

HOWARD UNIVERSITY

December 6, 2011

SCHOOL OF LAW

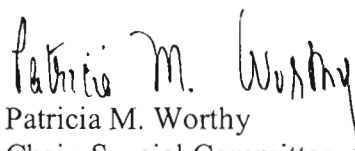
Mr. Irvin B. Nathan
Attorney General for the District of Columbia
441 Fourth Street, N.W. Suite 1100S
Washington, D.C. 20001

Dear Mr. Nathan,

Please find enclosed the report that you requested in a letter dated November 9, 2011, in which you established the District of Columbia Attorney General's Special Expert Committee Regarding Recusal Issues in Connection with the Nomination of Elizabeth Noel to serve as a Commissioner on the Public Service Commission (the "Special Committee"). You explained that the report of the Special Committee would be provided to the Mayor and the Council of the District of Columbia.

It may be worth noting that Professor Worthy submitted testimony in this matter, in the form of written responses, on October 24, 2011, at the request of Councilmember Cheh. Some of the answers in the enclosed Report provide the same or similar information.

Respectfully submitted,



Patricia M. Worthy
Chair, Special Committee
Professor of Law
Howard University School of Law



Agnes Alexander Yates
Former Chairperson
D.C. Public Service Commission



Thomas D. Morgan
Oppenheim Professor of Antitrust & Trade Regulation Law
The George Washington University Law School



**REPORT OF THE SPECIAL EXPERT COMMITTEE REGARDING RECUSAL ISSUES
IN CONNECTION WITH THE NOMINATION OF ELIZABETH NOEL TO SERVE AS
A COMMISSIONER ON THE PUBLIC SERVICE COMMISSION**

December 6, 2011

To: Mr. Irvin B. Nathan
Attorney General for the District of Columbia

By letter of November 9, 2011, you asked our committee to address the following “overriding question”:

Can someone who previously served zealously as People’s Counsel and participated in that capacity in a large number of cases, some of which are still open, serve effectively as a judicious, productive Commissioner of the Public Service Commission?

Our answer is an unqualified yes. As explained in the rest of our report, such a person would be required to recuse herself at least in all open cases in which she participated personally and substantially as People’s Counsel. But she would be eligible to participate in most other cases pending before the Commission, and most new cases.

* * *

In addition to the overriding question, you suggested that our committee examine nine subsidiary questions, and we have organized our report around those questions.

1. What standard should be applied to evaluate the need for recusal by a commissioner of the PSC?

Members of regulatory commissions at all levels of government face a recurring ethical dilemma. They are justifiably expected to be influenced only by the law and facts before them, yet they also tend to be experienced in the industries and issues that come before their agency and are likely to have some views about those issues. In any given case, some litigant might believe that one or more commissioners will be unlikely to grant the relief they seek, but that does not make the commissioner “biased.”

As we read the case law, an individual Commissioner should be required to recuse herself if she (1) served as a lawyer in the particular case before the Commission, (2) served in the office handling the case before the Commission while the case was in the office, (3) has a personal bias or prejudice concerning a party or lawyer who is involved in a particular case before the Commission, or (4) has personal knowledge of disputed evidentiary facts concerning a particular matter before the Commission.

PSC commissioners are members of the executive branch, not the judicial branch. While they sometimes act in a quasi-judicial capacity, they are not judges and the judicial canons do not technically apply to them. But the procedural due process requirement of fair trials by fair tribunals applies to an administrative agency. Thus, in the District of Columbia, the reviewing court will consider the same factors that apply to judicial officers in determining whether disqualification in an administrative proceeding is required.

In 1980, in *Morrison v. Dist. of Columbia Bd. of Zoning Adjustment*, 422 A.2d 347, 349 (D.C. 1980), the D.C. Court of Appeals held that where there is no controlling statute or agency regulation governing the disqualification of quasi-judicial members on the basis of prejudice and bias, the same kind of assessment will be conducted that is required in determining whether the recusal of a judicial officer is required. Moreover, in *Dupont Circle Citizens Ass'n v. Dist. of Columbia Alcoholic Beverage Control Bd.*, 766 A.2d 59, 65 (D.C. 2001), the Court found Canon 3E of the D.C. Code of Judicial Conduct “pertinent” to the issue of “personal bias.”¹

Our committee also found Advisory Opinion No. 2 (April 23, 1992), issued by the Advisory Committee on Judicial Conduct of the District of Columbia Courts, useful in thinking about the issues before us. A judge of the D.C. Superior Court had requested a formal advisory opinion addressing recusal issues pertaining to her past and present association with several government agencies, including the Office of the United States Attorney. She had served as an Assistant United States Attorney for the District of Columbia for sixteen years, for much of that time prosecuting criminal cases. The Committee concluded:

“[i]f a judge, by virtue of her past employment, has personal knowledge of disputed evidentiary facts concerning a proceeding assigned to her, she must disqualify herself. 1972 Canon 3C (1)(a). Beyond this, there can be no general assumption that the judge ‘has a personal bias or prejudice concerning a party,’ (quoting *Johnson v. United States*, 33 U.S. 10, 14 (1948)) merely because she was formerly a . . . prosecutor. ‘Mere allegations based on a judge’s background are insufficient to suggest partiality toward the parties before [her]’ (citing *Gregory v. United States*, 393 A.2d 132, 143 (D.C. 1978)). For this reason, we are satisfied that the judge’s past employment . . . [does not] command[] her general disqualification . . .”

¹ That section of the code provides that:

(1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it.

The Commentary accompanying Canon 3E(1)(b) says that “a lawyer in a government agency does not ordinarily have an association with other lawyers employed by that agency within the meaning of Section 3E(1)(b),” but says that a judge formerly employed by a government agency should disqualify himself or herself in a proceeding if the judge’s impartiality might reasonably be questioned because of such association.

Advisory Opinion No. 2 (1992), at p. 15.²

2. Assuming Ms. Noel is confirmed, who on the PSC would make the decision as to whether in a given matter she is recused? What would be the standard of review by the court of appeals of any such decision?

It is the responsibility of each Commissioner, in the first instance, to determine whether her recusal is required in a particular matter. One or more parties may suggest the need for a Commissioner's recusal in a filing with the Commission, but we know of no formal process within the PSC by which other Commissioners vote on the need for a member's recusal.³

The standard for recusal, however, is an objective one. That is, it is not simply a matter of a Commissioner's private judgment. As discussed earlier, the D.C. Court of Appeals has applied Canon 3.E.(1) of the D.C. Code of Judicial Conduct by analogy to members of quasi-judicial administrative agencies. The court reiterated in *Mayers v. Mayers*, 908 A.2d 1182 (D.C. 2006), that a judge's decision not to recuse himself from a proceeding belongs, in the first instance, to that judge. It then reviewed the alleged facts that required recusal and determined that the judge's decision not to recuse had been correct.⁴

²For the federal courts, the United States District Court for the District of Columbia in a recent decision, determined that disqualification turns on whether a reasonable and informed observer would question the judge's impartiality. *Armenian Assembly of Am., Inc. v. Cafesjian*, 783 F. Supp. 2d 78, 85-86 (D.D.C. 2011) (quoting *United States v. Microsoft*, 253 F.3d 34, 114 (D.C.Cir.2001)). Disqualification is also required "[w]here [the judge] has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding," or where the judge "knows that [she], individually or as a fiduciary, or [her] spouse or minor child residing in [her] household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding." See 28 U.S.C. § 455(b)(1); 28 U.S.C. § 455(b)(4); 28 U.S.C. § 455(b)(5)(iii). "[B]ecause judges are presumed to be impartial, the Court must begin its analysis of the allegations supporting . . . a request [for recusal] with a presumption against disqualification." *S.E.C. v. Bilzerian*, 729 F. Supp. 2d 19, 22 (D.D.C. 2010); *accord Am. Prairie Constr. Co. v. Hoich*, 594 F.3d 1015, 1021 (8th Cir. 2010) ("A judge is presumed to be impartial, and the party seeking disqualification bears the substantial burden of proving otherwise.")

³Moreover, the D.C. Court of Appeals held in *Dupont Circle Citizens Ass'n v. Dist. of Columbia Alcoholic Beverage Control Bd.*, 766 A.2d 59, 64 (D.C. 2001), that the decision as to "whether an agency tribunal [] commits the disqualification decision entirely to the individual member, or asserts the authority to itself disqualify a member, seems to us a matter over which the court has almost no review authority."

⁴The opinion also provided insight as to how the court would review a question of bias on the part of the decisionmaker:

"[O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute bias for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible. [T]o be disqualifying, the alleged bias and prejudice 'must stem from an extrajudicial source and result in an opinion on the merits on some basis other than what the judge learned from his participation in the case.'"

3. Is Pepco correct in asserting that Ms. Noel would be required to recuse herself “in every matter involving Pepco”?

In our view, Pepco is not correct.

We take the basis of the question to be the position taken by Pepco in a written statement, dated October 11, 2011, apparently summarizing testimony presented by Mr. Peter Meier of Pepco to the D.C. Council Committee on Public Services and Consumer Affairs. Pages 6 - 11 of the statement summarizes Pepco’s case in great detail.

What we read in Pepco’s charges is that Ms. Noel was a zealous advocate on behalf of ratepayers that the People’s Counsel was defending before the PSC. It will ultimately be for the D.C. Council, not our committee, to decide the validity of the argument that Ms. Noel has a “bias” against Pepco that she could not or would not put aside as a Commissioner.

4. Is Pepco correct in asserting that Ms. Noel would be “required to recuse herself in all matters in which she served as a lawyer before the Commission and in all matters in which the Office of the People’s Counsel is a party”?

For the reasons and under the authorities described in Question 1, Ms. Noel could not be involved in any matter in which she was involved as People’s Counsel. She also could not be involved in any matter that others in her office were handling while she was People’s Counsel and that remain before the PSC.

Mayers, 908 A.2d at 1194 (quoting *In re Bell*, 373 A.2d 232, 233 (D.C. 1977)).

In another recent D.C. Court of Appeals decision, *In re D.M.*, 993 A.2d 535, 543 (D.C. 2010), the Court held that Canon 3(E)(1) obliges the judge to “recuse from any case in which there is an appearance of bias or prejudice sufficient to permit the average citizen reasonably to question the judge’s impartiality.” *Id.* The test is whether the facts would create a reasonable doubt about the judge’s partiality in the mind of a person with knowledge of all the relevant circumstances that “[i]n seeking recusal on the ground of bias, a party initially must allege facts that are: (1) ‘material and stated with particularity’; (2) ‘such that, if true [,] they would convince a reasonable [person] that a bias exists’; and (3) ‘show [that] the bias is personal as opposed to judicial, in nature.’” *Carter v. Carter*, 615 A.2d 197, 199 (D.C. 1992). However, it is important to note, that in D.C., like most jurisdictions, a judicial officer has an obligation not to recuse himself or herself when it is not required. *Kreuzer v. George Washington Univ.*, 896 A.2d 238, 249-50 (D.C. 2006).

In *Metropolitan Council of N.A.A.C.P. Branches v. F.C.C.*, 46 F.3d 1154, 1164 (D.C. Cir. 1995), the petitioner argued that certain FCC commissioners should have recused themselves. In discussing the appropriate scope of review of recusal issues in federal administrative adjudications, the court held:

“We review an agency member’s decision not to recuse himself from a proceeding under a deferential, abuse of discretion standard. In an adjudicatory proceeding, recusal is required only where ‘a disinterested observer may conclude that [the decisionmaker] [sic] has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it.’ In other words, we will set aside a commission member’s decision not to recuse himself from his duties only where he has ‘demonstrably made up [his] mind about important and specific factual questions and [is] impervious to contrary evidence.’”

On the other hand, in our opinion, she is not required to recuse herself simply because the office that she previously led – an office of D.C. Government that will likely necessarily often be involved in matters before the PSC – is one of the parties to a matter. As we discuss later in our answer to Question 6, and as suggested by Advisory Opinion No. 2 (1992), discussed in our answer to Question 1, it is often the case that a former prosecutor or defense counsel may become a criminal court judge. It is equally often true that an agency Commissioner will be appointed after a career practicing before the agency and in an organization that continues to appear before the agency.

In any particular case, a party might argue that a Commissioner's relationship with a particular lawyer rises to the level of bias for or against that lawyer or the lawyer's client, but no general rule would require recusal "in all matters in which the Office of the People's Counsel is a party."

5. In those instances in which Ms. Noel is recused, what is the expected result as to the functioning of the PSC? In particular, how often are PSC decisions non-unanimous and what appears to be the likelihood that, in the event of recusal, Commissioners Kane and Lee will be divided on major issues?

We have to answer this question in two parts – the law and the practical reality.

It turns out that the legal effect of the PSC's having one member recused and the other two disagree on a result is not as clear as one might like. On July 1, 1999, Ms. Carrie Timus filed a consumer complaint against Washington Gas Light Company, alleging that she was over-billed. Staff of the PSC investigated the complaint and found no basis to adjust her account. Ms. Timus requested a formal hearing; the Hearing Officer ruled against Ms. Timus and dismissed her complaint. Ms. Timus then requested reconsideration by the Commission members. PSC Chairman Cartengena recused himself from the matter and the remaining two Commissioners differed on the merits of the appeal. Commissioners Yates and Rachal issued separate statements expressing different views, so there was no majority opinion.

Ms. Timus appealed to the D.C. Court of Appeals, and in a very brief *per curiam* order that Court remanded the matter to the Commission, finding that the Commission had failed to issue a final decision consistent with 15 DCMR §326.11 and asking for "an order granting or denying the relief requested by petitioner." *Carrie Timus v. D.C. Public Service Commission*, No. 03-AA-985 (D.C.C.A. filed Oct. 29, 2004). At least arguably, the Court was holding that, without a majority vote, the Commission could not issue a final order and the Court had no jurisdiction to hear an appeal.

On remand, the PSC expressed its view of the legal effect of an equally divided vote of the Commission. It noted, that pursuant to D.C. Code §34-604(b), "a failure by the Commission to act upon an application for reconsideration is deemed a denial thereof." PSC Order No. 13519 (March 1, 2005). Citing Pennsylvania authority, the PSC said "an equally divided vote of an administrative agency" constitutes "a denial of the request" and "a tribunal's divided vote

confirms the status quo.”

Our committee believes the Commission’s view of the effect of a split vote when one member is recused is correct, but Ms. Timus apparently did not again take the matter to the Court of Appeals, so our committee must simply note that there is not a final judicial holding on this issue

On the other hand a review of the history of non-unanimous decisions by PSC Commissioners demonstrates that they are extremely rare. Since 2000, of the 5,344 orders issued by the PSC (not all of which are rate orders), only nine decisions have contained a dissent to some aspect of the PSC orders.⁵ Even in the year containing the most dissents, 2006, there were dissents in only five of the 334 orders issued.

In the decade prior to 2000, a dissent was equally rare: between 1990 and 2000, there were only two recorded dissents in over 800 matters.⁶ Overall, a dissent has been filed in fewer than two of every one thousand orders of the PSC over the last twenty-five years.⁷ Moreover, there has never been a dissent filed in a matter concerning Chairperson Kane and Commissioner Lee, the two Commissioners with whom Ms. Noel, the nominee, would be working.⁸ We are unable to predict what may occur in the future, but the practical risk of the Commission’s being unable to take action appears low.

6. Is it your view that a former People’s Counsel in the District of Columbia would be disqualified from service as a commissioner despite testimony that others with similar backgrounds in other jurisdictions have transitioned into roles as commissioner?

No. It is the Committee’s view that an individual who has served in the capacity of People’s Counsel is not disqualified from service as a regulator in the same jurisdiction. It is important to understand that lawyers are trained to be able to act competently in numerous

⁵ These decisions are Order 15056 (2008), Order 14689 (2007), Order 14280 (2007), Order 14139 (2006), Order 14085 (2006), 14082 (2006), 140114 (2006), 14006 (2006), and Order 13764 (2005).

⁶ Order 9503 (1990) and Order 9599 (1990).

⁷ Our research was only able to identify two dissents between 1986 and 1990, Order 8844 (1987) and Order 8569 (1986). During that period, the PSC issued 1,020 orders.

⁸ Adding one more wrinkle to the analysis, the D.C. Code of Judicial Conduct references the common law Rule of Necessity in its Commentary to Canon 3E(1). The rule was born within the structure of English Common Law, first appearing in 1430 when it was determined that the Chancellor of Oxford could preside in a matter in which he was a party when there was no provision for appointment of another judge. *See, e.g., United States v. Will*, 449 U.S. 200, 213 (1980)). The Rule of Necessity applies only when a court or commission could not act at all if one or more persons were recused. It would not generally apply to allow a Commissioner who was required to be recused to break a tie among the other Commissioners. On the other hand, given the state of the law after *Carrie Timus*, the doctrine might be invoked to permit a second vote to be cast and a final decision issued.

capacities: as an advocate, advisor, negotiator, mediator, evaluator, and decision-maker. Committee member Worthy served as a member of the D.C. Judicial Nomination Commission for more than a decade and she notes that the Nomination Commission usually asked just one question: Will you be able to render a fair and impartial decision?

During Committee member Worthy's tenure on the D.C. Judicial Nomination Commission, nineteen former prosecutors were appointed as judicial officers to the D.C. Superior Court and the D.C. Court of Appeals. Moreover, the former Chief Judge of the D.C. Court of Appeals, the Honorable Annice M. Wagner, served as the District's first People's Counsel and was subsequently appointed to the D.C. Superior Court. She served with distinction, and when elevated to the highest court, had the responsibility for hearing the appeals from the D.C. Public Service Commission. Chief Judge Wagner was able to fairly and impartially adjudicate PSC matters, and Committee member Yates recalls just one occasion in which a party requested the judge to recuse herself in an OPC-related matter.

And, although not directly comparable to the appointment of a former public advocate, the Committee notes that former utility attorneys have been appointed to state and District regulatory positions.⁹ For example, in 2001, Ms. Mary J. Healey was appointed Consumer Counsel for the State of Connecticut and was reappointed by Governor M. Jodi Rell and confirmed by the General Assembly to serve a second five year term from 2006 until 2011. Ms. Healey had, prior to her appointment, been the General Counsel for Yankee Gas Services Company, a Connecticut regulated utility company, where she was employed from 1989-2001.

Of even more significance, in 1991, Mr. Howard Davenport, was appointed Chairperson of the D.C. Public Service Commission. He had first served as the General Counsel for the D.C. Public Service Commission from 1984 until 1991, but he had previously been employed in the General Counsel's Office of Washington Gas, one of the regulated utility companies in the District of Columbia.¹⁰

7. Based on your review of the PSC docket, the available record, and your professional experiences, can you identify and list major issues and matters that routinely arise before the PSC on which Ms. Noel would be able to participate, notwithstanding her previous role as People's Counsel?

Given our limited resources and the existing time constraints, it is impossible to make a

⁹ The Office of the People's Counsel is a party of right in proceedings involving any public utility before the Public Service Commission. See DC Code § 34-804(a). On the other hand, a utility attorney would presumably be involved in proceedings involving one industry area or company.

¹⁰ Chairman Davenport did, on occasion, recuse himself. For example, on December 18, 1992, the Washington Gas Light Company filed an application to increase firm rates in the District of Columbia. The Order and Report on Prehearing Conference states that, "Howard Davenport, Chairman, has determined that he will abstain from participating in the review of Washington Gas Light's Application." Formal Case No. 922 (March 17, 1993).

definitive judgment about the number of matters from which Ms. Noel would need to recuse herself.

Attachment A to this report is a list of open Commission cases as of November 21, 2011, which has been provided by the Public Service Commission and updated to include routine filings and changes to the status of cases. The attachment lists 71 open matters, covering all 3 industry areas and multi-utility matters.

The Commission cases can be broadly grouped as Rate Cases, Investigations, Continuing Inquiries (which may have grown out of rate cases or investigations or could have been opened for the purpose of monitoring and inquiry), Tariff Proceedings, and Rulemakings.¹¹ Based on the information we have and our answer to Question 8, below, we believe that it is likely that Ms. Noel would properly be able to participate in the 30 cases listed in Attachment B to this report.¹²

8. With regard to new matters docketed with cases that were pending at the time Ms. Noel was People’s Counsel, is there any reason why she could not participate in these new matters if there is no factual overlap?

In our view, Ms. Noel should not be required to recuse herself as to entirely new matters that arise after her service as People’s Counsel, even if the case number remains one in which she appeared as People’s Counsel, assuming there is no factual overlap between the matters.

9. Finally, without necessarily estimating an exact number, in your professional judgment, would the potential number of recusals required by Ms. Noel materially impair the Commission’s ability to perform its work?

We would refer you to several of our previous responses. The answer will ultimately depend in part upon the actual number of matters pending and the matters in which Ms. Noel will

¹¹Although not listed, the Commission also decides Appeals of Consumer Complaints.

¹²One might argue that being a former People’s Counsel will necessarily result in a prejudgment of the issues before the PSC. In *Champion’s Auto Ferry, Inc. v. Michigan Public Service Com’n*, 588 N.W.2d 153, 159 (1998), it was argued that because PSC commissioners had institutionally taken a position in federal administrative proceedings, they had, therefore, prejudged the same issues that were now before the agency. In affirming the lower court’s denial of a motion to disqualify the members of the PSC, the Court said:

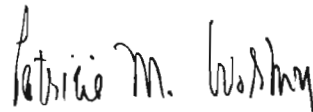
Nor is any claim made that any member of the PSC had some kind of personal interest in any part of this controversy, such that a determination one way or the other would be of economic benefit to a member of the PSC or otherwise individually affect a member of the PSC in a cognizable manner different than the public generally (citation omitted). A member of a state agency is generally not disqualified as a decisionmaker merely because that member has taken a public position on an issue, absent a showing of incapability of judging that particular issue fairly [T]here is no basis for concluding that the members of the PSC were so immediately and personally ‘enmeshed’ in any one of [the] issues as to preclude them from rendering an impartial administrative decision. *Livonia v. Dep’t of Social Services*, 510 N.W.2d 402 (1985) (internal citation omitted).

be found to have previously participated.

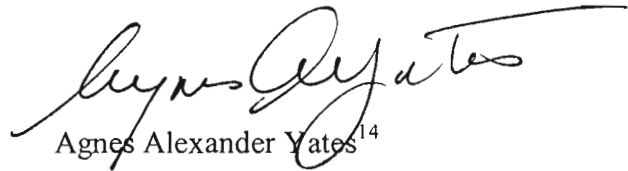
But even when Ms. Noel's recusal is necessary, if the two other Commissioners are able to reach consensus on the matters, the Commission will continue to be able to perform its work without a problem. And given the history of the consensus between the two sitting Commissioners, we believe the Commission may reasonably be expected to carry out its responsibilities, with or without Ms. Noel's participation in a particular case.

The members of our committee appreciate this chance to be of service to the District of Columbia.

Respectfully submitted,



Patricia M. Worthy¹³, Chair



Agnes Alexander Yates¹⁴



Thomas D. Morgan¹⁵

¹³Professor Worthy is a Professor of Law at Howard University School of Law. She has taught legal ethics for more than thirty years and Administrative Law for more than twenty. In addition, from 1980 until 1991, she served as a member of the D.C. Public Service Commission, and served as its Chairperson from 1984 until 1991. She also served as a member of the D.C. Judicial Nomination Commission from 1992 until 2006, and served as its Chairperson from 1993 until 2006.

¹⁴Ms. Yates is an attorney and served as the Chairperson of the D.C. Public Service Commission from 2003 through 2008 and as Commissioner from 1993 to 2003. From 1994 to 2008, Ms. Yates served as the District member and Chair of the Washington Metropolitan Area Transit Commission, which is charged with regulating private transportation carriers in the Washington Metropolitan Area Transit District. Prior to her appointment to the Commission, from 1988 through 1992, Ms. Yates represented District agencies in labor-management relations matters.

¹⁵Professor Morgan is the Oppenheim Professor of Antitrust and Trade Regulation Law at The George Washington University Law School. He wrote *Economic Regulation of Business* (1975), a law school casebook on utility regulation. He is also co-author of *Professional Responsibility*, a law school casebook on legal and judicial ethics, now in its 11th edition. He was one of three reporters that wrote the American Law Institute's definitive *Restatement (Third): The Law Governing Lawyers*, published in 2000. He is an Adviser to the ALI's current project on *Principles of Government Ethics*.

Open Formal Electricity Cases as of November 21, 2011

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
F.C. No. 766 – Pepco’s Annual Consolidated Reports and Comprehensive Reliability Issues (Opened April 24, 1981)			
<p>Pepco’s 2011 Annual Consolidated Report (ACR) filed February 28, 2011</p>	<p>Pepco’s ACR is filed annually. The Productivity Improvement Working Group (PIWG) is composed of representatives from OPC, Pepco and the PSC and it meets about 9 times a year. Transcripts of the meetings are filed in this case.</p>	<p>Report is discussed in Productivity Improvement Working Group (PIWG) meetings. OPC filed its comments on May 24, 2011. PSC Staff filed its Report on June 24, 2011. The PSC issued a Public Notice requesting comments on Staff’s Report July 27, 2011. On August 8, 2011, OPC requested an extension, which the PSC approved in Order 16510 issued August 17, 2011. The new deadline for comments was September 16, 2011. However, on September 16, 2011, Pepco requested a 5 business day extension. Pepco filed its comments on September 23, 2011.</p>	<p>Issue an order on the 2011 ACR.</p>
<p>Pepco’s proposed repeat feeder improvement plan filed June 2, 2011 per order 15941. Pepco filed a revised plan on September 9, 2011.</p>		<p>PSC Staff issued a data request to Pepco on June 16, 2011 and Pepco filed its response on June 30, 2011. PSC issued Public Notice requesting comments on July 8, 2011. Comments were filed in August and September 2011.</p>	<p>Issue is intertwined with other matters such as selective undergrouding and will be addressed in the order on the ACR above.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>OPC motion for reconsideration of Order 16193 filed February 11, 2011. The issue was OPC's request for Proprietary Information Determination of Pepco's response to Order 15941 re Pepco's proposed repeat feeder plans.</p>		<p>Pepco filed its comments on February 18, 2011. After issuing one tolling order, on April 13, 2011, the PSC issued Order 16313, denying OPC's application.</p>	None
<p>OPC motion for full scale audit of Pepco filed December 15, 2010</p>		<p>Pepco filed its comments on December 27, 2010. OPC filed response to Pepco on January 31, 2011. On March 7, 2011, the PSC issued Order 16231, denying as moot OPC's request.</p>	None
<p>OPC petition for investigation of provision of reliable distribution service filed February 9, 2011</p>		<p>Pepco filed its comments on February 22, 2011. On April 19, 2011, the PSC issued Order 16324; denying OPC's request on the grounds the PSC is already conducting investigations.</p>	None
<p>Pepco's Comprehensive Reliability Plan filed September 30, 2010 and selective undergrounding.</p>		<p>The PSC filed data requests and a number of orders re Pepco's Plan. On April 21, 2011, the PSC issued Order 16237, accepting the Plan as filed. However, the PSC continues to monitor Pepco's implementation of the Plan. For example, the PSC sent a data request to Pepco re its selective undergrounding plans on</p>	Continue monitoring

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
F.C. No. 813 – Originally a Pepco rate case wherein the PSC approved Pepco’s low income discount program called the Residential Aid Discount (RAD) (Opened November 4, 1983)			
Pepco’s updated Residential Aid Discount (RAD) surcharge rider filed January 31, 2011	Pepco files an updated surcharge rider on an annual basis	NOPR appeared in the DC Register on March 18, 2011. Comments were due in April and May 2011. No comments were filed. On May 5, 2011, the PSC issued Order 16357. NOFR appeared in the DC Register May 13, 2011.	None until the next update is filed in 2012.
Pepco’s arrearage and disconnection reports	Pepco files this report on a monthly basis.	The PSC tracks the data in tables and graphs that are updated on a monthly basis.	See this item under the multi-utility cases – FC813/1043 because WGL also files these reports.
DDOE’s reports on Joint Utility Discount Day and UDP Programs	DDOE files these reports on a monthly basis		See this item under Telecommunications Cases – F.C. No. 988.
F.C. No. 869 – Originally a Pepco Rate Case (Opened January 4, 1988)			
Pepco files its load research plan in this case. There is no pending filing at this time.	Pepco files the load research plan annually.	None	None until the next plan is filed in January 2012. This case may be closed by the end of 2011.
F.C. No. 945 – Electric Industry Restructuring (Opened October 27, 1995)			

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
Pepco's quarterly energy efficiency program reports	The reports are no longer required.	The DC Council ended the programs effective October 1, 2010. PSC Staff conducted its analysis of several program reports Pepco subsequently filed in November and December 2010.	None
Pepco's report on the status of electric choice is filed on the 15 th of each month.	Pepco files its electric choice report on a monthly basis.	Staff reviews and analyzes the information on a monthly basis. Information is also posted on the PSC's website on a monthly basis.	Continue monitoring and posting updates on the website on a monthly basis
Pepco's seamless moves report	This report is due every 6 months		None at this time. Await next report.
Pepco's competitive billing report	This report is due every 6 months		None at this time. Await next report.
Renewable Portfolio Standards (RPS) applications		The PSC has received 1,772 applications since January 1, 2011. Nearly 260 orders have been issued since January 1, 2011. (Most orders cover multiple applications.)	
Regional RPS application process		Staff is participating in meetings arranged by USDOE to coordinate the processing of RPS applications among states.	Participate in ongoing meetings
RPS Working Group Report regarding 2011 Update to the Renewable Generator Eligibility Matrix filed February 2, 2011	This report is filed on an annual basis.	Staff completed its analysis.	None until the next RPS Working Group Report is filed.
Annual RPS Report to the DC Council	This report is filed annually.	The Report was submitted to the DC Council by the deadline of	None until the next Report is filed with the Council in 2012.

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
Annual RPS Compliance Reports	Pepco and the Alternative Electric Generation Suppliers file these reports on an annual basis	April 1, 2011. The Reports were due by May 2, 2011. Staff has analyzed the filings.	No action is contemplated at this time until new reports are filed in 2012.
RPS 11-1 – Wilmot Farm RPS application		Order 16562 issued September 29, 2011.	None
Pepco's revised net metering contract filed February 2, 2011		The PSC issued Order 16300 on April 8, 2011.	None
Implementation of Distributed Generation Act of 2011 - decertification of solar energy facilities deemed ineligible per the Act		On September 9, 2011, the PSC issued Order 16529, decertifying ineligible facilities.	None at this time
Implementation of the Distributed Generation Act – Denial of pending RPS applications		Order 16528 issued September 9, 2011.	None at this time
Implementation of the Distributed Generation Act – Letters to applicants ineligible per the Act		Letters have been sent to applicants.	The Commission continues to notify applicants if they are not eligible under the new law.
Electricity suppliers' fuel mix reports for the period June 1, 2010 to December 31, 2010. The reports were due to the Commission on June 1, 2011	Pepco and the Alternative Electric Generation Suppliers file these reports on a semi-annual basis.	Staff has completed its analysis.	Issue warning letters or orders to delinquent companies.
Electricity suppliers' fuel mix reports for the period January		Reports are now being filed.	Await receipt of reports.

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
1, 2011 – June 30, 2011. The reports are due to the PSC on December 1, 2011			
Fuel mix report to the DC Council	This report is submitted to the DC Council every two years.	The Report was submitted to the DC Council by the deadline of July 1, 2011.	None at this time. The next Report will be due in July 2013.
Sub-metering rules		NOPR appeared in the DC Register on May 27, 2011. Comments were filed in June and July. PSC Staff submitted an advisory memorandum to the Commissioners on September 20, 2011. The Commissioners approved Order No. 16605 in an open meeting on November 3, 2011. The NOFR appeared in the DC Register on November 11, 2011.	The Rule-making is complete. The next step is the implementation of the rules.
OPC motion to lodge electronic communication between Pepco and Commissioner Morgan in the record filed December 9, 2010		Pepco filed its opposition on December 21, 2010. On January 14, 2011, the Mount Pleasant Solar Cooperative (MPSC) filed comments. On February 14, 2011, Pepco filed a motion to strike the MPSC's comments. On February 24, 2011, the Mt. Pleasant Cooperative filed its opposition to Pepco's motion to strike. On March 30, 2011, the PSC issued Order 16283 granting the MPSC	None

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
F.C. No. 982 – Electric Quality of Service Standards and Monitoring and Investigating Outages and Service Restoration Issues (Opened January 19, 1999)			
Quarterly Electric Quality of Service Standards (EQSS) Reports	Peppo and the Alternative Electric Generation Suppliers serving the District file these reports on a quarterly basis.	The most recent reports were filed on October 31, 2011. One company has not filed. Staff has contacted the company and is analyzing the results.	Analysis is underway
Revising Peppo's reliability performance standards		A NOPR appeared in the DC Register on March 11, 2011. A revised NOPR appeared in the DC Register on April 8, 2011. Comments were filed in May and June. On July 7, 2011, the PSC issued Order 16427, establishing new standards. A NOFR appeared in the DC Register on July 27, 2011. On August 8, 2011, OPC and Peppo filed applications for reconsideration of Order 16427. On August 15, 2011, Peppo filed its opposition to OPC's application. On August 23, 2011, OPC filed a motion to respond to Peppo's opposition. Tolling orders were issued on September 1, 2011 (Order 16517), September 29, 2011 (Order 16553), October 14, 2011 (Order 16579), and November 3,	An order will be issued by the December 8, 2011 deadline.

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
Improving service reliability at the neighborhood level		<p>2011 (Order 16598).</p> <p>On May 5, 2011, the PSC issued Order 16347, requesting Pepco identify neighborhoods in each ward that are most susceptible to outages. Pepco's response was filed on May 20, 2011. On July 7, 2011, the PSC issued Order 16426, requesting additional information. Pepco's response was due on August 8, 2011. Comments were due on Pepco's response on August 23, 2011. However, OPC requested an extension which the PSC granted in Order 16518 issued on September 1, 2011. The new Pepco deadline was September 23, 2011 and Pepco filed its comments in response to OPC's comments on that date.</p>	<p>This issue is intertwined with other issues and will be addressed in future orders.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>Creation of new Pepco's major service outage (storm-related outages) service restoration standards</p>		<p>On March 11, 2011, the PSC issued a Notice of Inquiry regarding the establishment of new service restoration standards following major service outages. On March 18, 2011, the PSC issued Order 16262, requesting additional information. Comments have been filed. Staff has surveyed other jurisdictions and submitted data requests to Pepco. Pepco's most recent responses were filed on September 16, 2011. On November 18, 2011, the PSC approved, in an open mtg., Order 16612 requiring Pepco to provide its emergency plans. The order was issued on November 21, 2011.</p>	<p>Await Pepco's provision of its emergency plans before issuing a NOPR. Pepco's plans are due November 28, 2011. Comments on the plans are due December 21, 2011 and reply comments are due January 5, 2012.</p>
<p>Pepco momentary outages complaint report</p>	<p>Pepco files semi-annual reports re complaints of momentary outages so the PSC can track the number of such complaints and trends</p>	<p>Pepco filed its most recent report on May 13, 2011. The next report will be due at the end of November 2011.</p>	<p>Await the next report.</p>
<p>Pepco's new residential service connections report</p>	<p>Pepco files this report on a semi-annual basis.</p>	<p>Pepco files semi-annual reports so the PSC can track the number of connections and trends. Pepco filed its most recent report on May 11, 2011. The next report will be due in November 2011.</p>	<p>Await the next report.</p>
<p>Pepco's quarterly reports re</p>	<p>Pepco files this report on a</p>	<p>Pepco's most recent report was</p>	<p>Await next report which is due</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
the testing of its call back notification system	quarterly basis.	filed on July 29, 2011.	before the end of 201.1
Pepeco's field emergency response drill report	Pepeco files this report after each drill.		None at this time. Await the next report.
Billing Error Docket – Newly Created in early 2011			
Quarterly Billing Error Reports due July 31, 2011. Billing error notices and follow-up reports are now being filed in this BE docket rather than in FC 982 so it is easier to track compliance filings.	Pepeco and Alternative Electric Generation Suppliers file billing error reports as part of their quarterly EQSS reports.	On August 17, 2011, GDF Suez, an alternative energy supplier, filed a 14 day notice. On 10/7/11, GDF Suez filed its 60-day report. On September 8, 2011, Direct Energy Services (DES) filed its quarterly report.	No action is required on the GDF and DES report.
Quarterly Billing Error Reports due October 31, 2011		All but one company has filed their reports. Staff has contacted the one company that has not filed and is awaiting its report. Meanwhile, Staff is analyzing the results	Await one late report.
Non-Major Service Outage (SO) Docket – Newly created in early 2011			
Pepeco's Monthly Non-Major Outage Reports are now being maintained in this docket so it is easier to track them. Pepeco's monthly outage reports are due on the 15 th of each month.	Pepeco files these reports on a monthly basis.	Staff monitors the reports and tracks information in tables and graphs. Pepeco's most recent report was filed on November 15, 2011. In addition, on October 4, 2011, the PSC issued Order 16569, requiring Pepeco to file summary graphs and tables in its monthly reports so readers can track trends more easily. Pepeco complied in its	Continue tracking and analyzing performance

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>Pepeco's Major Service Outage Reports filed September 22, 2011 and October 17, 2011 re restoration efforts after Hurricane Irene</p>	<p>Pepeco must file a major service outage report for any outages impacting 10,000 customers or more.</p>	<p>November 15, 2011 filing. Staff is analyzing the reports.</p>	<p>Issue an order if necessary</p>
<p>F.C. No. 991 – Independent Inspections of Manholes and Investigation of Manhole Incidents (Opened March 6, 2000)</p>			
<p>Siemens 5th year Manhole Inspection Technical Audit Report</p>	<p>Siemens prepares a report on its oversight of Pepeco's manhole inspection program every year.</p>	<p>In December 2010, the PSC issued an order requesting comments. No comments were filed. On March 23, 2011, the PSC issued Order 16270.</p>	<p>None</p> <p>Staff is conducting its analysis of the comments before an order will be issued.</p>
<p>Siemens 6th year Technical Audit Report</p>		<p>On September 1, 2011, the PSC issued Order 16521, placing the new report on the record and requesting comments. On September 20, 2011, Pepeco requested an extension to file its comments. The PSC granted the request in Order 16548 issued on September 22, 2011. Pepeco filed its comments on October 6, 2011.</p>	
<p>Pepeco's quarterly Manhole Inspections Reports filed May 13, 2011 and August 11, 2011.</p>	<p>Pepeco files manhole inspection reports on a quarterly basis.</p>	<p>A manhole report is also contained in Pepeco's Annual Consolidated Report filed on February 28, 2011.</p>	<p>None at this time. See below.</p>
<p>Pepeco's quarterly manhole</p>		<p>Staff is analyzing the new report.</p>	

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
inspections report filed November 15, 2011			
F.C. No. 1002 – Pepco’s Cost Allocation Manuals (CAMs) (Opened May 11, 2001)			
Pepco’s Cost Allocation Manual (CAM) filed April 29, 2011	Pepco files the CAM on an annual basis.	Staff has conducted its analysis and determined that the manuals are in substantial compliance with the PSC’s rules.	None at this time. Await next filing due in April 2012.
F.C. No. 1017 – Pepco’s Standard Offer Service (SOS) Rates (Opened February 21, 2003)			
Pepco’s proposed Standard Offer Service (SOS) generation rates to be effective June 1, 2011 filed January 28, 2011, revised February 14, 2011, and revised February 22, 2011)	Pepco files proposed SOS generation rates on an annual basis.	Staff found errors in Pepco’s first two filings, requiring the Company to file revised versions. The PSC issued Order 16248 on March 11, 2011, approving the new rates. Pepco filed compliance tariffs on March 18, March 31, and May 25. The lower generation rates went into effect on June 1, 2011.	None at this time. Await the next filing in 2012.
Pepco’s RFP for the Wholesale Full Requirements Service Agreement (WFRSA) to be used for the 2011-2012 bidding period was filed on July 28, 2011.	The PSC considers Pepco’s RFP and WFRSA every year.	On September 1, 2011, the PSC issued Order 16522, requesting comments on the RFP. Comments were filed in September 2011. On September 29, 2011, the PSC issued Order 16560 requiring Pepco to respond by October 5, 2011. Pepco filed its response on that day.	None at this time.
SOS bidding	Bidding occurs in December and January of each year.	Staff attended a pre-bidding conference on October 21, 2011.	Staff and OPC will witness the bidding in December 2011 and January 2012.

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>Dynamic Pricing and Standard Offer Service (SOS) Hearing and follow-up</p>		<p>On June 16, 2011, the PSC held a legislative-style hearing to explore issues related to the implementation of dynamic pricing in the context of Pepco's SOS program. On July 21, 2011, OPC filed a motion for leave to respond to comments at the hearing. On July 26, 2011, AOBA filed a similar request. On September 19, 2011, the PSC issued Order 16545, granting both requests.</p>	<p>Follow-up will occur in F.C. No. 1083 – see below.</p>
<p>Pepco's transmission tariff originally filed on August 10, 2011 and corrected on September 2, 2011.</p>	<p>Pepco files transmission tariffs as necessary.</p>	<p>A NOPR appeared in the DC Register on September 30, 2011. Comments were due on October 31, 2011 and reply comments were due on November 15, 2011. No comments were filed. Staff has completed its analysis. The PSC approved Order 16618 in the November 18, 2011 open meeting. The Order was issued on November 21, 2011.</p>	<p>Await publication of the NOFR in the DC Register.</p>

F.C. No. 1026 – Feasibility of Undergrounding Pepco's Overhead Lines (Opened December 3, 2003)

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>PSC's independent undergrounding study by Shaw International</p>		<p>The PSC issued Order 15969 on September 8, 2010, requesting comments that were filed in October and November 2010. In Peppo's Annual Consolidated Report, the Company indicated that it was considering selective undergrounding in three locations. PSC issued a Data Request to Peppo on May 6, 2011, asking the company to identify each location and to provide information on the criteria for selecting each location. Several follow-up data requests have been sent to Peppo, the most recent being on July 18, 2011.</p>	<p>The study has been completed. The PSC is addressing selective undergrounding as part of Peppo's Comprehensive Reliability Plan and Annual Consolidated Report in F.C. No. 766.</p>
<p align="center">FC. No. 1046 – Peppo's Authority to Issue and Sell Debt Securities (Opened March 31, 2006)</p>			
<p>Peppo files annual financing reports in this case. There are no pending matters at this time.</p>		<p>None</p>	<p>None This case may be closed by the end of 2011.</p>
<p align="center">F.C. No. 1050 – Procedures for Mid-Atlantic Distributive Resources Initiative's (MADRRI's) Small Generator Interconnections (Opened July 31, 2006)</p>			
<p>On August 30, 2011, Peppo filed a report on its annual interconnection rules.</p>	<p>Peppo files this report on an annual basis.</p>	<p>On November 3, 2011, the PSC issued Order 16601, requiring Peppo to file a revised report. Peppo filed the revised report on November 14, 2011.</p>	<p>Staff is reviewing the revised report.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
F.C. No. 1053 – Pepco Rate Case – Follow-up on the Bill Stabilization Adjustment (BSA) (Opened December 12, 2006)			
Pepco's monthly Bill Stabilization Adjustment (BSA) (decoupling) filings	Pepco files the BSA on a monthly basis.	Staff reviews each filing and advises the PSC if action needs to be taken. The most recent report was filed on November 10, 2011.	Staff is reviewing the November 10, 2011 BSA report.
Pepco's annual BSA report filed May 19, 2011.	Pepco files this report on an annual basis.	On September 9, 2011, Staff issued a data request to Pepco. Pepco filed its response on September 29, 2011. Staff conducted its analysis.	No follow-up action was required. Await report filed in 2012.
F.C. No. 1056 – Advanced Metering Infrastructure (AMI) Deployment and Related Issues (Opened April 4, 2007)			
AMI Task Force's Proposed Customer Education Plan filed March 1, 2011 and implementation of Phase 1 devoted to educating customers about the smart meters, their safety, etc.	The AMI Customer Education Task Force meets on a monthly basis. The Task Force is composed of representatives from OPC, Pepco, PSC Staff, Sustainable Energy Utility (SEU), DDOE, AARP, and Politics and Prose Climate Action Committee.	On March 10, 2011, the PSC issued Order 16240, requesting comments on the proposed plan. Comments were filed in April and May. The PSC issued Order 16484 on August 4, 2011.	See below.
AMI Customer Education Task Force Phase II Plan filed November 1, 2011 and implementation of Phase II devoted to educating customers about how to use the smart meters to obtain more detailed information on usage once the smart meters are activated	The Task Force hosts community education seminars throughout the District.	On November 18, 2011, the PSC approved Order 16620 in an open meeting. The order was issued on November 21, 2011.	Await comments due December 21, 2011

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
Peppo's quarterly AMI Reports to U.S. Department of Energy	Peppo files these reports with the Commission on a quarterly basis.	Staff reviews and analyzes each report and provides an advisory memorandum to the Commissioners.	None at this time. Await next reports.
Peppo's AMI deployment schedule	Peppo files this report on a weekly basis.	PSC Staff reviews the reports and they are posted on the Commission's website every week.	Await next report.
Peppo's AMI Meter Installation Plan	Peppo files this report on a monthly basis	The most recent report was filed on October 31, 2011.	Await next report.
Peppo's AMI Progress Report re Obstacles and Concerns	Peppo files this report on a monthly basis.	The most recent report was filed on October 20, 2011.	Await next report due on November 21, 2011
Peppo's quarterly Build Metrics Report	Peppo files this report on a quarterly basis	The most recent report was filed on October 14, 2011. Staff has reviewed the report.	Await next report.
Peppo's dynamic pricing proposal		The PSC issued a NOPR requesting comments. On May 26, 2011, the PSC issued Order 16377, denying Peppo's proposal on the grounds additional policy matters need to be addressed first.	See F.C. No. 1083.
F.C. No. 1060 – Rules for Peppo's Purchase of Liquid-Immersed Distribution Transformers (LIDT) (Opened February 14, 2008)			
Peppo's Annual LIDT Report	Peppo files this report on an annual basis.	Peppo filed its most recent report on May 2, 2011.	None at this time. This case may be closed by the end of 2011.
F.C. No. 1062 – Investigation of Three Downtown Outages (Opened June 17, 2008)			

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>OPC appeal of PSC decision not to require Pepco to provide copies of maps and information the Company deems to be confidential</p>		<p>The D.C. Court of Appeals has remanded the matter to the PSC. On August 4, 2011, the PSC issued Order 16480 establishing the procedure for following up on the Court's remand order. Pepco filed its response on August 15, 2011. Pepco was required to file affidavits and/or arguments to support its request for restrictions on the disclosure of certain documents. Pepco made its filing on September 16, 2011. OPC filed its rebuttal on October 17, 2011. On October 26, 2011, OPC filed a motion to consolidate the issue across several formal cases. On October 27, 2011, OPC filed a conditional motion for an evidentiary hearing per Order 16480. Pepco filed its response on November 7, 2011.</p>	<p>Await OPC's rebuttal.</p>
<p>OPC motion to compel filed August 2, 2011</p>		<p>On September 9, 2011, the Commission issued Order 16536. Pepco filed its response on October 11, 2011. On November 7, 2011, OPC filed a conditional motion for an evidentiary hearing per Order 16536. and</p>	<p>Issue another order.</p>
<p>Cause of the Outages</p>		<p>Pepco has replaced the switches</p>	

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>OPC petition for investigation of May 31, 2011 outages</p>		<p>that were the cause of the first two outages.</p> <p>After issuing a data request to Pepco and obtaining its response, on July 8, 2011, the PSC issued Order 16432 granting in part OPC's petition and requiring Pepco to file a comprehensive plan for examining its network within 30 days of the order. Pepco filed its response to Order 16432 on August 8, 2011. However, on August 2, 2011, OPC had filed a motion for clarification or application for reconsideration of Order 16432.</p> <p>After issuing a tolling order on September 1, 2011, the PSC issued Order 16537 on September 9, 2011. Staff has completed its analysis and distributed an advisory memorandum.</p>	<p>Issue an order.</p>
<p>F.C. No. 1064 – Investigation of Power Supply Adequacy and Reliability (Opened August 22, 2008)</p>			
<p>PJM provides periodic briefings to the PSC on related matters such as progress on the planning and construction of several interstate transmission lines that will serve the District.</p>		<p>The PSC has recently received a letter from DDOE requesting information regarding the possible closure of the Potomac River generation plant due to emissions. The PSC requested an updated analysis by PJM of the need for the plant based on reliability criteria.</p>	<p>None at this time. Continue monitoring the issue.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
F.C. No. 1066 – Pepco Authorization to Issue Debt Securities (Opened October 17, 2008)			
	Pepco files an annual report.	None	Await next report. This case may be closed by the end of 2011.
F.C. No. 1071 – High Bill Complaints (Opened February 18, 2009)			
Special UDC study		The PSC has engaged the engineering department at UDC to conduct a special engineering modeling analysis.	The project is underway.
F.C. No. 1073 – Pepco’s Construction of Two Transmission Lines in the District (Opened March 31, 2009)			
Pepco’s quarterly progress report filed on October 18, 2011.	Pepco files a report on a quarterly basis.	Staff has reviewed the Pepco filing and is preparing an advisory memorandum.	
F.C. No. 1075 – Authorization for Pepco to Issue and Sell Debt Securities (Opened May 12, 2009)			
Pepco’s annual financing report filed on February 9, 2011	Pepco files this report on an annual basis.	Staff has reviewed the filing. No follow-up action is recommended	None at this time. Await the next report due in 2012.
F.C. No. 1076 – 2009 Pepco Rate Case (Opened May 22, 2009)			
Management audit of PHI’s costs as directed by the PSC in its final order in the rate case		On December 10, 2010, the PSC issued Order 16087, requiring Pepco to engage a consultant for the audit. On December 15, 2010, OPC filed a motion for clarification. On January 10, 2011, Pepco filed a motion for reconsideration or clarification of Order 16087. On April 6, 2011, the	None at this time. Issues will be addressed in F.C. No. 1087, 2011 Pepco rate case.

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>Pepco's RFP for audit filed April 18, 2011 and FERC's audit of Pepco filed May 3, 2011</p>		<p>PSC issued Order 16297, requesting comments on audit reports Pepco filed in March 2011. Comments were due in May 2011. Staff has conducted its analysis.</p> <p>On October 13, 2011, the PSC issued Order 16585, requiring Pepco to file a revised RFP and requesting comments on Pepco's revised RFP. Pepco was required to file the revised RFP on November 14, 2011. Comments were to be due on November 29, 2011. However, on November 14, 2011, Pepco filed an application for reconsideration of Order 16585.</p>	<p>Issue an order which is due by December 14, 2011.</p>
<p>Pepco's estimate of incremental damage from the winter 2010, summer 2010 and winter 2011 storms</p>	<p>Pepco files these reports after storms</p>	<p>Pepco filed reports on December 10, 2010, May 18, 2011 and September 2, 2011 per Order 15710</p>	<p>None at this time.</p>
<p>Pepco's jurisdictional cost allocation study – earnings report</p>	<p>Pepco files this report on a quarterly basis between rate cases per Order 15864.</p>	<p>Pepco filed a report on May 11, 2011</p>	<p>None at this time since this issue will be addressed in Pepco's current rate case.</p>
<p>F.C. No. 1083 – Smart Grid Policy Docket (Opened August 2, 2010)</p>			

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>The PSC opened this docket on September 7, 2010 in Order 15967.</p>		<p>The PSC will engage one or more consultants to advise the PSC on these issues. The PSC has issued an Indefinite Delivery/Indefinite Quantity (IDIQ) procurement to identify qualified contractors for each task. Lists of qualified consultants have been prepared from the IDIQ responses. On October 28, 2011, the PSC issued Task Order no. 1 (third-party suppliers and privacy and data access issues). Responses were due on November 14, 2011. On November 1, 2011, the PSC issued Task Order No. 2 (performance metrics for smart grid investment issues). Responses were due on November 15, 2011. On November 3, 2011, the PSC issued Task Order No. 3 (dynamic pricing and SOS procurement issues). Responses were due on November 17, 2011.</p>	<p>Review responses to 3 recent Task Orders selected contractor(s) for each.</p>
F.C. No. 1085 – Purchase of Receivables Policy (Opened May 5, 2011)			
<p>Purchase of Receivables Policy and impact on competition</p>		<p>On May 5, 2011, the PSC issued a Notice of Inquiry seeking comments on whether the PSC should establish a Purchase of Receivables policy to promote</p>	<p>Issue a NOPR</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
F.C. No. 1086 – Peppo’s Proposed Direct Load Control Program (Opened June 15, 2011)			
Peppo’s proposed residential direct load control program filed on June 15, 2011		<p>On June 24, 2011, a NOPR appeared in the DC Register. Comments were filed in July and August. On November 3, 2011, the PSC issued Order 16602; approving a Peppo program and directing Peppo to provide an education plan. The NOFR appeared in the DC Register on November 11, 2011.</p>	<p>Await Peppo’s proposed education plan due December 5, 2011. Comments are due by December 15, 2011 and replies are due December 22, 2011.</p>
F.C. No. 1087 – Peppo Rate Case (Opened July 8, 2011)			
<p>On July 8, 2011, Peppo filed a new rate case</p>		<p>A Public Notice appeared in the DC register on July 22, 2011. The PSC issued Orders 16489 and 16488, granting motions to intervene and notices of appearances. The PSC issued Order 16488, requesting proposed issues and a procedural schedule. The PSC held a pre-hearing conference on September 8, 2011. OPC filed a motion to dismiss the application on August 18, 2011. Peppo filed its opposition on</p>	<p>Issue order(s) re OPC’s motions to compel and await intervenors’ testimony due December 7, 2011. Meanwhile, the PSC is holding community hearings during the month of November in all 8 wards of the city. Five hearings have been held as of November 18, 2011.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
<p>F.C. No. 1092 – OPC Complaints re Horizon Power’s Marketing Practices (Opened October 18, 2011)</p> <p>OPC filed its complaint on October 18, 2011</p>			
		<p>Horizon filed its response on October 19, 2011. However, the PSC’s Office of Consumer Services contacted Horizon. Horizon undertook its own investigation and reported the results to the PSC in an e-mail dated October 27, 2011. On November 3, 2011, the PSC issued Order 16606, requesting comments on the correspondence in the case. Comments are due on November 18, 2011 and replies are due on November 28, 2011.</p>	<p>Await comments per Order 16606.</p>
<p>F.C. No. 1094 – Michael Petras Complaint Against Glacial Energy’s Business Practices (Opened October 28, 2011)</p> <p>The complaint was filed on October 28, 2011.</p>			
		<p>The Office of Consumer Services is contacting the complainant.</p>	
<p>GD 101 – Liberty Power Complaints Against Peppo (Opened November 16, 2011)</p> <p>Liberty Power filed its complaint on November 16, 2011</p>			
		<p>Staff is reviewing the complaint.</p>	
<p>Electricity Supplier Applications – EAs</p>			

Pending Matters	Ongoing Reports and Activities and Their Frequency	The Most Recent 2011 Activity	Status/Next Steps
The PSC has received 29 applications in 2011 to date.		8 applications are under review.	Either a deficiency letter or order will be issued within 15 business days of receipt of the filing.
Electric Tariffs – ETs			
ET 00-2 – Pepco’s Public Occupancy Surcharge filed February 4, 2011	Pepco files this surcharge annually	NOPR appeared in the DC Register on March 11, 2011. On June 1, 2011, the PSC issued Order 16381, approving the request.	NOFR appeared in the DC Register on June 10, 2011. Await next filing in 2012.

Open Formal Telecommunications Cases as of November 21, 2011

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
Telecommunications Applications – TAs			
The PSC must approve applications from local telecommunications providers before they can serve the District.		Only 4 telecommunications providers have filed an application in 2011.	Only one application is pending at this time. Staff is conducting its analysis.
F.C. No. 892/TA Financing Filings (Opened January 23, 1990)			
892/TA financing and merger plans		<p>Staff reviews applications for recertification, abandonment, and mergers on an individual basis. There were 5 filings in June and July; 3 in August, 2 in September, and 2 in October.</p> <p>Merger of Level 3 and Global Crossing approved in Order 16428, issued July 8, 2011.</p> <p>Paetec request for approval of merger received on August 23, 2011. On September 14, 2011, the company filed supplemental information. The PSC approved the merger in Order 16554 issued</p>	Staff is reviewing application from IntelPeer.

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
		<p>September 29, 2011.</p> <p>At the November 18, 2011 open meeting, the PSC approved an Order 16616 to allow 360Networks to transfer control to the Zayo Group. The Order was issued on November 21, 2011.</p> <p>On October 14, 2011, in Order 16580, the PSC conditionally granted the merger of DSL.net and DIECA.</p> <p>There is one pending application for an inmate payphone provider, but staff is reviewing jurisdictional Issues.</p>	
F.C. No. 962 – Setting Rates for Verizon’s Unbundled Network Elements (opened October 9, 1996)			
		None	<p>There has not been any activity since 2006, when the PSC tried to close this case by issuing Order 14086 on October 12, 2006, requesting the parties advise the PSC if there were any outstanding matters that needed to be resolved. The parties could not agree on any further resolution of the case so the</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
892/TA – Requests to abandon service		2 requests are pending. We are awaiting documentation from both applicants.	stay in the case was continued. The PSC would like to close the case but it can't get the parties to agree to do so. Await information from applicants.
F.C. No. 988 – D.C. Universal Trust Fund (DCUSTF) Support for Low-Income Discount and Telecommunications Relay Service for the Deaf and Hard-of-Hearing (Opened January 31, 2000)			
1 NationsLine & 2 Verizon requests (for the 3 rd and 4 th quarters) for reimbursement from the DCUSTF- all filed in June 2011	Verizon and NationsLine filed requests for reimbursement on a quarterly basis.	USTF Administrator provided its recommendations within 45 days of each request. Order 16483 re NationsLine's request was issued on August 4, 2011. Order 16482 re Verizon's 3 rd quarter request was issued August 4, 2011. Order 16530 re Verizon's 4 th quarter request issued on September 9, 2011.	Await the recommendation of the DCUSTF administrator
Verizon requests for funding for the 1st and 2 nd quarters of 2011 were filed on October 6, 2011		Staff will prepare an advisory memorandum after receiving the DCUSTF administrator's recommendation.	
DCUSTF audit report filed July 13, 2011	This report is filed on an annual basis	Staff prepared an advisory memorandum.	None at this time.
2012 Budget for the DCUSTF filed October 3, 2011	A DCUSTF budget is filed every year.	On October 14, 2011, the Commission issued Order 16582, requesting comments. Comments	Await response due December 1, 2011. Comments on the response are due on

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
		<p>were due on October 24, 2011 and replies were due on November 3, 2011. DDOE filed comments on October 24, 2011. No reply comments were filed. On November 18, 2011, the PSC approved Order 16617 in the open meeting. The order was issued on November 21, 2011.</p>	<p>December 12, 2011.</p>
<p>DDOE request for extension of time to mail reminder postcards filed November 10, 2011</p>	<p>DDOE mails reminder postcards each year and it requests reimbursement from the DCUSTF each year.</p>	<p>Because the postcards are now for all UDPs, not just Lifeline, the process has changed. In Order 1660, the PSC determined that DDOE should produce the postcards for all UDPs. DDOE wants the funding to come from the utilities. The PSC approved an Order 16614 at the November 18, 2011 open meeting. The order was issued on November 21, 2011. It directs DDOE to submit invoices before the PSC will decide who pays.</p>	<p>Await DDOE's response due November 28, 2011. Comments on the DDOE response are due December 5, 2011.</p>
<p>DCUSTF Administrator's Quarterly Fund Performance Report filed October 26, 2011</p>	<p>This report is filed on a quarterly basis.</p>	<p>Staff is preparing an advisory memorandum.</p>	
<p>DCUSTF surcharge revision filed July 19, 2011</p>	<p>Verizon files this request on an annual basis.</p>	<p>NOPR published July 29, 2011 in the DC Register. Order 16532 issued September 9, 2011. NOFR appeared in the DC Register on</p>	<p>Await Verizon's updated tariff.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
<p>Duplicate claims issue – When a customer shows up on both Verizon’s and NationsLine’s lists</p>		<p>September 16, 2011. The PSC required Verizon to file an updated tariff.</p> <p>On August 4, 2011, the PSC issued Order 16481, requesting comments on how to handle duplicate claims. Comments were due on September 6, 2011 however Verizon filed a request for an extension. The PSC issued Order 16556 on September 29, 2011, approving the request. On November 3, 2011, the PSC issued an order creating an interim procedure to handle duplicate claims until the FCC issues guidance on the issue.</p>	<p>Not at this time. Await FCC action.</p>
<p>FY 2012 Lifeline recertification process</p>	<p>DDOE files monthly reports on the number of UDP applications processed.</p>	<p>Order 16503 requesting comments issued August 4, 2011. Comments were due on August 19, 2011. None was filed. Order 16557 issued September 29, 2011. Per Order 16557, the PSC requires DDOE to file monthly status reports on the number of UDP applications processed. DDOE’s most recent report was filed November 15, 2011</p>	<p>Review each report as it is filed and prepare advisory memoranda if necessary</p>
<p>UDP Consumer Education Working Group report suggesting alternatives to</p>	<p>Working Group meetings are ongoing. The most recent meeting was held on</p>	<p>Comments on the UDP report were due on September 12, 2011, but none was filed. On October 27,</p>	<p>The UDP Consumer Education Working Group response is due February 20,</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
JUDD filed September 1, 2011.	November 3, 2011.	2011 the JUDD Working Group filed its report. Comments were due on November 7, 2011, but none was filed. On November 18, 2011, the PSC approved Order 16615 at the open meeting. The Order was issued on November 21, 2011.	2012.
Transfer of lifeline activities from DDOE to the Income Maintenance Administration (IMA)	DDOE files quarterly reports on the status of the transfer.	The most recent report was filed on October 3, 2011.	None at this time. Await the next report.
Revisions to Chapter 28	Revisions are made as necessary.	The PSC published a NOPR revising Chapter 28 of Title 15 DCMR on November 26, 2010. AT&T, DDOE, OPC, and Verizon commented. Orders 16358 issued May 5, 2011 and 16430 issued July 8, 2011. Order No. 16558 finalizing portions of Chapter 28 issued on September 29, 2011. The NOFR appeared in the DC Register on October 7, 2011. A new NOPR appeared in the DC Register on October 7, 2011. An errata Notice appeared in the DC Register on October 14, 2011. Comments were due November 7, 2011, but none was filed.	Issue order/NOFR.
Telecommunications Relay Service (TRS) Advisory Board		Letters sent to 40 providers on July 25, 2011.	Compile responses for next TRS Advisory Board meeting.

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
<p>meeting was held on May 27, 2011. As a follow-up, the PSC conducted a survey of 40 TRS providers re whether they offer soft dial tone service.</p>			
F.C. No. 990 – Telecommunications Quality of Service Standards (Opened February 11, 2000)			
<p>Enforcement of Wholesale quality of service standards</p>	<p>Verizon files a Performance Assurance Plan (PAP) and a Carrier-to-Carrier report on a monthly basis.</p>	<p>These reports contain metrics to determine whether Verizon is favoring it own service over CLECs which lease space in its network. Thus, they are necessary to ensure competition at the wholesale level. Staff reviews each report to determine if any violations have occurred. The most recent reports were filed at the end of October 2011.</p>	<p>Await next reports due at the end of November 2011.</p>
<p>Verizon request for waiver of PAP rules in August 2011 due to the union strike and Hurricane Irene filed on October 18, 2011</p>			<p>Issue an order</p>
<p>Quarterly retail quality of service reports</p>	<p>Verizon and 4 CLECs file quarterly reports.</p>	<p>Telecommunications service providers with more than 10,000 lines file quarterly reports on installation commitments met, out of service clearing time, and trouble reports per 100 lines. Staff tracks performance in tables and graphs.</p>	<p>Staff is preparing its advisory memorandum.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
<p>Investigation of Verizon's Service Quality</p>	<p>Verizon is required to file quarterly status reports on non-Verizon contractor damages that the company claims are the source of many of its outages.</p>	<p>The most recent reports were filed on October 30, 2011.</p> <p>Staff reviews each filing and prepares an advisory memorandum to the Commissioners.</p>	<p>None at this time but see F.C. No. 1093.</p>
<p>Revisions to Chapter 27 of the DCMR</p>	<p>Revisions are made as necessary.</p>	<p>The PSC published a NOPR on April 14, 2011. Comments were filed in May 2011. Verizon asked for an extension of time to file comments. Another NOPR was published in August 2011. Verizon requested an extension of time. The comment periods were extended by notice in the DC Register. Verizon commented. The deadline for reply comments is October 5, 2011. On October 14, 2011, the PSC issued Order 16583, approving the revisions. A NOFR appeared in the DC Register on October 21, 2011.</p>	<p>None at this time.</p>
<p>Revise Chapter 27 of the DCMR to waive the outage reporting rules so reports will be filed only for outages that impact retail customers</p>		<p>Order 16559 issued September 29, 2011.</p>	<p>None at this time. Reports are now being filed only for outages that impact retail customers and they are filed in the SO-T- docket.</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
F.C. No. 1057 – Verizon’s Regulatory Price Cap Plan of 2008 (Opened April 27, 2007)			
Verizon files proposed changes to its services under the Price Cap Plan as tariff filings. The PSC reviews the filings for compliance with the Price Cap Plan		Verizon has filed 20 Competitive Service Pricing (CSP) and Discretionary Service notices in 2011 to date. Increases in discretionary services are capped at 15% a year. The PSC does not set prices for CSPs. Staff reviews each filing and advises the Commissioners if action is recommended.	None at this time
Verizon proposal to discontinue Message B, a limited service that permits customers to continue service while paying off arrearages.		Verizon filed its request to discontinue Message B on January 4, 2011. In Order 16140, the PSC suspended the termination and requested comments on the application. Verizon and OPC filed comments. The PSC issued Order 16407 on June 16, 2011, approving Verizon’s plan to terminate the service for new customers and to grandfather existing customers.	None
F.C. No. 1059 – Verizon’s Financing Reports (Opened September 11, 2007)			
Verizon’s long term financing report filed February 22, 2011	Verizon’s files this report on an annual basis.	Staff has reviewed the report.	None at this time. Await the next report due in February 2012.
F.C. No. 1090 Investigation of Verizon’s Service Reliability (Opened August 26, 2011)			
On August 26, 2011, OPC filed a petition for an investigation		On October 14, 2011, the PSC issued Order 16586, initiating an	

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
of Verizon's service reliability.		investigation. Comments were due November 14, 2011 and reply comments are due November 28, 2011. OPC and Verizon filed comments on November 14, 2011.	
BE – Billing Errors – Telecommunications – formerly filed in FC 1048			
Verizon billing error notice filed August 11/ 2011.			Await Verizon updates
SO – Service Outage Reports - Telecommunications – formerly filed in FC 990			
Verizon has made over 150 SO filings in 2011. However, most of the outages do not impact retail customers.	Verizon is required to file 5 day, 30 day and 60 day reports for each service outage.	Verizon is filing reports re SO-T-151.	Reviewing Verizon's reports as they are filed.
Telephone Tariffs – TT 06-6 – Verizon's Promotions (Opened October 12, 2006)			
Verizon's promotions		Verizon has filed 6 promotions in 2011 to date. The PSC reviews Verizon's promotions as filed.	None at this time. Await future filings.
TT 00-5 Verizon's Rights of Way Fees (Opened May 1, 2000)			
TT 00-5 – Verizon's rights of way fee filed July 8, 2011	Verizon files this report on an annual basis.	NOPR issued August 19, 2011. Staff audit has been completed. On November 3, 2011, the PSC issued Order 16604, approving the proposed fee. The NOPR appeared in the DC Register on November 11, 2011.	Await the next filing in 2012.
Telecommunications Interconnection Agreements – TIAs (Opened April 28, 1999)			
Pursuant to 47 USC § 252, the PSC reviews interconnection agreements when filed.		Verizon has filed 7 agreements or amendments in 2011. There is none pending at this time.	None at this time. Await the next filings.

Open Formal Natural Gas Cases as of November 21, 2011

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
F.C. No. 874 – WGL’s Gas Procurement Report (Opened April 7, 1988)			
WGL filed its report on November 15, 2010. Comments were due January 13, 2011 and reply comments were due February 15, 2011. WGL filed an Off Year Report on November 15, 2011	WGL’s Gas Procurement Report is filed every two years. An Off-Year Report is filed between the two-year intervals. A Gas Procurement Working Group (GPWG), composed of representatives from WGL, OPC and the PSC, meet every few months as needed. Transcripts of the meetings are filed its this case.	OPC filed comments on January 31 and WGL filed comments on February 14. The PSC Staff filed its report on September 15, 2011. Several GPWG meetings were held in 2011.	Issue order, review the Off Year Report, and participate in meetings of the GPWG.
F.C. No. 977 – Natural Gas Quality of Service Standards (Opened January 28, 1999)			
Quarterly Quality of Service Reports	WGL and Alternative Commodity Gas Suppliers file quarterly quality of service reports	The most recent reports were due on October 31, 2011. Staff monitors the filings and advises the Commissioners.	Next quarterly reports are due January 31, 2012.
WGL requests for waiver of quality of service rules re required timeframe for responding the grade 1 leaks		Order 16555 issued September 29, 2011.	None
Pepco Energy Services (PES) request to file its quality of		Order 16520 issued September 1, 2011.	None

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
<p>service report late</p> <p>Revision of Natural Gas Quality of Service rules to create separate dockets for outages and billing errors</p>		<p>NOPR appeared in the DC Register on April 29, 2011. Comments were filed in May 2011.</p>	<p>Issue a revised NOPR</p>
BE – G – Billing Error Notifications (Opened in early 2011)			
<p>WGL’s billing error notifications, filed in compliance with the natural gas quality of service standards, are now being placed in this docket.</p>	<p>WGL and Alternative Commodity Gas Suppliers file these reports on a quarterly basis</p>	<p>The most recent reports were due on October 31, 2011. All companies have filed. Staff is reviewing the filings.</p>	<p>None at this time</p>
GL – Gas Leaks Docket (opened in early 2011)			
<p>In order to monitor gas leaks in WGL’s distribution system, the decisional order in this case requires WGL to file these reports.</p>	<p>WGL files these reports on a monthly basis.</p>	<p>The most recent report was filed on October 24, 2011. Staff monitors WGL’s performance and advises the Commissioners if action is recommended. Information is tracked in tables and graphs.</p>	<p>Await the next report that is due in late November 2011.</p>
F.C. No. 989 – WGL Rate Case (Opened February 17, 2000)			
<p>The decisional order in this case requires WGL to file quarterly rate of return reports so the company’s earnings could be tracked and monitored</p>	<p>WGL files quarterly rate of return reports in this docket</p>	<p>WGL filed its most recent report on September 2, 2011. Staff advisory memorandum was distributed on September 27, 2011. On November 1, 2011, WGL filed an updated report.</p>	<p>See new case, F.C. No. 1093 below</p>
F.C. No. 1027 – Investigation of Water Leaks in WGL’s Distribution System (Opened January 13, 2004)			
<p>WGL’s revised tariff</p>	<p>This tariff is filed on an</p>	<p>NOPR appeared in the DC</p>	<p>None at this time. Await the</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
reflecting the Plant Recovery Adjustment filed on June 21, 2011.	annual basis	Register July 8, 2011. Comments were filed in August. Order 16534 issued September 9, 2011. NOFR appeared in the DC Register on September 16, 2011.	next filing in 2012.
WGL's Annual Surcharge Filing on September 16, 2011.	This report is filed on an annual basis.	On October 14, 2011, the PSC issued Order 16584, requesting comments on the filing. Comments were due on October 24, 2011 and replies were due on November 3, 2011. No comments were filed. The PSC approved Order 16619 at the November 18, 2011 open meeting. The order, requesting additional information from WGL, was issued on November 21, 2011.	Await WGL's response which is due on December 12, 2011.
WGL's report on the encapsulation and vintage coupling replacement program	This report is filed on an annual basis		Await next report which is due December 15, 2011.
F.C. No. 1043 (Opened September 23, 2005)			
WGL files arrearages and disconnections reports in this docket.	WGL files these reports on a monthly basis.	The most recent report was filed on October 19, 2011. Staff monitors the results through tables and graphs and advises the PSC of issues as they arise.	Await the next report which is due on November 21, 2011. See F.C. Nos. 813/1043 under multi-utility cases because Pepco also files these reports.
F.C. No. 1061 – WGL's Financing Report (Opened June 13, 2008)			
WGL files its reports in this case. There are no reports	This report is filed on an annual basis.	The last report was filed on December 23, 2010.	Await the next report which is due in late December 2011.

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
pending before the PSC at this time.			
F.C. No. 1088 WGL Application to Issue Debt Securities and Preferred Stock (Opened July 18, 2011)			
Application received on July 18, 2011.		NOPR published in the DC Register on July 29, 2011. Comments were filed in August, 2011. Order 16538 issued September 9, 2011. NOFR appeared in the DC Register on September 16, 2011.	None
F.C. No. 1089 – Revisions to the Natural Gas Pipeline Safety Rules (Opened on August 12, 2011)			
The PSC initiated this proceeding with the issuance of a NOPR on August 12, 2011.		Comments were filed on September 12, 2011 and reply comments were filed on September 26, 2011.	Issue an order/NOFR.
F.C. No. 1091 – WGL’s Depreciation Study (Opened on September 9, 2011)			
WGL originally filed the study on August 8, 2011 in F.C. No. 1054, which is now closed.		Order 16539, requesting comments on the study, was issued on September 9, 2011. OPC filed comments on October 24, 2011 and WGL filed its reply comments on November 14, 2011.	This issue will be folded into the new rate case, see F.C. No. 1093 below.
F.C. No. 1093 – New WGL Rate Case (Opened on November 2, 2011)			
On the basis of the quarterly rate of return reports WGL files in F.C. No. 989, the PSC initiated a new rate case in Order 16596, issued on November 2, 2011.		The PSC issued Order 16596 on November 2, 2011.	Await WGL’s filing due in February 2012.

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
GA – Gas Applications			
The PSC has received 5 natural gas supplier applications in 2011. The PSC has 20 calendar days to take action on each filing.		One application, filed November 7, 2011, is currently pending before the PSC.	Staff is conducting its analysis of the filing before determining whether a deficiency letter needs to be sent or an order can be issued.
Gas Tariffs - GTs (The first two letters indicate the year the case was opened)			
GT 96-2 – WGL’s monthly market monitoring report due on the 7 th of each month	WGL files this report on a monthly basis	The most recent report was filed on November 7, 2011. Staff monitors the reports and information is posted on the PSC website	Post the information to the website
GT 97-3 – WGL’s revised interruptible daily balancing tariff filed on March 21, 2011		NOPR appeared in the DC Register on April 1, 2011. Comments were filed in May 2011. Order 16540, denying the filing, was issued on September 9, 2011.	None
GT 00-2 – WGL’s rights of way surcharge factor filed on March 18, 2011	WGL files this report on an annual basis.	NOPR appeared in the DC Register on April 8, 2011. Order 16490 issued August 4, 2011. NOFR appeared in the DC Register on August 12, 2011.	None
GT 00-2 – WGL’s rights of way reconciliation factor filed on May 18, 2011	WGL files this report on an annual basis	NOPR appeared in the DC Register on August 5, 2011. Staff audit completed and advisory memorandum circulated on September 21, 2011.	Issue Order and NOFR
GT 01-1 – WGL’s physical	WGL files both a physical	Staff has reviewed filings and will	Issue an order, which is being

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
and financial hedging programs	hedging report and a financial hedging report on an annual basis.	advise the Commissioners if follow-up action is recommended.	drafted.
GT 11-1 – WGL’s Proposed Revisions to Tariff Re Installation of Service Pipes, Connections and Mains (Opened May 25, 2011)			
WGL filed the proposed revisions on May 25, 2011.		NOPR appeared in the DC Register on July 8, 2011. OPC filed comments in August 2011. Staff is preparing a data request to WGL.	Issue the data request.

Open Formal Multi-Utility Cases as of November 21, 2011

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
F.C. No. 712 – PSC Rules (Opened February 13, 1979)			
<p>Mandatory electronic filing – The PSC first initiated voluntary electronic filing in October 2002, when it launched its new eDocket system. After several years of experience, the PSC initiated this proceeding in 2011 to consider mandatory electronic filing for utility providers by publishing a NOPR in the DC Register on December 31, 2010. Comments were filed in January and February 2011.</p>		<p>The PSC issued a revised NOPR on June 10, 2011. Comments were filed July 11, 2011. A revised NOPR was published in the DC Register on September 23, 2011. On October 2,4 2011, Pepco filed its comments. No reply comments (due November 7, 2011) were filed.</p>	<p>Issue order/NOFR</p>
<p>Implement DC Council Act re fines and forfeitures</p>		<p>NOPR appeared in the DC Register on March 18, 2011. Comments were filed in April and May 2011.</p>	<p>Issue a revised NOPR.</p>
<p>Reliant’s request for approval of its consumer pamphlet was first filed on June 29, 2011.</p>		<p>Order 16519 was issued on September 1, 2011. Reliant filed a revised version on September 14, 2011. Order 16552 was issued on</p>	<p>None</p>

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
Assessments for PSC and OPC's FY11 operating budgets		On August 4, 2011, Orders 16491 – 16502 were issued to utility companies and providers serving the District as of December 31, 2010.	Tracking receipt of funds.
FY12 Budget Notification			Notice to be issued in October 2011.
F.C. Nos. 813 and 1043 – Pepco's and WGL's Monthly Arrearages/Disconnections Reports (FC 813 Opened November 4, 1983; FC 1043 Opened September 23, 2005)			
The reports are filed around the 20 th of each month	WGLL and Pepco file these reports on a monthly basis	Staff monitors the reports and advises the PSC if any action is recommended. Information is tracked in tables and graphs.	Await the next reports due on November 21, 2011.
F.C. No. 1078 – Revising WGL's and Pepco's Bill Formats (Opened June 29, 2009)			
		The Commission issued a Notice on March 25, 2011. Comments were filed in April and May 2011. The PSC issued Order 16561 on September 29, 2011.	WGL's and Pepco's responses are due December 28, 2011.
Utility Companies' Voluntary Memorandum of Understanding (MOU) re Minority Contracting Performance (First Initiated in 1991)			
Annual MOU reports filed in March 2011.	WGL, Pepco, and Verizon file annual reports that are due March 31 of each year.	Staff analyzed the reports filed in March 2011. Results are reported in the PSC's 2010 Annual Report.	Await the 2012 reports.

Pending Matters	Ongoing Reports and Activities and Their Frequency	Recent 2011 Activity	Status/Next Steps
Working Group's updated MOU filed September 9, 2011	An MOU Working Group composed of representatives of the 3 utility companies, OPC, and the PSC are revising/updating the MOU.		Issue an order

Attachment B
Preliminary List of PSC Matters in Which Ms. Noel May Participate¹⁵

1. Electricity Cases

F.C. No. 1083 - Smart Grid Policy Docket (Opened August 2, 2010)

F.C. No. 1085 - Purchases of Receivables Policy (Opened May 5, 2011)

F.C. No. 1086 - Pepco's Proposed Direct Load Control Program (Opened June 15, 2011)

F.C. No. 1092 - OPC Complaints re Horizon Power's Marketing Practices (Opened Oct. 18, 2011)

F.C. No. 1094 - Michael Petras Complaint Against Glacial Energy's Business Practices (Opened Oct. 28, 2011)

GD 101 - Liberty Power Complaints Against Pepco (Opened Nov. 16, 2011)

BE-E - Billing Error Docket (Created in early 2011)

SO – Major and Non-Major Service Outage Docket (Created in early 2011)

EA - Electricity Supplier Applications (8 applications pending)

ET 00-2 Pepco's Public Occupancy Surcharge (Opened in 2000, but looks at current surcharge fees)

2. Telecommunications Cases

F.C. No. 1090 - Investigation of Verizon's Service Reliability (Opened Aug. 26, 2011)

TT 00-5 - Verizon's Rights-of-Way Fees (Opened May 1, 2000, only current fees)

TT 06-6 - Verizon's Promotions (Opened Oct. 12, 2006, only current promotions)

TIA - Telecommunications Interconnection Agreements (Opened April 28, 1999)

BE-T - Billing Errors (Formerly filed in closed case FC 1048, but deals with current errors)

¹⁵As indicated earlier, this is a preliminary assessment without the benefit of additional time or resources and includes the assumption that none of the factual issues were addressed by Ms. Noel in the current or a previous case.

SO - Service Outage Reports (Formerly filed in FC 990, opened in 2000, but deals with current incidents)

3. Natural Gas Cases

F.C. No. 1088 - WGL Application to Issue Debt Securities and Preferred Stock (Opened July 18, 2011)

F.C. No. 1089 - Revision to Natural Gas Pipeline Safety Rules (Opened Aug. 12, 2011)

F.C. No. 1091 - WGL's Depreciation Study (Opened Sept. 9, 2011, but issues to be determined in FC No. 1093)

F.C. No. 1093 - New WGL Rate Case (Opened Nov. 2, 2011, uncertain until issues designated)

BE G - Billing Error Notifications (Opened in Early 2011)

GA - Gas Applications (one application pending)

GL - Gas Leaks Docket (Opened in Early 2011)

GT 96-2 Market Monitoring Reports (Opened in 1996, only current reports)

GT 00-2 - WGL's Rights-of-Way Surcharge (Opened in 2000, only current surcharge fees)

GT 11-1 - WGL's Proposed Revisions to Tariff re Installation of Service Pipes (Opened May 25, 2011)

4. Multi-Utility Cases

F.C. No. 813 - Pepco's Monthly Arrearage/Disconnection Reports (Opened Nov. 4, 1983, only reports filed after 3/2010)

F.C. No. 1043 - WGL's Monthly Arrearage/Disconnection Reports (Opened Sep. 23, 2005, only reports filed after 3/2010)

F.C. No. 1078 - Revising WGL's & Pepco's Bill Formats (Opened June 29, 2009)

MOU - Utility Companies Voluntary MOU re Minority Contracting Performance (First Initiated in 1991, receives companies annual reports)