OPC-DC's Op Ed Letter re: Consolidated Taxes
Submitted to Washington Post and New York Times and The Examiner
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D.C. Utility Consumers Should Never Be Required to Subsidize the Costs of Unregulated Investments of a Public Utility

As People's Counsel for the District of Columbia, the only statutorily mandated legal representative of utility consumers in the District, I read with great interest the March 15 article in The New York Times, "*Many Utilities Collect for Taxes They Never Pay*." I also read the March 16 article in The Washington Post, "*Maryland Weighs Remedies for Rate Hikes*" citing The New York Times article. The New York Times article addressed the effects of using subsidiary tax losses to offset taxes that would be paid by a utility and the holding company in the absence of the ability of the holding company to file a consolidated income tax return.

During the course of litigation before the District of Columbia Public Service Commission (*DC PSC*), the Office of the People's Counsel (*OPC*) recommended the electric utility, PEPCO, reduce its utility income tax expense by a portion of the unregulated subsidiary income tax losses. Although many other jurisdictions do require this, the DC PSC rejected OPC's recommendation. As a result, the benefits of PEPCO's tax treatment flow only to the Company's shareholders, not to D.C. ratepayers.

Given this regulatory construct, OPC questions PEPCO's claim that "the beneficiaries of these income tax refunds are not the Company's shareholders, but utility customers" and that "without the ability to use taxes embedded in monthly electric bills to help finance its unregulated investments, including new power plants, electric customers would pay higher rates." OPC can think of no reason for PEPCO to believe that D.C. ratepayer subsidy of its unregulated investment is in the interests of these ratepayers. In OPC's view, no regulatory commission, let alone the DC PSC, should ever require utility consumers to subsidize a public utility's costs for unregulated investments.

Moreover, PEPCO's claim that electric customers would pay higher rates without the ability of the utility to finance its unregulated investment with ratepayer money is, or certainly should be, untrue. The only beneficiaries are the shareholders of PEPCO's holding company, and PEPCO well knows this to be true. In D.C., we need only look at our Maryland neighbors as a reminder of just how high electric rates can rise. To have such utilities continue to unduly profit from this treatment of consolidated income tax is inexcusable as energy consumers struggle under crushing electric rates caused by divestiture of generation facilities, failed deregulation policies, lack of competitive alternatives and no consumer choice.

Respectfully Submitted:

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