



## ROLL CALL REPORT

# Office of the People’s Counsel of the District of Columbia

### Brenda K. Pennington, Esq. Named Interim People’s Counsel



On March 11, 2010, Mayor Adrian M. Fenty named Brenda K. Pennington Interim People’s Counsel to lead the District of Columbia Office of the People’s Counsel (OPC-DC).

This new position is a natural progression in an already distinguished career with OPC-DC. She draws on more than nine years of experience within the Office advocating on behalf of ratepayers and more than 14 years of experience practicing telecommunications law. Ms. Pennington began her career with the D.C. Public Service Commission in 1988, before joining the Cellular

Telecommunications Industry Association as Regulatory and Legislative Counsel representing the wireless industry before Congress and state and federal agencies.

Ms. Pennington came to OPC-DC in 2001, as Supervisor for the OPC-DC Telecommunications Section. Her responsibilities included managing all telecommunications activities. She served as the National Association of State Utility Consumer Advocates’ representative on the Federal Communications Commission’s Consumer Advisory Committee.

She is also versed in a variety of electricity and natural gas matters. A consistent contributor to OPC-DC’s many consumer outreach activities, meetings and forums, Ms. Pennington has proven her ability to carry out the mission of the Office to inform and

educate the public. Additionally, her experiences advocating on behalf of individual consumers uniquely enhance her ability to communicate in lay terms the often complex legal positions of OPC-DC.

Ms. Pennington received her undergraduate degree from Howard University and a Juris Doctor from the University of Maryland. She is a member of the District of Columbia Bar and the Maryland State Bar and resides in Washington, DC with her family.



### OPC-DC Opposes Washington Gas’ Proposed Decoupling Mechanism

Washington Gas Light Company (WGL) requested approval of its Revenue Normalization Adjustment (RNA), a decoupling mechanism designed to retroactively change customer bills on a monthly basis to true up revenues to reflect the effects of weather and conservation. WGL asserts this adjustment is necessary to stabilize revenues it receives each month so it can better align its rate structure with its cost structure.

OPC-DC filed testimony on May 17 recommending the D.C. Public Service Commission reject WGL’s RNA mechanism, which, as proposed, is not an appropriate method to allow the

Company to recover its volumetric-based fixed costs and does not address WGL’s asserted disincentive to implement energy efficiency measures. Specifically: (1) WGL has not shown energy efficiency has caused a decline in natural gas consumption among its District of Columbia customers. (2) WGL’s testimony and data responses do not support its claim it is experiencing financial “stress” as a result of its volumetric rate design. (3) WGL has not offered to undertake an enforceable commitment to implement energy efficiency measures in the District in return for RNA approval. (4) In the absence of any effort by WGL to implement meaningful energy efficiency,

the RNA is more likely to reduce, rather than increase, conservation efforts by WGL customers.

Alternatively, if the RNA is adopted, OPC-DC recommended implementation of an RNA pilot program. Under this pilot, WGL would be permitted, for a three-year period, to recover distribution revenues lost as a consequence of conservation efforts undertaken as a result of new energy efficiency programs implemented by WGL. An evidentiary hearing is scheduled for July 27-28, 2010.

## OPC-DC's Smart Grid and Dynamic Pricing Advocacy

OPC-DC believes a successful implementation of the smart grid to succeed must be accompanied by a comprehensive consumer education program, rules that protect consumers' privacy and ensure the security of the consumer's data, and a distribution network that delivers safe adequate and reliable service.

In April 2010, OPC-DC requested the D.C. Public Service Commission conduct an independent third-party field acceptance test of Pepco's smart grid network before implementation to ensure its capability to provide safe, adequate and reliable service. In May, OPC-DC requested the Commission review and amend its rules to address a number of issues, including, but not

limited to, consumer privacy and data security; and also requested the establishment of a Smart Grid Task Force to develop a comprehensive educational program to ensure consumers are adequately educated and empowered to use and benefit from the smart grid. Both requests are awaiting a Commission decision.

OPC-DC recently commented on Pepco's proposal to offer consumers two choices in its dynamic pricing program. Pepco will offer (1) a Critical Peak Rebate as the default rate where consumers can receive a rebate if they reduce their energy usage during peak events or (2) Critical Peak Pricing with consumers being charged higher than normal rates during high costs periods.

Pepco proposes to conduct a pilot consisting of 5,000 residential consumers beginning in 2012, before offering dynamic pricing to all residential consumers in 2013.

OPC-DC recommended the D.C. Public Service Commission require Pepco to switch non-residential customers to dynamic pricing first since the non-residential customer class represents 80 percent of the District's electric load. OPC-DC also requested Pepco provide bill protection, identify which smart thermostats and in-home displays will be used when the dynamic pricing program begins, and provide a bill impact analysis following the residential pilot program to assess the impact of the program offers on consumer bills.

## OPC-DC Seeks Reconsideration of Pepco Rate Case Decision

On April 1, 2010, OPC-DC sought reconsideration of the D.C. Public Service Commission's March 2 decision granting Pepco an increase in its distribution service rates. Interim People's Counsel Brenda Pennington stated, "In reviewing the D.C. PSC order, it became abundantly clear the Commission has inexplicably worked to sever the link between the price paid for utility service from the quality of service provided. The severing of issues cuts to the very core of ratemaking concepts." Pepco originally requested \$51.7 million in rate increases and later revised its request downward to \$44.5 million. OPC-DC's strong and effective advocacy on a number of key issues resulted in an increase totaling only \$19.8 million.

OPC-DC sought a reduction in Pepco's return on equity based on its poor distribution service performance. Ms. Pennington continued, "With this filing, OPC demonstrates that the Commission's decision is inconsistent

with the overwhelming body of law that requires utility rates be based on service quality. Poor performance, as demonstrated abundantly on the record, cannot be rewarded arbitrarily with higher rates."

OPC-DC's filing focused on five specific errors requiring clarification or amendment:

1. The Commission erred in refusing to consider the poor reliability and quality of Pepco's distribution service in setting new distribution rates.
2. Pepco should be required to share with ratepayers the savings it enjoys from participation in Pepco Holding Inc.'s consolidated tax returns.
3. Pepco should be required to exclude \$1 million from rate base for power lines that have been removed and retired from service.
4. The Commission erred in failing to consider OPC-DC's arguments

regarding the impact of changes in Pepco's employee health and welfare costs.

5. The Commission has permitted uncollectible expenses to be calculated using a formula that incorrectly inflates actual costs.

Ms. Pennington noted, "In closing, with these adjustments I do believe the Commission's order will not only be improved, but will appropriately restore the balance and interests of District ratepayers in receiving reasonably safe and adequate electricity service under rates that are just, reasonable and nondiscriminatory." OPC-DC's reconsideration request is awaiting a Commission decision.



## Interim People’s Counsel Tours Pepco Training Facility

On April 8, 2010, Interim People’s Counsel Brenda Pennington and Assistant People’s Counsel Brian Edmonds toured Pepco Holdings Inc.’s outdoor training facility for an introduction to new technology being used to enhance Pepco’s current distribution system in preparation for AMI deployment.



On display were elements of Pepco’s distribution automation system that will allow PHI to remotely address an outage on a feeder line, thereby reducing outage duration and the communications devices that will transmit data from the smart meters to PHI’s internal communications system for billing and outage management. PHI also introduced new LED street lighting that is being installed in portions of the Pepco Maryland service territory. PHI provided a demonstration of the safety hazards of operating around energized power lines. During the formal press conference, PHI CEO Joseph

Rigby thanked the U.S. Department of Energy for the recent grant of \$168 million in funds to deploy AMI in its D.C. and Maryland service territories and non-AMI, smart grid capabilities in the Atlantic City Electric service territory.

Mr. Rigby also thanked the U.S. DOE for the recent award of a \$4.4 million job training grant to jumpstart job growth locally in the energy sector. Congresswoman Donna Edwards (D-Md.) was also on hand to express her gratitude for DOE’s investment. Energy Secretary Steven Chu discussed the Obama Administration’s focus on enhancing the nation’s electric grid to reduce U.S. reliance on foreign energy

resources. Dr. Chu believes this focus enhances the effectiveness of the grid while providing consumers with the means to curtail their energy use.

Following the press conference, PHI provided a demonstration of the physical and virtual tools employed to compliment AMI deployment in Delaware and the District of Columbia. Namely:

- My Account where consumers can not only register to establish Internet payment of their bills, but also learn how to undertake home energy conservation measures—all at no cost
- Direct load control measures consumers can voluntarily undertake to reduce their air conditioner use during peak hours
- The AMI communications network deployment enabling consumption and outage data transmission
- The smart meters being installed for each Pepco-D.C. customer

## OPC-DC Advocates for Increased Universal Service Participation

Hard economic times and the District’s rising unemployment rate provide OPC-DC added incentive to advocate increasing the availability of Lifeline service, the discount telephone service for income-eligible consumers. OPC-DC and the members of the Universal Service Working Group are focused on:

1. Ways to increase the number of participants receiving Lifeline telephone service.
2. Adjusting to program changes impacting the manner in which consumers will be certified for Lifeline service.

In an effort to increase the Working Group’s Lifeline service outreach and education, OPC-DC provided a

summary of a Federal Communications Commission report outlining recommendations from several states on how to increase Lifeline telephone service. Additionally, OPC-DC supplied a list of entities in the District serving low-income consumers. These entities can deliver educational material about the availability of Lifeline service to their constituents to encourage participation.

## OPC-DC Comments on FERC’s Demand Response NOPR

In May 2010, OPC-DC commented on the Federal Energy Regulatory Commission’s NOPR proposing an approach for compensating demand response resources at the full locational marginal price (LMP) to improve the competitiveness of organized wholesale energy markets and thus ensure just and reasonable wholesale rates. LMP is the calculation of electricity prices at thousands of pricing points, or nodes, within the electricity grid. It provides price signals that account for the additional costs of electricity caused by transmission congestion and line loss at various points on the electricity grid.

OPC-DC urged that if FERC decides to mandate full LMP payments for all

demand response resources participating in the wholesale energy markets, it should condition that approval with some form of assurance the relevant load serving entity (LSE) assigned wholesale payment responsibility for the demand response and the relevant state commission will have access to information about the specific source of the demand response – *i.e.*, the retail customers providing nega-watts for resale into the wholesale market. Requiring this information will facilitate consideration at the retail level of the full set of options with respect to cost allocation. This includes directly assigning all or some portion of the payment to the customer providing the demand response. Absent such

data, it will be difficult, if not impossible, to consider this option as a realistic alternative.

OPC-DC has not reached the conclusion that a direct assignment at the retail level of all or part of this cost is necessarily the appropriate retail rate design. However, if the proposed rule is adopted without the requisite access condition, the options available for the treatment of demand response at retail regarding the resulting payment obligation will be unfairly truncated. On the other hand, imposing the requested condition should help ensure all options are on the table and available for consideration by the relevant state commission, consumer advocates, and market participants.



The Office of the People’s Counsel is the public advocate for natural gas, electric, and telecommunications ratepayers in the District of Columbia. By law, the Office represents D.C. utility ratepayers’ interests before the Public Service Commission, FERC, FCC, other utility regulatory bodies and the courts. The Office is mandated to conduct consumer education and outreach and may represent individual consumers with complaints related to their utility service and bills.

**Brenda K. Pennington, Esq., Interim People’s Counsel**  
**Office of the People’s Counsel**  
**1133 15th Street, NW, Suite 500**  
**Washington, DC 20005**

**Phone: 202.727.3071 ♦ TTY/TDD: 202.727.2876 ♦ Fax 202.727.1014**  
**Email: [ccceo@opc-dc.gov](mailto:ccceo@opc-dc.gov) ♦ Website: [www.opc-dc.gov](http://www.opc-dc.gov)**