



Roll Call Report

Salt Lake City, UT

June 2008

D.C. Office of the People's Counsel



Dear NASUCANs,

Congratulations as you convene the 2008 Mid-Year Meeting in Salt Lake City, Utah.

As People's Counsel for the District of Columbia, I am pleased to present OPC-DC's June 2008 edition of **ROLL CALL**. It is a mere "snapshot" of the issues which we are addressing this year, and the quality of advocacy we provide to District of Columbia consumers. The **ROLL CALL** also allows me to commend the work of the professionals here at OPC-DC.

The NASUCA Mid-Year Meeting presents the perfect time to allow OPC-DC's staff to network and learn how other advocates are addressing similar issues. Staff members start assembling panels as soon as they can so they can attend the meeting. We all look forward to the meeting, the networking, and valuable information (and advice) we receive. Most important, upon their return to Washington, D.C., both Brian and Laurence will "debrief" us about what they have learned, whom they have met and why those people are important to our work.

I am thrilled that two of OPC-DC's stars, Attorneys Brian O. Edmonds and Laurence C. Daniels, are representing us at this Meeting. I am pleased to report that Attorney Edmonds was recently selected to become the lead attorney for OPC-DC's statutory market monitoring function. TEAM OPC-DC has assembled panels to discuss issues facing regulators and advocates, not only in D.C., but nationwide.

The Mayor of the District of Columbia and the Council of the District of Columbia are committed to reducing the District's carbon footprint (as many of you are "back home"), and the Office is "*finding or making ways*" to inform and educate consumers on ways they can conserve. So, Brian's panel, the "*Pros and Cons of Third Party Energy Efficiency Programs and the Role of the Consumer Advocate*" is both timely and relevant to us all.

The number and breadth of Dave Bergman's e-mails regarding telecommunications is a testament to NASUCA's interest and clout in this area. So, it is no surprise that the speed at which telecommunications technology is reaching consumers makes Laurence's panel, "*The State of Broadband Deployments from a State Perspective*," a "*must hear*." I believe OPC-DC's experiences will provide the basis for lively and informative discourse on these issues.

In the spirit of "networking," I want to take this opportunity to introduce OPC-DC's newest team members: **Dr. Yohannes K.G. Mariam** is our Senior Economist. **Maggie Sallah** is our newest Staff Attorney, and **Lauren Shuman** is our Litigation Assistant. We are excited they have joined us, and it is great to see the OPC-DC family grow. If you get e-mails or phone calls from them, you will know who they are, and that when they call you, it is like I am reaching out for assistance from you. For more about them, see Page 4.

I look forward to seeing everyone in New Orleans.

Sincerely,

Betty Noel, Esq.
People's Counsel for the District of Columbia

OPC-DC Fights for the People's Right To Know

On May 28, 2008, OPC-DC presented its oral argument before the D.C. Court of Appeals concerning OPC-DC's challenge to the utility companies' efforts to keep secret their jurisdictional revenues or earnings. It is OPC-DC's position that the public has the right to know the exact amount of money used to fund the annual budgets of the Office and the D.C. PSC. In the process of the hearing, OPC-DC explained that the D.C. PSC, a public agency of the D.C. government breached the public trust when it refused to follow case law and deemed the utility companies' revenue information confidential and proprietary without making any evidentiary findings as required by case law precedent and the D.C. PSC's own rules. OPC-DC asked the Court remand the issue back to the D.C. PSC with directions to pursue a transparent and legally consistent process that respects the right of the public to know how these agencies are funded. OPC-DC awaits the D.C. Court Appeals decision.

Washington Gas Rate Case Is Settled

In December 2006, Washington Gas ("WG") sought a distribution rate increase of approximately \$20 million. In its Application, WG sought significant changes to traditional public utility regulation in the form of alternative mechanisms that would have significantly shifted its business risks from shareholders to ratepayers among them a revenue decoupling mechanism and performance based _____. At the beginning of the evidentiary hearings, the parties entered into settlement discussions. On December 19, 2007, the parties filed a Joint Statement in Support of the Settlement agreement. While OPC-DC was not a signatory to the Settlement Agreement, OPC-DC did not oppose the Settlement Agreement.

On December 28, 2007, the D.C PSC approved a Settlement Agreement that represents a great victory for District of Columbia natural gas consumers during a time of economic uncertainty. In this proceeding, Washington Gas was assessed a fine of \$350,000 and Washington Gas received a historic fine for failing to release documents to the D.C. PSC. Washington Gas has appealed this fine to the D.C. Court of Appeals. Oral arguments will be held this fall.

OPC-DC and Verizon Establish and Address Quality of Service Concerns

After a long contentious battle with Verizon DC over its deregulation proposal in the Price Cap Plan 2008, OPC-DC and Verizon DC filed a joint settlement agreement before the D.C. PSC in March 2008. OPC-DC developed its settlement position based on consumers' complaints, received at OPC-DC community meetings, and at quality of service hearings held before the D.C. City Council's Committee on Public Services and Consumer Affairs in February 2008.

All of the provisions of the joint settlement agreement reflect a story told to OPC-DC and the Committee about how Verizon DC's poor quality of service was adversely affecting the lives of Verizon DC's customers. D.C. PSC decision is pending.

OPC-DC Opposes Pepco's Revenue Decoupling Proposal

In Formal Case No. 1053, PEPCO, the monopoly provider of electric distribution service in the District of Columbia, proposed a decoupling mechanism named the Bill Stabilization Adjustment ("BSA"). Functionally, the BSA would separate the Company's distribution service rates from the amount of energy sold, in order to recover revenues lost due to energy efficiency programs.

OPC-DC opposed the BSA for two reasons. First, the BSA provides a guaranteed revenue requirement for PEPCO. If accepted, it would be the first time a regulated utility in the District of Columbia would be guaranteed a set level of revenue. Moreover, under a BSA paradigm, only consumers would bear any risk as a result of a power outage leaving PEPCO with no incentive to expend money to ensure the reliability of its distribution system. Second, because PEPCO provides Standard Offer Service, the BSA does not provide PEPCO with an incentive to pursue energy conservation and efficiency because PEPCO will always have an incentive to see high volumes of energy sold as opposed to energy being conserved. Moreover, PEPCO is not an integrated utility. It is a distribution company that is not losing revenue if consumption of electric supply is reduced. Thus, OPC-DC's requested the D.C. PSC reject the BSA.

The BSA completely upsets the traditional regulatory paradigm that offers utility companies the opportunity to earn an authorized rate of return, unreasonably shifts the burden of risks to consumers and may lead to a decline in the quality of service delivered.

In its rate case order, the D.C.PSC agreed in concept with the BSA, but did not adopt it. The D.C. PSC established a Phase II proceeding to study the legal impediments to implementing the BSA.

OPC-DC Welcomes New Staff

After a national search, OPC-DC has recently filled three positions essential to our continued success within our Litigation Services Division. We are pleased to present OPC-DC's new Senior Economist Dr. Yohannes Mariam, Attorney Maggie Sallah, and Litigation Assistant Lauren Shuman.



Yohannes K. G. Mariam, Ph. D.

Yohannes Mariam joins OPC as Senior Economist. A native of Ethiopia, Dr. Mariam attended McGill University in Montreal on a Rotary International Scholarship where he earned an M.Sc. in Agricultural Economics, and a PhD. in Agricultural Economics and Anthropology. Yohannes has published his research in regulation, energy and environment in various proceedings and journals. Yohannes will support the Litigation Services Division in its market monitoring program analysis and as an expert witness on electricity and natural gas issues. In his spare time, Yohannes continues to guide doctoral students in management,

economics and education.



Maggie Sallah, Esq.

Maggie Sallah, a native of Toledo Ohio attended the University of Toledo for her undergraduate studies earning a B.A. in environmental geography and Spanish. Maggie holds a masters in Environmental Studies from the Ohio University and a law degree from the University of Cincinnati. Maggie joins OPC as an attorney after serving two and one half years with the Nevada PUC where she worked primarily with natural gas and electricity issues. Professing a particular interest in public interest law and

consumer issues, Maggie hopes to develop these areas at OPC.



Lauren D. Shuman

Lauren D. Shuman, a native of Boston, Massachusetts is a 2007 graduate of the University of Wisconsin, Madison. She holds a B.A. in Sociology. Lauren joins OPC as the Office's litigation assistant. Lauren will support the Litigation Services Division administratively before the Commission and the courts and assist the Office with scheduling and record keeping functions. Lauren hopes to gain experience at OPC that will help her should she attend law school in the future.

OPC DC Calls on FERC to Stop Over \$12 Billion in Electricity Overcharges

D.C. People's Counsel Elizabeth A. Noël has joined with Consumer Advocates, several Utility Commissions and other end use customers from 13 states in filing a complaint with the Federal Energy Regulatory Commission ("FERC") challenging the unreasonable and unjust electric capacity payments to generation providers serving D.C. and the region.

"This complaint stems from what we believe is the manipulation of the auction process. This has had a cascading effect on the energy supply rate passed on without regulatory control to D.C. consumers" stated People's Counsel Elizabeth A. Noël.

"In the PJM footprint which spans the District of Columbia and 13 states, it is estimated that users will pay \$12 Billion in unjust and unreasonable additional capacity charges over the next 3 years. If FERC grants the relief I seek, ratepayers in the PEPCO zone would save about \$544 million with a proportionate share saved by District ratepayers," added Ms. Noël.

The RPM model was set up to encourage new generation providers to come into the marketplace. To date, we are not seeing any new generation providers. Rather we are dealing with those fully aware of how to manipulate the system for their own financial gain at the expense of consumers and those regulators who still believe that deregulation at the wholesale level and the local level will yet work -- some day.

OPC's analysis shows that the Reliability Pricing Model or "RPM" capacity prices have been five times higher than under PJM's prior capacity pricing mechanism and almost four times higher than PJM and stakeholders expected based on simulations of RPM prior to implementation.

Also, there is evidence that sellers are withholding capacity to raise prices and that market power distorts RPM results because the reward for small amounts of scarcity is much higher prices. Added to these factors is the mystery surrounding how the PJM models its capacity offers. PJM provides only limited details on these parameters and models, due to proprietary data and model complexity.

OPC DC's decision to file this complaint is the result of careful analysis of the trends coming out of recent auctions which suggest capacity charges resulting from the current RPM are pushing auction prices significantly higher without creating the intended benefit of more generation options in the marketplace. This complaint challenges the results of these auctions but not the RPM itself.

OPC-DC is Presents on Energy and Telecommunications Panels:



Brian Edmonds, Esq.

Brian Edmonds is an Assistant People's Counsel with the D.C. Office of the People's Counsel. Brian has been with the Office for seven and one half years and currently concentrates on market monitoring and electricity reliability issues.

Brian is hosting "*To be or Not to Be: Pros and Cons of the Third Party Energy Efficiency Programs and the Role of the Consumer Advocate*" at this years mid year meeting. This panel will focus on the mechanics of an energy efficiency program administered by a third party energy efficiency provider and whether consumers achieve measurable savings or other benefits from such programs versus a program administered by an incumbent utility.



Laurence Daniels, Esq.

Laurence Daniels is an Assistant People's Counsel with the D. C. Office of the People's Counsel. Laurence has been active in Telecommunications, Natural Gas and Electricity cases for the Office, as well as Consumer Rights and Quality of Service issues.

Laurence is hosting "*The State of Broadband Deployments from a State Perspective*" at this year's mid year meeting. This panel will focus on the obstacles some states have experienced while attempting to deploy broadband infrastructure, the solutions they promote, need for a national broadband plan and the role of the consumer advocate in achieving a consumer friendly solution.

D.C. Office of the People's Counsel

1133 15th Street, NW - Suite 500 - Washington, DC 20005

Phone: 202-727-3071 - Fax: 202-727-1014

TTY/TDD: 202-727-2876 - E-mail: ccceo@opc-dc.gov

Web: www.opc-dc.gov

Making D.C. Energy Efficient & Environmentally Conscious:
One Resident At A Time

