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District of Columbia Auditor
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**Audit of the Office of the People's Counsel
Agency Fund for Fiscal Year 2004**

September 23, 2009

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EXECUTIVE SUMMARY

PURPOSE

In accordance with Section 455 of the District of Columbia Home Rule Act, as amended, Pub.L. No. 93-198,¹ and pursuant to D.C. Code, Section 34-912(a)(6),² the District of Columbia Auditor conducted an audit of the fiscal year (FY) 2004 financial activities of the Office of the People's Counsel (OPC) Agency Fund.

CONCLUSION

The Auditor found that during fiscal year 2004, \$625,419 in public utility assessments and \$15,765.23 in refunds from vendors were deposited into the OPC's Agency Fund and recorded in the District's System of Accounting and Reporting (SOAR). The Auditor found that the OPC's fiscal year 2004 Trust Fund Reconciliation Report, which was submitted to the Mayor and Council of the District of Columbia, agreed with our finding that \$641,184.23 in receipts were deposited into the Agency Fund in fiscal year 2004.

During fiscal year 2004, the OPC disbursed from the Agency Fund \$1,130,990.84 for expenses related to ongoing case activity. Additionally, \$248,328.31 in refunds to utility companies for formal cases that were closed were disbursed from the fund. The Auditor found that \$1,130,990.84 in fiscal year 2004 expenditures processed against OPC's Agency Fund appeared to be reasonable and necessary expenses as required by D.C. Code, Section 34-912. The Auditor successfully reconciled all expense vouchers and refunds to the District's accounting system (SOAR). Further, each expense voucher was properly signed and approved for payment by an authorized OPC official.

¹See section 455 (b) of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198; 87 Stat. 803); D.C. Code § 1-204.55 (b) (2001) which states: "The District of Columbia shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he [she] may prescribe. *See also* D.C. Code § 1-204.55 (e) which states: "The District of Columbia Auditor shall have access to all books, accounts, records, findings, and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

² See D.C. Code, Section 34-912(a)(6) which states that, "The District of Columbia auditor shall review the amounts deposited and disbursed by the Commission and the Office under this section and shall issue a report to the Mayor and the Council on each agency fund on a biennial basis."

PURPOSE

In accordance with Section 455 of the District of Columbia Home Rule Act, as amended, Pub.L. No. 93-198,¹ and pursuant to D.C. Code, Section 34-912(a)(6),² the District of Columbia Auditor conducted an audit of the fiscal year (FY) 2004 financial activities of the Office of the People's Counsel (OPC) Agency Fund.

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit were to:

1. verify deposits to and disbursements from the OPC's Agency Fund for FY 2004;
2. examine expenses charged against the OPC's Agency Fund to determine whether expense vouchers were supported by adequate documentation and whether the expenses were reasonable and necessary, as required by D.C. Code, Section 34-912;
3. determine whether expense vouchers were properly reviewed and approved by appropriate OPC officials before payment; and
4. determine the amount of refunds to public utilities that were processed against the OPC's Agency Fund.

¹See section 455 (b) of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198; 87 Stat. 803); D.C. Code § 1-204.55 (b) (2001) which states: "The District of Columbia shall each year conduct a thorough audit of the accounts and operations of the government of the District in accordance with such principles and procedures and under such rules and regulations as he [she] may prescribe. *See also* D.C. Code § 1-204.55 (c) which states: "The District of Columbia Auditor shall have access to all books, accounts, records, findings, and all other papers, things, or property belonging to or in use by any department, agency, or other instrumentality of the District government and necessary to facilitate the audit."

²See D.C. Code, Section 34-912(a)(6) which states that, "The District of Columbia auditor shall review the amounts deposited and disbursed by the Commission and the Office under this section and shall issue a report to the Mayor and the Council on each agency fund on a biennial basis."

The scope and period of the audit covered an examination of OPC Agency Fund receipts, expenditures, and refunds for FY 2004.

In conducting the audit, the Auditor reviewed relevant D.C. Code provisions, public utility revenue deposits to and disbursements from OPC's Agency Funds and reconciled the deposits to the District's System of Accounting and Reporting (SOAR) and Executive Information System (EIS). SOAR and EIS reflect all financial activity processed against OPC's Agency Fund during FY 2004. The Auditor also reconciled deposits made to OPC's Agency Fund to confirmation statements provided by Potomac Electric Power Company (PEPCO), Washington Gas, and Verizon. Finally, the Auditor interviewed OPC's chief financial officer and senior accounting and disbursing analyst, in addition to officials from PEPCO, Washington Gas, and Verizon concerning their deposits to OPC's Agency Fund.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

BACKGROUND

Pursuant to D.C. Law 5-153, the "Utility Regulatory Assessment Clarification Act of 1984," the Office of the People's Counsel was established as an independent agency of the District government. D.C. Code, Section 34-804(a), states, in part, that the Office of the People's Counsel ". . . shall be a party, as of right, in any investigation, valuation, revaluation, or proceeding of any nature by the Public Service Commission (PSC) of or concerning any public utility operating in the District of Columbia."

Also, pursuant to D.C. Code, Section 34-804(d), the People's Counsel:

- (1) Shall represent and appeal for the people of the District of Columbia at hearings of the [PSC] and in judicial proceedings in the District of Columbia courts when these proceedings and hearings involve the interests of users of the products of or services furnished by public utilities under the jurisdiction of the [PSC];

- (2) May represent and appeal for the people of the District of Columbia at proceedings before related federal regulatory agencies and commissions and federal courts when those proceedings involve the interests of users of the products of or services furnished by public utilities under the jurisdiction of the [PSC];
- (3) May represent and appear for petitioners appearing before the [PSC] for the purpose of complaining in matters of rates or services;
- (4) May investigate independently, or within the context of formal proceedings before the [PSC], the services given by, the rates charged by, and the valuation of the properties of the public utilities under the jurisdiction of the [PSC]; and
- (5) May develop means to otherwise assure that the interests of the users of the products of or services furnished by public utilities under the jurisdiction of the [PSC] are adequately represented in the course of proceedings before the [PSC], federal or District of Columbia courts, or federal regulatory agencies and commissions involving those interests, including public information dissemination, consultative services, and technical assistance.

Each public utility is authorized to charge rates that will permit a fair rate of return (or profit) on capital in exchange for the right to conduct business in the District of Columbia. Utilities must apply to the PSC for a change in rates or regulatory treatment. The PSC sets public utility rates and otherwise regulates utilities through a formal legal process in which the affected public utility, the OPC, and other interested parties have an opportunity to present their case. As noted earlier, OPC is the only statutory party of right in public utility cases filed with the PSC.

FINDINGS

DEPOSITS TO AND EXPENDITURES AND REFUNDS FROM THE OFFICE OF THE PEOPLE'S COUNSEL AGENCY FUND FOR FISCAL YEAR 2004

As previously noted, D.C. Code, Section 34-912, permits the OPC to assess utilities for regulatory and litigation expenses associated with retaining technical and legal consultants to perform work required by proceedings before the PSC. The OPC develops an estimate of expenses necessary to carry out its work in each proceeding before the PSC. The OPC develops a formal written Notice of Agency Fund Requirements (NAFR) to the Commission, including the consultant contracts, for the funds necessary to carry out its work in each proceeding before the PSC. The Commission must then approve or reject OPC's request. If approved, the PSC then orders the affected utility to make the deposit to the OPC Agency Fund. Table I summarizes OPC's Agency Fund activity for FY 2004.

Summary of OPC's Agency Fund Activity for FY 2004

Table I summarizes OPC's Agency Fund activity for FY 2004.

TABLE I
Office of the People's Counsel Agency Fund:
Statement of Receipts, Expenditures, and Refunds For
FY Ending September 30, 2004

Beginning Balance (10/01/03)	\$1,391,074.27
Receipts	641,184.23 ³
Expenditures	(1,130,990.84)
Refunds to Utilities	<u>(248,328.31)</u>
Ending Balance (09/30/04)	<u>\$ 652,939.35</u>

Source: Office of the D.C. Auditor/EIS/SOAR

³OPC's total FY 2004 receipts were \$641,184.23 which consisted of \$625,419 in utility assessments \$15,765.23 in refunds from vendors

As of October 1, 2003, the beginning balance in OPC's Agency Fund was \$1,391,074.27 . Receipts of 641,184.23 less expenditures of \$1,130,990.84, and \$248,328.31 in refunds to utility companies for formal cases that were closed resulted in an ending Agency Fund balance of \$652,939.357, as of September 30, 2004. The \$652,939.57 ending balance is a reserve balance to be used for authorized expenses pertaining to ongoing case activity.

FY 2004 OPC Agency Fund Assessment, Deposits, and Refunds

During FY 2004, the OPC filed with the PSC 13 Notices of Agency Fund Requirements (NAFR) orders requesting the PSC to issue Notices of Agency Fund Requirements to PEPCO, Verizon, and Washington Gas. PEPCO, Verizon, and Washington Gas responded by submitting 13 checks totaling \$625,419. The Auditor confirmed that the OPC received utility assessments totaling \$577,454 from PEPCO, and \$47,965 from Washington Gas, and a total of \$625,419 was deposited into OPC's Agency Fund.

Individual assessments were reconciled to District Treasury deposit tickets, SOAR financial reports, and utility confirmation statements. The Auditor found that the OPC's FY 2004 Trust Fund Reconciliation Report, which was submitted to the Mayor and Council of the District of Columbia, agreed with our finding that \$625,419 in utility assessments and \$15,765.23 in refunds from a vendor were reconciled by OPC and deposited into the Agency Fund in FY 2004.

Table II presents FY 2004 deposits made to the OPC Agency Fund. (See Appendix I for a brief description of each formal case.)

TABLE II
Public Utility Assessments Deposited Into
The Office of the People's Counsel Agency Fund
During Fiscal Year 2004

Public Utility	Formal Case (FC) Number	Amount	Date PSC Received Check	Date of Deposit
<u>PEPCO</u>	1002	\$ 35,250	10/13/04	09/16/04
	982	\$ 27,376	7/6/04	7/13/04
	766	\$ 45,889	4/6/04	4/7/04
	1017	\$ 140,000	4/6/04	4/7/04
	1023	\$ 25,000	8/20/04	8/24/04
	1017	\$ 61,179	8/20/04	8/24/04
	712	\$ 35,235	9/3/04	9/3/04
	982	\$ 158,275	3/4/04	3/29/04
	1026	\$ 49,250	3/22/04	3/29/04
PEPCO Total		\$ 577,454		
<u>WASHINGTON GAS</u>	712	\$ 5,265	8/20/04	8/24/04
	874	\$ 25,000	6/4/04	7/7/04
	1027	\$ 4,700	5/21/04	6/3/04
	GT04-1	\$ 13,000	9/24/04	
WASH. GAS Total		\$ 47,965		
<u>REFUNDS FROM VENDORS</u>				
Miller, Balis & O'neal	1016	\$ 8,385	6/7/04	6/10/04
Snaveley King Majoros	1016	\$ 7,380	4/22/04	5/14/04
Total Multi-Companies		\$ 15,765		
GRAND TOTAL DEPOSITS		\$ 641,184.23		

Source: Office of the People's Counsel, SOAR/EIS and the Office of the D.C. Auditor

FY 2004 Expenditures Processed Against the OPC Agency Fund Appeared to be Reasonable and Necessary, As Required by D.C. Code, Section 34-912

During FY 2004, the OPC processed 96 expense vouchers and journal entries totaling \$1,130,990.84 against the OPC Agency Fund. The Auditor successfully reconciled the \$1,130,990.84 in expenditures to individual expense vouchers and the District’s accounting system.

Approximately 98%, or \$1,111,764.05 of the total confirmed expenses paid by OPC during FY 2004 were for services provided by attorneys, economists, engineer consultants, and certified public accountants. Two percent (2%), or \$19,226.79, of the confirmed expenses were for administrative costs which included copying, telecommunications, delivery, and transportation services. OPC’s Agency Fund expenditures appeared to be reasonable and necessary expenses for ongoing case activity as required by D.C. Code, Section 34-912. Further, each expense voucher was properly signed and approved for payment by an authorized OPC official.

FY 2004 Refunds of Unexpended Assessments Processed Against OPC’s Agency Fund

During FY 2004, the OPC processed three refund vouchers totaling \$248,328.31 against the OPC’s Agency Fund. The Auditor reconciled the \$248,328.31 in refunds of unexpended assessments to individual vouchers and the District’s accounting system. These refunds included: \$225,505.52 to Verizon, \$7,500.45 to PEPCO , and \$15,322.34 to Washington Gas. Table III presents FY 2004 refunds of unexpended assessments to public utilities.

**TABLE III
Office of the People’s Counsel Agency Fund:
Fiscal Year 2004 Refunds to Public Utilities**

VENDOR	REFUND AMOUNT
VERIZON	\$ 225,505.52
PEPCO	\$ 7,500.34
WASHINGTON GAS	\$ 15,322.45
TOTAL REFUNDS	\$ 248,328.31

Source: Office of the People’s Counsel, SOAR/EIS, and the Office of the D.C. Auditor

CONCLUSION

The Auditor found that during fiscal year 2004, \$625,419 in public utility assessments and \$15,765.23 in refunds from vendors were deposited into the OPC's Agency Fund and recorded in the District's System of Accounting and Reporting (SOAR). The Auditor found that the OPC's fiscal year 2004 Trust Fund Reconciliation Report, which was submitted to the Mayor and Council of the District of Columbia, agreed with our finding that \$641,184.23 in receipts were deposited into the Agency Fund in fiscal year 2004.

During fiscal year 2004, the OPC disbursed from the Agency Fund \$1,130,990.84 for expenses related to ongoing case activity. Additionally, \$248,328.31 in refunds to utility companies for formal cases that were closed were disbursed from the fund. The Auditor found that \$1,130,990.84 in fiscal year 2004 expenditures processed against OPC's Agency Fund appeared to be reasonable and necessary expenses as required by D.C. Code, Section 34-912. The Auditor successfully reconciled all expense vouchers and refunds to the District's accounting system (SOAR). Further, each expense voucher was properly signed and approved for payment by an authorized OPC official.

Respectfully submitted,



Deborah K. Nichols
District of Columbia Auditor

APPENDIX

**Description of Formal Cases In Which
Utilities Made Deposits to the
Office of People's Counsel Agency Fund
During Fiscal Year 2004**

<u>FORMAL CASE NUMBER</u>	<u>DESCRIPTION OF CASE</u>
<u>PEPCO</u>	
766	In the Matter of the Commission's Fuel Adjustment Clause Audit and Review Program
982	In the Matter of the Investigation of the Potomac Electric Power Company Regarding Interruption to Energy Services
1017	In the Matter of the Development and Designation of Standard Offer Services in the District of Columbia
1023	In the Matter of the Investigation into the Effect of the Bankruptcy of Mirant Corporation on Retail Service in the District of Columbia
1026	In the Matter of the Investigation of the Feasibility of Removing Pre-Existing Aboveground Utility and Cables and Relocating the Underground in the District of Columbia
<u>WASHINGTON GAS</u>	
874	In the Matter of the Gas Acquisition Strategies for the District of Columbia Natural Gas, Division of Washington Gas Light Company
1027	In the Matter of the Emergency Petition of the People Counsel for an Expedited Investigation of the Distribution System of Washington Gas Light Company
GT 04-1	In the Matter of Washington Gas Light Company for Authority to Amend its General Services Provisions

Source: Report of the Office of the People's Counsel FY 2004 Agency Fund Deposits, Disbursements & Contracts.

AGENCY COMMENTS

AGENCY COMMENTS

On August 24, 2009, the Office of the District of Columbia Auditor submitted this report in draft for review and comment to the People's Counsel, Office of the People's Counsel. Written comments were received from the People's Counsel on September 14, 2009. Where appropriate, changes were made to the final report based upon the comments received. All written comments are appended, in their entirety, to the final report.



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Elizabeth A. Noël
People's Counsel

September 14, 2009



Deborah K. Nichols
District of Columbia Auditor
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RE: Draft Audit of OPC's Agency Fund for FY 2004

Dear Ms. Nichols:

The Office of the People's Counsel received your draft report, "Audit of the People's Counsel Agency Fund for Fiscal Year 2004." We appreciate the opportunity to comment on the draft.

As always, the report was thorough. There were, however, some misstatements about OPC's assessment process, which OPC wishes to address on the record.

On page 4, the first paragraph, the Office would change the second and third sentences to read as follows:

The OPC develops a formal written request (Notice of Agency Fund Requirements) to the Commission, including the consultant contracts, for the funds necessary to carry out its work in each proceeding before the PSC. The Commission then must approve or reject OPC's request. If approved, the PSC then orders the affected utility to make the deposit.

The sentence beginning "Upon receipt . . ." should be deleted, and the final sentence in the paragraph retained.

On page 5, the second paragraph, the Office would make the following change to the first sentence

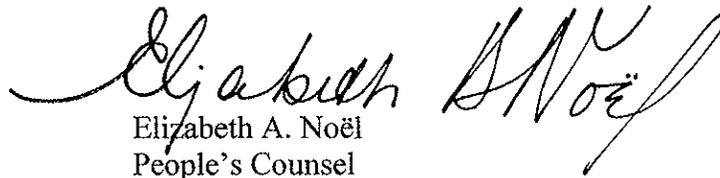
During FY 2003, the OPC filed with the PSC 18 Notices of Agency Fund Requirements (NOAFRs) requesting the PSC to issue orders directing Pepco, Verizon and Washington Gas to make deposits to the Office's Agency Fund.

Page 2

Ltr. Re: Draft Audit of OPC's Agency Fund for FY 2004
September 14, 2009

Again, OPC appreciates the Auditor permitting the Agency to comment on the draft report.

Sincerely,

A handwritten signature in black ink, reading "Elizabeth A. Noël". The signature is written in a cursive style with a large, sweeping initial "E".

Elizabeth A. Noël
People's Counsel