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PRESS RELEASE

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OPC Defends and Protects District Ratepayers Interests In Mirant Bankruptcy Case

Today, the People's Counsel for the District of Columbia filed a "friend of the court" brief with the United States Court of Appeals for the Fifth Circuit, protecting Pepco and therefore, D.C. electric consumers' interests, in \$541million worth of energy supply contracts which the Mirant Corporation seeks to abrogate in its Chapter 11 bankruptcy proceeding.

"My reality is that to protect D.C. consumers, I must first protect Pepco's legitimate contracts with Mirant. If Mirant is allowed to just walk away from these contracts, then Pepco would likely seek to impose \$541 million on my consumers. No way! Not one D.C. consumer could afford such an increase! So, to save D.C. consumers, OPC must first save Pepco's interests in these contracts" stated People's Counsel Elizabeth A. Noël. "OPC's efforts earlier this year were successful in convincing the United States District Court to deny Mirant's motion to reject the contract. Mirant has appealed that decision to the Fifth Circuit" stated Attorney Noël. So, OPC is working to protect D.C. consumers at the appellate level as well.

Pepco and FERC also filed briefs opposing Mirant's attempt to reject the contract. OPC-DC is the only party in this case representing the interests of D.C. and its electric citizen-consumers. Explaining her office's alliance with Pepco and FERC, People's Counsel Noel stated "The protection of the interests of DC consumers is paramount. Given all that has occurred and Mirant's callous attitude toward D.C. and its citizens, D.C. consumers can no longer have permanent friends or enemies. Rather, alliances are based on common interests. OPC and Pepco have a common interest in saving \$541million in energy contracts."

In the brief filed with the court, Ms. Noel argues:

- A bankruptcy court cannot relieve Mirant of its contractual obligations to Pepco. The sale of electricity at the wholesale level is not merely a business transaction between private parties. Congress found that because of the necessity of reliable and reasonably priced electricity to the American public, wholesale sales of electricity must be regulated to protect the public interest.
- Congress gave the exclusive jurisdiction to regulate all aspects of such wholesale sales of electricity to FERC and Mirant cannot terminate its obligations to Pepco under a wholesale contract on file with FERC unless and until FERC decides such a termination is in the public interest.
- D.C. ratepayers may have no effective voice before a bankruptcy court, because such a court is not obligated to apply or experienced in considering the FERC public interest standard.
- Thus, FERC is obligated to consider and to protect the public interest. As part of its public interest analysis, FERC would look at the potential impact on District ratepayers of such a termination by Mirant. FERC would also consider that Pepco and its ratepayers effectively paid Mirant \$260 million in 2000 to assume the obligations under the Agreement by reducing the price at which Pepco sold the majority of its generating units to Mirant.

The Fifth Circuit is scheduled to hear oral argument on this matter on May 5, 2004. A decision is expected later this year.