices contributed, in part, to the deadly explosion at an apartment complex in August 2016 in Takoma Park, Maryland.

Grid Modernization

During the course of 2019, OPC actively participated in the PSC's MEDSIS docket (now known as "Power Path DC").

OPC Staff served on all six of the working groups and devoted hundreds of working hours to this endeavor. We advocated for the equitable deployment of DERs and in favor of the electrification of the District's transportation network in a manner that promotes a competitive market and that allocates costs fairly and equitably.

Alternative Ratemaking

Another challenging issue before OPC is the potential replacement of traditional utility ratemaking methodologies with alternative ratemaking. We are currently examining Pepco's application to increase rates by \$160 million over three years in a proposed multi-year rate plan (MYRP). This is a complicated case because it fundamentally alters 100 years of utility cost recovery regulation in the District. OPC will make sure that the process of examining cost recovery remains thorough, that the burden of proving the prudence of costs remains with the utility, and that the record examined by the Commission includes public input from consumers and community organizations. Once OPC files its testimony on February 19, we will begin conducting community education briefings.

Operations Division

In FY 19, OPC aggressively endeavored to procure Small Business Enterprises (SBE) as the first and second options on all projects, contracts and procurements.

In FY 20 we continue to seek qualified SBEs in our procurement efforts. In addition to contacting minority organizations, to increase our outreach we submit to the Department of Small and Local Business Development (DSLBD) copies of our utility related RFPs, which have been difficult for us to fill.

Additionally, OPC is working with DSLBD to develop a mentor/protégé program for attorneys and technical experts to build capacity which will include encouraging non-SBEs to partner with certified business enterprises (CBEs) when possible, to increase the representation of small and minority businesses.

As a direct result of OPC's increased responsibilities and staff expansion, we are currently working with the District Department of General Services to determine our future space requirements to identify locations which will meet those

requirements.

Conclusion

I am proud of OPC's achievements. We are meeting the challenges posed by the evolving regulatory environment, while also taking steps to ensure the universal affordability of utility services.

I am encouraged by OPC's advocacy on behalf of DC water consumers. Just over eight months ago we developed our water services division in the face of immense expectations. I believe we have exceeded expectations and I look forward to even greater success.

Thank you again for allowing me this opportunity to speak today on our undertakings. I am available to respond to any questions you may have.