

C91H00
Office of People's Counsel

Operating Budget Data

(\$ in Thousands)

	FY 05	FY 06	FY 07	FY 06-07	% Change
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>	<u>Prior Year</u>
Special Fund	<u>\$2,352</u>	<u>\$2,582</u>	<u>\$2,659</u>	<u>\$77</u>	<u>3.0%</u>
Total Funds	\$2,352	\$2,582	\$2,659	\$77	3.0%

- The fiscal 2007 allowance for the Office of the People's Counsel (OPC) increases by \$76,593, or 3% above the fiscal 2006 working appropriation. This increase is primarily attributed to a \$73,229 increase in employee compensation.

Personnel Data

	FY 05	FY 06	FY 07	FY 06-07
	<u>Actual</u>	<u>Working</u>	<u>Allowance</u>	<u>Change</u>
Regular Positions	18.00	19.00	19.00	0.00
Contractual FTEs	<u>1.00</u>	<u>0.00</u>	<u>0.50</u>	<u>0.50</u>
Total Personnel	19.00	19.00	19.50	0.50

Vacancy Data: Regular Positions

Turnover, Excluding New Positions	0.52	2.76%
Positions Vacant as of 12/31/05	2.00	10.53%

- There is an additional 0.5 law clerk contractual position in fiscal 2007.
- Turnover expectancy is reduced from 3 to 2.76%.

Note: Numbers may not sum to total due to rounding.

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Analysis in Brief

Major Trends

Success in General Administration Division: OPC increases its participation in residential ratepayer cases and continues to successfully resolve consumer complaints and terminations.

Issues

Baltimore Gas & Electric Company Electric Utility Rate Cap Expiration: On June 30, 2006, Baltimore Gas & Electric Company’s (BGE) obligation to provide fixed-priced standard offer service to residential customers will expire, and all residential customers that receive electric utility services from BGE may experience significant increases in electric utility costs. **OPC should comment to the committees on what steps the agency has taken to ensure that consumers are aware of the BGE rate cap expiration in June 2006.**

Proposed Merger of Florida Power and Light Company and Constellation Energy Group: In December 2005, Florida Power & Light Company and Constellation Energy Group, the holding company for BGE, announced the merger of both companies creating the nation’s largest competitive energy supplier and second-largest electric utility portfolio. **OPC should comment to the committees on the potential impact of the proposed merger to consumers.**

BGE Gas Rate Increase: On April 29, 2005, BGE filed an application with the Public Service Commission to increase the base rate for its natural gas service. OPC filed testimony with PSC requesting that only a portion of the rate increase be granted. **OPC should comment to the committees on its role in protecting consumer interests and inform the committees of the potential impact of PSC’s recent ruling to consumers.**

Recommended Actions

	<u>Funds</u>
1. Delete new contractual law clerk position.	\$ 10,000
Total Reductions	\$ 10,000

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Operating Budget Analysis

Program Description

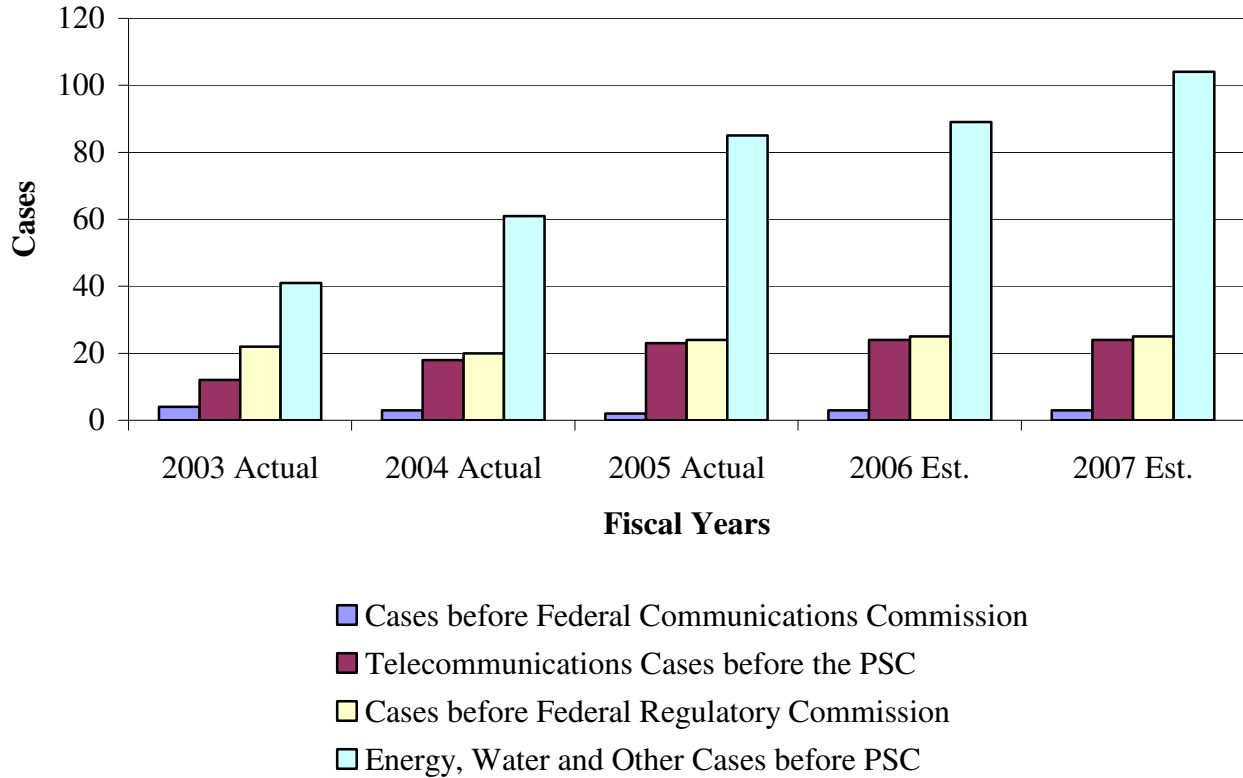
The Office of People's Counsel (OPC) represents the interests of residential and noncommercial users of gas, electricity, telephones, water, and sewer before the Public Service Commission (PSC), various federal agencies, and the courts. OPC monitors the development of competitive markets in gas, electric, and telephone service and initiates investigations that it deems necessary to protect the interests of residential and noncommercial users. OPC has the following three key goals:

- to obtain, preserve, and protect fair and equitable prices and high quality and reliable products and services for residential consumers of energy, telecommunications, and other regulated utility services;
- to keep the public informed about changes and new developments in the utility industry; and
- to continue protecting consumers from potential harm caused by the transition from fully regulated services to the competitive market.

Performance Analysis: Managing for Results

Exhibit 1 shows that OPC has been progressive in the number of cases in which it advocates on behalf of residential ratepayers. In 2005, OPC participated in 28%, or 30 more cases than the previous fiscal year. OPC attributes this success primarily to the implementation of its case management system which ensures that caseloads are balanced and fairly allocated among attorneys. Although it is impossible to accurately estimate the number of cases in which OPC will participate in a given year, OPC is expecting to increase its participation in litigation cases in the upcoming fiscal year.

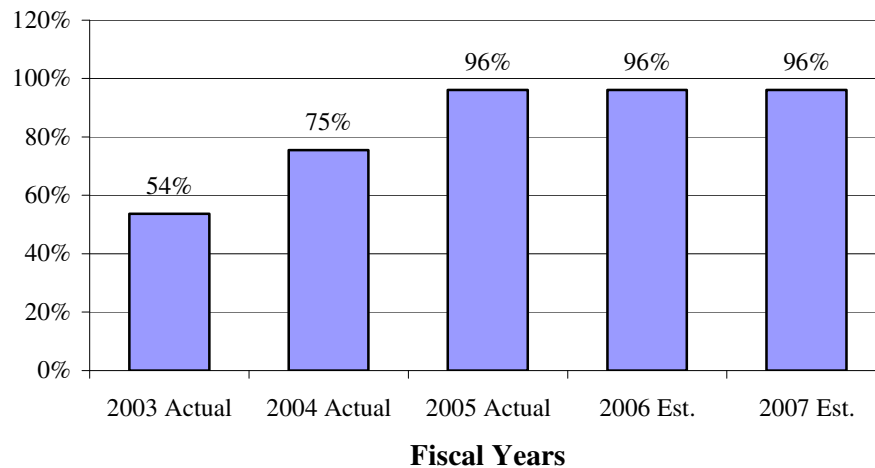
Exhibit 1
OPC Case Participation
Fiscal 2003 – 2007



Source: Office of the People’s Counsel

Exhibit 2 illustrates that OPC has successfully resolved the overwhelming majority of consumer complaints against utilities. In 2005, OPC successfully resolved 638 more cases than estimated. OPC attributes its success in handling consumer complaints to internal training and daily consumer meetings which, in conjunction with its tracking database, have enabled employees to work more efficiently.

Exhibit 2
Percentage of Complaints and Terminations Successfully Resolved
Fiscal 2003 – 2007



Source: Office of the People’s Counsel

Governor’s Proposed Budget

As illustrated in **Exhibit 3**, OPC’s fiscal 2007 allowance increased by 3%, or \$76,593 above the fiscal 2006 working appropriation. This increase is primarily driven by employee increments and health insurance. The allowance also includes a new 0.5 contractual position for a part-time law clerk.

Exhibit 3
Governor's Proposed Budget
Office of People's Counsel
(\$ in Thousands)

How Much It Grows:	Special Fund	Total
2006 Working Appropriation	\$2,582	\$2,582
2007 Governor's Allowance	<u>2,659</u>	<u>2,659</u>
Amount Change	\$77	\$77
Percent Change	3.0%	3.0%

Where It Goes:

Personnel Expenses

Increments and other compensation	\$73
Employee and retiree health insurance	68
Employees' retirement system	20
Restoration of deferred compensation match	19
Turnover adjustments	6
Other miscellaneous personnel adjustments	-12

Other Changes

11.1% reduction in utility consulting services to meet budgetary goals.....	-90
0.5 new full-time equivalent positions.....	10
Reduction of out-of-state travel and conferences	-13
Reduced computer maintenance fees.....	-16
Reduction of brochure and pamphlet expenses	-6
Rent paid to the Department of General Services.....	4
Office supplies.....	14

Total	\$77
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Note: Numbers may not sum to total due to rounding.

Issues

1. Baltimore Gas & Electric Company Electric Utility Rate Cap Expiration

The Electric Customer Choice and Competition Act of 1999 restructured the electric utility industry in Maryland, introducing “customer choice” of an electric supplier effective July 1, 2000. The electric industry provides three main services: (1) the generation of electricity; (2) the transmission of that electricity on high-capacity lines to distribution networks; (3) and the distribution of the electricity to customers. Before deregulation, the local electric utilities “bundled” these three services and provided them to their customers within their geographically defined monopoly service territories. While the generation component is deregulated, the transmission and distribution components remain regulated as monopoly services.

Customer choice allows the customer to purchase electricity generated by other sources and have the electricity delivered over transmission and distribution lines of the local electric utility. However, the customer has the option to remain with the supplier of the local electric utility under the “standard offer service” (SOS). PSC determined in April 2003 that the market in Maryland had not developed to the point that PSC could relieve the utilities of their SOS obligation. Subsequently, a new settlement was negotiated with each utility to extend the obligation of the utilities to provide SOS in their respective service territories. SOS customers pay a bid market price that is sufficient to provide the electric company with the opportunity to recover verifiable, prudently incurred costs to procure or produce the electricity plus a reasonable return. PSC reviews the final bid results of the utilities’ procurement of wholesale electric supply, retail prices to consumers, and enrollment activity. Currently, all rate cap restrictions have expired for residential, commercial, and industrial customers with the exception of Baltimore Gas & Electric Company (BGE) whose rates are frozen until June 30, 2006, and Allegheny Power (Potomac Edison Company) whose rates are frozen until December 31, 2008.

BGE has an exclusive monopoly franchise to serve as the gas and electric distribution utility in its service territory. BGE serves more than one million business and residential electric customers and over 600,000 gas customers in Baltimore City and in all or part of 10 counties¹ in central Maryland. Beginning July 1, 2006, BGE’s obligation to provide fixed-price standard offer service to residential customers will end, and all residential customers that receive electric supply from BGE will be charged market-based SOS rates. Joining PEPCO and Delmarva customers whose price caps expired in 2004, BGE customers who remain on its SOS may well experience increased costs from 20 to 35% on their monthly bills after their caps expire on June 30, 2006, according to industry observers.

OPC should comment to the committees on what steps the agency has taken to ensure that consumers are aware of the BGE rate cap expiration in June 2006.

¹ Anne Arundel, Baltimore, Calvert, Carroll, Cecil, Frederick, Harford, Howard, Montgomery, and Prince George’s counties.

2. Proposed Merger of Florida Power and Light Company and Constellation Energy Group

On Monday, December 19, 2005, Florida Power and Light Company (FPL) and Constellation Energy Group, the holding company for BGE and its affiliates announced the merger of both companies to form a combined company that will be known as Constellation Energy. The merger, which is expected to be closed by the fourth quarter of 2006, will create the nation’s largest competitive energy supplier and its second-largest electric utility portfolio serving approximately 5.5 million electric and gas customers and thousands of competitive wholesale and retail customers across the country. The merger will create a company with a market capitalization of approximately \$28 billion, combined annual revenues of \$27 billion, and \$57 billion in total assets.

Consumer advocates have raised concerns regarding FPL’s reliability. FPL has come under scrutiny for failing to restore service in a timely manner after hurricanes swept the state of Florida in 2005. On January 6, 2006, OPC filed a request for an investigation into the impact of the proposed merger with the PSC. OPC echoed concerns that profits generated from Baltimore customers would be diverted to help pay for hurricane damage affecting FPL’s customers in Florida. Industry observers have reported that Florida customers paid over \$1 billion to help pay for hurricane damage in the past two years.

OPC should comment to the committees on the potential impact of the proposed merger to consumers.

3. BGE Gas Rate Increase

The wholesale price of natural gas as a commodity is not subject to regulation. All BGE gas customers have the option to purchase gas from alternative suppliers, including subsidiaries of Constellation Energy. BGE delivers gas service to over 620,000 customers across a gas service territory of 800 square miles. The delivery service is regulated by PSC.

Approximately 50% of the gas delivered on BGE’s distribution system is for customers that purchase gas from alternative suppliers. These customers are charged fees to recover the costs BGE incurred to deliver the customers’ gas through its distribution system. For customers that buy their gas from BGE, a market-based rates incentive mechanism is used whereby the actual cost of gas is compared to a market index, and the difference between the actual cost and the market index is shared equally among BGE shareholders and customers.

On April 29, 2005, in Case No. 9036, BGE filed an application with the PSC requesting an increase in its base rates for natural gas service. BGE indicated that pursuant to §4-101 of the Public Utility Companies Article, *Annotated Code of Maryland*, that it was entitled to a reasonable return which would enable the company to properly discharge its duties as a public service company. BGE explained that increased costs due to inflation and numerous changes in the business environment and

energy industry would result in an expected rate of return of 5.01% (12-month period ending July 31, 2005), which was well below BGE’s authorized rate of return on 8.1%.

The proposed rates were designed to produce additional annual revenues of \$52.7 million, or an expected rate of return of 8.9%. Under the revised rate plan, the average cost of gas service to customers was expected to increase by approximately 4.7%, or \$4.00 per month for a typical residential customer with gas heating.

In August 2005, OPC filed testimony with PSC regarding BGE’s rate increase request. OPC’s expert witnesses reviewed BGE’s rate request increase and asked that only a portion of the increase be granted (approximately \$20.85 million) and that the allowed rate of return for BGE be lowered to 7.8%.

On December 21, 2005, in Order No. 80460, the commission rejected BGE’s request to increase gas base rates by \$52.7 million. Instead, the commission approved a revenue increase of \$35.6 million and an annual rate of return of 8.49%. As a result of the commission’s ruling, residential customers will pay no more than \$3 per month in additional fees. The increase will raise the monthly flat fee, which is charged regardless of whether a customer uses gas each month to \$13.

OPC should comment to the committees on its role in protecting consumer interests and inform the committees of the potential impact of PSC’s recent ruling to consumers.

Recommended Actions

	<u>Amount Reduction</u>
1. Delete new contractual law clerk position. The position is not essential to the Office of People’s Counsel’s fiscal operations.	\$ 10,000 SF
Total Special Fund Reductions	\$ 10,000

Current and Prior Year Budgets

Current and Prior Year Budgets Office of the People's Counsel (\$ in Thousands)

	<u>General Fund</u>	<u>Special Fund</u>	<u>Federal Fund</u>	<u>Reimb. Fund</u>	<u>Total</u>
Fiscal 2005					
Legislative Appropriation	\$0	\$2,569	\$0	\$0	\$2,569
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	0	0	0	0
Reversions and Cancellations	0	-217	0	0	-217
Actual Expenditures	\$0	\$2,352	\$0	\$0	\$2,352
Fiscal 2006					
Legislative Appropriation	\$0	\$2,582	\$0	\$0	\$2,582
Budget Amendments	0	0	0	0	0
Working Appropriation	\$0	\$2,582	\$0	\$0	\$2,582

Note: Numbers may not sum to total due to rounding.

Fiscal 2005

In fiscal 2005, due to a special fund cancellation, the total budget for OPC decreased by \$216,647. This decrease was attributed to unrealized expenditures for previously encumbered consultant contracts.

Fiscal 2006

The fiscal 2006 working appropriation is the same as the fiscal 2006 legislative appropriation.

**Object/Fund Difference Report
Office of People's Counsel**

<u>Object/Fund</u>	<u>FY05 Actual</u>	<u>FY06 Working Appropriation</u>	<u>FY07 Allowance</u>	<u>FY06 - FY07 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	18.00	19.00	19.00	0	0%
02 Contractual	1.00	0	0.50	0.50	N/A
Total Positions	19.00	19.00	19.50	0.50	2.6%
Objects					
01 Salaries and Wages	\$ 1,490,564	\$ 1,512,736	\$ 1,687,039	\$ 174,303	11.5%
02 Technical & Spec Fees	561,882	811,455	732,547	-78,908	-9.7%
03 Communication	37,071	49,216	53,734	4,518	9.2%
04 Travel	12,853	19,680	7,000	-12,680	-64.4%
07 Motor Vehicles	8,948	10,364	10,800	436	4.2%
08 Contractual Services	72,689	53,556	28,496	-25,060	-46.8%
09 Supplies & Materials	38,963	20,470	34,010	13,540	66.1%
11 Equip - Additional	5,158	0	0	0	0.0%
12 Grants, Subsidies, and Contributions	0	7,017	7,017	0	0%
13 Fixed Charges	124,038	97,738	98,182	444	0.5%
Total Objects	\$ 2,352,166	\$ 2,582,232	\$ 2,658,825	\$ 76,593	3.0%
Funds					
03 Special Fund	\$ 2,352,166	\$ 2,582,232	\$ 2,658,825	\$ 76,593	3.0%
Total Funds	\$ 2,352,166	\$ 2,582,232	\$ 2,658,825	\$ 76,593	3.0%

Note: The fiscal 2006 appropriation does not include deficiencies, and the fiscal 2007 allowance does not reflect contingent reductions.

