



Office of the People's Counsel for the District of Columbia

Roll Call Report

NASUCA Mid-Year Meeting

June 26-28, 2011

San Antonio, TX

Sandra Mattavous-Frye, Esq., Nominated as D.C. People's Counsel



On April 20, Mayor Vincent C. Gray selected Attorney Sandra Mattavous-Frye as his choice to serve as People's Counsel for the District of Columbia. Ms. Mattavous-Frye, who will serve as Acting People's Counsel until confirmed by the District Council, is an experienced litigator, adjudicator and professional manager of personnel, government operations and budgets. She served the Office of the People's Counsel (OPC-DC) as Deputy People's Counsel for over 15 years prior to this appointment. Ms. Mattavous-Frye brings to this new post more than 20 years of senior management experience in litigation services and fiscal planning and a track record of leadership on the seminal utility regulatory issues of our times.

"As People's Counsel, I intend to focus on system reliability. Reliability, in my view is the benchmark by which utility service is judged.

Notwithstanding, I will never lose sight of the consumer entitlement to affordable basic service, quality service and the necessity for empowering consumers to have a place at the table in the regulatory process" said Ms. Mattavous-Frye.

"I accept this nomination with a tremendous amount of respect for those who served before me, including Chief Judge Annice Wagner, the first People's Counsel for the District of Columbia, Attorney Brian Lederer, Judge Frederick D. Dorsey and Attorney Elizabeth A. Noël, who gave form to OPC-DC by making it the premiere utility consumer advocate agency in the nation," added Ms. Mattavous-Frye.

Ms. Mattavous-Frye has advocated for District ratepayers on complex issues, including deregulation and nascent competition in the energy and telecommunications sectors, smart grid development, energy efficiency, conservation management and consumer rights. She is an adept and analytical thinker with finely honed negotiation skills and extraordinary public utility credentials.

Ms. Mattavous-Frye has represented OPC-DC before countless community groups, governmental oversight and federal regulatory proceedings and the print and broadcast media. In addition, she has

prepared and presented substantive policy works on behalf of the District of Columbia before industry and governmental leaders at national and international forums on "The Impact of Electric Deregulation on State Regulatory Authority" and "Poverty Reduction Through Better Regulation"—the creation of an office of public advocate for the nation of South Africa.

A graduate of the District's Antioch School of Law, Ms. Mattavous-Frye has held a succession of positions in OPC with increasing responsibility on behalf of District of Columbia ratepayers including Energy Section Trial Supervisor, Director of Litigation, and most recently, Deputy People's Counsel. Throughout her tenure she has worked to remain abreast of regulatory issues by active policy participation and study with the National Association of Regulatory Utility Commissioners (NARUC), Broad School, Institute of Public Utilities at Michigan State University, and the National Association of State Utility Consumer Advocates (NASUCA).

Ms. Mattavous-Frye is admitted to practice before the U.S. Supreme Court, United States Court of Appeals for the Third Circuit, and the District of Columbia and Maryland bars. Ms. Mattavous-Frye is married with two adult children.

OPC Opposes the Establishment of a Purchase of Receivables

In May, the D.C. Public Service Commission (D.C. PSC) issued a Notice of Inquiry requesting comments from interested parties on whether the D.C. PSC should change its current rule governing the manner in which payments are applied when Pepco

provides consolidated billing services for competitive suppliers.

Several competitive suppliers commented that the current rule should be replaced with a Purchase of Receivables ("POR") program that

allows Pepco to purchase the suppliers' bad debt. OPC-DC opposed the establishment of a POR program because it would likely increase costs passed on to consumers and would yield few, if any, benefits.

“As stated before, and beyond dispute, District of Columbia consumers are entitled to safe, adequate and reliable electric service and are not receiving it.”

HERE WE GO AGAIN—Pepco Grappling With Unexplained Outages

Between May 31, 2011 and June 1, 2011, more than 1,500 Pepco customers, including District and federal agencies, experienced a power outage. Power was restored briefly late in the evening on June 1, for approximately an hour. Then, the same area suffered another outage apparently caused by the same cable failure. Those affected by the outages were without power for more than 29 hours between the afternoon of May 31 and the evening of June 1. Those same customers lost power one hour later on the night of June 1 and were without power until mid-afternoon June 2nd. In addition to the hundreds of residential consumers affected, the outages forced the closing of District and federal agencies, as well as some schools. This outage is the second major outage of electric service affecting federal and District facilities since June 2008, and is just the latest in a series of prolonged

electric service outages in the District of Columbia in the past several years.

Acting People’s Counsel Sandra Mattavous-Frye states, “District of Columbia ratepayers are entitled to reliable and safe electric service, which they are not receiving at this time. Although the area of these most recent outages has been isolated to a small section of the city, businesses and consumers far beyond its boundaries are feeling the affect.”

OPC-DC has repeatedly requested the D.C. Public Service Commission (D.C. PSC) investigate the reliability of Pepco’s distribution network and the issues affecting the electric service of the District of Columbia, to no avail. However, OPC-DC cannot sit silently as these issues continue unabated. The continued threats to public security and health, and the potential harm to the District economy posed by these

outages cannot be overstated.

While the Commission has several open reliability dockets, the Office again requested the D.C. PSC immediately institute a formal investigation into (1) the causes of the outages that occurred May 31, 2011 through June 1, 2011, and, equally importantly, (2) why service restoration takes so long. It is beyond dispute, District of Columbia consumers are entitled to safe, adequate and reliable electric service and are not receiving it. In addition, OPC-DC requested the D.C. PSC require an independent investigation into the cause and response to the outages. OPC-DC’s requests are supported by several DC Councilmembers and the General Services Administration. To date, the Commission has not ruled upon OPC-DC’s requests, but did issue data requests to the Pepco.

OPC-DC Holds Its First Workshop On Distributed Generation

OPC-DC held its first distributed generation workshop for District residents on May 7, 2011. The purpose of the workshop was to inform and educate residents about the array of distributed generation (DG) technologies available. Currently, most residents who employ a “DG” technology use solar panels and participate in the District’s net energy metering program. Workshop panelists, representing a wide range of expertise, defined distributed

generation, options available, how District residents can “go solar,” including becoming a member of a solar cooperative and participating in solar gardens, the pricing issues associated with locally produced energy and the outlook for employing distributed generation more widely in the District. Participants informed OPC-DC they want future forums to focus on technology rollout, and the financing of DG. Additionally, participants

recommended that information about future DG events be widely disseminated to the District’s general population. Going forward, OPC-DC will seek creative ways to inform and educate District residents about the benefits distributed generation technology can provide them.

OPC-DC Wins Its Appeal of D.C. PSC's Decision Limiting Discovery

On June 23, 2011, the DC Court of Appeals ruled in favor of the Office, vacating and remanding several D.C. PSC orders limiting OPC – DC's access to Pepco

engineering documents and maps to in-person inspection at Pepco's offices. In its ruling, the court states, "The Commission also appears to

have lost sight of OPC's critical role as an independent investigatory authority and a statutory party in the regulatory scheme."

Pepco's Dynamic Pricing Proposal Rejected

In April 2010, Pepco, in response to a D.C. Public Service Commission (D.C. PSC) order, submitted a dynamic pricing proposal to accompany its advanced metering infrastructure deployment. A year later, the D.C. PSC rejected Pepco's dynamic pricing proposal stating that the Pepco's proposal raised a number of issues and concerns that should be addressed in a specific docket established to address smart grid policy issues.

One issue identified by the D.C. PSC is the potential integration of dynamic pricing and the process of

procuring electric generation to meet the needs of Standard Offer Service customers and the opportunities available to alternative retail electricity suppliers to provide dynamic pricing in the District of Columbia.

On June 16, 2011, the D.C. PSC held a legislative style hearing to understand the perspectives of various stakeholders on this issue.

At the hearing, OPC-DC noted there are 4 threshold issues regarding dynamic pricing: 1) the need for fully functioning demand response programs in the

wholesale markets that are coordinated with the retail dynamic pricing rate designs in order for the District of Columbia to fully benefit from dynamic pricing, 2) there must be a robust consumer education program in place along with empowerment tools such as smart thermostats and in-home displays, 3) privacy and data management rules must be in place prior to the implementation of dynamic pricing, and 4) the economic benefits of dynamic pricing must be apparent to the consumer.

The District's SEU Gets Off the Ground

The District's Sustainable Energy Utility (SEU) contract was awarded to the Vermont Investment Corporation (VEIC) in April 2011. VEIC is a nonprofit organization committed to reducing the economic and environmental costs of energy use and has 25 years of experience designing and implementing energy programs. VEIC will be responsible for developing, coordinating and providing programs to energy end-users in the District to promote the sustainable use

of energy in the District. VEIC is receiving approximately \$7.5 million for Fiscal Year 2011 which ends September 30, 2011. The SEU was authorized by the Clean and Affordable Energy Act of 2008 to administer sustainable energy programs in the District.

SEU services began with the launch in May 2011 of the Low-Income Multifamily Direct Install program, one of the SEU's three "quick-start" programs, which provides

low-cost energy retrofits in income-qualified multifamily rental properties throughout the District. The second quick start program is the Direct Installation Program for Commercial Buildings which focuses on smaller businesses and provide free or low-cost energy efficiency measures and assessments for future measures. The third program is the Home Retrofit Program focusing on energy efficiency measures in existing homes.



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About The Office of the People's Counsel for the District of Columbia

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' interest before the D.C. 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 bills.

OPC's Smart Grid Advocacy - The Role of The Cloud in the Smart Grid

On June 21, 2011, OPC-DC Attorney Laurence Daniels participated in a panel discussion sponsored by Microsoft covering a range of topics related to smart grid deployment and information technology. Attorney Daniels, representing the consumer



advocates' position on the panel, noted that privacy and data management were important issues that have to be addressed from a policy and technical

perspective. "At the heart of the success of the smart grid is whether consumers will modify their behavior. If

consumers do not feel that their privacy is protected or that they do not have control over how their data is distributed, consumers are not likely to take the first step towards modifying their behavior which is understanding their consumption data by having it evaluated by third parties," stated Attorney Daniels.

OPC-DC's Smart Grid Advocacy - Connectivity Week 2011

In May of this year, Attorney Laurence Daniels spoke at Connectivity Week 2011 in Santa Clara, California. Attorney Daniels highlighted the results of the *PowerCentsDC* pilot program and emphasized that the basis for the

success of the pilot was not the technology, but the consumer education and support throughout the pilot program. He added that it was important for state utility commissions to ensure that a robust consumer education

program be in place prior to deployment, the importance of having rules addressing consumer privacy and data management and to ensure that the benefits of the smart grid outweigh its costs.

OPC-DC Welcomes Arthur L. Brown, Esq.



Arthur L. Brown joined OPC-DC as an Assistant People's Counsel, Litigation Division

in June 2011. Prior to joining OPC-DC, Arthur was a business litigation associate in the Minneapolis office of a large Midwest law firm. In private practice, he represented clients in a broad range of complex civil litigation matters, including energy, gas and telecommunications

disputes pending before state and federal courts. Arthur received his B.A. in political science from Winthrop University, *with honors*, and a Masters of Public Administration from Cornell University. Arthur earned his J.D. from Wake Forest University School of Law.