

PAULA M. CARMODY
PEOPLE'S COUNSEL

STATE OF MARYLAND

ASSISTANT PEOPLE'S COUNSEL

WILLIAM F. FIELDS
DEPUTY PEOPLE'S COUNSEL



GARY L. ALEXANDER
JOSEPH G. CLEAVER
JACOB M. OUSLANDER
MIKHAIL RAYKHER
ANNA K. RYON
PATRICK E. O'LAUGHLIN
PHILIP H. SHEEHAN, JR.

OFFICE OF PEOPLE'S COUNSEL

6 Saint Paul Street, Suite 2102
Baltimore, Maryland 21202
(410) 767-8150 (800) 207-4055
FAX (410) 333-3616
WWW.OPC.MARYLAND.GOV

MARYLAND OFFICE OF PEOPLE'S COUNSEL
C91H00
Fiscal Year 2020 Budget Hearings

Response to the Department of Legislative Services
Budget Analysis

Senate Committee on Budget and Taxation (B&T)
Sub-Committee on Public Safety, Transportation and Environment

February 01, 2019

General Response of the Office of People's Counsel (OPC)

The Department of Legislative Services concurs with the Governor's allowance. OPC appreciates the careful review by Tonya Zimmerman, DLS budget analyst, and agrees with the DLS recommendation.

Maryland Office of People's Counsel

About Us

OPC is the official advocate for Maryland residential utility consumers. Maryland PUC Article, § 2-201 *et seq.*

The Maryland Office of People's Counsel (OPC), created in 1924, is the oldest utility consumer advocacy office of its kind in the United States. The People's Counsel is appointed by the Attorney General, with the advice and consent of the Senate, and acts independently of the **Maryland Public Service Commission (PSC)** and the **Office of Attorney General**. OPC is a State of Maryland agency, yet works independently to represent Maryland's residential consumers of electric, natural gas, telecommunications, private water and certain transportation matters before the PSC, federal regulatory agencies and the courts. Every day OPC's staff members address issues affecting the cost, quality of service and adequate supply of these utility services. As such OPC's advocacy touches the lives of every resident of Maryland.

OPC functions primarily as a law office, employing a staff of 19, and retains expert consultants to provide technical assistance and expert testimony. These consultants are highly qualified accounting, engineering and economic experts who provide technical assistance, prepare reports and appear as expert witnesses before the PSC and federal agencies. These experts are absolutely critical to OPC's ability to represent consumers.

Because it is a state agency, funding for OPC is included in the state budget proposed by the Governor and approved by the General Assembly. However, the State's General Fund is fully reimbursed for OPC's expenses from revenue collected in the Public Utility Regulation Fund. Md. PUC Article, § 2-110.1. These revenues are collected from all regulated utility companies and licensed energy suppliers.

What We Do

OPC represents the interests of Maryland residential utility consumers of electricity, natural gas, telecommunications and private water services in state and federal regulatory proceedings and appellate courts. OPC also provides information and referrals to consumers and agencies, and consumer assistance in limited situations.

Where We Do It

OPC represents residential customers in state and federal administrative agency and appellate court proceedings, and testifies on bills heard by legislative committees:

- Maryland Public Service Commission
- Federal Agencies:
 - Federal Energy Regulatory Commission
 - Federal Communications Commission
- PJM (wholesale electricity market administrator)
- Maryland and Federal Courts (appeals of regulatory decisions)
- Maryland General Assembly

How We Do It

Legal Advocacy

Regulatory Cases (PSC, FERC, FCC, Courts)

Rulemakings (PSC, FERC, FCC)

Public Conferences and Work Groups (PSC)

Legislation (Maryland General Assembly)

Consumer Assistance

Direct Assistance (service and billing disputes; terminations to vulnerable customers)

Information and Resources

Agency inquiries and alerts

Resource Guides and Fact Sheets

Reports

Community Outreach and Networking

Speakers

Associations and Boards

Consumer Advocates of PJM States, Inc. (CAPS)

MD OPC is a founding member of CAPS, a 501(c) (4) organization comprised of official agencies that represent the interests of utility consumers in states within the PJM footprint. The organization was established in 2012, and initially funded with seed money approved by FERC. CAPS is now funded through PJM, as approved by FERC. CAPS helps to provide information and technical assistance to member agencies on PJM issues affecting retail customers in the respective states. OPC is a member of the Executive Board.

NASUCA

OPC is a member of the **National Association of Utility Consumer Advocates (NASUCA)**. NASUCA is an association of government and non-profit agencies that represent the interests of consumers of energy and telecommunications services in over 40 states. NASUCA has an Executive Director who handles daily operations and is responsible to the Officers and Executive Committee of NASUCA. NASUCA establishes positions on a variety of issues through approval of Resolutions. These Resolutions provide the policy support for testimony and comments filed by NASUCA in federal regulatory and legislative proceedings. As a member of NASUCA, OPC is able to enhance its presence and influence on behalf of Maryland residential consumers.

The People's Counsel served as President of NASUCA from October 2011 to November 2013, was a member of the Executive Committee of NASUCA from 2007 to 2013, and currently is an *ex officio* member. OPC has representatives on the Electric, Gas, Telecommunications, Water and Consumer Protection Committees of NASUCA, and is active in the development of policy positions and actions taken by NASUCA on behalf of its members.

Boards and Committees

The People's Counsel (or her designated representative) is a member of several boards and committees that address issues that impact residential utility consumers

- MEA Strategic Energy Investment Fund (SEIF) Advisory Board (*ex officio*)
- DHR OHEP Advisory Board
- DHCD Weatherization Advisory Board
- Maryland Clean Energy Center Advisory Council

The People's Counsel also was a member of the DOE Electric Advisory Committee (July 1, 2015 – June 30, 2017 Term)

OPC – Regulatory Activities

OPC's primary responsibility is to represent the interests of Maryland residential users of utility service, with a focus on affordable, safe and reliable service. OPC's attorneys advocate for rates, services and practices to benefit residential customers in regulatory and court proceedings. Most of our work takes place in proceedings before the **Maryland Public Service Commission (MD PSC)**, the state agency that regulates utility companies. These proceedings include cases, rulemakings, public conferences and work groups set up by the MD PSC. With the assistance of expert consultants, OPC addresses issues affecting residential customers in the following types of proceedings:

- Mergers and Acquisitions

- Utility distribution rates and services (electricity, gas, private water)
- Gas infrastructure surcharges
- Utility procurement of electricity and gas supply
- Reliability of utility distribution systems and service quality
- Retail energy suppliers – licensing and consumer protection
- Energy efficiency, conservation and demand reduction
- Grid modernization and smart meter deployment
- Local landline telephone regulation and service quality
- Ridesharing services
- PSC Rulemaking dockets

OPC also intervenes in cases before the **Federal Energy Regulatory Commission (FERC)**, the federal agency that oversees wholesale electricity markets, interstate electricity transmission and interstate gas transportation. As a result of the deregulation of the retail electric industry in Maryland in 1999, the importance of FERC policies and decisions for Maryland consumers has increased dramatically. OPC has been an advocate for Maryland consumers in numerous FERC cases involving wholesale market issues and interstate transmission line costs to be allocated to Maryland consumers. At the same time, OPC is an active consumer representative in the **PJM** stakeholder groups concerning the operation of the regional transmission organization. OPC also is a founding member of **Consumer Advocates of PJM States (CAPS)**. We sometimes participate in these matters as part of a coalition of consumer offices and other agencies.

The Federal Communications Commission (FCC) regulates interstate communications by radio, TV, wire, satellite and cable. The FCC also administers the Lifeline LinkUp program for telephone assistance and the Universal Service Fund (USF) and jointly administers the Do Not Call Registry for consumers who want to avoid telemarketing calls. The FCC has been charged with implementing a Broadband Initiative to accelerate broadband deployment throughout the country. As an active member of **NASUCA**, OPC is able to lend its voice on behalf of Maryland telephone consumers through the submission of comments by NASUCA in numerous FCC dockets.

OPC also appears in appellate courts when regulatory orders are challenged by OPC or other parties. The MD PSC's orders are appealed to the courts of the State of Maryland, while the federal agency orders are heard on appeal by federal appellate courts.

OPC – Consumer Protection, Consumer Assistance and Outreach

OPC is an active participant in the PSC's Rulemaking dockets to address issues that affect residential customers. In the past two years, OPC was instrumental in securing enhanced consumer protection rules for customers of energy suppliers, rideshare providers, and

community solar subscribers, changes in the medical certification rules for service terminations, and establishment of electric service reliability standards.

While most of OPC's activities take place in regulatory proceedings before the PSC and FERC, the agency does provide consumer assistance and outreach assistance. Most of the requests for consumer assistance concern terminations (or threatened terminations) of utility service and need for bill payment assistance. OPC works with a network of government, community action, non-profit and faith organizations in all areas of the State. Since OPC has a limited consumer assistance staff, the agency specifically focuses on comprehensive assistance for vulnerable households (due to age, medical problems, disability and other factors) facing service loss. OPC also handles complaints or inquiries related to service reliability and outage issues, billing disputes and energy supplier complaints.

In collaboration with BGE, the Cancer Support Foundation, Fuel Funds and other state agencies, OPC has worked to develop a "Critical Medical Needs Program" over the past three years. The OPC and these entities have worked to establish protocols for expedited handling of energy assistance applications, and train Navigators with health-related and community organizations to work with payment-troubled customers with critical health needs.

OPC also provides speakers upon request to agency, neighborhood and community organizations, and has developed fact sheets and guides on regulated utility issues and contracts with energy suppliers. The OPC website provides information to consumers, agencies and other interested parties about "hot topics," cases and issues, public hearings, and links to fact sheets and information guides on matters that affect residential customers of energy, telephone and private water services. Our most popular materials are the OPC Energy Assistance Resource Guides (updated annually), Utility Customer Fact Sheets and Energy Supplier Fact Sheet and Pricing Guides.

**Office of People's Counsel
FY 2018-2019 Major Proceedings and Initiatives**

OPC Reports (available on OPC website at www.opc.maryland.gov)

- *Maryland Low-Income Market Characterization Report (APPRISE, October 2018)*

This report was prepared at OPC's request by APPRISE, a public policy research organization. APPRISE collected and analyzed data on low-income households in each County and Baltimore City to better understand the energy affordability issues faced by these households. The data, findings and recommendations should assist in the evaluation and enhancement of our State's existing energy assistance and low-income energy efficiency programs.

- *Maryland's Residential Electric and Gas Supply Markets: Where Do We Go From Here? (Baldwin and Bosley, November 2018)*

This report was prepared at OPC's request by consultants Susan M. Baldwin and Sarah M. Bosley. The consultants conducted a preliminary analysis of residential electricity and gas supply markets in Maryland, assessed the need for additional data, highlighted the experiences in other retail competition states, and presented recommendations for next steps. The guidelines and recommendations focus on the need for accurate price data and transparency in the marketplace, enhanced consumer protection measures, proactive regulatory oversight and enforcement, an assessment of the role of variable prices in residential retail markets, and accurate and readily understandable renewable energy marketing claims.

Critical Medical Needs Program (CMNP)

The CMNP is an agency-utility partnership. It is a voluntary, not a regulatory, program developed by OPC, Cancer Support Foundations, and BGE, with DHS/OHEP, DHCD and the Fuel Fund as partners. The goal of the program is to provide expedited energy bill and efficiency program assistance to medically vulnerable households at risk of losing utility service or in need of service restoration. The partners train Navigators in health care and community agency settings to assist in the processing of assistance applications. The program assists customers who have serious illnesses that would be aggravated by loss of electricity or heat, and those who are on life-support equipment. The program does not require additional energy assistance or efficiency funds; rather, the purpose is to fast track access to assistance for eligible customers to prevent loss of service or restore service. OPC staff provides information and training to Navigators, and directly assists customers with the more complicated cases, successfully coordinating grants and identifying savings of about \$343,000.

Major Proceedings

Defective Service Termination Notices

OPC successfully resolved complaints regarding defective service termination notices sent to residential customers by Pepco, Delmarva Power and Washington Gas in two cases initiated by OPC. As a result, Pepco agreed to pay \$1.58 million in refunds to customers and \$235,000 in lieu of a penalty to the Washington Area Fuel Fund (WAFF), and follow a detailed compliance plan. Washington Gas agreed to pay \$1.47 million in refunds to customers and \$400,000 in lieu of a penalty to WAFF, and follow a compliance plan. Also, as a result of these cases, OPC and the utilities jointly petitioned the Commission to clarify the notice requirements for residential occupants of master-metered buildings. The proposed regulations are pending before the Commission.

Rate Cases, Tax Cut and Jobs Act Credits, and STRIDE Surcharges

OPC retained expert witnesses and submitted testimony responding to a number of utility rate increase applications in FY 2018 and FY 2019. The utilities include BGE (gas), Pepco, Delmarva Power, Potomac Edison, SMECO, Washington Gas, Columbia Gas, Choptank, Thurmont, Maryland-American Water, and Eastern Shore Natural Gas (Interstate Gas). OPC substantially contributed to ratepayer savings of over \$150 million for cases with final orders in FY 2018. Additional savings accrued in the first half of FY 2019 in the amount of approximately \$51 million.

OPC filed a Petition with the Commission on January 4, 2018 requesting that all regulated utilities be required to make appropriate tax adjustments and provide bill credits for ratepayers, as a result of the tax changes arising from the Tax Cut and Jobs Act (TCJA). The Commission required all utilities to submit responses by mid-February 2018, and in FY 2018, approximately \$140 million was returned to ratepayers through bill credits. Utilities have continued to identify additional tax adjustments and credits in FY 2019. OPC also has intervened in a number of interstate electric and gas company dockets at FERC, which is considering the appropriate tax adjustments for the Exelon Companies (BGE, Pepco and Delmarva Power) and interstate gas pipelines serving Maryland local distribution companies.

BGE, Washington Gas and Columbia Gas submitted their second 5-year STRIDE gas surcharge plans for consideration by the Commission. OPC retained an expert witness to evaluate the plans and submit testimony. As a result, OPC reached a settlement with Columbia Gas, and the Commission modified both the BGE and Washington Gas proposed STRIDE II plans.

EmPOWER Maryland and Grid Modernization Initiatives (PC44)

Since 2008 OPC has been an active participant in all EmPOWER proceedings, including the development of the cyclical 3-year plans, the development of cost-effectiveness tests, the semi-annual report review and hearings, and a multitude of work groups (10-12 workgroups, which are active at different times). Five electric utilities, one gas utility and DHCD (low-income efficiency) provide EmPOWER energy efficiency programs to their customers. OPC's focus is on the residential

programs. Throughout the last decade, OPC, with its expert consultants, has provided valuable analyses and recommendations to the utilities, stakeholders and the Commission regarding the design and implementation of these programs, with a continued assessment of their cost-effectiveness and value to residential customers.

The Commission initiated a proceeding, PC44, in 2017. Since then, OPC, with technical assistance from subject-matter experts, has actively participated in PC44 Work Groups on time of use rate design, interconnections, energy supplier issues, electric vehicles and energy storage. Our focus is on residential customer interests, and issues of affordability, safety, reliability and service. Given the varied circumstances and interests of the approximate two million households in the State, our agency must try to broadly represent these customer interests, guided by our statutory mission.

While not part of PC 44 proceedings, OPC also is a primary stakeholder in other Commission proceedings regarding the Community Solar Pilot program, the BGE Prepaid pilot program, and reliability standards and performance proceedings.

Federal Energy Regulatory Commission and PJM Interconnection, L.L.C.

PJM interconnection, L.L.C. (PJM) is a non-profit entity that runs the regional wholesale sale electricity markets that serve Maryland. PJM runs these markets in accordance with rules approved by the Federal Energy Regulatory Commission (FERC). OPC represents the interests of Maryland residential customers as a stakeholder in discussions on proposals to change PJM's market rules. OPC is also a party in numerous FERC proceedings on those proposals. OPC recently was successful in arguing for a change in PJM rules to require that the load reductions accomplished by utility demand programs, including some of the EmPOWER Maryland programs, are reflected in the wholesale markets, which will create cost savings for Maryland customers.