



Deborah K. Nichols
District of Columbia Auditor
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OFFICE OF THE DISTRICT OF COLUMBIA AUDITOR

717 14TH STREET N.W., SUITE 900
WASHINGTON, D.C. 20005
TEL. 202-727-3600 • FAX: 202-724-8814

Audit of the People's Counsel
Agency Fund for Fiscal Year 2001

September 29, 2003

EXECUTIVE SUMMARY

PURPOSE

Pursuant to D.C. Code, Section 34-912(a)(6), and Public Law 93-198, Section 455, the District of Columbia Auditor conducted an audit of the fiscal year 2001 financial activities of the Office of the People's Counsel (OPC) Agency Fund.

CONCLUSION

The Auditor found that during fiscal year 2001 public utility assessments totaling \$1,071,600 were deposited into the Office of the People's Counsel Agency Fund and recorded in the District's System of Accounting and Reporting.

During fiscal year 2001, the Office of the People's Counsel disbursed \$584,707.04 from the Agency Fund for expenses related to ongoing case activity. The Auditor found that \$584,707.04 in fiscal year 2001 expenditures processed against OPC's Agency Fund for ongoing case activity appeared to be reasonable and necessary as required by D.C. Code, Section 34-912. The Auditor successfully reconciled the expense vouchers to the District's accounting system. During fiscal year 2001, OPC did not close or terminate any formal cases, and no refunds were made to public utility companies.

PURPOSE

Pursuant to D.C. Code, Section 34-912(a)(6), and Public Law 93-198, Section 455, the District of Columbia Auditor conducted an audit of the fiscal year 2001 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 Office of the People's Counsel Agency Fund for fiscal year 2001;
2. determine whether expenses charged to OPC's Agency Fund were supported by adequate documentation and whether expenses for ongoing case activity 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 OPC's Agency Fund.

The audit covered OPC's Agency Fund receipts, expenditures, and refunds for fiscal year 2001.

To accomplish the audit objectives, the Auditor reviewed public utility deposits to OPC's Agency Fund and reconciled the deposits to the District's System of Accounting and Reporting (SOAR). SOAR reflects all financial activity processed against OPC's Agency Fund during fiscal year 2001. The audit team also reconciled deposits made to OPC's Agency Fund to confirmation statements provided by Potomac Electric Power Company (PEPCO), Washington Gas, and Verizon.

The audit team 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 performed in accordance with generally accepted governmental auditing standards and included such tests of the accounting records as were deemed necessary under the circumstances.

BACKGROUND

Pursuant to D.C. Law 5-153, "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 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 Office of the People's Counsel, 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 2001

As previously noted, D.C. Code, Section 34-912, permits the Office of the People's Counsel 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 Office of the People's Counsel develops an estimate of expenses necessary to carry out its work in each proceeding before the PSC. The PSC must first review and approve OPC's estimate before it orders a public utility to deposit sufficient funds into OPC's Agency Fund to cover its estimated expenses. Upon receipt of deposits from a public utility, OPC awards contracts to consultants to perform work as stated in the contract. Consultants submit monthly invoices to the Office of the People's Counsel for payment. OPC officials are required to review consultants' invoices and, if appropriate, prepare vouchers to pay for services rendered.

Summary of OPC's Agency Fund Receipts, Expenditures, and Refunds for Fiscal Year 2001

Table I summarizes OPC's Agency Fund receipts, expenditures, and refunds for fiscal year 2001.

TABLE I

**Office of the People's Counsel Agency Fund:
Statement of Receipts, Expenditures, and Refunds For
Fiscal Year Ending September 30, 2001**

Beginning Balance (10/01/00)	\$ 908,639.59
Receipts	1,071,600.00
Expenditures	(584,707.04)
Refunds to Utilities	<u>0.00</u>
Ending Balance (09/30/01)	<u><u>\$1,395,532.55</u></u>

Source: Office of the D.C. Auditor

On October 1, 2000, the beginning balance in OPC's Agency Fund was \$908,639.59. Receipts of \$1,071,600 less expenditures of \$584,707.04 resulted in an Agency Fund balance of \$1,395,532.55. During fiscal year 2001, OPC did not close or terminate any formal cases, therefore, no refunds were made to public utility companies. The ending balance is a reserve balance to be used for authorized expenses pertaining to ongoing case activity.

Fiscal Year 2001 OPC Agency Fund Assessment Deposits and Refunds

During fiscal year 2001, the OPC filed with the Public Service Commission seven Notices of Agency Fund Requirements orders requesting the PSC to direct PEPCO to provide a total of \$548,100 for deposit into OPC's Agency Fund. PEPCO responded by submitting seven checks totaling \$548,100. The OPC also filed with the PSC three additional Notices of Agency Fund Requirements orders requesting the PSC to direct Washington Gas to provide \$523,500 for deposit into OPC's Agency Fund. Washington Gas responded by submitting three checks totaling \$523,500.

During fiscal year 2001, OPC did not close or terminate any formal cases, therefore, no refunds were made to public utility companies.

The audit team reconciled revenue deposits of \$1,071,600 to D.C. Treasury deposit tickets, SOAR financial reports, confirmation statements provided by the public utilities, and to OPC's fiscal year 2001 Trust Fund Reconciliation Report which was submitted to the Mayor and Council of the District of Columbia.

Table II presents fiscal year 2001 deposits made to OPC's 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 2001**

Public Utility	Formal Case Number	Amount of Deposit	Date OPC Received Check	Date of Deposit
PEPCO	945	\$ 220,000	05/24/01	05/31/01
	945	\$ 78,000	08/20/01	08/21/01
	991	\$ 15,000	06/18/01	06/26/01
	991	\$ 125,000	08/20/01	08/21/01
	1002	\$ 60,000	08/20/01	08/20/01
	ET00-2-19	\$ 15,100	11/02/00	11/13/00
	ET00-2-19	\$ 35,000	02/22/01	03/09/01
Total PEPCO		\$ 548,100		
Washington Gas	874	\$ 71,000	08/07/01	08/10/01
	989	\$ 433,000	06/21/01	06/26/01
	989	\$ 19,500	03/27/01	04/05/01
Total Washington Gas		\$ 523,500		
Total Utility Deposits		<u>\$ 1,071,600</u>		

Source: Office of the People's Counsel and the Office of the D.C. Auditor

Fiscal Year 2001 Expenditures Processed Against OPC's Agency Fund Appeared To Be Reasonable and Necessary As Required by D.C. Code, Section 34-912

During fiscal year 2001, the OPC processed 141 expense vouchers totaling \$584,707.04 against the OPC Agency Fund. The audit team successfully reconciled the \$584,707.04 in expenditures to individual expense vouchers and the District's accounting system.

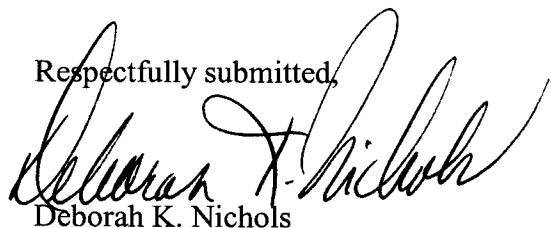
Approximately 97%, or \$569,513.72, of the total confirmed expenses paid by OPC during fiscal year 2001 were for services provided by attorneys, economist and engineer consultants, and certified public accountants. Three percent (3%), or \$15,193.32, of the confirmed expenses were for administrative costs which included copying, telecommunications, delivery, and transportation services. OPC's Agency Fund expenditures for ongoing case activity appeared to be reasonable and necessary 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.

CONCLUSION

The Auditor found that during fiscal year 2001 public utility assessments totaling \$1,071,600 were deposited into the Office of the People's Counsel Agency Fund and recorded in the District's System of Accounting and Reporting.

During fiscal year 2001, the Office of the People's Counsel disbursed \$584,707.04 from the Agency Fund for expenses related to ongoing case activity. The Auditor found that \$584,707.04 in fiscal year 2001 expenditures processed against OPC's Agency Fund for ongoing case activity appeared to be reasonable and necessary as required by D.C. Code, Section 34-912. The Auditor successfully reconciled the expense vouchers to the District's accounting system. During fiscal year 2001, OPC did not close or terminate any formal cases, and no refunds were made to public utility companies.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deborah K. Nichols", is written over the printed name.

Deborah K. Nichols

District of Columbia Auditor

APPENDIX

APPENDIX I

**Description of Formal Cases
In Which Public Utilities Made Deposits to the
Office of the People's Counsel Agency Fund
During Fiscal Year 2001**

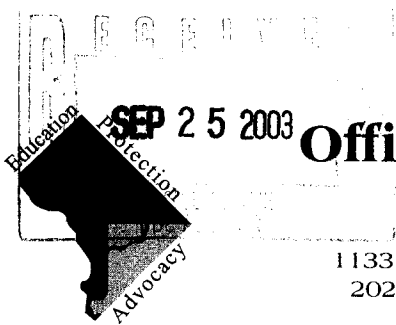
Formal Case Number	Description of Case
PEPCO	
945	In the Matter of the Investigation into Electric Services Market Competition and Regulatory Practices, Order Nos. 12006 and 12094
991	In the Matter of the Investigation into Explosions Occurring In or Around the Underground Distribution System of PEPCO, Order Nos. 12025 and 12095
1002	In the Matter of the Joint Application of PEPCO and New RC, Inc. for Authorization and Approval of Merger Transaction, Order No. 12096
ET00-2-19	In the Matter of the Investigation into PEPCO's Public Space Occupancy Surcharge, Order Nos. 11820 and 11919
WASHINGTON GAS	
874	In the Matter of the Gas Acquisition Strategies for the District of Columbia Natural Gas, a Division of Washington Gas Light Company, Order No. 12089
989	In the Matter of the Office of the People's Counsel Complaint for a Commission-Ordered Investigation into the Reasonableness of Washington Gas Light Company's Existing Rates, Order Nos. 11953 and 12026

AGENCY COMMENTS

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On September 12, 2003, the Office of the District of Columbia Auditor submitted this report in draft for review and comment to the Chief Financial Officer of the Office of the People's Counsel, the People's Counsel of the Office of the People's Counsel, and the District of Columbia Chief Financial Officer (CFO).

Written comments were received from the People's Counsel of the Office of the People's Counsel on September 25, 2003. 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.



Office of the People's Counsel District of Columbia



1133 15th Street, NW • Suite 500 • Washington, DC 20005-2710
202.727.3071 • FAX 202.727.1014 • TTY/TDD 202.727.2876

September 25, 2003

Elizabeth A. Noël
People's Counsel

Deborah K. Nichols
District of Columbia Auditor
717 14th Street, N.W.
Suite 900
Washington, D.C. 20005

Dear Ms. Nichols:

The Office of the People's Counsel of the District of Columbia appreciates the opportunity to comment on your draft audits of the Miscellaneous Trust Fund for fiscal years 2001 and 2002. As always, the Office welcomes your review of the management, financial and accounting practices applied to the Trust Fund.

First, the audit as a whole was excellent, and as you know, it was clean with respect to FY 2001. With respect to FY 2002, the audit revealed only one issue relative to a \$40,000 deposit

"into OPC's Agency Fund on October 4, 2001. However, the **OPC** did not record this deposit in its fiscal year 2001 Trust Fund Reconciliation Report nor in its fiscal year 2002 Trust Fund Reconciliation Report." (FY 2002 audit, p. 5)
(emphasis added)

It appears not recording the deposit in either Reconciliation Report was a clerical oversight, a matter the CFO has corrected and addresses in the enclosed letter to you. The language in the audit that "**OPC did not record**" the deposit raises a fundamental notion of fairness that has troubled OPC since all District government financial officers were redeployed in 1999.

As you know, OPC does not handle its financial matters. With our financial officer under the direct control and supervision of the District's Chief Financial Officer, OPC, the Agency, has no control whatsoever over our CFO. Handling of the Agency Fund, as well as our operating budget, rests entirely with OPC's CFO, Irvin L. Logan. The point is that the draft audit report attributes the oversight to OPC, not the Office of the CFO.

Writing "OPC did not record" the deposit would seem to imply OPC had some degree of control over transactions in the Trust Fund. This is not accurate.

The unfairness of the attribution in this instance, as well as in any past or future audits, is this report is for the *Office of the People's Counsel's* Agency Fund, not for the Chief Financial Officer's Agency Fund. We are unaware of any publication, other than this report, which will indicate the *Office of the CFO* has made an auditing error. Instead, OPC's audit report will shows an accounting error, which resulted from "OPC's failure" to record a deposit appropriately, clearly erroneous.

The Office asks that the sentence in the fourth paragraph on page 5 regarding the deposit be changed to "However, the ~~OPC~~ CFO for the Agency did not record this deposit. . . ." This change will reflect the CFO has sole control over the Agency Fund.

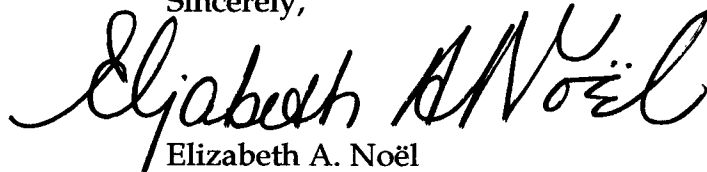
With respect to the audit report's recommendation on this matter, the report correctly addresses the action to be taken by the CFO, not the Office of the People's Counsel. "The chief financial office for . . . [OPC] should correct . . . the 2002 . . . Reconciliation Report. . . ."

With the above noted exception OPC is pleased to know the audit conclusions found no inconsistencies and that your office was able to successfully reconcile deposits to and disbursements from the Trust Fund. The Office certainly appreciates the work being done by our CFO, Irv Logan, and his staff.

As I indicated, Mr. Logan's written comments regarding the correction taken to address the CFO's reporting of the Trust Fund deposit in question is enclosed.

Please me or have your staff contact Mr. Logan at 626.5133 if you have any concerns or other issues.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth A. Noël". The signature is fluid and cursive, with the first name "Elizabeth" and last name "Noël" clearly distinguishable.

Elizabeth A. Noël
People's Counsel

Enclosure

cc: Irvin L. Logan

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER**



SEP 25 2003

September 25, 2003

Deborah K. Nichols
District of Columbia
Office of the District of Columbia Auditor
717 14th Street, NW
Suite 900
Washington, DC 20005

Dear Ms. Nichols:

This letter responds to your office's mandated review of the Office of the People's Counsel's Agency Fund.

The draft audit reports did not identify material findings for fiscal years 2002 and 2001. However, a clerical error was observed in the 2002 Trust Fund Reconciliation Report. The report has been corrected to reflect the deposit of \$40,000.00 from Verizon for the associated formal proceeding. Revised statements will be disseminated with the issuance of the FY 2003 report.

I am pleased with the results of your review, and I appreciate the cooperation of you and your staff in this matter. Please contact me at (202) 626-5133 if you have any questions.

Sincerely,

Irvin L. Logan
Chief Financial Officer

cc: Elizabeth A. Noël