

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE INSPECTOR GENERAL**

PUBLIC SERVICE COMMISSION

REPORT OF INSPECTION

February 2010



**CHARLES J. WILLOUGHBY
INSPECTOR GENERAL**

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General



February 2, 2010

Betty Ann Kane
Chairperson
Public Service Commission
1333 H Street, N.W., 7th Floor, East Tower
Washington, D.C. 20005

Dear Ms. Kane:

Enclosed is our *Report of Inspection of the Public Service Commission* (OIG No. 10-I-0033DH). Comments from PSC on the inspection team's 13 findings and 19 recommendations are included in the report.

In addition, we have enclosed *Compliance Forms* on which to record and report to this Office any actions you take concerning each recommendation. These forms will assist you in tracking the completion of action(s) taken by your staff, and will assist this Office in its inspection follow-up activities. We track agency responses to all conditions cited and compliance with recommendations made in our reports of inspection. We request that you and your staff establish response dates on the forms and advise us of those dates so we can enter them on our copies of the *Compliance Forms*. We know that in some instances, matters beyond your control such as budget decisions impact on trying to set specific deadlines. We request, however, that you assign *target dates* based on your knowledge and experience regarding particular issues. Please ensure that the *Compliance Forms* are returned to the OIG by the response date, and that reports of "Agency Action Taken" reflect actual completion, in whole or in part, of a recommended action rather than "planned" action.

We appreciate the cooperation shown by you and your employees during the inspection and look forward to your continued cooperation during the upcoming follow-up period. If you have questions or comments concerning this report or other matters related to the re-inspection, please contact me or Alvin Wright Jr., Assistant Inspector General for Inspection and Evaluations, at (202) 727-2540.

Sincerely,



Charles J. Willoughby
Inspector General

CJW/klb

Enclosure

cc: **See Distribution List**

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Inspections and Evaluations Division
Mission Statement

The Inspections and Evaluations (I&E) Division of the Office of the Inspector General is dedicated to providing District of Columbia (D.C.) government decision makers with objective, thorough, and timely evaluations and recommendations that will assist them in achieving efficiency, effectiveness, and economy in operations and programs. I&E goals are to help ensure compliance with applicable laws, regulations, and policies, to identify accountability, recognize excellence, and promote continuous improvement in the delivery of services to D.C. residents and others who have a vested interest in the success of the city.

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ACRONYMS

ACRONYMS

| | |
|----------------|---|
| ALJ | Administrative Law Judge |
| CBOR | Consumer Bill of Rights |
| C/PSC | Chairperson of PSC |
| CY | Calendar Year |
| D/DDOE | Director of the District Department of the Environment |
| DDOE | District Department of the Environment |
| DDOT | District Department of Transportation |
| D/DHS | Director of DHS |
| DHS | Department of Human Services |
| EEO | Equal Employment Opportunity |
| FCC | Federal Communications Commission |
| FTE | Full-Time Equivalent |
| FY | Fiscal Year |
| GAO | U.S. Government Accountability Office (previously known as the General Accounting Office) |
| I&E | Inspections and Evaluations |
| IMA | Income Maintenance Administration |
| NARUC | National Association of Regulatory Utility Commissioners |
| NOPR | Notice of Proposed Rulemaking |
| NOPV | Notice of Probable Violation |
| OCS | Office of Consumer Services (previously known as the Consumer Services Division) |
| ODEDRM | Office of the Deputy Executive Director for Regulatory Matters |
| OGC | Office of the General Counsel |
| OHR | Office of Human Rights |

ACRONYMS

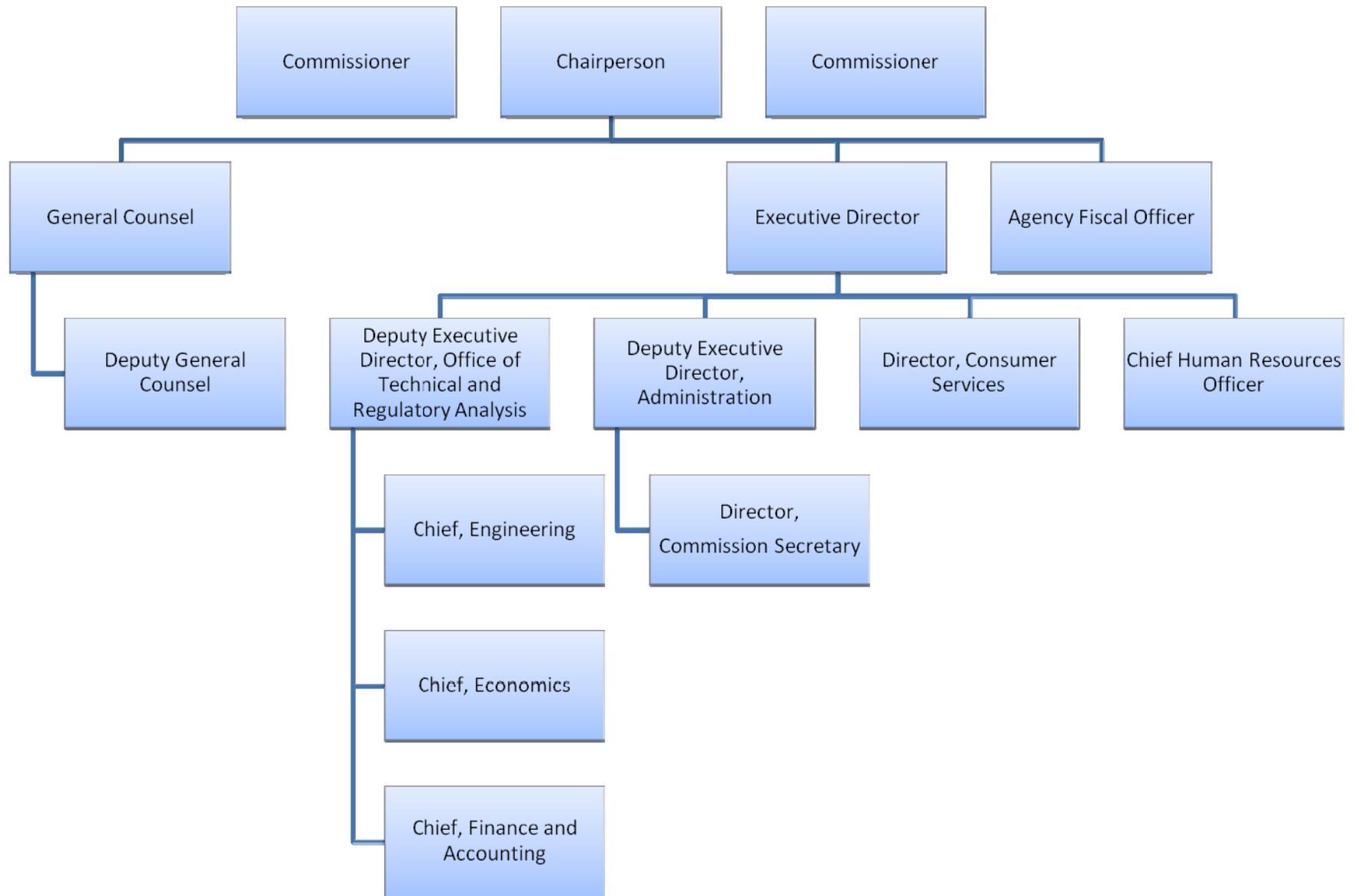
| | |
|--------------|---|
| OIG | Office of the Inspector General |
| OPC | Office of the People’s Counsel |
| OTRA | Office of Technical and Regulatory Analysis (former name of ODEDRM) |
| PSC | Public Service Commission |
| RFP | Request for Proposal |
| USDA | U.S. Department of Agriculture |
| USDOT | U.S. Department of Transportation |

ACRONYMS

ORGANIZATION CHART

ORGANIZATION CHART

ORGANIZATION CHART



Based on organization chart from PSC's website. See <http://www.dcpssc.org/abt/orgstructure.shtm> (last visited Jun. 3, 2009).

ORGANIZATION CHART

EXECUTIVE SUMMARY

EXECUTIVE SUMMARY

Overview

The Inspections and Evaluations (I&E) Division of the Office of the Inspector General (OIG) first conducted field work for an inspection of the Public Service Commission (PSC) in December 2005. That effort was overtaken by other work requirements and a report was not issued. This report is based on fieldwork conducted at PSC between June 2008 and January 2009.

PSC regulates utilities in the District, and its mission “is to serve the public interest by ensuring that financially healthy electric, gas, and telecommunications companies provide safe, reliable, and quality utility services at reasonable rates for District of Columbia residential, business, and government customers.”¹ The inspection examined PSC’s role in utility safety, utility reliability, regulation of rates, encouraging competition, complaint resolution, consumer education, and involuntary utility shut-offs.

The team conducted 66 interviews, reviewed files and documents, and issued a confidential survey to PSC employees. Interviewees included external stakeholders as well as PSC officials and employees. A list of the report’s 13 findings and 19 recommendations is at Appendix 1. The team also issued a Compliance Form for Priority Matter (see Appendix 2) regarding deficiencies in Equal Employment Opportunity (EEO) record storage.

Summary of Compliance Form for Priority Matter

Sensitive Equal Employment Opportunity (EEO) complaint material was not stored securely (Page 13). The team found that EEO documents, including those with complainants’ names, were not stored securely at PSC. The OIG issued a Compliance Form for Priority Matter to PSC regarding this issue. In response, a PSC senior official indicated that secure storage had been provided for EEO records. The Compliance Form and PSC’s response can be found at Appendix 2.

Key Findings

Deficiencies found in both Miss Utility/One Call and Pipeline Safety Program inspections (Page 16). Miss Utility/One Call inspections focus on excavations performed by third parties, such as site owners, near underground utilities. The Pipeline Safety Program inspects pipeline construction, maintenance, and other activities by Washington Gas. Recent enforcement actions following Miss Utility/One Call inspections were limited to verbal warnings, and inspections were not conducted throughout the year, although excavations that are subject to inspection are performed year-round. Enforcement action for the Pipeline Safety Program has not been timely, and warning letters are not consistently issued when Pipeline Safety Program inspections reveal violations. Finally, PSC awarded noncompetitive contracts for Miss Utility/One Call inspections to a vendor who lacked utility inspection experience.

¹ [Http://www.dcpsc.org/abt/mission.shtm](http://www.dcpsc.org/abt/mission.shtm) (last visited Jan. 13, 2009).

EXECUTIVE SUMMARY

Participation in the District's utility discount programs is low (Page 27). Utility discount programs provide lower utility rates to consumers with an income at or below a threshold of 150 percent of the federal poverty level. Less than one-third of the eligible population in the District was enrolled in each of the three utility discount programs during fiscal years (FY) 2004 through 2008. Factors contributing to low enrollment included lack of communication, literacy issues, and the eligibility determination process. As a result of these issues, eligible residents who would benefit from utility assistance are not enrolling in low-income discount programs.

PSC has not proactively addressed electricity reliability concerns (Page 31). The only two power plants in the District will be decommissioned by 2013. Facing similar issues with electricity reliability, the Maryland PSC identified a need for action to address shortages in electricity capacity that may force mandatory usage restrictions, such as rolling blackouts, by 2011 or 2012. PSC's approach to addressing electricity reliability issues has included reviewing energy efficiency and demand-management proposals in Pepco's *Blueprint for the Future*, but PSC decisions on these proposals have been delayed.

Employees expressed concerns regarding treatment by PSC managers (Page 35). Interviewees and survey respondents opined that some managers do not treat employees respectfully, that managers do not provide enough positive feedback, and that employees do not receive adequate recognition or rewards. While PSC has taken some actions in the recent past to address morale, interviewees continue to express morale concerns.

Additional Findings

The team found that PSC's:

- decisions in formal cases are not timely;
- evaluation and coordination of consumer education and outreach efforts are limited; and
- resolution of informal and formal consumer complaints is not timely, and further training for informal complaint resolution is needed.

Recommendations

The OIG made 19 recommendations to PSC to improve the deficiencies noted, establish and implement internal controls, and increase operational effectiveness. Some recommendations focused on developing written policies and procedures and ensuring adequate staffing.

EXECUTIVE SUMMARY

INTRODUCTION

INTRODUCTION

Background and Perspective

The Inspections and Evaluations (I&E) Division of the Office of the Inspector General (OIG) first conducted field work for an inspection of the Public Service Commission (PSC) in December 2005. That effort was overtaken by other work requirements and a report was not issued. This report is based on fieldwork conducted at PSC between June 2008 and January 2009.

PSC regulates utilities in the District, and its mission “is to serve the public interest by ensuring that financially healthy electric, natural gas, and telecommunications companies provide safe, reliable, and quality utility services at reasonable rates for District of Columbia residential, business, and government customers.”² PSC resolves disputes between utility providers and consumers, educates consumers, conducts safety inspections, investigates outages, and issues decisions regarding utility rate cases and other matters. In fiscal year (FY) 2009, PSC had an approved budget of \$9,971,963 and 67.6 full-time equivalent (FTE) positions.

Since 2001, District customers have had the ability to choose their electric, natural gas, and telephone service providers. On customers’ bills, electricity rates have been separated into generation, transmission, and distribution services. Customers can choose their electricity generation and transmission providers; Pepco is the sole electric distribution company. Natural gas customers can choose their commodity gas suppliers; Washington Gas is the District’s sole natural gas distribution company. PSC sets the rates charged to consumers for natural gas and electricity distribution, but not the price of natural gas itself or electricity generation and transmission. PSC also sets rates for Verizon’s basic residential telephone services.

During the inspection, the team found deficiencies that should be addressed by PSC management, the District Department of the Environment (DDOE), and the Department of Human Services (DHS).

Scope and Methodology

OIG inspections comply with standards established by the Council of Inspectors General on Integrity and Efficiency, and pay particular attention to the quality of internal control.³ The team assessed PSC’s compliance with District statutes and regulations and reviewed relevant best practices.

The inspection examined PSC’s role in utility safety, utility reliability, regulation of rates, utility market competition, complaint resolution, consumer education, and involuntary utility shut-offs. The team assessed several areas that did not warrant findings, including PSC’s efforts to reduce electricity outages, revenue tracking, and travel records. In addition, the team noted

² [Http://www.dcpsc.org/abt/mission.shtm](http://www.dcpsc.org/abt/mission.shtm) (last visited Jan. 13, 2009).

³ “Internal control” is synonymous with “management control” and is defined by the Government Accountability Office as comprising “the plans, methods, and procedures used to meet missions, goals, and objectives and, in doing so, supports performance-based management. Internal control also serves as the first line of defense in safeguarding assets and preventing and detecting errors and fraud.” STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT, Introduction at 4 (Nov. 1999).

INTRODUCTION

that PSC has developed quality of service standards to better monitor issues such as utility service outages. All PSC officials and staff members were cooperative and responsive throughout the inspection.

The team conducted 66 interviews, reviewed files and documents, and issued a confidential survey to PSC employees. Interviewees included external stakeholders as well as PSC officials and employees. A list of the report's 13 findings and 19 recommendations is at Appendix 1. The team also issued a Compliance Form for Priority Matter (see Appendix 2) regarding deficiencies in EEO complaint records storage.

PSC reviewed the draft of this report prior to publication. The OIG requested that PSC note agreement or disagreement with each of the report's recommendations as well as provide any explanatory comments. On October 15, 2009, PSC provided its written response to the draft report but did not note whether it agreed or disagreed with each of the recommendations (see Appendix 3 for PSC's first written response). Comments from PSC's response specific to individual findings appear verbatim after the recommendations of each finding and were line numbered by the OIG for reference in the OIG responses. After the OIG sent PSC a second request to indicate agreement or disagreement with each of the recommendations, PSC provided this information on November 3, 2009 (see Appendix 4 for PSC's second written response).

Note: The OIG does not correct an agency's grammatical or spelling errors, but does format an agency's responses in order to maintain readability of OIG reports. Such formatting is limited to font size, type, and color, with the following exception: if an agency bolds or underlines text within its response, the OIG preserves these elements of format.

Compliance and Follow-Up

The OIG inspection process includes follow-up with PSC on findings and recommendations. Compliance forms will be sent to PSC along with this report of inspection. The I&E Division will coordinate with PSC on verifying compliance with recommendations over an established period. In some instances, follow-up inspection activities and additional reports may be required.

INTRODUCTION

EMPLOYEE SURVEY

EMPLOYEE SURVEY

Survey Methodology

In January 2009, the team distributed 53 confidential online surveys to PSC employees,⁴ and analyzed 48 responses, which represents a response rate of 90.6 percent.⁵

In addition to gathering demographic information from respondents, the survey consisted of two types of questions. First, employees responded to closed-ended statements by selecting from a Likert scale of Strongly Agree, Agree, Disagree, Strongly Disagree, and Not Applicable. In the following table of survey results, the Agree column represents the combined responses for the Agree and Strongly Agree answers, while the Disagree column represents the combined responses for the Disagree and Strongly Disagree answers. The following table lists the percent and frequency of Agree and Disagree responses as well as the frequency of Not Applicable responses. The percent of Agree and Disagree responses is based on the total number of Agree and Disagree responses, excluding Not Applicable responses. The second type of questions were open-ended questions to solicit employees' narrative feedback.

Table 1: Results from Closed-Ended Survey Questions

| Employee Survey—Responses to Closed-Ended Questions | | | |
|--|-----------------------|-------------|----------------|
| Item | Percent and Frequency | | Frequency |
| | Agree | Disagree | Not Applicable |
| 1. I am treated respectfully by senior agency management. | 81.2% 39 | 18.8% 9 | (0) |
| 2. I can disagree with my superiors/management without fear of retribution. | 56.5% 26 | 43.5% 20 | (2) |
| 3. My direct supervisor provides me with useful and constructive feedback when reviewing my work. | 77.1% 37 | 22.9% 11 | (0) |
| 4. Morale is positive at PSC. | 30.4% 14 | 69.6% 32 | (2) |
| 5. My division has adequate staff to complete work timely. | 52.1% 25 | 47.9% 23 | (0) |
| 6. The different divisions at PSC work collaboratively and effectively together. | 46.8% 22 | 53.2% 25 | (1) |
| 7. There are written policies and procedures to cover all key aspects of my duties and responsibilities. | 66.7% 30 | 33.3% 15 | (3) |
| 8. My job description adequately reflects what I do on a daily basis. | 82.2% 37 | 17.8% 8 | (3) |

⁴ The survey was not distributed to PSC's Commissioners, Executive Director, or General Counsel.

⁵ The survey results were analyzed on January 26, 2009. The team received 51 responses. Two surveys were excluded in which the only questions answered were the two initial background questions. A third was excluded because it was received after the date of analysis.

EMPLOYEE SURVEY

| Employee Survey—Responses to Closed-Ended Questions | | | |
|---|-----------------------|-------------|----------------|
| Item | Percent and Frequency | | Frequency |
| | Agree | Disagree | Not Applicable |
| 9. I receive recognition (i.e., acknowledgements, bonuses, etc.) when my performance exceeds management’s expectations. | 35.0% 14 | 65.0% 26 | (8) |
| 10. PSC ensures that employees are adequately trained to perform their duties and responsibilities. | 73.3% 33 | 26.7% 12 | (3) |

Open-Ended Questions

PSC employees were asked to respond to open-ended questions. Responses to a question regarding what PSC does well included the quality of PSC’s work, the resolution of consumer complaints, and the work of the Office of the General Counsel (OGC). Responses regarding what PSC does not do well cited poor communication within PSC, lack of recognition and rewards for employees, and concerns with morale.

PSC’s October 2009 Response, as Received:

We take issue with the inclusion of bonuses in the item 9 statement since they have not been allowed for several years. Consequently, we do not think it is fair to ask employees if they were given bonuses when we are prohibited from giving them. Under the circumstances, the inclusion of bonuses in the statement creates a bias that contributes to the highly negative response.

OIG Response: The OIG is not aware of any applicable District prohibition on bonuses except for the October 2009 restriction, which came after the draft report was issued to PSC. Because bonuses are prohibited for FY 2010, we recommend that PSC explore other ways to recognize employee performance. In addition, PSC received a highly negative response rate from its employees to a similar question regarding morale at PSC (Item 4). Rather than PSC presuming the results of item 9 were negative due to the inclusion of the word “bonuses,” the OIG believes that the results of items 4 and 9 warrant further review by PSC management.

EMPLOYEE SURVEY

**Findings and
Recommendations:**

**SUMMARY OF COMPLIANCE
FORM FOR PRIORITY MATTER**

COMPLIANCE FORM FOR PRIORITY MATTER

1. Sensitive Equal Employment Opportunity (EEO) complaint material was not stored securely.

According to 4 DCMR § 105.10: “The EEO Counselor shall not reveal the identity of a complainant who has come to the Counselor for consultation, except when authorized to do so by the complainant in writing, until a complaint of discrimination has been filed with the Director, EEO.” The team found that EEO documents, including those with complainants’ names, were kept on a desktop and inside a non-locking drawer, and were taken home by the EEO Officer. In October 2008, the OIG issued a Compliance Form to PSC regarding this finding. In response, a PSC senior official indicated that secure storage had been provided for EEO records. The Compliance Form and PSC’s response can be found at Appendix 2.

PSC’s November 2009 Response, as Received:

The employee that maintained confidential EEO information had a lockable file cabinet for his use. The employee chose to keep information on his desk and not to keep the EEO information in the lockable file cabinet in his office. In fact, the employee was storing personal items such as clothing and shoes, rather than the confidential documents. Nonetheless, when the Commissioner learned from the IG team that the information was not secured in a locked cabinet, we immediately provided the employee with another cabinet and the employee secure a new lock. Meanwhile, there no evidence that the EEO information that had been maintained had been compromised even before the new cabinet and lock was installed.

OIG Response: The OIG acknowledges that PSC has taken necessary actions to provide secure storage for its EEO records. While it was primarily the EEO Officer’s responsibility to ensure that this sensitive information was protected, it was also the responsibility of his/her supervisor to verify this protection.

**Findings and
Recommendations:**

KEY FINDINGS

KEY FINDINGS

2. **Deficiencies found in both Miss Utility/One Call and Pipeline Safety Program inspections.**

Miss Utility/One Call inspections focus on excavations conducted by third parties, such as site owners, near underground utilities. The Pipeline Safety Program inspects pipeline construction, maintenance, and other activities by Washington Gas. According to PSC's 2007 *Annual Report*, the purpose of the Miss Utility/One Call Program, which included inspections, was "to help reduce damage to underground facilities such as natural gas, electric, water and telephone lines."⁶ Miss Utility/One Call inspections take place after individuals or companies planning to dig call the One Call Center, which in turn, notifies utility companies so the companies can mark utility lines in the area. A PSC contractor then inspects a sample of sites to determine whether markings of utility lines are correct and mechanical digging equipment, such as a backhoe, is a safe distance from the marked lines.

According to the U.S. Department of Transportation (USDOT), "Excavation damage poses by far the single greatest threat to gas distribution system safety, reliability and integrity."⁷ A December 2005 letter from PSC to USDOT identified damage from excavations by third parties as one of the three highest risks to gas pipelines in the District. According to USDOT, "Effective enforcement leads to more effective damage prevention programs."⁸

Title 15 DCMR § 2311.1 regulates natural gas distribution and states that if the operator of the facility (i.e., the natural gas utility company) "apparently is not in compliance with a pipeline safety regulation," PSC should "informally discuss" the probable violation with the company before concluding an inspection. According to a PSC manager, the PSC Pipeline Safety Program inspector discusses the problem with the construction supervisor and tells that official to correct the problem. Title 15 DCMR § 2311.3 states that if the operator of the facility corrects the problem onsite, the Director of the Office of Engineering shall send a confirmation letter to the operator specifying the violation and remedy. According to this PSC manager, PSC has the ability to issue Notices of Probable Violation (NOPV) fining the natural gas utility company for significant violations. This manager added that it is usually clear to the company that an NOPV reflects an actual violation. Although this DCMR section applies to the natural gas utility company as the operator of facilities, the team considers it as a model for documenting other utility safety problems.

a. The quality of and enforcement actions for Miss Utility/One Call inspections appear to be inadequate.

PSC's calendar year (CY) 2006 One Call Grant Progress report states, "[W]arnings and notices of probable violation (NOPV) will be issued to gas operators found not in compliance.

⁶ *Id.* at 40.

⁷ U.S. DEPARTMENT OF TRANSPORTATION PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DAMAGE PREVENTION ASSISTANCE PROGRAM (DPAP): STRENGTHENING STATE DAMAGE PREVENTION PROGRAMS (Sept. 2008) at 20.

⁸ U.S. DEPARTMENT OF TRANSPORTATION PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION, DAMAGE PREVENTION ASSISTANCE PROGRAM (DPAP): STRENGTHENING STATE DAMAGE PREVENTION PROGRAMS (Sept. 2008) at 16.

KEY FINDINGS

Remedial actions and fines will be enforced where appropriate. For non-gas operators, violations will be documented and forwarded to the District Department of Transportation for enforcement actions.”

The team found that neither the policies and procedures of PSC’s Office of the Deputy Executive Director for Regulatory Matters (ODEDRM)⁹ nor the current contract for the Miss Utility/One Call inspector contained guidelines for enforcement action for Miss Utility/One Call inspections.

From January 2007 through September 2008, PSC conducted 714 pipeline safety inspections and 799 Miss Utility/One Call inspections. Miss Utility/One Call enforcement actions from January 2007 through October 22, 2008, were limited to six verbal warnings; no fines were issued. An interviewee stated that the verbal warnings did not appear to result in written warnings or fines, and that PSC had not taken enforcement actions as a result of Miss Utility/One Call inspections. None of the Miss Utility/One Call verbal warnings were for inaccurate or missing markings, although one was for faded markings. Other verbal warnings resulting from Miss Utility/One Call inspections included inadequate clearance from markings when using mechanical equipment. In addition, a PSC employee stated that PSC has not referred any violations to another District agency, such as the District Department of Transportation (DDOT).

In contrast, during a similar time period of January 2007 through September 2008, Pipeline Safety Program inspections at seven sites resulted in NOPVs with a total of \$220,000 in fines¹⁰ related to incorrect and missing markings. PSC issued letters for marking violations at an additional eight Pipeline Safety Program inspection sites.

A PSC interviewee stated that the contractor conducting Miss Utility/One Call inspections is not knowledgeable about performing these inspections based on how the inspector assesses compliance and the low number of problems the contractor has found. This employee added that the Miss Utility/One Call reports indicated that 99% of sites were marked accurately. According to this employee, however, the Miss Utility/One Call inspector should find problems with at least 10% of sites inspected if this inspector was knowledgeable. In addition, without written enforcement guidelines for Miss Utility/One Call inspections, PSC does not appear to have clear standards specifying when and how to issue referrals to DDOT or take other enforcement actions.

Failure to identify problems such as incorrectly marked utility lines may increase the risk of bodily harm and damage to underground utilities. Enforcement action that consists only of verbal warnings seems inadequate to ensure that violations are corrected and to communicate the seriousness of the violations to the parties involved. In contrast, a PSC interviewee stated that

⁹ This binder includes a section pertaining to gas pipeline inspections and enforcement. PSC staff frequently referred to ODEDRM by its former acronym, OTRA, which stands for the Office of Technical and Regulatory Analysis.

¹⁰ According to a PSC manager, Pipeline Safety Program fines have generated revenue for the District’s general fund.

KEY FINDINGS

finer PSC has levied following Pipeline Safety Program inspections serve as incentives for Washington Gas to ensure safety.

In a letter to PSC dated September 6, 2006, USDOT stated “we would like to suggest that the PSC collect underground facility damage data. This would allow the PSC to analyze various causes of damages to underground utilities and help all stakeholders in the determination of possible enhancements to current damage prevention regulations, laws, procedures, and educational efforts.” The team requested data on damage incidents to utilities due to third parties, such as excavations by homeowners or contractors. PSC provided data indicating that third-party excavators damaged natural gas facilities 410 times from January 2007 through September 2008. In addition, in June 2009, PSC was examining 22 third-party damage incidents as part of an investigation of Verizon’s quality of service. A PSC manager stated that PSC does not have information on other third-party excavation damage incidents, such as to electric lines, because PSC does not have enforcement authority over third-party excavators. Without this information, PSC would appear to have limited ability to identify areas for improvement in reducing damage to the infrastructure of all utilities.

b. PSC does not conduct Miss Utility/One Call inspections throughout the year.

An interviewee stated that excavations occur throughout the year and PSC inspects a sample of these sites. However, documents from PSC indicated that Miss Utility/One Call inspections were not conducted from January through March 2007 and from December 2007 through May 2008. According to a PSC senior official, the construction season usually begins in March. An interviewee stated that if inspections are not conducted, there could be damage to underground utility facilities and that excavators are more diligent when they know they could be inspected.

The team’s analysis of information from PSC indicates third-party excavations damage natural gas facilities throughout the year, including when Miss Utility/One Call inspections were not conducted. From January 2007 through September 2008, incidents of third-party excavation damage to natural gas facilities averaged 19.5 incidents per month.¹¹ When PSC did not conduct Miss Utility/One Call inspections from January through March 2007 and December 2007 through May 2008, the average number of damage incidents was 15.8 per month, which was only slightly lower than the overall average.

A PSC senior official stated that PSC does not operate its Miss Utility/One Call program throughout the year because the federal grant funding used to operate this program is depleted 7 or 8 months into the budget year. A PSC employee stated that PSC told the Miss Utility/One Call contractor who conducts inspections to spread them out throughout the year as much as possible.¹² An interviewee stated that it is not required to have Miss Utility/One Call inspections before proceeding with an excavation. In response to the team’s question regarding whether PSC had attempted to draw out spending its grant funding across a longer period, this interviewee stated that there are not enough funds. According to documents provided by PSC,

¹¹ The number of incidents ranged from 10 per month in February 2007 to 33 in May 2007.

¹² The contractor is paid a flat hourly rate.

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PSC received \$40,500 in federal grant funds for the 2008 Miss Utility/One Call program although \$50,000 was requested. A PSC senior official informed the team that funding for Miss Utility/One Call inspections is not available throughout the year because there is a lag between federal approval of grant applications and the issuance of grant funds. Another PSC senior official stated that inadequate funding for Miss Utility/One Call programs is a common problem among members of the National Association of Regulatory Utility Commissioners (NARUC), which is lobbying for increased federal funding for this program.

The lack of inspections in some months during the year limits PSC's ability to prevent damage to underground utilities.

c. PSC does not have a timeframe for Pipeline Safety Program enforcement actions; warning letters are not consistently issued.

GAO's Internal Control Management and Evaluation Tool (GAO-01-1008G, Aug. 2001) states that an agency should ensure that it "has established and monitors performance measures and indicators."¹³

A PSC employee with pipeline safety responsibilities stated that PSC does not have a timeframe for issuing NOPVs after inspections have been conducted and that 1 to 2 months would be a reasonable timeframe for issuing most NOPVs.

In October 2008, PSC provided the OIG with a list of six NOPVs and one warning letter that PSC planned to issue for Pipeline Safety Program inspections conducted from July 2007 through June 2008. A PSC manager indicated that the NOPVs had not been issued because OGC was working with ODEDRM to develop a process to determine levels of fines for NOPVs.¹⁴ The manager added that there is no statute of limitations for issuing NOPVs. A letter from USDOT to PSC dated August 12, 2008, identified "the need to have a detailed procedure and matrix for consideration and determination of appropriate civil penalty levels for possible pipeline safety violations. . . . This will help in making a fair and consistent approach for pipeline safety violations and help document transparency of the decision-making process." A PSC employee stated that the PSC OGC is reviewing proposed fines because Washington Gas stated District fines were excessive compared to fines in Maryland and Virginia.

The team questions whether PSC is issuing warning letters consistently in accordance with 15 DCMR § 2311. An interviewee stated that the Pipeline Safety Program inspector provides verbal warnings but usually does not follow up in writing for issues considered to be minor and that are corrected onsite. However, in response to the team's request for a list of verbal warnings from Pipeline Safety Program inspections conducted from January 2007 through October 2008, a PSC manager replied that PSC did not issue verbal warnings for inspections during this time period. Verbal warnings without subsequent warning letters do not adequately communicate the seriousness or frequency of violations to the utility company or allow PSC or the company to adequately identify trends in violations.

¹³ *Id.* at 39.

¹⁴ ODEDRM's policies and procedures do not address how PSC determines fines for NOPVs.

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As of December 2008, PSC had one Pipeline Safety Program inspector and one vacant inspector position. A PSC manager stated that filling the vacant Pipeline Safety Program inspector position would increase the number of inspections PSC can conduct and decrease the strain on current staff. This manager stated that increasing the number of inspections would likely lead to more enforcement actions and a greater assurance of safety. Another PSC manager stated that the other inspector position has been vacant since October 2007 or earlier and that PSC had difficulty attracting qualified applicants for this position.

d. PSC awarded noncompetitive contracts without adequate justification for Miss Utility/One Call inspections.

Title 15 DCMR § 2200.8 states: “Commission personnel shall ensure that contracts are awarded only to qualified responsible sources capable of fulfilling Commission requirements.” Title 15 DCMR § 2202.29¹⁵ states: “Expert or Consultant Services When a particular expert or consultant has historical expertise regarding a particular Commission requirement, services of the expert or consultant may be acquired on a noncompetitive basis.” Title 15 DCMR § 2299.1 defines “consulting services” as “[s]ervices of a purely advisory nature relating to Commission functions, administration and management, or program management that are normally provided by persons who are considered to have knowledge and special abilities not generally available within the Commission.”

One contract per year for Miss Utility/One Call inspections was awarded and approved by the PSC Chairperson from 2005 through 2008 to the same individual through consultant contracts. Checklists within the contracts’ documentation indicate that requests for proposals (RFP) and proposal evaluations were not applicable. A memorandum in the 2008 contract file recommends engaging the same contractor because of the quality and quantity of his/her work.

However, a PSC employee stated that this contractor was not knowledgeable about conducting inspections. The contractor informed the team that working with PSC was his/her first experience with the Miss Utility/One Call program and that his/her previous experience was as a property manager. Letters of reference and the contractor’s résumé in the contract files do not reflect experience in utility safety or safety-related inspections. In addition, the team found deficiencies in enforcement related to Miss Utility/One Call inspections as described in finding 2a.

In response to the team’s question of why PSC used noncompetitive consultant contracts for Miss Utility/One Call inspections, an interviewee with contract management responsibilities stated he/she did not know and referred the team to the contracts’ determination and findings documents. The determination and findings were certified by an ODEDRM manager for the 2005 contract (the first year PSC engaged the Miss Utility/One Call contractor) and indicate that consultant procurement procedures were justified because of the contractor’s experience in commercial property management and as a facilities manager as well as his/her strong personal and professional recommendations. However, this rationale does not appear to meet the

¹⁵ Title 15 DCMR § 2200.1 states that PSC is an independent agency and is exempt from the D.C. Code’s procurement rules. The DCMR sections cited in this finding are from PSC’s procurement regulations.

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PSC's November 2009 Response to Recommendation, as Received:

Disagree due to limitations of the federal grant as described in our comments.

- (4) That the C/PSC determine whether additional funds are necessary to conduct Miss Utility/One Call inspections throughout the year and consider seeking other funding sources for this program in addition to federal grants.

Agree _____ **X** _____ Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree that we will seek additional funds to support year-round Miss Utility/One Call inspections in the FY 2011 budget.

- (5) That the C/PSC ensure that letters are issued for all violations, including those for which verbal warnings have been issued.

Agree _____ Disagree _____ **X** _____

PSC's November 2009 Response to Recommendation, as Received:

Agree only to the extent that we memorialize verbal warnings internally. We do not agree to issuing letters for verbal warnings.

- (6) That the C/PSC expeditiously complete a procedure to determine fines for Pipeline Safety Program NOPVs, establish a standard timeframe for issuing NOPVs, and issue NOPVs timely.

Agree _____ **X** _____ Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree subject to our authority as explained in our comments.

- (7) That the C/PSC ensure that PSC has adequate staffing for the Pipeline Safety Program.

Agree _____ **X** _____ Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree to the extent that this has already been accomplished with the filling of the second Pipeline Safety Engineer position in FY 2009.

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24 b. The Report finds that the “PSC does not conduct Miss Utility/One Call
25 inspections throughout the year.” This is directly related to the fact the grant funds for the
26 program that are provided by the U.S. Department of Transportation are not available until
27 March or April of each calendar year. Thus, the grant does not provide funds to cover the entire
28 12-month period. Moreover, the data cited in the Report do not support the conclusion that
29 “lack of inspections in some months during the year limits PSC’s ability to prevent damage to
30 underground utilities.” In fact, no evidence is provided showing the absence of inspections in
31 the winter months contributes to damages. Rather, the data show relatively fewer incidents
32 during the winter when the inspections are not conducted due to a lack of funds. Accordingly,
33 the Commission also disagrees with the recommendation that the C/PSC develop and implement
34 strategies to ensure that Miss Utility/One Call inspections are conducted throughout the year,
35 such as determining how many inspections to perform each month based on previous patterns of
36 damage incidents and/or number of excavations.” Rather, a more helpful recommendation
37 would support increased funding so the Commission can retain the consultant to conduct the
38 inspections before federal funding is made available.

39
40 c. The Report finds that the “PSC awarded noncompetitive contracts without
41 adequate justification for Miss Utility/One Call inspections.”

42
43 The IG team questions two issues here: Did the Commission follow proper procurement
44 procedures in awarding the noncompetitive contract and is the contractor qualified to carry out
45 his responsibilities? Our answer to both questions is yes.

46
47 With respect to the first issue, the conditions, factors, and justifications the IG team
48 stated in the first paragraph of its Report were indeed those applied by the Commission
49 personnel in awarding the noncompetitive contract to the consultant.

50
51 The Contract Administrator and Chief, Contracts & Procurement Officer forwarded on
52 March 29, 2005, a Determination and Findings (“D&F”) including a justification memorandum
53 supporting the findings¹⁶ to execute a contract to the proposed consultant based on the
54 consultant’s qualifications for the subject project. The Chair of the Public Service Commission
55 and the Contract Officer, agreed with the recommendation that the consultant possessed the
56 necessary skills and knowledge, and determined that it was in the best interest of the Commission
57 and the ratepayers to award a contract to the consultant. The justification memorandum cites,
58 with the release of funds only the week before, the need to execute the contract “as soon as
59 possible to enable us to maximize the time to be spent on the project before the expiration of the
60 calendar year.” The memorandum also indicates that there were no in-house personnel
61 available to carry out the work.

62
63 Thus, the Commission continues to assert that it complied with the Commission’s
64 Procurement Regulations. Also, the work to be completed satisfied the needs of the Commission
65 and the One Call project.

¹⁶ Memorandum dated March 29, 2005 presenting consultant's skills and abilities, letters of reference and character, and resume of consultant [footnote from PSC response].

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66 *In regards to Consulting Services as defined in Section 2299 — Definitions, the*
67 *Commission asserts that the work required by the consultant is advisory nature. The consultant*
68 *advises the Commission regarding the status of the program, compliance with recommended*
69 *methods of locating underground facilities, inspects facility locations markings to ensure they*
70 *are done within the time window provided by regulation, and that excavations are carried out in*
71 *accordance with regulations. The essence of the project is advisory in nature and includes the*
72 *daily review of sites. Those duties include conducting inspections of underground facility*
73 *location markings to determine the extent and timeliness of responses to marking requests by*
74 *carrying out actual field inspections of markings and comparing the findings with data reported*
75 *by locators; and inspecting excavation sites to assure that excavations are carried out in*
76 *accordance with Federal and District regulations.*

77
78 *Thus, the Commission stands by its conclusion that the contractor had relevant expertise*
79 *and knowledge applicable to the tasks and assignments of the contract. Moreover, in our view,*
80 *the contractor’s performance has been excellent, and fully justifies this conclusion. Therefore,*
81 *noncompetitive contract has been in the best interest of the Commission and the District.*

82
83 *The Commission also notes that the IG team’s statement “the team found deficiencies in*
84 *the enforcement related to Miss Utility/One Call inspection as described in finding “1a”*
85 *suggests that the team misunderstands the role of the contractor in this assignment. The*
86 *contractor is responsible for determining compliance, but not for enforcement. The Commission*
87 *stands by its position that the contractor has fully met his obligations by conducting more than*
88 *the required number of inspections (and more than twice the number of natural gas pipeline*
89 *safety inspections in a shorter period of time), determining compliance, documenting inspection*
90 *results, and preparing reports summarizing findings—all of which, collectively is applied by the*
91 *Program Manager to advise the Commission and USDOT on the effectiveness of the District’s*
92 *underground facility protection effort.*

93
94 *We also question the relevant expertise of the IG team in rendering a judgment on the*
95 *qualifications and performance of the contractor, particularly without having observed the*
96 *contractor at work. We note the IG team’s terms of reference indicate that this task was within*
97 *its scope, but the Report does not indicate that such observations occurred.*

98
99 *Finally, it is the Commission’s view that the effectiveness of inspections is not necessarily*
100 *measured by the number of enforcement actions and amounts of fines assessed, and the dollar*
101 *additions to the District’s treasury. In certain situations, physical presence at the excavation*
102 *sites during excavations, combined with on-site corrective actions initiated by an inspector, and*
103 *verbal warnings without the issuance of fines and written corrective actions for first time*
104 *offenders, can be as effective, if not more effective, than fines. Thus, the team’s inference that a*
105 *scarcity of enforcement actions, including fines, concludes that there is lack of effective*
106 *inspection and compliance, is necessarily be correct.*

107
108 *d. The Report’s findings with respect to the Pipeline Safety Program and Miss*
109 *Utility do not comport with the programs’ track records as judged by the funding source, the*
110 *U.S. Department of Transportation (USDOT). USDOT has its own evaluation system, based on*
111 *both field and desk audits of programs in every state of the union that are conducted by industry*

KEY FINDINGS

112 *experts. The Commission's Pipeline Safety Program's average score over the last 8 years is*
113 *98.5 out of 100 points. We find those results to be much more indicative of our performance*
114 *than the factually deficient assessment statements contained in the IG Report. Similarly, the*
115 *success of the Commission's Miss Utility program is reflected in the fact the Commission has*
116 *received the maximum amount allowed each year for the grant, based on USDOT's review of our*
117 *program.*

PSC's November 2009 Response to this Overall Finding, as Received:

Per our comments, we do not agree with this finding.

OIG Response: **The OIG stands by its finding and recommendations as stated. The OIG also acknowledges PSC's statement that USDOT audits have rated the Pipeline Safety Program highly. PSC's response (line 84) cites a reference to finding 1a in the section on Miss Utility/One Call contracting; the text in the report was corrected to refer to finding 2a.**

In response to PSC's comments regarding Pipeline Safety Program enforcement (lines 1 through 23 and 100 through 107), the OIG believes that, in consultation with its OCG and any other relevant parties, PSC should correct any flaws in its enforcement process so that fines are issued when warranted. Flaws in the enforcement process do not negate PSC's responsibility to enforce violations when found. In addition, according to 15 DCMR § 2311.3, PSC is required to send a confirmation letter to the natural gas utility company specifying the violation and remedy when a violation is corrected onsite. During the inspection's fieldwork, PSC was unable to provide information on verbal warnings issued by the Pipeline Safety Program from January 2007 through October 2008. Verbal warnings without subsequent letters not only violate District regulations, but may not adequately communicate the seriousness or frequency of violations to the responsible company or allow the company to identify trends in violations.

Regarding the lack of year-round Miss Utility/One Call inspections (lines 25 through 39), PSC should manage its funds accordingly to enable PSC to conduct inspections throughout the year. While a slightly lower number of damage incidents to natural gas facilities have occurred when Miss Utility/One Call inspections were not conducted, damage from third-party excavations to underground utilities occur year-round. Therefore, inspections should occur year-round.

In regard to the appropriateness of the consultant contracting process for the Miss Utility/One Call inspector and his/her qualifications (lines 41 through 98), the OIG disagrees that the contractor's services appear to be advisory in nature. According to the contract effective June 9, 2008, the contractor is responsible for "carry[ing] out field inspections of facility location markings" and assuring that excavations are in accordance with regulations. Although PSC faults the OIG for not observing the contractor at work, the OIG does not have the professional expertise to directly assess the quality of work performed by this contractor. However, during the inspection, not only did the contractor inform the OIG that his/her previous experience was as a property manager, he/she also

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stated that he/she could not compare PSC's safety inspections to other states' because it was his/her first experience in this field. Neither the contractor's résumé nor his/her letters of reference included prior experience in conducting safety-related inspections. The OIG has raised its concerns about the contractor's experience to PSC; ultimately, it is PSC's responsibility to ensure that it has secured a Miss Utility/One Call inspector with relevant skills and experience to conduct safety-related inspections.

In regard to PSC's assertion that the contractor is responsible for determining compliance but not enforcement (lines 85 through 94), according to the contractor's 2008 contract, he/she is responsible for documenting all inspection and inspection results. During an OIG interview, the contractor explained that he/she will give an excavator verbal warnings and that he/she will inform PSC of violations that may require further actions. Therefore, regardless of whether this contractor is taking enforcement actions, the results of his/her inspections underpin possible enforcement action.

3. Participation in the District's utility discount programs is low.

Utility discount programs provide lower utility rates to consumers who are at or below an income threshold of 150% of the federal poverty level. PSC requires utilities to offer discounted rates to low-income customers. A PSC senior official stated that the District Department of the Environment (DDOE) is responsible for enrolling residents in these programs. According to a PSC order from October 2008, PSC monitors outreach efforts and their effectiveness for utility discount programs.

According to information submitted to PSC on November 13, 2006, DDOE indicated that the total eligible population for low-income utility discount programs was 58,700.¹⁷ However, two PSC senior officials indicated that the participation rates in the utility discount programs were too low. Based on information from DDOE, we found that the majority of consumers eligible for low-income utility discount programs did not enroll in them in FYs 2004 through 2007, as indicated in the table below.

Table 2: Utility Discount Program Participation Rates

| Participation Rates in Utility Discount Programs as Percentages of the Eligible Population | | | |
|---|---|--|--------------------------------------|
| Fiscal Year | Electricity (Residential Aid Discount) | Natural Gas (Residential Essential Service) | Telephone (Economy II) |
| 2004 | 21% | 14% | 19% |
| 2005 | 27% | 18% | 18% |
| 2006 | 27% | 13% | 18% |
| 2007 | 29% | 17% | 14% |
| 2008 | 38% | 23% | Not Available as of April 1, 2009 |

¹⁷ The team received information from DDOE in March 2009 that indicated the estimated population of 58,700 was used to calculate FY 2008 participation rates and that DDOE did not have a more recent population estimate.

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In contrast, an evaluation of energy discount programs for low-income households in Maryland, New Jersey, and Pennsylvania found that the percentage of the eligible population served ranged from 30 percent to 45 percent.¹⁸

A PSC senior official stated that factors contributing to low enrollment include a lack of communication, literacy issues, the eligibility determination process, and difficulty reaching eligible populations. According to a DDOE motion submitted to PSC on January 29, 2009, some barriers to participation in utility discount programs are that low-income individuals tend to be more transient than others, and many low-income individuals do not have Internet access, which makes communication difficult. PSC coordinated with other organizations - such as DDOE, the Office of the People's Counsel (OPC)¹⁹ and utility companies - to plan the Joint Utility Discount Day (JUDD) in September 2008, which is an event that allows residents to apply for aid toward all of their utility bills in one location. However, organizations promote JUDD independently, so there is probably some duplication in mailings. PSC does not have a written plan that coordinates its public education efforts.

PSC's 2007 Annual Report indicates that the number of individuals eligible for the telephone assistance program declined "possibly because recertification began after several years and many participants did not respond to multiple recertification letters and a telemarketing campaign."²⁰ An interviewee from a telephone company stated that the recertification process was required by the Federal Communications Commission (FCC), and that consumers who no longer met eligibility requirements were removed from the program. Information from DDOE indicated that another factor in declining participation in the telephone assistance program is an increasing preference for cellular telephones rather than land lines.

A PSC senior official stated that the District should link utility assistance programs that are administered by DDOE to the DHS Income Maintenance Administration's (IMA)²¹ application process for assistance through other low-income programs such as food stamps. This proposal has been discussed for years, but has not occurred. The official added that other states have good models of this type of program in which consumers who qualify for one assistance program are automatically enrolled in others. In October 2008, a PSC interviewee stated that working groups were exploring the feasibility of combining applications for utility discount programs with other assistance programs, but that there was no formal plan or proposal.

As a result of these multiple problems and issues, it appears that many eligible residents who would benefit from utility payment assistance are not enrolling in low-income discount programs.

¹⁸ Income limits for Maryland and New Jersey programs are 175 percent of the federal poverty level, 200 percent for one Pennsylvania program, and 150 percent for another Pennsylvania program. APPLIED PUBLIC POLICY RESEARCH INSTITUTE FOR STUDY AND EVALUATION AND FISHER, SHEEHAN, AND COLTON, RATEPAYER-FUNDED LOW-INCOME ENERGY PROGRAMS: PERFORMANCE AND POSSIBILITIES (July 2007) at 86 and 103.

¹⁹ The Office of the People's Counsel is an independent agency of the District government that advocates for consumers of natural gas, electric, and telephone services.

²⁰ *Id.* at 98.

²¹ IMA administers and provides customer service for public benefits programs such as Temporary Assistance to Needy Families (TANF), Medicaid, and food stamps.

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Recommendations:

- (1) That the C/PSC and the Director of DDOE (D/DDOE) take the lead and coordinate an effort to develop and implement a written plan for educating the public about utility discount programs.

Agree _____ Disagree X

PSC's November 2009 Response to Recommendation, as Received:

Disagree per our comments.

- (2) That the C/PSC, D/DDOE, and Director of DHS (D/DHS) expeditiously determine the feasibility of linking utility discount program applications to IMA's public benefits application processes, and if determined to be practical, expeditiously implement this linkage.

Agree X Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree to the extent that this has already been accomplished as explained in our comments.

PSC's October 2009 Response to this Overall Finding, as Received:

1
2 *The Report concludes that "Participation in the District's utility discount programs is*
3 *low" compared to Maryland, New Jersey, and Pennsylvania and then recommends that the*
4 *Commission: a) join DDOE in taking the lead to develop and implement a written plan for*
5 *educating the public about utility discount programs; and b) consult with DDOE and DHS to*
6 *determine the feasibility of linking utility discount program applications to IMA's public benefits*
7 *application process and, if practical, implement this linkage expeditiously.*
8

9 *Although the Commission certainly has no objection to participating in joint efforts, the*
10 *Report should at least recognize that the Commission's role has changed over the last year.*
11 *Under the Clean and Affordable Energy Act of 2008, the electricity and natural gas trust funds,*
12 *as well as the low-income programs they support, were all transferred from the Commission to*
13 *the Mayor. The Commission retains the authority to determine whether, and to what extent,*
14 *support for these programs continues to be embedded in rates but has no role in program*
15 *administration or oversight. In addition, as stated in the Report, the recommendation to link*
16 *DDOE Administration of the program with the DHS Income Maintenance Administration*
17 *("IMA") is from "a PSC senior official." In fact, this PSC official has worked closely with*
18 *DDOE toward that end. We are pleased to report that progress has been made on this issue in*
19 *that DDOE has informed us that it will transfer intake and eligibility authority to IMA by the end*

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20 of this calendar year. If the IG team wants to pursue the issue of increased participation in the
21 low-income discount programs, it should direct its recommendations to DDOE at this point.

22
23 *The Report provides no evidence whatsoever that lack of awareness of the utility discount*
24 *programs is the reason for relatively low participation in the programs. Consequently, we do*
25 *not agree that developing and implementing a written plan for educating the public about utility*
26 *discount programs public is a useful solution. The success of the annual Joint Utility Discount*
27 *Day, with concomitant widespread media advertisements, has ensured widespread knowledge of*
28 *the programs. Moreover, the Commission has a long history of collaborating with not only*
29 *DDOE (formerly called the D.C. Energy Office), but also the Office of the People’s Counsel, and*
30 *the three utility companies in educating and informing the public re these programs. As*
31 *evidence, the D.C. Energy Office filed annual reports in F.C. No. 813, in which it summarized*
32 *the utility discount outreach and education efforts of the three utility companies, the Office of the*
33 *People’s Counsel, the Commission, and itself.*

34
35 *We disagree with the statement that the “PSC does not have a written plan that*
36 *coordinates its public education efforts.” The Commission’s outreach and education efforts are*
37 *well-documented in our written communications plans that cover brochures and fact sheets,*
38 *PowerPoint presentations, website information, and lists of outreach events which were shared*
39 *with the IG team. Some of the items are also available on our website. Indeed, this same IG*
40 *Report references the communications plans. Instead, we believe the major barriers or hurdles*
41 *to increasing participation lie in the aspects of the administration of the programs that are in the*
42 *hands of DDOE and utility companies. At this point, the Commission lacks authority to render*
43 *judgments on those aspects of the programs, as per the Clean and Affordable Energy Act of*
44 *2008.*

OIG Response: The OIG stands by its finding and recommendations. The OIG acknowledges PSC’s clarification that PSC has information about the low-income programs documented in brochures, factsheets, and PowerPoint presentations. In addition, the OIG acknowledges PSC’s clarification that due to the Clean and Affordable Energy Act of 2008, PSC has no administrative or oversight functions of the low-income programs.

Regarding PSC’s contention that the OIG did not support its statement that low participation in utility discount programs is due to a lack of awareness (lines 22 through 32), PSC has not provided any evidence to the contrary. Furthermore, information gathered during our fieldwork indicates that increasing awareness of utility discount programs will increase participation in these programs. For instance, the Multi-Utility Discount Working Group comments filed with PSC on January 15, 2009, identify lack of awareness of utility discount programs among consumers who have not previously qualified as a “barrier[] to participation.” In addition, as cited in this finding, DDOE cited low-income individuals’ lack of Internet access as a barrier to participation in these programs, and a senior PSC official cited lack of communication as contributing to low enrollment. Therefore, we recommended that PSC work with other organizations to develop and implement formal strategies to educate the public in order to increase participation in utility discount programs.

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Regarding PSC's statements that its communications plans document its outreach and education efforts (lines 34 through 39), the OIG acknowledges that PSC has documented its own education efforts in these plans. The OIG meant to emphasize that the plans did not include specific actions to be taken to coordinate outreach efforts with other District agencies. During fieldwork, a PSC manager responsible for outreach efforts stated that PSC does not have a written plan for coordinating with other agencies. The OIG reviewed the communications plans for FYs 2008 through 2010 and found that they mention strategies for PSC to coordinate with other agencies. For example, in the FY 2008 communications plan, one strategy was for PSC to "Establish an initiative partnership with [DDOE] in order to maximize efficiency and exposure and to avoid duplication of efforts." However, these plans did not specify actions for each agency to take or target dates for completion.

4. PSC has not proactively addressed electricity reliability concerns.

D.C. Code § 34-1504 (2001) states, "The Commission's . . . regulation of the restructured electric industry[] shall ensure orderliness and electric system reliability"

The District may face a shortage of electricity capacity that will create serious reliability risks, possibly leading to brownouts²² or rolling blackouts. According to PJM Interconnection, the regional electricity transmission organization for the District and 13 states, the District's two power plants²³ will be retired by 2013. A PSC senior official stated that due to the District's size and inability to develop additional electricity sources, the District is dependent on other states for its electricity. This official added that PSC is exploring efforts to decrease electricity demand by reducing electricity usage and improving energy efficiency. According to a PSC manager, there are two proposed transmission lines, one of which faces strong opposition although critical to future reliability.

A Maryland PSC official stated that because the District is in the same region as Maryland, it faces the same electricity reliability problems as Maryland. In December 2007, the Maryland PSC issued the report *Options for Re-Regulation and New Generation*, which identified a need for immediate action to address shortages in electricity capacity to reduce the risk of mandatory usage restrictions, such as rolling blackouts, by 2011 or 2012.²⁴ This report also states that limited electricity capacity has increased costs to consumers.²⁵

A senior D.C. PSC official stated that PSC should be more proactive with regard to electricity reliability, and that although PSC was beginning to work on this issue, Maryland had been active in this area for years. This official added that PSC's full workload with two time-

²² A brownout is a reduction in voltage that typically causes lights to dim.

²³ These are the Buzzard Point and Benning Road generating stations.

²⁴ MARYLAND PUBLIC SERVICE COMMISSION, INTERIM REPORT OF THE PUBLIC SERVICE COMMISSION OF MARYLAND TO THE MARYLAND GENERAL ASSEMBLY, PART I: OPTIONS FOR RE-REGULATION AND NEW GENERATION (Dec. 3, 2007).

²⁵ *Id.*

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consuming rate cases was a barrier to addressing issues such as reliability. According to this official, PSC only began reviewing Pepco's April 2007 *Blueprint for the Future*, which contains energy efficiency and demand-management proposals, in June 2008. Another senior official stated in October 2008 that PSC is working on issuing a decision on Pepco's *Blueprint for the Future* proposals.

Through an order issued on August 22, 2008, PSC scheduled a public hearing in October 2008 to investigate the near- and middle-term (2009-2012) adequacy of the District's power supply. A PSC senior official stated that PSC was briefed by PJM Interconnection regarding reliability issues in January 2008 and that PSC Commissioners are actively engaged with regulatory organizations to address utility reliability issues. The OIG reviewed PSC's FYs 2007 and 2008 Strategic Business Plans as well as its FY 2008 Performance Plan. These documents did not discuss issues regarding the reliability of the District's electric supply.

Recommendation:

That the C/PSC expeditiously issue decisions on *Blueprint for the Future* proposals and determine whether additional strategies are needed to address electricity reliability in the District.

Agree X Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree to the extent that this is already being accomplished as explained in our comments.

PSC's October 2009 Response to this Overall Finding, as Received:

1 *The Report concludes that the "PSC has not proactively addressed electricity reliability*
2 *concerns" and recommends that the Commission expeditiously issue a decision on Pepco's*
3 *Blueprint for the Future proposal.*
4

5 *The IG team appears to be misinformed regarding the Commission's electric reliability*
6 *caseload and misunderstands both the nature of the problem as well as the range of potential*
7 *solutions. The Report notes that "[t]he District may face a shortage of electricity capacity that*
8 *will create serious reliability risks, possibly leading to brownouts or rolling blackouts." That*
9 *scenario is much less likely in light of PJM's current reduced load forecast. In addition, the*
10 *Commission has played a lead role on electric generation and transmission issues (which are*
11 *located outside the boundaries of the District) through its participation in a number of regional*
12 *organizations and through our own caseload when District service reliability was threatened.*
13 *For example, the Commission successfully fought the closure of the Mirant plant located in*
14 *Alexandria through appeals to the U.S. Department of Energy ("USDOE") and the Federal*
15 *Energy Regulatory Commission ("FERC)." The Commission has also approved two new Pepco*
16 *transmission lines to ensure the delivery of adequate power supply to the District. The*
17 *Commission is an active participant in the Eastern Interconnect State Planning Council on*
18 *transmission and in the PJM Organization of PJM States ("OPSI"). We regularly join OPC in*

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19 *pleadings before FERC on issues that affect the District. In F.C. No. 1064, the Commission held*
20 *a hearing on October 1, 2008 on the adequacy of power supply, and the Commission continues*
21 *to stay on top of this issue through its participation in OPSI and other regional groups. The*
22 *Commission has also organized dialogues on demand response with GSA. Finally, we strongly*
23 *believe that demand response programs and the promotion of renewable energy resources are*
24 *critical to the adequacy of power supply for the District, and hence, we have aggressively*
25 *promoted the certification of renewable resources to ensure long-term electric service reliability.*
26

27 *We also believe the pace at which the Commission has addressed Pepco's proposed*
28 *Blueprint for the Future in F.C. No. 1056 is appropriate in light of changing circumstances.*
29 *Pepco filed its Plan in April 2007. The Commission moved Pepco's proposed energy efficiency*
30 *programs into F.C. No. 945. However, further action was delayed by the simultaneous*
31 *consideration and ultimate passage of the Clean and Affordable Energy Act of 2008. While*
32 *giving DDOE the primary responsibility for energy efficiency programs, the Act stipulated that*
33 *the Commission render a decision on Pepco's proposed programs within 90 days of the passage*
34 *of the Act. The Commission met its responsibilities within that timeline. Pepco's underlying*
35 *studies of its AMI proposal raised questions about the cost-effectiveness of the proposal.*
36 *Apparently such results were not unique to D.C. Thus, when the Obama Administration began,*
37 *it earmarked federal stimulus money to encourage the deployment of AMI nationally. Pepco*
38 *applied for such funds to the USDOE on August 6, 2009. Meanwhile, the Commission was on*
39 *track to render a decision on Pepco's AMI by the end of July 2009. However, the D.C. Council*
40 *passed legislation that altered the role of the Commission. We are now prepared to act promptly*
41 *in determining the sufficiency of the federal stimulus funds within 60 days of the DOE decision.*
42

43 *The Report also states as evidence that the Commission has not been proactive re electric*
44 *reliability and that there is no mention of this issue in the Commission's strategic business and*
45 *performance plans. That statement is not correct and reflects a lack of understanding of the*
46 *Commission's record and case load on this issue as well as a misunderstanding of the strategic*
47 *business and performance plans. As should be evident from the Commission's Annual Reports,*
48 *annual Mission Statement and Goals, and formal case tracking reports, all of which were*
49 *provided to the IG team, Pepco's BluePrint for the Future is not the only proceeding in which the*
50 *Commission is addressing electric reliability. In fact, the Commission has a number of ongoing*
51 *proceedings in which it is addressing electric system reliability. In F.C. No. 766, the*
52 *Commission requires Pepco to file each February a Comprehensive Report on electric reliability*
53 *issues. After receiving comments from the Office of the People's Counsel, and Commission Staff,*
54 *the Commission issues orders with directives to Pepco to take steps to improve system reliability*
55 *as measured by the three industry standards, System Average Interruption Frequency Index*
56 *("SAIFI"), System Average Interruption Duration Index ("SAIDI"), and Customer Average*
57 *interruption Duration Index ("CAIDI"). The Productivity Improvement Working Group*
58 *("PIWG"), composed of staff from the Office of the People's Counsel, the Commission and*
59 *Pepco, works with Pepco in following up on the directives. In F.C. No. 991, the Commission has*
60 *focused on manhole incidents by engaging an engineering consulting firm to conduct*
61 *independent inspections and to make recommendations that will improve the reliability of*
62 *Pepco's underground system. This work has contributed to the District being a national leader*
63 *in installing slotted manholes that have effectively reduced the number of manhole explosions*
64 *that threaten public safety. In F.C. No. 1026, the Commission is one of only a few jurisdictions*

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65 *that have engaged an engineering consultant to conduct independent studies to determine the*
66 *feasibility of undergrounding all or some of a utility company's overhead system. The*
67 *independent consultant's report on Pepco's underground system is due at the end of this calendar*
68 *year. In F.C. Nos. 982 and 1002, the Commission addresses outages occurring as a result of*
69 *storms and other daily activities. Orders re investigations of 2008 outages and a June 2008*
70 *storm-related outage were issued several months ago. However, investigations of these issues*
71 *continue with Pepco having to file monthly outage reports.*

72
73 *As should be evident from above, electric system reliability is an ongoing issue and hence*
74 *not captured in the Performance Plans that focus primarily on only new initiatives. It is also*
75 *incorrect to state that the Strategic Business Plans did not mention service reliability. In fact, it*
76 *is the first item under Issue Statements on page 3 of both the FY 2007 and FY 2008 Strategic*
77 *Business Plans.*

78
79 *Additionally, the Commission has applied for a USDOE grant made available to all state*
80 *public service commissions to facilitate the timely consideration of American Recovery and*
81 *Reinvestment Act-related electricity dockets, particularly related to such topics as energy*
82 *efficiency, renewable energy, smart grid, electric reliability, demand response and dynamic*
83 *pricing. Secretary Chu has announced that all applications will be approved between October*
84 *30 and November 30, 2009. The Commission's grant will be in the amount of \$765,000 to*
85 *support 5 new positions (3 full-time and 2 part-time) beginning January 2010 through the end of*
86 *FY 2012.*

PSC's November 2009 Response to this Overall Finding, as Received:

We disagree with this finding per our comments.

OIG Response: The OIG stands by its finding and recommendation. The OIG acknowledges the various actions cited by PSC to address electricity reliability in the District (lines 5 through 25). However, during the inspection's fieldwork, several senior PSC officials voiced concerns regarding a potential electricity capacity shortage and the pace of PSC's work to address it.

The OIG disagrees with PSC's assertion that its pace in reviewing the *Blueprint for the Future* was appropriate (lines 27 through 41). As stated in the finding, Maryland issued a report in December 2007 to address shortages in electricity capacity. In contrast, a PSC senior official stated that PSC began to review this Blueprint in June 2008, more than a year after it was issued.

In response to PSC's statements that PSC has been proactive and does have written plans regarding electricity reliability (43 through 77), the OIG acknowledges that although the reviewed strategic business plans and performance plans did not address the potential shortage of electricity capacity for the District, the plans did include other aspects of electricity reliability.

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5. Employees expressed concerns regarding treatment by PSC managers.

According to the D.C. Department of Human Resources' performance planning form for FY 2009, one mandatory competency for District supervisors pertains to leadership, which includes motivating and inspiring others to ensure goals are met. A U.S. Department of Agriculture (USDA) guide states, "Establishing and maintaining high morale among employees at all levels is vital to bringing out the best in employees."²⁶

Out of 46 respondents on the PSC employee survey, 69.6 percent disagreed or strongly disagreed with the statement "Morale is positive at PSC." One employee stated that employees feel they are not valued and that managers do not provide enough positive feedback. A manager explained that employees are concerned about being treated respectfully, how they are spoken to, and their autonomy in making decisions. Another manager indicated that some managers do not respect their employees and that some managers treat employees differently based on their education, experience, and/or position. Analysis of 40 employee survey responses showed that 65 percent disagreed or strongly disagreed with the statement "I receive recognition (i.e., acknowledgements, bonuses, etc.) when my performance exceeds management's expectations."

Interviewees frequently tied morale problems to a specific senior manager. The concerns regarding this manager included belittling staff members, not speaking to them respectfully, having a "dictatorship mentality," and creating a "very nasty" environment.

Several interviewees also blamed morale issues on some members of PSC's executive management. One interviewee stated that a senior official tells employees that they do not know enough. Another employee stated that employees are not beaten up physically by management, but they feel "beat[en] up by their tongue[s]." In addition, one senior official stated that friction between two divisions in PSC, ODEDRM and OGC, affects morale.

Although interviewees reported these significant morale concerns, EEO and non-EEO complaints from PSC staff members have declined significantly from 2005 levels, based on information that PSC reported to the Office of Human Rights (OHR) (see Table 3 below). A PSC employee indicated that OHR began requesting reports on EEO and non-EEO complaints in 2005, and this information was not available for complaints prior to 2005. According to aggregate data received from PSC, from 2002 through 2005, there were 9 EEO complaints and 22 non-EEO complaints.

Table 3: PSC Employee Complaints

| PSC EEO and Non-EEO Complaints from Calendar Years 2005 through 2008 | | | | |
|---|------|------|------|------|
| | 2005 | 2006 | 2007 | 2008 |
| EEO Complaints | 6 | 1 | 0 | 1 |
| Non-EEO Complaints | 10 | 1 | 0 | 0 |

²⁶ U.S. DEPARTMENT OF AGRICULTURE, TRAINING AND RECRUITING CO-OP EMPLOYEES, COOPERATIVE INFORMATION REPORT 36 (1987) at 13.

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As part of its efforts to motivate and develop high-performing teams, PSC held a team-building workshop for all staff members in September 2008. PSC decided to form a committee to examine the issues raised during the workshop, which included employees wanting managers to be open to suggestions and to communicate changes in priorities. In October 2008, the team was informed that several employees, but no managers, volunteered for this committee and that the committee had not yet met. Several years ago, PSC held a staff retreat during which a facilitator led a discussion about how the various PSC offices work together. Reportedly, there was discussion about bringing the facilitator back to work with PSC, but this has not occurred. In 2008, PSC held celebrations for staff members, including a holiday luncheon, and Mother's Day and Father's Day receptions. According to a PSC senior official, PSC holds annual employee recognition ceremonies that include years of service and customer service awards. After the previous retreat, PSC began holding monthly all-staff meetings, but these were discontinued.

An interviewee stated that the negative work environment in one PSC division discouraged employees' efforts and led them to believe that they cannot express their opinions openly. Interviewees stated that the negative work environment also has led to employee turnover. However, a PSC official provided the team with a list of reasons employees gave for leaving from FY 2006 through August 1, 2008, and it did not include concerns about morale. A manager stated that employees who resign do not cite the work environment as the official reason for leaving but inform their co-workers that it was because of how they were treated. Another manager stated that the number of unhappy and angry PSC employees caused him/her to fear that one of them could "snap" and jeopardize the safety of PSC staff. One survey respondent wrote, "[I]t is clear there are issues with management when employees are so fearful of their supervisors and executive management that staff are prone to emotional outbursts."

Recommendation:

That the C/PSC form an active committee of managers and employees and/or engage an outside human resources consultant to make recommendations to the C/PSC for improving morale and to assist with their implementation.

Agree Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree with the steps we are taking per our comments.

PSC's October 2009 Response to this Overall Finding, as Received:

1 *The Report concludes that "Employees expressed concerns regarding treatment by PSC*
2 *managers" and recommends that the PSC either form a committee or hire a consultant to*
3 *address morale.*

4
5 *The Report's conclusion seems to be premised on complaints about one particular*
6 *manager and a statement by one or two employees that, in his/her opinion, there is friction*

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7 *between units. The Commission agrees that improving employee morale is important, but there*
8 *are underlying performance, personnel, and other issues that must be taken into account. Thus,*
9 *a Commission-wide committee is, in our view, an ineffective method of handling complaints*
10 *against one manager or meaningfully addressing inter-unit friction which is often based on a*
11 *disagreement between units (with different disciplines) on how to approach a particular issue.*
12 *We believe a better approach is one that we are already following. MSS employees were*
13 *required to take a Workforce Development Administration course on “How to Supervise” earlier*
14 *this year, with follow-up discussions in Office Director meetings. There has also been some*
15 *restructuring of reporting lines in the office in question. Finally, coaching and mentoring is*
16 *being provided and personnel rules are being followed where complaints regarding specific*
17 *managers are involved. Inter-office issues are being addressed as part of a process we are*
18 *undertaking to improve our business practices and procedures, to include a two-day*
19 *Commission-wide retreat on how to work faster, better and cheaper. Consultants are being*
20 *engaged to facilitate the retreat and follow-up activities.*

OIG Response: **The OIG believes that morale concerns are widespread at PSC as 32 (69.6 percent) of 48 PSC employees and managers responding to the OIG survey indicated that morale is not positive at PSC. As stated in this finding, PSC decided to form a committee comprised of management and staff in 2008 to address issues raised during a team-building workshop, but reportedly no managers volunteered for this. While the actions cited in PSC’s response appear to meet the intent of the recommendation, these actions may not sufficiently identify and address the conditions and behaviors that lower morale. Therefore, the OIG stands by its finding and recommendation as stated.**

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**Findings and
Recommendations:**

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6. PSC decisions in formal cases are not timely.

According to PSC's FY 2007 Performance Accountability Report, PSC's goal was to complete rate cases, in which PSC determines utility distribution rates,²⁷ within 9 months. In December 2006, Pepco filed a request to increase electricity distribution rates in the District by \$50.5 million, and Washington Gas filed a request to increase its distribution rates by \$20 million.²⁸ PSC's decisions in these cases were due by the end of September 2007. In January 2008, 13.5 months after the Pepco rate case was filed, PSC decided to increase electricity distribution rates by \$28.3 million. In December 2007, 12 months after the Washington Gas rate case was filed, PSC approved a settlement among Washington Gas, the Apartment and Office Building Association of Metropolitan Washington, the District government, and the Federal Executive Agencies to increase gas distribution rates by \$1,400,000.

A utility company official stated that PSC's timeliness in rate cases is important in relation to financial markets and is factored into rates of return. Untimely rate case decisions can undermine investor confidence, which can increase the interest rates a company has to pay and thus increase its borrowing costs. According to the District Council Committee on Public Services and Consumer Affairs report dated April 30, 2008, the Committee was concerned by the effect on the market caused by delays in PSC's regulatory process, such as the Pepco rate case. The Committee discussed the possibility of instituting a suspension statute, which would require PSC to issue decisions within a specified period of time after the submission of a proposed rate change. Rather than enacting a suspension statute, the Committee accepted PSC's new Key Results Measure for FY 2009 of issuing decisions in 90% of formal cases within 90 days of the close of the record.²⁹

PSC also experienced delays in revising the Consumer Bill of Rights (CBOR), which regulates areas such as billing and disconnections. According to the Notice of Final Rulemaking for the CBOR, these regulations were updated "to reflect the competitive nature of the energy and telecommunications industries and to provide appropriate safeguards to consumers who purchase services in this new, more competitive environment."³⁰ A PSC senior official stated that PSC was revising the CBOR to reflect the existence of competition and to set the same standards for all companies. PSC's Strategic Business Plan for FY 2007 included the goal of updating the CBOR by the end of FY 2007. The PSC initial order that started the process to revise the CBOR was issued on November 15, 2004; PSC adopted the final version on September 26, 2008, almost 4 years later. Two PSC attorneys stated that PSC's use of a working group in which all stakeholders contributed provisions lengthened the process of revising the CBOR.

²⁷ Distribution charges reflect costs to deliver electricity or natural gas to consumers. PSC does not determine the price of natural gas itself or electricity generation and transmission costs.

²⁸ As of February 2009, a PSC manager stated that no rate cases had been filed since the two filed in December 2006.

²⁹ The close of the record is the deadline for submitting materials or when all material related to a proceeding has been submitted.

³⁰ 55 D.C. Reg. 10014 (Sept. 26, 2008).

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The following factors were cited by PSC interviewees and stakeholders as contributing to decision delays in rate cases and other proceedings:

- PSC has developed a process to handle one rate case in 9 months but did not have the staff to complete two rate cases in 9 months.
- Washington Gas failed to provide a copy of a contract to PSC, leading to litigation and the cancellation of hearings.
- Work by legal and technical consultants in the Pepco rate case was inadequate.
- PSC does not issue timely decisions in rate cases after the close of the record.
- PSC must adhere to due process requirements, including public comment periods.
- PSC decisions are required to be based on evidentiary findings, necessitating PSC to develop the record through stakeholder involvement.
- The District is a “very litigious jurisdiction” and parties tend not to compromise.
- Technical analysis by the ODEDRM was not based on the record of the proceedings for some cases, leading to additional work by the OGC and ODEDRM staff.
- Senior managers spend time revising memoranda and draft orders.

A PSC senior official stated that stakeholders have to wait for PSC to resolve issues because staff has full case loads, and that PSC needs more full-time equivalents (FTEs). Another senior official stated that PSC’s plan to hire at least one Administrative Law Judge (ALJ) to streamline its work was not implemented due to funding issues. This official stated that PSC was working to improve timeliness through the use of staff performance plans and internal deadlines.

Recommendation:

That the C/PSC expeditiously develop and implement a plan to improve the timeliness of decisions in rate cases and other significant cases.

Agree _____ Disagree _____

PSC’s November 2009 Response to Recommendation, as Received:

OIG Note: PSC did not reflect its agreement or disagreement with this recommendation.

PSC’s October 2009 Response to this Overall Finding, as Received:

1 *The Report concludes that “PSC decisions are not timely” and recommends that the*
2 *Commission expeditiously develop and implement a plan to improve its timeliness of decisions in*
3 *rate cases and other significant cases. This conclusion is based on the fact the Commission did*
4 *not render a decision on the last Pepco and Washington Gas rate cases within 9 months and it*
5 *took four years to revise the Consumer Bill of Rights.*
6

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7 *This recommendation is overly simplistic in that it ignores due process considerations*
8 *affecting the length of formal adjudications and misunderstands the nature of rulemakings. The*
9 *Report notes that the Commission’s stated goal is to resolve rate cases in 9 months but it did not*
10 *do so in its most recent rate cases with Pepco and Washington Gas. Although that is our goal,*
11 *we cannot set an arbitrary limit on the length of the case. The length of the cases is determined*
12 *by the issues, including the issues that are part of any motion filed in the case.*
13

14 *We believe a closer examination will show that each of these cases reflects unique*
15 *circumstances and thus, they should not be the basis for rendering any conclusions on the*
16 *Commission’s timeliness performance. For example, Pepco and Washington Gas filed their rate*
17 *cases in December 2006, within 20 days of each other. Four months later, Verizon filed a major*
18 *updating of its Price Cap Plan, wherein its basic rates are established. It was the first time the*
19 *Commission had processed two rate cases simultaneously since 1993/1994, when the agency had*
20 *substantially more staff and the caseload was probably half of what it is today since it was*
21 *before the three industries were restructured to allow for competition. Nonetheless, we were on*
22 *track to complete both cases on a timely basis, were it not for two separate incidents. In the*
23 *Washington Gas rate case, the company refused to comply with a Commission directive to*
24 *provide a report on its outsourcing activities, which led to a suspension of the case hearings and*
25 *an appeal to the D.C. Court of Appeals. While the appeal was still pending, the rate case was*
26 *settled. We issued an order approving the settlement within 12 months of the original filing. In*
27 *the Pepco rate case, there were a number of highly contentious issues that required 13 separate*
28 *discovery orders and subsequent delays. Thus, the Commission issued a decision on most issues*
29 *within 13 months. One of the most controversial issues, Pepco’s proposed decoupling*
30 *mechanism, was delineated in a Phase II proceeding wherein the Commission’s authority had to*
31 *first be briefed. After its findings on the jurisdictional issue, the Commission held a proceeding*
32 *on implementation issues and rendered a decision within 90 days of the closing of the record.*
33

34 *Finally, the Report notes that it took the Commission nearly 4 years to complete the*
35 *Consumer Bill of Rights rulemaking and implies that the length of time had some deleterious*
36 *affect on the companies or the public, which it did not. The existing rules remained in place until*
37 *they were supplanted by the new rules. Moreover, that four-year period included nearly two*
38 *years of public input through a working group process and the issuance of four Notices of*
39 *Proposed Rulemakings before a final version was issued. Thus, any “delay” maximized*
40 *consumer input in serving the public interest.*
41

42 *In sum, we agree that there is room for improvement in the timeliness of Commission*
43 *decision, but not based on the examples cited in the Report. In fact, we have undertaken our own*
44 *timeliness study covering the six month period April 1 — September 30, 2009, using our self-*
45 *imposed turnaround standards that we have established for a wide range of proceedings and that*
46 *was shared with the IG team. The timeliness study also includes the processing of administrative*
47 *matters. The results are being used by consultants we are engaging to explore ways to complete*
48 *our activities faster, better, and consequently cheaper.*

PSC’s November 2009 Response to this Overall Finding, as Received:

We disagree with this finding on the basis of the evidence in the Report.

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OIG Response: **The OIG stands by its finding and recommendation as stated. In response to PSC’s comments regarding due process considerations and complicating factors in the two rate cases cited (lines 7 through 32), the OIG recognizes, as stated in this finding, that due process requirements and other factors affect the length of time needed to issue decisions. However, PSC set its own standard to complete rate cases in 9 months and did not meet this standard for various reasons as cited in the finding. Although PSC has taken issue with this finding, by hiring a consultant to review its timeliness study, PSC appears to acknowledge and address the timeliness concerns raised by the OIG.**

The OIG questions the validity of PSC’s assertion that delays in finalizing the CBOR had no adverse effect on companies or the public (lines 34 through 40). A District agency head stated that revisions to the CBOR were needed because the utility field had changed since the CBOR was implemented. These changes in the utility field include new suppliers and new technology. He/she added that it was unclear whether the consumer protection regulations applied to new suppliers and previously, an electricity supplier had subjected District senior citizens to dramatic rate increases. A senior PSC official stated that under the original CBOR, competitive suppliers were not required to adhere to it. The revised CBOR applies consumer protection regulations to competitive suppliers. PSC’s Notice of Final Rulemaking indicated that the original CBOR was developed to address the provision of utility services in a traditionally regulated environment and that the revisions protect consumers who purchase services in the current, more competitive environment.

7. Evaluation and coordination of consumer education and outreach efforts are limited.

According to D.C. Code § 34-808.01(b) (LEXIS through D.C. Law 18-8): “The Public Service Commission shall establish a program to increase the awareness of District residents of the availability of services offered by competitive energy providers and the means by which to procure such services.”

GAO identifies key practices for planning consumer education and recommends that an agency “[e]stablish both process and outcome metrics to measure success in achieving objectives of the outreach campaign. Process metrics assure the quality, quantity, and timeliness of . . . work. Outcome metrics evaluate how well the campaign influenced the attitudes and behaviors of the target audience(s) that it set out to influence.”³¹ GAO also recommends that an agency “[i]dentify and engage all the key stakeholders who will be involved in communications efforts [and] [c]larify the roles and responsibilities of each stakeholder”³² According to GAO, “Without a systematic effort to measure and evaluate the effects of its outreach activities, [an agency] runs the risk of spending its resources on activities that are not having their intended effect.”

³¹ U.S. GOVERNMENT ACCOUNTABILITY OFFICE, DIGITAL TELEVISION TRANSITION: INCREASED FEDERAL PLANNING AND RISK MANAGEMENT COULD FURTHER FACILITATE THE DTV TRANSITION, GAO-08-43 (Nov. 2007) at 26.

³² *Id.*

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PSC educates consumers about a range of issues including how to read their utility bills, how to obtain payment assistance to prevent utility disconnection, budget payment plans, and current developments at PSC. PSC conducts consumer outreach by mailing material to and presenting at meetings of Advisory Neighborhood Commissions and civic associations. PSC's FY 2008 Communications Plan indicates that PSC intends to use a variety of avenues to educate consumers, such as press releases and radio spots. PSC has goals for and measures the number of outreach events it attends and surveys participants to measure their satisfaction with PSC's presentations. However, a PSC manager stated that PSC does not have evaluation measures for its outreach and education efforts beyond its outreach events.

The PSC 2007 Annual Report indicates that in 2007, PSC had a goal to conduct 100 outreach events, which it exceeded by conducting 110 of them. In addition, 93 percent of those surveyed at the outreach events were satisfied with PSC's presentations. However, PSC did not measure the number of participants that PSC educated at these outreach events. Although PSC's FY 2008 Communications Plan lists goals and objectives for educating consumers, it does not specify measurable targets except for conducting at least five outreach activities in each of the District's wards.

A PSC consumer education manager stated that while PSC sometimes coordinates with other District agencies and utility companies on outreach and education, these activities are usually conducted independently. As a result, there was probably duplication of information in consumer education mailings for the District's Joint Utility Discount Day (JUDD) because several organizations worked independently. According to this interviewee, PSC does not have a written plan that coordinates its public education efforts with other organizations. Reportedly, understaffing in the Office of Consumer Services hindered its ability to coordinate outreach with other organizations. In March 2008, PSC filled its media specialist vacancy, which should improve coordination.

An external stakeholder from a utility consumers' organization stated that PSC has a low level of public engagement and that it is one of the least known District agencies despite its high impact on the public. In a report from April 2008, the District Council Committee on Public Services and Consumer Affairs noted its "significant concern" regarding consumers' awareness of their ability to select alternative gas and electric suppliers and recommended that PSC more actively publicize this, as well as how to switch to an alternative supplier.

A senior official at OPC stated in February 2009, "PSC should not be expending monetary and workforce resources on consumer education and outreach because its mandate does not include such responsibilities." Rather, the official opined that PSC should provide general public information on procedural and factual matters, such as the content of PSC decisions. This official added that duplication of OPC's statutory responsibility for consumer outreach and education should be avoided and that ratepayers should not be required to pay twice for the same services. In June 2008, a PSC senior official stated that there had been a debate in the past about whether PSC should perform any consumer education because it is not in PSC's statutory mandate. However, this official also stated that all other utility commissions perform consumer education. According to this official, PSC should do as much outreach as possible

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because PSC is able to provide objective information to utility consumers and inform them of their rights and utility regulations.

Inadequate evaluation and coordination of consumer education may diminish the effectiveness of PSC's efforts to inform consumers about utility issues.

Recommendations:

- (1) That the C/PSC work with OPC and other stakeholders to develop and implement a written plan for consumer outreach and education regarding utility issues to avoid duplication of efforts.

Agree _____ Disagree X

PSC's November 2009 Response to Recommendation, as Received:

Disagree due to the separate statutory roles of OPC and other stakeholders as explained in our comments.

- (2) That the C/PSC develop measurable goals in addition to the number of outreach events conducted and consumer survey results as well as track performance measures to assess PSC's consumer outreach and education.

Agree X Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree to the extent we are already doing this as explained in our comments.

PSC's October 2009 Response to this Overall Finding, as Received:

1 *This section of the Report is a good example of the flaws that emanate from basing*
2 *conclusions on what interviewees say. The Report cites one PSC manager as stating that "the*
3 *PSC does not have evaluation measures for its outreach and education efforts beyond its*
4 *outreach events." This statement does not take into account one of the principal tools for*
5 *educating and informing consumers and the public, the Commission's website. In addition to the*
6 *wealth of information available on the website, the Commission tracks the number of hits to*
7 *various sections of the website. Moreover, the Commission just launched a new homepage that*
8 *makes the website even more consumer-friendly. As an example of coordination with other*
9 *agencies and organizations tasked with educating and informing the public, the Commission*
10 *website has links to OPC, DDOE, the utilities service providers and other sources. Commission*
11 *staff also shares this information with consumers who call in or contact the Commission and*
12 *who may not have access to a computer.*

13
14 *As the IG team surely knows, we believe in the usefulness of performance metrics, as*
15 *evidenced by those that are indexed to each of our mission statement components in our Annual*

ADDITIONAL FINDINGS

16 *Reports, as well as those that track internal operations. However, at this point in the education*
17 *and outreach program, we believe it is more important to concentrate on the preparation of*
18 *information for the website and distribution of the information throughout the District. A great*
19 *deal of time is also spent in ensuring the information is current. Our distribution strategy is to*
20 *educate not only individual consumers during electric and natural gas meter tests and the*
21 *mediation of consumer complaints, but to also educate and inform the social service agencies*
22 *and organizations that are in contact with the segments of the population that may not have*
23 *access to our website.*

24

25 *The Report does mention that we survey attendees at our outreach events, but we do not*
26 *track the number of participants. The latter is not always possible. We often don't know how*
27 *many people attend an event. In addition, although we distribute survey forms, many*
28 *participants and organizers don't use them. Instead, they give us oral feedback during*
29 *conversations after the presentations, which we find to be most useful.*

30

31 *The Report indicates that an interviewee said the PSC does not have a written plan that*
32 *coordinates its public education efforts with other organizations. That is not correct. The*
33 *Commission's communication plans, which were given to the IG team, focus on our own*
34 *responsibilities in the context of known collaborative efforts with DDOE, OPC, and the utility*
35 *companies through the Joint Discount planning and other activities. They are also designed to*
36 *recognize our central role in publicizing information through our website.*

37

38 *Moreover, we have in the past and we will continue in the future to work together with*
39 *other agencies and organizations at different outreach events. In fact, the Commission has a*
40 *long history of working collaboratively with all stakeholders in educating and informing the*
41 *public. For example, during the course of the IG inspection, the Commission worked with OPC,*
42 *the Consumer Utility Board, DDOE, and Pepco to educate and inform the public re electric*
43 *restructuring and its impact on consumers' rates and choices through a program mandated by*
44 *the 1999 Retail Electric Restructuring Act called the Customer Education Advisory Board*
45 *("CEAB"). Over \$2.million was used to support this collaborative effort. Even a separate*
46 *website was established. Although it might appear to be duplicative in nature, in fact, each*
47 *agency has a different role to play and thus each should be represented. For that reason, often*
48 *ANCs and civic associations invite representatives from the Commission as well OPC and the*
49 *companies to address their concerns. This is exactly what occurred in a section of ward 7 where*
50 *residents were concerned about natural gas leaks. Both the Commission and Washington Gas*
51 *met with the residents on several occasions. The Commission staff worked with Washington Gas*
52 *in designing and conducting a number of leak surveys and the implementation of repairs so the*
53 *community could feel safer. We have also extended our outreach through each of the Council*
54 *members by working with their constituent services staff on consumer complaints and other*
55 *issues. For example, currently, in Ward 1, we are working with the community and*
56 *Councilmember Graham's office on payphone issues. In Ward 2, there have been a number of*
57 *electric outages that we are investigating through the use of a consultant. The key issue in Ward*
58 *3 has been service reliability and tree trimming. Although we don't have jurisdiction over tree*
59 *trimming, we are working with OPC and Pepco through the PIWG and with the community*
60 *through meetings and tours arranged by Councilmember Cheh. In Ward 4, we are working with*
61 *councilmember Bowser's office, Pepco, Verizon, and Comcast to reduce and eliminate the*

ADDITIONAL FINDINGS

62 *number of double poles. In Ward 5, we are addressing a number of residential quality of service*
63 *complaints. In fact we have an investigation underway with respect to Verizon.*

64
65 *We also disagree with the statement from an external stakeholder that is apparently*
66 *unaware of the Commission's outreach activities and thus concludes the PSC has a low level of*
67 *public engagement and that it is one of the least known District agencies despite its high impact*
68 *on the public. (We also publicly disagreed with the Council's Report that is referenced in the IG*
69 *Report.) Perhaps the stakeholder is not sufficiently involved in Commission-related outreach*
70 *events such as attending ANC and civic association meetings, etc. Is the stakeholder aware that*
71 *the Commission's contact information is on every monthly electric, natural gas, and local*
72 *telephone bill? Apparently, other consumers do, because the Commission receives over 2,000*
73 *consumer complaints each year. The success and visibility of the Commission's website is*
74 *reflected in its use by community list-serves. For example, a number of citizens in ward 3 who*
75 *were complaining about high energy bills last winter and they noted in their e-mails that they*
76 *had obtained useful comparative information from the Commission's website.*

77
78 *The Commission's website also contains extensive information on consumer choice in all*
79 *3 industries and it is aided by similar information in bill inserts and fact sheets and brochures*
80 *distributed by Commission employees at a wide range of public events. We know of no other*
81 *state commission website or outreach program that contains the breadth and types of*
82 *information on customer choice that we maintain, updating it on a monthly basis. Look at the*
83 *Maryland and Virginia websites and outreach activities to compare.*

84
85 *Thus, the Commission disagrees with the conclusion that its consumer education and*
86 *outreach efforts are limited and both recommendations regarding consumer education and*
87 *outreach on the grounds the findings are incorrect and to the extent recommendations are*
88 *warranted, they are already in place.*

OIG Response: The OIG stands by its findings and recommendations as stated. The OIG acknowledges the use of PSC's website to educate the public. However, the OIG disagrees with PSC's assertion that it is a flawed methodology to base conclusions on what an interviewee states (line 1 and 2). During this inspection, the OIG gathered information using a variety of methods, including interviews of PSC representatives and external stakeholders, reviewing reports, and analyzing agency data. For this finding, the OIG spoke with a PSC manager who is responsible for overseeing customer education and outreach functions. The OIG considered him/her a reliable source for information about these responsibilities that PSC had delegated to him/her.

While PSC opines that it is more important to concentrate on the preparation of information for the website and distribution of information (line 17 and 18), the OIG encourages PSC to develop and continuously measure itself against performance metrics for consumer education and outreach to ensure it is successful in achieving its outreach objectives.

In regard to PSC's assertion that it has a written plan that coordinates its efforts with other organizations (line 31 through 36), the OIG reviewed PSC's communications plans for FY

ADDITIONAL FINDINGS

2008 through 2010. As stated in the OIG’s response to finding 3, while the plans mention strategies to coordinate with other agencies, the plans did not specify actions that will be taken or target dates for their completion.

In its response, PSC questioned the knowledge of an external stakeholder interviewed by the OIG for this finding (lines 65 through 72). The OIG deems this stakeholder as a knowledgeable source as he/she is an officer of a group advocating on behalf of District utility consumers. In addition, PSC has disagreed with a Council’s report that also raised concerns with consumers’ awareness of their ability to elect suppliers (line 68 and 69). The OIG believes PSC needs to explore further whether the number of consumer complaints received (lines 72 and 73) demonstrates a high level of public awareness.

8. PSC’s resolution of informal and formal consumer complaints is not timely, and further training for informal complaint resolution is needed.

Title 15 DCMR § 323.3 states, “Any person (including an applicant for utility services and a consumer) may complain to the Commission about the service provided by a utility or a utility bill.” This section also indicates that PSC’s Office of Consumer Services (OCS), formerly the Consumer Services Division, works to resolve complaints after consumers unsuccessfully addressed issues directly with utility companies.

Consumers with complaints regarding a utility company or a competitive provider³³ may contact OCS for assistance. A consumer specialist then evaluates the complaint by reviewing the company’s contract, regulations, and the CBOR and then contacts the customer with the consumer specialist’s findings regarding the complaint. Consumers with billing disputes can request that PSC test their gas or electric meters. Consumers who are not satisfied with the results of the steps described above may request informal hearings, in which an OCS consumer specialist leads a mediation session between the consumer and the company to attempt to resolve the problem. An OCS manager stated that disputes are generally resolved through this mediation process.

If a complaint cannot be resolved through the OCS mediation process, the consumer may file a formal complaint. In the formal complaint process, PSC OGC attorneys serve as hearing officers to determine whether there should be a hearing, and if so, they hold the hearing and issue an order with a decision on the case. Hearing officers’ decisions can be appealed to the Commission.

³³ Consumers can purchase natural gas, electricity, or telephone services from providers other than traditional utility companies.

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a. Informal consumer complaint resolution is not timely, and PSC does not track companies' timeliness in responding to complaints.

Title 15 DCMR § 323.5 states, "The utility shall report to the Consumer Services Division as to the results of any referral within seven (7) days. If the complaint is not resolved within that time, the utility will refer the matter back to the Consumer Services Division."

According to PSC's Performance Accountability Report for FY 2007, PSC's goal was to resolve 65 percent of consumer complaints informally within 10 working days in FYs 2007 and 2008. The team analyzed FYs 2007-2008 consumer complaint data provided by OCS. As the following table shows, PSC met its performance goal in FY 2007 but not in FY 2008. The table also shows that many cases did not have a resolution date listed; consequently, the team was unable to determine whether these cases had been resolved.

Table 4: Informal Consumer Complaints
Resolution of Informal Consumer Complaints

| | FY 2007 | FY 2008 |
|--|----------------------------|--------------|
| Total Cases Analyzed ³⁴ | 1749 | 1902 |
| Percent and Number without a Resolution Date ³⁵ | 9.7% (170) | 25.2% (479) |
| Percent and Number Resolved in 10 Business Days | 67.6% (1183) ³⁶ | 55.8% (1061) |

A PSC senior official and an OCS manager stated that a vacancy in OCS as a result of a promotion has been a barrier to resolving consumer complaints timely. In December 2008, an OCS manager stated that there were two consumer specialists handling consumer complaints as well as a supervisor who handles some complaints, and that a third consumer specialist would be starting that month. In addition, a PSC senior official said that the close-out time for FY 2008 informal complaints would likely be longer due to understaffing, increased complexity of cases, and the worsening economy, which increases the number of consumers who contact PSC because they require assistance with their utility bills.

An OCS manager stated that PSC does not track how long companies take to respond to requests for information regarding consumer complaints. One OCS employee indicated that company performance in meeting the 7-day timeframe varies from approximately 35 to 80 percent. The employee added that consumer specialists do not have time to track and follow up

³⁴ For FY 2008, the team received a universe of 1,980 cases; 26 were excluded because PSC received them after September 25, 2008, which was the last day a case could have been received in order to allow 10 working days from when PSC provided the data on October 10, 2008; and 52 were excluded due to invalid dates received or resolved. For FY 2007, the team received a universe of 1,793 cases, and 44 were excluded due to invalid dates received or resolved.

³⁵ These instances are included in the total cases analyzed to determine the percent of cases that were resolved within 10 business days. In October 2008, a PSC manager stated that some consumer complaint cases from FYs 2007 and 2008 may not have resolution dates listed in the database although OCS paper records reflect that the cases were closed. Other consumer complaint cases may not have resolution dates because they moved on to the formal hearing process. This manager added that OCS staff members were in the process of checking the database to ensure it lists resolution dates.

³⁶ PSC's FY 2007 Performance Accountability Report shows actual performance as 68.05 percent for FY 2007.

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with companies that had not responded within 7 days. An OCS manager stated that PSC has not considered tracking company response times, but it would probably be needed.

In addition, a PSC senior official stated that PSC should send letters to consumers to convey the nature of the complaint and information discussed with the consumer. For instance, OCS should send close-out letters to consumers to notify them of company responses to their complaints. According to information provided by PSC, OCS issued close-out letters for only 6.6 percent of resolved complaints in FY 2008.

By not resolving complaints within 10 business days, PSC is not meeting its timeliness performance standards and consumers may not receive timely resolution of their complaints.

b. Formal consumer complaint decisions are delayed.

Title 15 DCMR § 326.1 states, “Within fourteen (14) days after the close of the hearing, the hearing officer shall issue a written decision which states the issues, summarizes the evidence and makes findings of fact, conclusions of law, and a proposed disposition of the matter.” While the regulations do not clarify whether the section refers to 14 business or calendar days, a PSC senior attorney opined that the section means calendar days because another chapter in the same DCMR title defines days as calendar days.

However, this senior attorney indicated that resolving formal complaints within 14 calendar or business days was not realistic, particularly because the rules indicate that the timeframe for issuing a decision begins at the end of the hearing. However, PSC tracks timeliness from the close of the record, e.g., when all material related to the hearing has been submitted or the deadline the hearing officer set for submissions has passed. This official explained that the hearing officer may not have the information needed to make a decision until the close of the record.

The team reviewed the six consumer complaint cases in which formal hearings were held in FYs 2007 and 2008 and for which decisions were issued. The six cases involved disputes over billing and payment plans, and ranged from a residential customer’s request for a credit of approximately \$225 to a business owing a utility company approximately \$26,800. Out of these six cases, no decisions were issued within 14 calendar days of the end of the hearing. One decision was issued within 14 business days from the close of the record.

A senior PSC attorney and a PSC attorney agreed that the timeliness of decisions was affected because PSC attorneys are occupied with other tasks. In December 2008, the senior PSC attorney stated that three vacant positions in OGC impeded its ability to issue timely decisions for consumer complaints.

Two PSC attorneys stated that complaints frequently involve disputes over bills and whether consumers owe money. According to a PSC attorney, consumers who file complaints do not have to pay the amount in dispute or face disconnection until the Commission issues a final order in their case, and utility companies are frustrated by delays in the hearing process.

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This attorney estimated that 80% of formal consumer complaint cases were filed because customers could not or did not want to pay their bills.

c. Additional training needed for informal consumer complaint resolution.

The GAO guide entitled *Internal Control Management and Evaluation Tool* (GAO-01-1008G, August 2001) recommends as a best practice that “[t]he agency provide[] training . . . in order to help employees maintain and improve their competence for their jobs.”³⁷

A PSC senior official stated that additional mediation training related to informal consumer complaints was under consideration for OCS employees. While these employees previously received mediation training focused on the informal hearing stage, mediation training should focus on the beginning of the consumer complaint process. This official stated that the current complaint resolution process requires consumer specialists to relay information provided by the consumer to the company involved and then report the company’s response back to the consumer. According to this official, consumer specialists should think through what actions can occur over the telephone to reach agreement between the two sides in order to reduce the number of informal hearings needed. In addition, this official cited a need for training to help consumer specialists accurately identify and document the main problem leading to a consumer complaint as there have been incidents when this had not occurred.

Recommendations:

- (1) That the C/PSC ensure that PSC has adequate staffing to resolve informal consumer complaints timely, that the information in the consumer complaint database is current, and that company response times are monitored.

Agree _____ **X** _____ Disagree _____

PSC’s November 2009 Response to Recommendation, as Received:

Agree per our comments.

- (2) That the C/PSC ensure that PSC consumer specialists have adequate training to resolve consumer complaints.

Agree _____ **X** _____ Disagree _____

PSC’s November 2009 Response to Recommendation, as Received:

Agree per our comments.

³⁷ *Id.* at 12.

ADDITIONAL FINDINGS

- (3) That the C/PSC ensure PSC has sufficient staffing to issue timely decisions for formal consumer complaints.

Agree _____ **X** _____ Disagree _____

PSC's November 2009 Response to Recommendation, as Received:

Agree per our comments.

PSC's October 2009 Response to this Overall Finding, as Received:

1 We agree that there is a need for improving the consumer complaint mediation process.
2 However, there are some factual misstatements about the informal hearing process. An OCS
3 consumer specialist does not "lead" informal hearings between the consumer and the company
4 to attempt to resolve the problem. An OCS Supervisor or Director leads the informal hearings
5 with the consumer specialist in attendance. Furthermore, there is no discussion in the IG Report
6 of the fact that informal hearings are scheduled, cancelled, and re-scheduled at the convenience
7 of the consumer. OCS addresses this issue by instituting, where possible, the use of a conference
8 call with the parties versus a meeting in order to expedite the process. There is also no
9 recognition in the Report that, during the four-year IG investigation, the Consumer Bill of Rights
10 was amended and the time frames for rendering a formal decision were changed in order to
11 eliminate a time-frame that was arbitrarily keyed to the date of the filing of a complaint rather
12 than the date the record closed.

13
14 We also agree that the consumer complaint database needs improvement. However, we
15 disagree with the assertion that the PSC does not track companies' timeliness in responding to
16 complaints. The current database used by OCS has been modified several times to accommodate
17 a discrete field for "due date" and it is being used. However, it is not being used consistently.
18 The inconsistent populating of data in the date due field has proven problematic when
19 conducting special studies or extracting specific types of complaints by utility from the database.
20 In order to overcome or circumvent this problem, the Director and Supervisor of OCS are
21 recommending the installation of a new consumer complaint tracking system. They have met
22 with OCS staff to assess their needs and attended briefings at several of the utilities to review
23 their tracking system.

24
25 Moreover, the OCS Director is in the process of recommending a software system which
26 is more user friendly and incorporates features such as automatic numbering of cases, automatic
27 assignment of all due dates based on the OCS process, automatic acknowledgement letters, and
28 incorporates dates received or logged. The software also includes supervisory and
29 administrative functions and features that are needed such as standard and ad hoc reports,
30 mandatory fields, and the dashboard feature.

31
32 The issue of company performance in meeting the 7-day timeframe is baffling at best. If
33 the due date field is not being populated, how does one compute the variance?
34

ADDITIONAL FINDINGS

35 We also agree that consumer specialists need more consumer complaint as well as
36 subject matter training. To that end, OCS consumer specialists are being required to attend the
37 NARUC Consumer Services course. One consumer specialist attended the training in FY 09 and
38 the remaining specialists will attend in FY 10. In addition, the Commission has approved a new
39 Pepco decoupling mechanism, called the Bill Stabilization Adjustment, that will go into effect
40 beginning with November 1 usage. The Commission's technical staff will conduct a workshop
41 with OCS staff so they can answer questions consumers may have.

PSC's November 2009 Response to this Overall Finding, as Received:

We disagree with the finding that the resolution of consumer complaints is not timely.

OIG Response: **The OIG stands by its finding and recommendations. In response to PSC's comments as to who conducts informal mediation sessions at PSC (lines 2 through 5), the OIG acknowledges PSC's clarification.**

Regarding PSC's response that the OIG did not recognize the timeframe for formal decisions in the revised CBOR (lines 8 through 12), the team did not use this timeframe because the revised CBOR became effective on September 25, 2009, which was after the draft report was issued to PSC on September 8, 2009. By applying the new CBOR timeframe of issuing decisions within 30 days of the close of the record, the OIG found that PSC would not have met this timeframe in four of the six cases that the OIG examined from FYs 2007 and 2008.³⁸

In regard to PSC's assertion that it tracks companies' timeliness in responding to complaints (lines 14 through 18), a PSC manager informed the OIG during fieldwork that PSC was not tracking companies' response times to requests for information regarding consumer complaints. We analyzed data from PSC that only included complaint dates and resolution dates. In its response, PSC acknowledges that the "due dates" are being inconsistently populated and PSC is recommending the installation of a new consumer complaint tracking system (lines 14 through 24). Regardless of what database is installed, PSC should ensure that the relevant data are consistently populated for analysis, including to assess company response times.

It is unclear to the OIG what PSC finds "baffling" with the company performance in meeting the 7-day timeframes without having due dates (lines 32 and 33). If PSC is referring to the figures cited in the finding that companies' performance varies from approximately 35 to 80 percent, this was an estimate provided during an interview with an OCS staff member. This interviewee stated that one company was meeting its timeframe approximately 35 percent of the time; whereas, another company was meeting it approximately 80 percent of the time. We do not know the methodology used by this employee to derive these figures. If PSC is questioning the data regarding PSC's timeliness

³⁸ The results of this analysis are the same when using business or calendar days. The three cases that were decided within 30 business days of the close of the record were also decided within 30 calendar days of the close of the record.

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in resolving complaints as reflected in Table 4, the OIG included complaints that did not have a resolution date but surpassed 10 working days from the date of complaint, as described in footnote 35.

APPENDICES

APPENDICES

- Appendix 1:** List of Findings and Recommendations
- Appendix 2:** Compliance Form on EEO Records Storage with PSC Response
- Appendix 3:** PSC Letter in Response to Draft Report dated October 15, 2009
- Appendix 4:** PSC Letter in Response to Draft Report dated November 3, 2009

APPENDIX 1

APPENDICES

Summary of Compliance Form for Priority Matter:

1. **Sensitive Equal Employment Opportunity (EEO) complaint material was not stored securely.**

Key Findings:

2. **Deficiencies found in both Miss Utility/One Call and Pipeline Safety Program inspections.**

- a. *The quality of and enforcement actions for Miss Utility/One Call inspections appear to be inadequate.*
- b. *PSC does not conduct Miss Utility/One Call inspections throughout the year.*
- c. *PSC does not have a timeframe for Pipeline Safety Program enforcement actions; warning letters are not consistently issued.*
- d. *PSC awarded noncompetitive contracts without adequate justification for Miss Utility/One Call inspections.*

- (1) That the Chairperson of PSC (C/PSC) ensure that Miss Utility/One Call inspections are thorough enough to identify violations and that appropriate enforcement actions are taken and completed timely, including the referral of violations to DDOT when necessary.
- (2) That the C/PSC expeditiously develop and implement written policies and procedures to standardize enforcement actions related to Miss Utility/One Call inspections.
- (3) That the C/PSC develop and implement strategies to ensure that Miss Utility/One Call inspections are conducted throughout the year, such as determining how many inspections to perform each month based on previous patterns of damage incidents and/or number of excavations.
- (4) That the C/PSC determine whether additional funds are necessary to conduct Miss Utility/One Call inspections throughout the year and consider seeking other funding sources for this program in addition to federal grants.
- (5) That the C/PSC ensure that letters are issued for all violations, including those for which verbal warnings have been issued.
- (6) That the C/PSC expeditiously complete a procedure to determine fines for Pipeline Safety Program NOPVs, establish a standard timeframe for issuing NOPVs, and issue NOPVs timely.
- (7) That the C/PSC ensure that PSC has adequate staffing for the Pipeline Safety Program.
- (8) That the C/PSC ensure that PSC adheres to procurement regulations when determining whether to engage a contractor through the consultant procurement process.
- (9) That the C/PSC evaluate the performance of the current Miss Utility/One Call contractor and determine if it should seek better-qualified vendors.

APPENDICES

3. **Participation in the District's utility discount programs is low.**

- (1) That the C/PSC and the Director of DDOE (D/DDOE) take the lead and coordinate an effort to develop and implement a written plan for educating the public about utility discount programs.
- (2) That the C/PSC, D/DDOE, and Director of DHS (D/DHS) expeditiously determine the feasibility of linking utility discount program applications to IMA's public benefits application processes, and if determined to be practical, expeditiously implement this linkage.

4. **PSC has not proactively addressed electricity reliability concerns.**

That the C/PSC expeditiously issue decisions on *Blueprint for the Future* proposals and determine whether additional strategies are needed to address electricity reliability in the District.

5. **Employees expressed concerns regarding treatment by PSC managers.**

That the C/PSC form an active committee of managers and employees and/or engage an outside human resources consultant to make recommendations to the C/PSC for improving morale and to assist with their implementation.

Additional Findings:

6. **PSC decisions in formal cases are not timely.**

That the C/PSC expeditiously develop and implement a plan to improve the timeliness of decisions in rate cases and other significant cases.

7. **Evaluation and coordination of consumer education and outreach efforts are limited.**

- (1) That the C/PSC work with OPC and other stakeholders to develop and implement a written plan for consumer outreach and education regarding utility issues to avoid duplication of efforts.
- (2) That the C/PSC develop measurable goals in addition to the number of outreach events conducted and consumer survey results as well as track performance measures to assess PSC's consumer outreach and education.

8. **PSC's resolution of informal and formal consumer complaints is not timely, and further training for informal complaint resolution is needed.**

- a. *Informal consumer complaint resolution is not timely, and PSC does not track companies' timeliness in responding to complaints.*
- b. *Formal consumer complaint decisions are delayed.*
- c. *Additional training needed for informal consumer complaint resolution.*

APPENDICES

- (1) That the C/PSC ensure that PSC has adequate staffing to resolve informal consumer complaints timely, that the information in the consumer complaint database is current, and that company response times are monitored.
- (2) That the C/PSC ensure that PSC consumer specialists have adequate training to resolve consumer complaints.
- (3) That the C/PSC ensure PSC has sufficient staffing to issue timely decisions for formal consumer complaints.

APPENDIX 2

APPENDICES

**District of Columbia
Office of the Inspector General**
Findings and Recommendations
COMPLIANCE FORM
FOR PRIORITY MATTER

2010 OCT 23 11 45 14

Use this form to report actions on recommendations made by the Office of the Inspector General (OIG) during or following an inspection of your agency, program, or other matters. Include on this form all information necessary to show compliance with the recommendation. *Fax and then mail* the completed form and any attachments to Office of the Inspector General, Attention: Elizabeth Sinks. The OIG fax number is 202-727-6992. The address is 717 14th Street, Northwest, Washington, D.C. 20005. Telephone: 202-727-2540.

INSPECTION OF: Public Service Commission (PSC)

PERIOD OF INSPECTION: Ongoing

FINDING:

Sensitive EEO complaint material not stored securely.

According to 4 DCMR § 105.10, "The EEO Counselor shall not reveal the identity of a complainant who has come to the Counselor for consultation, except when authorized to do so by the complainant in writing, until a complaint of discrimination has been filed with the Director, EEO."

The EEO Officer (Officer)¹ at PSC stated to OIG Inspectors that a locking file cabinet and a lock installed on his office door are needed to secure confidential material related to EEO matters. Currently, the Officer is attempting to safeguard the EEO documents by keeping them covered on top of his desk, putting them inside a non-locking drawer, and taking them home. He indicated that these documents contain complainants' names and include forms complainants complete to request anonymity.

Although the Officer has locking file cabinets inside and directly outside his office, he stated that he is not storing EEO materials in them because they are full of audit materials. The Officer stated that he keeps audit materials in these cabinets so they are organized and easily located. He keeps the cabinets unlocked and indicated that other staff members can have access to the audit materials.

The Officer stated he had keys to these file cabinets, but does not know where they are. In addition, he stated that his office door cannot be locked. The Officer stated that he requested both a locking file cabinet to store EEO materials and a lock for the office door, but neither request has been fulfilled.

¹ The Officer stated his duties include counseling complainants, which is the same function performed by an EEO Counselor.

APPENDICES

District of Columbia
Office of the Inspector General
Findings and Recommendations
COMPLIANCE FORM
FOR PRIORITY MATTER

RECOMMENDATION

We recommend that the Chair of the PSC take prompt action to ensure that the EEO Counselor and the EEO Officer have adequate locking file cabinets and office door locks so that confidential EEO materials can be stored securely.

RESPONSE DUE TO THE OIG: October 28, 2008

AGENCY ACTION TAKEN (attach additional information as necessary):

Upon receipt of the email from [REDACTED] on October 21, 2008, I attempted to contact the EEO Officer ("Officer") to follow-up on the information conveyed by the Officer to the OIG inspector and as reflected on this form. The Officer was not at work at the time, thus I sent him an email to advise me upon his return to the office. At the same time, the Commission's Executive Director, Dr. Bowman, contacted the Commission's Deputy ED for Administration, [REDACTED] and asked him to address the concerns the Officer expressed to the OIG inspector about securing EEO files.

On October 22, 2008, [REDACTED] identified a two-drawer file cabinet and delivered it to the Officer's office, along with a duplicate key for the four-drawer cabinet located in the Officer's office. Subsequently, the Officer advised that he had received the file cabinet and duplicate key for the four-drawer file cabinet (See Attachment). Also, on October 22, I visited the Officer's office. I noticed that the two-drawer cabinet required a new lock and the Officer subsequently obtained one. I observed the existing file cabinets and contrary to the information reflected on page 1 herein, only one cabinet contained audit materials and neither file cabinet was full or organized. The Officer did represent that he kept some EEO files at home and the rest in an unlocked drawer behind his desk. He said he did not keep or have any EEO files covered over on top of his desk or otherwise out in the open. I identified an office with a door lock and made it available for the Officer. He declined to move, stating that the new file cabinet was sufficient to keep the EEO files secure.

I contacted the EEO Counselor to ascertain the security of her files. Unlike the Officer, she indicated that she is able to secure and lock away the EEO files in her office.

RESPONSIBLE OFFICIAL:

| | | | |
|-------------------|---|---------------|-------------------------|
| Name: | <u>Agnes A. Yates</u> | Title: | <u>Chair</u> |
| Phone: | <u>(202) 626-5115</u> | Fax: | <u>(202) 626-9212</u> |
| Signature: |  | Date: | <u>October 28, 2008</u> |

APPENDICES

APPENDIX 3

APPENDICES



2009 OCT 15 PM 5:40

Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.dcpssc.org

October 15, 2009

Mr. Charles J. Willoughby
Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Dear Mr. Willoughby:

The purpose of this letter is to transmit the Commission's comments on the draft Report of Inspection of the Public Service Commission ("Report") that we received on September 8, 2009. We appreciate the Office of the Inspector General's ("OIG") time and effort in preparing the report as well as the opportunity to comment before a report is published.

Before addressing each of the findings in the Report, we have several general comments.

General Comments

1. The Report cites GAO in identifying three performance metrics for judging outreach programs – quantity, quality, and timeliness. We believe the Report should apply those same three metrics to all aspects of the Commission's activities, as reflected in the Commission's full mission statement. Instead, we are very disappointed that the scope of the Report primarily focuses on only one of three performance metrics, timeliness. What are the IG's conclusions re the Commission's performance on the quantity and quality metrics? It appears the scope of the Report does not devote sufficient attention to those equally important issues, both of which impact the timeliness of decisions.

We are also disappointed that the Report is not only unbalanced, focusing solely on weaknesses without considering strengths, but it is also rife with inaccuracies and fails to appreciate the changes that have occurred in the four years since the inspection began. There is no appreciation for the Commission's website that is an important tool for educating and informing the public. There is very little attention paid to the Commission's caseload in two of the three industries that the Commission regulates;

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namely natural gas and local telecommunications. Yet, they account for nearly about half of the Commission's docket. There is no mention of the community based payphone program that is popular with some community activists. There is no mention of the Commission's formal case tracking and performance management systems or self-imposed turnaround standards although they contribute directly to a number of the issues addressed in the Report.

2. There are also many errors of commission. In general, we find that some of the findings are wrong and need to be corrected. Others raise legitimate concerns that we acknowledge even though they are already being addressed, and some of the problems identified would be difficult to solve without additional resources. In the latter instances, it would be most useful if the recommendations were restated to endorse the need for additional resources which we could use to support future budget requests.

3. The Report relies too heavily on statements by single individuals made during interviews with the IG team. One weakness of this approach is that often incorrect or uninformed statements are made and the presumption is that if one or two interviewees say it, then it must be true. These statements are then used to support certain findings and recommendations. However, it is virtually impossible for the Commission to ascertain whether the error is on the part of the interviewee, the interviewer, or both.

4. Many of the findings and recommendations are taken out of context, which misrepresents their accuracy and importance. For example, there are several findings re timeliness (e.g., of Commission decisions and the handling of consumer complaints). However, the Report inexplicably elevates timeliness over the need to provide due process.

In short, the operations of a quasi-judicial regulatory agency are complex and apparently difficult for persons who are not versed in the field to comprehend fully. We are concerned that the IG team apparently did not fully understand the issues facing the Commission and as a result, the Report's findings and recommendations are often superficial, misleading, and, in many instances, unhelpful. Although we have not challenged each and every statement in the Report with which we disagree, we have tried to convey our concerns using examples from the Report.

Comments on Findings and Recommendations

1. Employee Survey

We take issue with the inclusion of bonuses in the item 9 statement since they have not been allowed for several years. Consequently, we do not think it is fair to ask employees if they were given bonuses when we are prohibited from giving them. Under the circumstances, the inclusion of bonuses in the statement creates a bias that contributes to the highly negative response.

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2. EEO Records Were Not Stored Securely

The employee that maintained confidential EEO information had a lockable file cabinet for his use. The employee chose to keep information on his desk and not to keep the EEO information in the lockable file cabinet in his office. In fact, the employee was storing personal items such as clothing and shoes, rather than the confidential documents. Nonetheless, when the Commission learned from the IG team that the information was not secured in a locked cabinet, we immediately provided the employee with another cabinet and the employee secure a new lock. Meanwhile, there was no evidence that the EEO information that had been maintained had been compromised even before the new cabinet and lock was installed.

3. Miss Utility/Once Call and Pipeline Safety Program Inspections

a. The Report concludes that there are deficiencies in the Miss Utility/One Call and Pipeline Safety Program Inspections. The first and third findings are that “the quality of and enforcement for Miss Utility/One Call inspections appear to be inadequate” and that the “PSC does not have a timeframe for Pipeline Safety Program enforcement actions; warning letters are not consistently issued.” These findings are based, in large part, on the superficial observation that the number of fines decreased from the year before. According to the IG Report, the problem is a lack of enforcement guidelines.

The IG team misunderstands the nature of the problem. With regard to Pipeline Safety enforcement, in May of 2008, Washington Gas petitioned the Commission to review several fines levied against it by the Commission's Pipeline Safety personnel. The challenge went to the heart of the pipeline safety enforcement process and the Office of General Counsel (“OGC”) initiated an inquiry into the matter. A number of problems were discovered and, ultimately, OGC recommended that the Commission vacate most of the fines due to a number of flaws in the process. At the same time, the Commission's broader enforcement authority was under review by the D.C. Court of Appeals. Because the enforcement authority for pipeline safety is part of the same statutory scheme as the matter under review by the Court, and because the statute at issue had never been litigated, OGC recommended proceeding with caution on future fines. Caution was warranted because a reversal of a fine could have a budgetary impact on the Commission. A recent decision by the D.C. Court of Appeals on the Commission's authority to issue fines validates the need for this caution; in fact it has major implications regarding the Pipeline Safety program. If the IG team is suggesting that the Commission plunge itself headlong into a legal thicket, then the Commission strongly disagrees.

b. The Report finds that the “PSC does not conduct Miss Utility/One Call inspections throughout the year.” This is directly related to the fact the grant funds for the program that are provided by the U.S. Department of Transportation are not available until March or April of each calendar year. Thus, the grant does not provide funds to cover the entire 12-month period. Moreover, the data cited in the Report do not

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support the conclusion that “lack of inspections in some months during the year limits PSC’s ability to prevent damage to underground utilities.” In fact, no evidence is provided showing the absence of inspections in the winter months contributes to damages. Rather, the data show relatively fewer incidents during the winter when the inspections are not conducted due to a lack of funds. Accordingly, the Commission also disagrees with the recommendation that the C/PSC develop and implement strategies to ensure that Miss Utility/One Call inspections are conducted throughout the year, such as determining how many inspections to perform each month based on previous patterns of damage incidents and/or number of excavations.” Rather, a more helpful recommendation would support increased funding so the Commission can retain the consultant to conduct the inspections before federal funding is made available.

c. The Report finds that the “PSC awarded noncompetitive contracts without adequate justification for Miss Utility/One Call inspections.”

The IG team questions two issues here: Did the Commission follow proper procurement procedures in awarding the noncompetitive contract and is the contractor qualified to carry out his responsibilities? Our answer to both questions is yes.

With respect to the first issue, the conditions, factors, and justifications the IG team stated in the first paragraph of its Report were indeed those applied by the Commission personnel in awarding the noncompetitive contract to the consultant.

The Contract Administrator and Chief, Contracts & Procurement Officer forwarded on March 29, 2005, a Determination and Findings (“D&F”) including a justification memorandum supporting the findings¹ to execute a contract to the proposed consultant based on the consultant’s qualifications for the subject project. The Chair of the Public Service Commission and the Contract Officer, agreed with the recommendation that the consultant possessed the necessary skills and knowledge, and determined that it was in the best interest of the Commission and the ratepayers to award a contract to the consultant. The justification memorandum cites, with the release of funds only the week before, the need to execute the contract “as soon as possible to enable us to maximize the time to be spent on the project before the expiration of the calendar year.” The memorandum also indicates that there were no in-house personnel available to carry out the work.

Thus, the Commission continues to assert that it complied with the Commission’s Procurement Regulations. Also, the work to be completed satisfied the needs of the Commission and the One Call project.

In regards to Consulting Services as defined in Section 2299 – Definitions, the Commission asserts that the work required by the consultant is advisory nature. The consultant advises the Commission regarding the status of the program, compliance with recommended methods of locating underground facilities, inspects facility locations

¹ Memorandum dated March 29, 2005 presenting consultant’s skills and abilities, letters of reference and character, and resume of consultant.

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markings to ensure they are done within the time window provided by regulation, and that excavations are carried out in accordance with regulations. The essence of the project is advisory in nature and includes the daily review of sites. Those duties include conducting inspections of underground facility location markings to determine the extent and timeliness of responses to marking requests by carrying out actual field inspections of markings and comparing the findings with data reported by locators; and inspecting excavation sites to assure that excavations are carried out in accordance with Federal and District regulations.

Thus, the Commission stands by its conclusion that the contractor had relevant expertise and knowledge applicable to the tasks and assignments of the contract. Moreover, in our view, the contractor's performance has been excellent, and fully justifies this conclusion. Therefore, noncompetitive contract has been in the best interest of the Commission and the District.

The Commission also notes that the IG team's statement "the team found deficiencies in the enforcement related to Miss Utility/One Call inspection as described in finding "1a" suggests that the team misunderstands the role of the contractor in this assignment. The contractor is responsible for determining compliance, but not for enforcement. The Commission stands by its position that the contractor has fully met his obligations by conducting more than the required number of inspections (and more than twice the number of natural gas pipeline safety inspections in a shorter period of time), determining compliance, documenting inspection results, and preparing reports summarizing findings-all of which, collectively is applied by the Program Manager to advise the Commission and USDOT on the effectiveness of the District's underground facility protection effort.

We also question the relevant expertise of the IG team in rendering a judgment on the qualifications and performance of the contractor, particularly without having observed the contractor at work. We note the IG team's terms of reference indicate that this task was within its scope, but the Report does not indicate that such observations occurred.

Finally, it is the Commission's view that the effectiveness of inspections is not necessarily measured by the number of enforcement actions and amounts of fines assessed, and the dollar additions to the District's treasury. In certain situations, physical presence at the excavation sites during excavations, combined with on-site corrective actions initiated by an inspector, and verbal warnings without the issuance of fines and written corrective actions for first time offenders, can be as effective, if not more effective, than fines. Thus, the team's inference that a scarcity of enforcement actions, including fines, concludes that there is lack of effective inspection and compliance, is necessarily be correct.

d. The Report's findings with respect to the Pipeline Safety Program and Miss Utility do not comport with the programs' track records as judged by the funding source, the U.S. Department of Transportation (USDOT). USDOT has its own

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evaluation system, based on both field and desk audits of programs in every state of the union that are conducted by industry experts. The Commission's Pipeline Safety Program's average score over the last 8 years is 98.5 out of 100 points. We find those results to be much more indicative of our performance than the factually deficient assessment statements contained in the IG Report. Similarly, the success of the Commission's Miss Utility program is reflected in the fact the Commission has received the maximum amount allowed each year for the grant, based on USDOT's review of our program.

4. Participation in Low-Income Discount Programs

The Report concludes that "Participation in the District's utility discount programs is low" compared to Maryland, New Jersey, and Pennsylvania and then recommends that the Commission: a) join DDOE in taking the lead to develop and implement a written plan for educating the public about utility discount programs; and b) consult with DDOE and DHS to determine the feasibility of linking utility discount program applications to IMA's public benefits application process and, if practical, implement this linkage expeditiously.

Although the Commission certainly has no objection to participating in joint efforts, the Report should at least recognize that the Commission's role has changed over the last year. Under the Clean and Affordable Energy Act of 2008, the electricity and natural gas trust funds, as well as the low-income programs they support, were all transferred from the Commission to the Mayor. The Commission retains the authority to determine whether, and to what extent, support for these programs continues to be embedded in rates but has no role in program administration or oversight. In addition, as stated in the Report, the recommendation to link DDOE Administration of the program with the DHS Income Maintenance Administration ("IMA") is from "a PSC senior official." In fact, this PSC official has worked closely with DDOE toward that end. We are pleased to report that progress has been made on this issue in that DDOE has informed us that it will transfer intake and eligibility authority to IMA by the end of this calendar year. If the IG team wants to pursue the issue of increased participation in the low-income discount programs, it should direct its recommendations to DDOE at this point.

The Report provides no evidence whatsoever that lack of awareness of the utility discount programs is the reason for relatively low participation in the programs. Consequently, we do not agree that developing and implementing a written plan for educating the public about utility discount programs public is a useful solution. The success of the annual Joint Utility Discount Day, with concomitant widespread media advertisements, has ensured widespread knowledge of the programs. Moreover, the Commission has a long history of collaborating with not only DDOE (formerly called the D.C. Energy Office), but also the Office of the People's Counsel, and the three utility companies in educating and informing the public re these programs. As evidence, the D.C. Energy Office filed annual reports in F.C. No. 813, in which it summarized the

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utility discount outreach and education efforts of the three utility companies, the Office of the People's Counsel, the Commission, and itself.

We disagree with the statement that the "PSC does not have a written plan that coordinates its public education efforts." The Commission's outreach and education efforts are well-documented in our written communications plans that cover brochures and fact sheets, PowerPoint presentations, website information, and lists of outreach events which were shared with the IG team. Some of the items are also available on our website. Indeed, this same IG Report references the communications plans. Instead, we believe the major barriers or hurdles to increasing participation lie in the aspects of the administration of the programs that are in the hands of DDOE and utility companies. At this point, the Commission lacks authority to render judgments on those aspects of the programs, as per the Clean and Affordable Energy Act of 2008.

5. Electric Reliability

The Report concludes that the "PSC has not proactively addressed electricity reliability concerns" and recommends that the Commission expeditiously issue a decision on Pepco's Blueprint for the Future proposal.

The IG team appears to be misinformed regarding the Commission's electric reliability caseload and misunderstands both the nature of the problem as well as the range of potential solutions. The Report notes that "[t]he District may face a shortage of electricity capacity that will create serious reliability risks, possibly leading to brownouts or rolling blackouts." That scenario is much less likely in light of PJM's current reduced load forecast. In addition, the Commission has played a lead role on electric generation and transmission issues (which are located outside the boundaries of the District) through its participation in a number of regional organizations and through our own caseload when District service reliability was threatened. For example, the Commission successfully fought the closure of the Mirant plant located in Alexandria through appeals to the U.S. Department of Energy ("USDOE") and the Federal Energy Regulatory Commission ("FERC). The Commission has also approved two new Pepco transmission lines to ensure the delivery of adequate power supply to the District. The Commission is an active participant in the Eastern Interconnect State Planning Council on transmission and in the PJM Organization of PJM States ("OPSI"). We regularly join OPC in pleadings before FERC on issues that affect the District. In F.C. No. 1064, the Commission held a hearing on October 1, 2008 on the adequacy of power supply, and the Commission continues to stay on top of this issue through its participation in OPSI and other regional groups. The Commission has also organized dialogues on demand response with GSA. Finally, we strongly believe that demand response programs and the promotion of renewable energy resources are critical to the adequacy of power supply for the District, and hence, we have aggressively promoted the certification of renewable resources to ensure long-term electric service reliability.

We also believe the pace at which the Commission has addressed Pepco's proposed Blueprint for the Future in F.C. No. 1056 is appropriate in light of changing

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circumstances. Pepco filed its Plan in April 2007. The Commission moved Pepco's proposed energy efficiency programs into F.C. No. 945. However, further action was delayed by the simultaneous consideration and ultimate passage of the Clean and Affordable Energy Act of 2008. While giving DDOE the primary responsibility for energy efficiency programs, the Act stipulated that the Commission render a decision on Pepco's proposed programs within 90 days of the passage of the Act. The Commission met its responsibilities within that timeline. Pepco's underlying studies of its AMI proposal raised questions about the cost-effectiveness of the proposal. Apparently such results were not unique to D.C. Thus, when the Obama Administration began, it earmarked federal stimulus money to encourage the deployment of AMI nationally. Pepco applied for such funds to the USDOE on August 6, 2009. Meanwhile, the Commission was on track to render a decision on Pepco's AMI by the end of July 2009. However, the D.C. Council passed legislation that altered the role of the Commission. We are now prepared to act promptly in determining the sufficiency of the federal stimulus funds within 60 days of the DOE decision.

The Report also states as evidence that the Commission has not been proactive re electric reliability and that there is no mention of this issue in the Commission's strategic business and performance plans. That statement is not correct and reflects a lack of understanding of the Commission's record and case load on this issue as well as a misunderstanding of the strategic business and performance plans. As should be evident from the Commission's Annual Reports, annual Mission Statement and Goals, and formal case tracking reports, all of which were provided to the IG team, Pepco's BluePrint for the Future is not the only proceeding in which the Commission is addressing electric reliability. In fact, the Commission has a number of ongoing proceedings in which it is addressing electric system reliability. In F.C. No. 766, the Commission requires Pepco to file each February a Comprehensive Report on electric reliability issues. After receiving comments from the Office of the People's Counsel, and Commission Staff, the Commission issues orders with directives to Pepco to take steps to improve system reliability as measured by the three industry standards, System Average Interruption Frequency Index ("SAIFI"), System Average Interruption Duration Index ("SAIDI"), and Customer Average interruption Duration Index ("CAIDI"). The Productivity Improvement Working Group ("PIWG"), composed of staff from the Office of the People's Counsel, the Commission and Pepco, works with Pepco in following up on the directives. In F.C. No. 991, the Commission has focused on manhole incidents by engaging an engineering consulting firm to conduct independent inspections and to make recommendations that will improve the reliability of Pepco's underground system. This work has contributed to the District being a national leader in installing slotted manholes that have effectively reduced the number of manhole explosions that threaten public safety. In F.C. No. 1026, the Commission is one of only a few jurisdictions that have engaged an engineering consultant to conduct independent studies to determine the feasibility of undergrounding all or some of a utility company's overhead system. The independent consultant's report on Pepco's underground system is due at the end of this calendar year. In F.C. Nos. 982 and 1002, the Commission addresses outages occurring as a result of storms and other daily activities. Orders re investigations of 2008 outages and a June 2008 storm-related outage were issued several months ago.

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However, investigations of these issues continue with Pepco having to file monthly outage reports.

As should be evident from above, electric system reliability is an ongoing issue and hence not captured in the Performance Plans that focus primarily on only new initiatives. It is also incorrect to state that the Strategic Business Plans did not mention service reliability. In fact, it is the first item under Issue Statements on page 3 of both the FY 2007 and FY 2008 Strategic Business Plans.

Additionally, the Commission has applied for a USDOE grant made available to all state public service commissions to facilitate the timely consideration of American Recovery and Reinvestment Act-related electricity dockets, particularly related to such topics as energy efficiency, renewable energy, smart grid, electric reliability, demand response and dynamic pricing. Secretary Chu has announced that all applications will be approved between October 30 and November 30, 2009. The Commission's grant will be in the amount of \$765,000 to support 5 new positions (3 full-time and 2 part-time) beginning January 2010 through the end of FY 2012.

6. Treatment by Managers and Low Morale

The Report concludes that "Employees expressed concerns regarding treatment by PSC managers" and recommends that the PSC either form a committee or hire a consultant to address morale.

The Report's conclusion seems to be premised on complaints about one particular manager and a statement by one or two employees that, in his/her opinion, there is friction between units. The Commission agrees that improving employee morale is important, but there are underlying performance, personnel, and other issues that must be taken into account. Thus, a Commission-wide committee is, in our view, an ineffective method of handling complaints against one manager or meaningfully addressing inter-unit friction which is often based on a disagreement between units (with different disciplines) on how to approach a particular issue. We believe a better approach is one that we are already following. MSS employees were required to take a Workforce Development Administration course on "How to Supervise" earlier this year, with follow-up discussions in Office Director meetings. There has also been some restructuring of reporting lines in the office in question. Finally, coaching and mentoring is being provided and personnel rules are being followed where complaints regarding specific managers are involved. Inter-office issues are being addressed as part of a process we are undertaking to improve our business practices and procedures, to include a two-day Commission-wide retreat on how to work faster, better and cheaper. Consultants are being engaged to facilitate the retreat and follow-up activities.

7. Timeliness of Commission Decisions in Formal Cases

The Report concludes that "PSC decisions are not timely" and recommends that the Commission expeditiously develop and implement a plan to improve its timeliness of

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decisions in rate cases and other significant cases. This conclusion is based on the fact the Commission did not render a decision on the last Pepco and Washington Gas rate cases within 9 months and it took four years to revise the Consumer Bill of Rights.

This recommendation is overly simplistic in that it ignores due process considerations affecting the length of formal adjudications and misunderstands the nature of rulemakings. The Report notes that the Commission's stated goal is to resolve rate cases in 9 months but it did not do so in its most recent rate cases with Pepco and Washington Gas. Although that is our goal, we cannot set an arbitrary limit on the length of the case. The length of the cases is determined by the issues, including the issues that are part of any motion filed in the case.

We believe a closer examination will show that each of these cases reflects unique circumstances and thus, they should not be the basis for rendering any conclusions on the Commission's timeliness performance. For example, Pepco and Washington Gas filed their rate cases in December 2006, within 20 days of each other. Four months later, Verizon filed a major updating of its Price Cap Plan, wherein its basic rates are established. It was the first time the Commission had processed two rate cases simultaneously since 1993/1994, when the agency had substantially more staff and the caseload was probably half of what it is today since it was before the three industries were restructured to allow for competition. Nonetheless, we were on track to complete both cases on a timely basis, were it not for two separate incidents. In the Washington Gas rate case, the company refused to comply with a Commission directive to provide a report on its outsourcing activities, which led to a suspension of the case hearings and an appeal to the D.C. Court of Appeals. While the appeal was still pending, the rate case was settled. We issued an order approving the settlement within 12 months of the original filing. In the Pepco rate case, there were a number of highly contentious issues that required 13 separate discovery orders and subsequent delays. Thus, the Commission issued a decision on most issues within 13 months. One of the most controversial issues, Pepco's proposed decoupling mechanism, was delineated in a Phase II proceeding wherein the Commission's authority had to first be briefed. After its findings on the jurisdictional issue, the Commission held a proceeding on implementation issues and rendered a decision within 90 days of the closing of the record.

Finally, the Report notes that it took the Commission nearly 4 years to complete the Consumer Bill of Rights rulemaking and implies that the length of time had some deleterious affect on the companies or the public, which it did not. The existing rules remained in place until they were supplanted by the new rules. Moreover, that four-year period included nearly two years of public input through a working group process and the issuance of four Notices of Proposed Rulemakings before a final version was issued. Thus, any "delay" maximized consumer input in serving the public interest.

In sum, we agree that there is room for improvement in the timeliness of Commission decision, but not based on the examples cited in the Report. In fact, we have undertaken our own timeliness study covering the six month period April 1 –

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September 30, 2009, using our self-imposed turnaround standards that we have established for a wide range of proceedings and that was shared with the IG team. The timeliness study also includes the processing of administrative matters. The results are being used by consultants we are engaging to explore ways to complete our activities faster, better, and consequently cheaper.

8. Evaluation and Coordination of Consumer Education and Outreach

This section of the Report is a good example of the flaws that emanate from basing conclusions on what interviewees say. The Report cites one PSC manager as stating that “the PSC does not have evaluation measures for its outreach and education efforts beyond its outreach events.” This statement does not take into account one of the principal tools for educating and informing consumers and the public, the Commission’s website. In addition to the wealth of information available on the website, the Commission tracks the number of hits to various sections of the website. Moreover, the Commission just launched a new homepage that makes the website even more consumer-friendly. As an example of coordination with other agencies and organizations tasked with educating and informing the public, the Commission website has links to OPC, DDOE, the utilities service providers and other sources. Commission staff also shares this information with consumers who call in or contact the Commission and who may not have access to a computer.

As the IG team surely knows, we believe in the usefulness of performance metrics, as evidenced by those that are indexed to each of our mission statement components in our Annual Reports, as well as those that track internal operations. However, at this point in the education and outreach program, we believe it is more important to concentrate on the preparation of information for the website and distribution of the information throughout the District. A great deal of time is also spent in ensuring the information is current. Our distribution strategy is to educate not only individual consumers during electric and natural gas meter tests and the mediation of consumer complaints, but to also educate and inform the social service agencies and organizations that are in contact with the segments of the population that may not have access to our website.

The Report does mention that we survey attendees at our outreach events, but we do not track the number of participants. The latter is not always possible. We often don’t know how many people attend an event. In addition, although we distribute survey forms, many participants and organizers don’t use them. Instead, they give us oral feedback during conversations after the presentations, which we find to be most useful.

The Report indicates that an interviewee said the PSC does not have a written plan that coordinates its public education efforts with other organizations. That is not correct. The Commission’s communication plans, which were given to the IG team, focus on our own responsibilities in the context of known collaborative efforts with DDOE, OPC, and the utility companies through the Joint Discount planning and other

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activities. They are also designed to recognize our central role in publicizing information through our website.

Moreover, we have in the past and we will continue in the future to work together with other agencies and organizations at different outreach events. In fact, the Commission has a long history of working collaboratively with all stakeholders in educating and informing the public. For example, during the course of the IG inspection, the Commission worked with OPC, the Consumer Utility Board, DDOE, and Pepco to educate and inform the public re electric restructuring and its impact on consumers' rates and choices through a program mandated by the 1999 Retail Electric Restructuring Act called the Customer Education Advisory Board ("CEAB"). Over \$2.million was used to support this collaborative effort. Even a separate website was established. Although it might appear to be duplicative in nature, in fact, each agency has a different role to play and thus each should be represented. For that reason, often ANC's and civic associations invite representatives from the Commission as well OPC and the companies to address their concerns. This is exactly what occurred in a section of ward 7 where residents were concerned about natural gas leaks. Both the Commission and Washington Gas met with the residents on several occasions. The Commission staff worked with Washington Gas in designing and conducting a number of leak surveys and the implementation of repairs so the community could feel safer. We have also extended our outreach through each of the Council members by working with their constituent services staff on consumer complaints and other issues. For example, currently, in Ward 1, we are working with the community and Councilmember Graham's office on payphone issues. In Ward 2, there have been a number of electric outages that we are investigating through the use of a consultant. The key issue in Ward 3 has been service reliability and tree trimming. Although we don't have jurisdiction over tree trimming, we are working with OPC and Pepco through the PIWG and with the community through meetings and tours arranged by Councilmember Cheh. In Ward 4, we are working with councilmember Bowser's office, Pepco, Verizon, and Comcast to reduce and eliminate the number of double poles. In Ward 5, we are addressing a number of residential quality of service complaints. In fact we have an investigation underway with respect to Verizon.

We also disagree with the statement from an external stakeholder that is apparently unaware of the Commission's outreach activities and thus concludes the PSC has a low level of public engagement and that it is one of the least known District agencies despite its high impact on the public. (We also publicly disagreed with the Council's Report that is referenced in the IG Report.) Perhaps the stakeholder is not sufficiently involved in Commission-related outreach events such as attending ANC and civic association meetings, etc. Is the stakeholder aware that the Commission's contact information is on every monthly electric, natural gas, and local telephone bill? Apparently, other consumers do, because the Commission receives over 2,000 consumer complaints each year. The success and visibility of the Commission's website is reflected in its use by community list-serves. For example, a number of citizens in ward 3 who were complaining about high energy bills last winter and they noted in their

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e-mails that they had obtained useful comparative information from the Commission's website.

The Commission's website also contains extensive information on consumer choice in all 3 industries and it is aided by similar information in bill inserts and fact sheets and brochures distributed by Commission employees at a wide range of public events. We know of no other state commission website or outreach program that contains the breadth and types of information on customer choice that we maintain, updating it on a monthly basis. Look at the Maryland and Virginia websites and outreach activities to compare.

Thus, the Commission disagrees with the conclusion that its consumer education and outreach efforts are limited and both recommendations regarding consumer education and outreach on the grounds the findings are incorrect and to the extent recommendations are warranted, they are already in place.

9. Untimely Resolution of Informal and Formal Consumer Complaints

We agree that there is a need for improving the consumer complaint mediation process. However, there are some factual misstatements about the informal hearing process. An OCS consumer specialist does not "lead" informal hearings between the consumer and the company to attempt to resolve the problem. An OCS Supervisor or Director leads the informal hearings with the consumer specialist in attendance. Furthermore, there is no discussion in the IG Report of the fact that informal hearings are scheduled, cancelled, and re-scheduled at the convenience of the consumer. OCS addresses this issue by instituting, where possible, the use of a conference call with the parties versus a meeting in order to expedite the process. There is also no recognition in the Report that, during the four-year IG investigation, the Consumer Bill of Rights was amended and the time frames for rendering a formal decision were changed in order to eliminate a time-frame that was arbitrarily keyed to the date of the filing of a complaint rather than the date the record closed.

We also agree that the consumer complaint database needs improvement. However, we disagree with the assertion that the PSC does not track companies' timeliness in responding to complaints. The current database used by OCS has been modified several times to accommodate a discrete field for "due date" and it is being used. However, it is not being used consistently. The inconsistent populating of data in the date due field has proven problematic when conducting special studies or extracting specific types of complaints by utility from the database. In order to overcome or circumvent this problem, the Director and Supervisor of OCS are recommending the installation of a new consumer complaint tracking system. They have met with OCS staff to assess their needs and attended briefings at several of the utilities to review their tracking system.

Moreover, the OCS Director is in the process of recommending a software system which is more user friendly and incorporates features such as automatic

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numbering of cases, automatic assignment of all due dates based on the OCS process, automatic acknowledgement letters, and incorporates dates received or logged. The software also includes supervisory and administrative functions and features that are needed such as standard and ad hoc reports, mandatory fields, and the dashboard feature.

The issue of company performance in meeting the 7-day timeframe is baffling at best. If the due date field is not being populated, how does one compute the variance?

We also agree that consumer specialists need more consumer complaint as well as subject matter training. To that end, OCS consumer specialists are being required to attend the NARUC Consumer Services course. One consumer specialist attended the training in FY 09 and the remaining specialists will attend in FY 10. In addition, the Commission has approved a new Pepco decoupling mechanism, called the Bill Stabilization Adjustment, that will go into effect beginning with November 1 usage. The Commission's technical staff will conduct a workshop with OCS staff so they can answer questions consumers may have.

In sum,

We agree participation in low-income discount programs is relatively low, but not for the reasons stated in the Report and the remedies are beyond our control at this point, due to the Clean and Affordable Energy Act of 2008.

We agree employees have expressed concerns re treatment by PSC managers, and we have already taken steps to improve the situation.

We agree that there is room for improvement in the timely rendering of Commission decisions, but not for the reasons stated in the Report, and we have already taken steps in that direction.

We agree there is room for improvement in the timely resolution of informal and formal consumer complaints but not with all of the recommendations.

We agree further training of consumer specialists for informal complaint resolution is necessary and we have already taken steps in that direction.

We disagree with the deficiencies and recommendations noted in the Miss Utility/Pipeline Safety Program.

We disagree that the PSC has not been proactive on electric reliability issues.

We disagree with the criticisms of the Commission's education and outreach program.

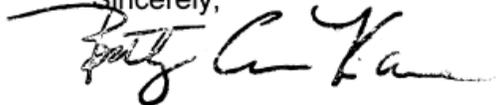
In conclusion, we hope, before publishing the Report, the IG team will make revisions based on our comments. At the least, the Report should be reorganized in

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accordance with the seven bullets in our mission statement. Then provide a brief description of how we seek to meet each goal. From there, identify areas of strength as well as weaknesses where improvements are warranted. We are willing to make ourselves available to answer any questions and help in this regard.

Meanwhile, we are taking this opportunity to update you on a number of Commission accomplishments since the end of January 2009. We are providing copies of the Commission's 2008 Annual Report, a new Customer Choice brochure, a new PowerPoint Presentation called Understanding Your Residential Bills, Choices, and Rights, and the actual version of the Commission's FY 2009 goals (delineated by each of the mission statement bullets and by industry). We are also providing several recyclable bags and magnets that we have distributed at JUDD and the D.C. Council, and we are now distributing them to food pantries and social service agencies in addition to our own outreach activities such as community hearings, etc. After completing a user survey, we have launched a new home page for our website and added a number of enhancements to eDocket. We invite you and your team to review the website (www.dcpssc.org), and we welcome your feedback. Finally, we are including a copy of my testimony before the D.C. Council on September 30, 2009. It contains information on our productivity over the last 6 months.

Sincerely,



Betty Ann Kane
Chairman

Enclosures

cc: Commissioner Richard E. Morgan
Commissioner Lori Murphy Lee
Executive Director, Dr. Phylicia Fauntleroy Bowman
General Counsel, Richard A. Beverly

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Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.dcpSC.org

November 3, 2009

Ms. Elizabeth Sinks
Director of Planning and Inspections
Office of the Inspector General
717 14th Street, N.W.
Washington, D.C. 20005

Dear Ms. Sinks:

The purpose of this letter is to respond to your e-mailed request that we complete the 19 agree/disagree statements in the OIG Report. We have provided our comments on each of the findings in the Report. Since we do not agree with many of the findings, and the recommendations relate to the findings, then the agree/disagree dichotomy did not fit our circumstances. In addition, we continue to take the position that by focusing only on the negative, the scope of the Report does not reflect the full scope of the inspection, leading to numerous errors of omission and commission. Nevertheless, we hereby provide our position on each of the 19 recommendations in the Report. We hope that this will satisfy your requirements.

Deficiencies found in both Miss Utility/One Call and Pipeline Safety Program Inspections.

Per our comments, we do not agree with this finding.

Recommendations:

- (1) That the Chairperson of PSC (C/PSC) ensure that Miss Utility/One Call inspections are thorough enough to identify violations and that appropriate enforcement actions are taken and completed timely, including the referral of violations to DDOT when necessary.

Agree within the confines of the law as it is evolving.

- (2) That the C/PSC expeditiously develop and implement written policies and procedures to standardize enforcement actions related to Miss Utility/One Call inspections.

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Agree within the confines of the law as it is evolving per our comments.

- (3) That the C/PSC develop and implement strategies to ensure that Miss Utility/One Call inspections are conducted throughout the year, such as determining how many inspections to perform each month based on previous patterns of damage incidents and/or number of excavations.

Disagree due to limitations of the federal grant as described in our comments.

- (4) That the C/PSC determine whether additional funds are necessary to conduct Miss Utility/One Call inspections throughout the year and consider seeking other funding sources for this program in addition to federal grants.

Agree that we will seek additional funds to support year-round Miss Utility/One Call inspections in the FY 2011 budget.

- (5) That the C/PSC ensure that letters are issued for all violations, including those for which verbal warnings have been issued.

Agree only to the extent that we memorialize verbal warnings internally. We do not agree to issuing letters for verbal warnings.

- (6) The C/PSC expeditiously complete a procedure to determine fines for Pipeline Safety Program NOPVs, establish a standard timeframe for issuing NOPVs, and issue NOPVs timely.

Agree subject to our authority as explained in our comments.

- (7) That the C/PSC ensure that PSC has adequate staffing for the Pipeline Safety Program.

Agree to the extent that this has already been accomplished with the filling of the second Pipeline Safety Engineer position in FY 2009.

- (8) That the C/PSC ensure that PSC adheres to procurement regulations when determining whether to engage a contractor through the consultant procurement process.

Disagree with the underlying finding/assumption that we have violated our procurement regulations, as explained in our comments, and agree that we will continue to adhere to those regulations when engaging the Miss Utility Inspector.

- (9) That the C/PSC evaluate the performance of the current Miss Utility/One Call contractor and determine if it should seek better qualified vendors.

Disagree per our comments.

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Participation on the District's utility discount programs is low.

Recommendations:

- (1) That the C/PSC and the Director of DDOE (D/DDOE) take the lead and coordinate an effort to develop and implement a written plan for educating the public about utility discount programs.

Disagree per our comments.

- (2) That the C/PSC, D/DDOE, and Director of DHS (D/DHS) expeditiously determine the feasibility of linking utility discount program applications to IMA's public benefits application processes, and if determined to be practical, expeditiously implement this linkage.

Agree to the extent that this has already been accomplished as explained in our comments.

PSC has not proactively addressed electricity reliability concerns.

We disagree with this finding per our comments.

Recommendation:

- (1) That the C/PSC expeditiously issue decisions on *Blueprint for the Future* proposals and determine whether additional strategies are needed to address electricity reliability in the District.

Agree to the extent that this is already being accomplished as explained in our comments.

Employees expressed concerns regarding treatment by PSC managers.

- (1) That the C/PSC form an active committee of managers and employees and/or engage an outside human resources consultant to make recommendations to the C/PSC for improving morale and to assist with their implementation.

Agree with the steps we are taking per our comments.

PSC decisions in formal cases are not timely.

We disagree with this finding on the basis of the evidence in the Report.

- (1) That the C/PSC work with OPC and other stakeholders to develop and implement a written plan for consumer outreach and education regarding utility issues to avoid duplication of efforts.

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Disagree due to the separate statutory roles of OPC and other stakeholders as explained in our comments.

- (2) That the C/PSC develop measurable goals in addition to the number of outreach events conducted and consumer survey results as well as track performance measures to assess PSC's consumer outreach and education.

Agree to the extent we are already doing this as explained in our comments.

PSC resolution of informal and formal consumer complaints is not timely, and further training for informal complaint resolution is needed.

We disagree with the finding that the resolution of consumer complaints is not timely.

- (1) That the C/PSC ensure that PSC has adequate staffing to resolve informal consumer complaints timely, that the information in the consumer complaint database is current, and that company response times are monitored.

Agree per our comments.

- (2) That the C/PSC ensure that PSC consumer specialists have adequate training to resolve consumer complaints.

Agree per our comments.

- (3) That the C/PSC ensure PSC has sufficient staff to issue timely decisions for formal consumer complaints.

Agree per our comments.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Betty Ann Kane
Chairman

cc: Commissioner Richard E. Morgan
Commissioner Lori Murphy Lee
Executive Director Phylicia Fauntleroy Bowman
General Counsel Richard A. Beverly