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UTILITY RATES AND PEOPLE'S COUNSEL FOR THE PUBLIC SERVICE COMMISSION

DOCUMENTS

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HEARINGS

BEFORE THE

COMMITTEE ON THE DISTRICT OF COLUMBIA HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

ON

H.R. 16782

TO AMEND THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT TO PROVIDE A PEOPLE'S COUNSEL IN THE PUBLIC SERVICE COMMISSION

SEPTEMBER 26 AND 30, 1974

Serial No. 93-38

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UTILITY RATES AND PEOPLE'S COUNSEL FOR THE PUBLIC SERVICE COMMISSION

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The full committee met, pursuant to recess, at 10:05 a.m., in room 1310, Longworth House Office Building, Hon. Brock Adams presiding.

Present: Representatives Diggs, Adams, Delegate Fauntroy, Representatives Breckinridge, Nelsen, Gude, Smith, and McKinney.

Also present: Robert B. Washington, Jr., chief counsel; James T. Clark, legislative counsel; and Linda L. Smith, Ralph Ulmer, and Leonard O. Hilder, professional staff members.

Mr. ADAMS. The committee will come to order.

This morning we are proceeding with hearings on H.R. 16782, a bill to amend the District of Columbia Self-Government and Government Reorganization Act to provide a People's Counsel in the Public Service Commission.

Combined with this hearing will be an oversight hearing on the Public Service Commission of Washington, D.C., together with a general oversight hearing on the regional problems involved with the public utilities in both Washington, D.C., and the surrounding jurisdictions.

At this point the bill will be incorporated into the record.

[The bill, H.R. 16782, follows:]

H.R. 16782, 93d Cong., 2d Sess., by Messrs Adams and Diggs on Sept. 23, 1974.

To amend the District of Columbia Self-Government and Governmental Reorganization Act to provide a People's Counsel in the Public Service Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 493 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding a new subsection to read as follows:

“(c) There shall be appointed by the Mayor by and with the advice and consent of the Council, an additional counsel of the Commission to be known as the People's Counsel, who—

“(1) shall represent and appear for the people of the District of Columbia at all hearings of the Commission and in all judicial proceedings involving the interests of users of the products of or services furnished by public utilities under the jurisdiction of the Commission;

“(2) shall represent and appear for petitioners appearing before the Commission for the purpose of complaining in matters of rates or service; and

“(3) may investigate the service given by, the rates charged by, and the valuation of the properties of, the public utilities under the jurisdiction of the Commission.”

Section 2, Part D of title VII of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following:

"PEOPLE'S COUNSEL IN PUBLIC SERVICE COMMISSION"

"SEC. 744. There shall be appointed by the Commissioner by and with the advice and consent of the District of Columbia Council, an additional counsel of the Public Service Commission to be known as the People's Counsel, who—

"(1) shall represent and appear for the people of the District of Columbia at all hearings of the Commission and in all judicial proceedings involving the interests of users of the products of or services furnished by public utilities under the jurisdiction of the Commission;

"(2) shall represent and appear for petitioners appearing before the Commission for the purpose of complaining in matters of rates or services; and

"(3) may investigate the service given by, the rates charged by, and the valuation of the properties of, the public utilities under the jurisdiction of the Commission."

I am very pleased this morning to have the opportunity to introduce the chairman of the full committee for an opening statement regarding the purpose of the hearing and his position. I take great pleasure in introducing the Honorable Charles Diggs of Michigan.

STATEMENT OF HON. CHARLES C. DIGGS, JR.

Mr. DIGGS. Thank you very much.

I am particularly delighted to join with Congressman Brock Adams, who is going to chair these proceedings, and other members of the committee in welcoming local officials, consumers, and representatives of the utilities for what I consider to be one of the most important undertakings of this committee, and as an indication of our continuing concern with the problems of the District, and also reflective of what one might expect from this committee after the transition takes place.

As Congressman Adams and I clearly stated during our Monday press conference, this committee is taking action during the interim period prior to the home rule government taking office to insure that there is an adequate and a balanced review of the utility cost situation.

PURPOSES OF HEARING

We hope to accomplish at least three key purposes during this morning's hearing. First, we intend to focus congressional and public attention on the factors affecting rising electric rates in the Nation's Capital and their impact on the consumer. Second, we will be soliciting alternative suggestions for coping with this situation, including proposals for consumer representation before local regulatory bodies. And last, we see this proceeding as a challenge to local officials and the utilities, encouraging them to take more immediate and direct action to hold down increasing utility rates.

I would like also to announce today that the full committee will hold a second day of hearings on this subject this coming Monday, September 30, in this room, beginning at 9:30 in the morning.

We have been more than pleased with the enthusiastic response to the announcement of this first hearing, and we have been deluged with requests from all sectors of the community to appear at these hearings. Obviously, we cannot physically accommodate all of these requests. In announcing that we do plan on having a second day of hearings we mean that it will include witnesses from national consumer groups, the Interstate Commerce Commission, Metro, and citizens' associations.

AREAS OF CONCERN

Most Americans must depend on a power company to provide them with electricity. The consumer has virtually no opportunity to shop around for this basic commodity. And as such, there is a need for close public vigilance of the utility industry and a requirement that we balance competing public interests.

Neither can we afford to any longer take electricity for granted. In the last few years we have experienced brownouts and fuel shortages, and now we are faced with escalating electric rates.

We do not plan during these hearings to offer any panacea for the problem of control and the use of energy in our Nation. We do hope, however, to at least raise some fundamental questions about the cost of our electricity. What, for example, are the advantages and disadvantages of automatic fuel adjustment provisions? Who shall bear the cost of plant expansion? Who shall pay the expenses of utility advertising?

There will be other fundamental questions raised, and I look forward to our careful examination of these questions under the experienced coordination and supervision of the gentleman from the State of Washington, Brock Adams.

Mr. ADAMS. Thank you, Mr. Chairman, for an excellent statement which summarizes very well some of the key areas which the committee will be inquiring into during at least these 2 days of hearings. If we do not complete them, the committee will take such time as necessary.

I would like, just before recognizing spokesmen for the minority, to state that I agree with the opening statement of the Chairman. For example, on utility advertising, when I drove in this morning in my car at 9 o'clock I heard the Washington Gas Co. on WGAY saying that things are just wonderful and "We hope you will stay with gas."

Now I understand there is a shortage of natural gas in the country; there is no place else where one can buy it except from that company. So I have some question as to why it is that I have to be advertised into buying or using natural gas at that point.

The same thing has been true with the advertising for the electric companies. And if you place this into the rate base, and I am paying for it at the same time, I have even greater question.

So as the Chairman has mentioned in his statement, these are the types of items in which we have an interest.

Another point, for example, is that I have examined in detail the presentation rate of the Public Service Commission. I hope the commissioners will address themselves to this when they testify. And I have found that the residential usage in the District of Columbia has been going down; it is really less than it has been in prior years. Yet one of the items that is used as a basis for increasing rates is that there must be a substantial expansion in plant.

Well, now, if there is going to be payment for a substantial expansion in plant, then should it be paid for by the residential users who are using less than they were before? This is another fundamental.

And we have been told also that fuel costs have caused an increase in rates. There have been three rate increases since 1970, yet during this period of time there has been, in effect, a fuel adjustment charge which is placed on the bill, which is supposed to cover the fuel cost.

Now we also find—and I hope the gentlemen will address themselves to this—that the profits of the company have gone in the last 3 years from 1970 at a figure of net income—and this includes after the payment of interest charges—of \$32,000,634 in 1970 to a figure of \$44,859,715 in 1972, to \$55,988,300 in 1973. In other words, a jump of over \$20 million in a period of time of less than 3 years.

Now if this is needed for plant expansion, I am certain the advocates of that will explain it.

One of the questions, as the chairman so well stated, is, "Who should be paying for this?" And I will close simply by saying this is a nationwide problem; we addressed this before the Budget Committee yesterday; we know that interest charges are going up; but we have to get to a fundamental question of who should pay for it and whether or not privately owned utilities are capable anymore of functioning in this field when they are saying to us that they must have more money pour into the private sector in order to be able to maintain their plant expansion.

Now if they cannot do this, we have to explore with them the alternatives.

I thank the chairman for his opening statement. I want to state at this point that the ranking member of the committee, Mr. Ancher Nelsen, has indicated that he is unable to be here this morning, but requested that the record be kept open for a period of time after we have completed the hearings. Generally this is 5 days.

I will ask the members of the committee, is there any objection to holding the record open for 5 days after these hearings are completed so that all members may enter their statements?

[No response.]

Mr. ADAMS. There being no objection, so ordered.

At this point, I will recognize for a statement on behalf of the minority, Mr. Gude of Maryland.

Mr. Gude, you are recognized.

STATEMENT OF HON. GILBERT GUDE

Mr. GUDE. Thank you, Mr. Chairman.

I would like to commend Mr. Diggs and you for convening these hearings with such speed. With the rate that Washington area electrical bills have risen in the past several months, it has had a profound impact. I welcome the opportunity to participate in these hearings so that I, not so much as a Member of Congress but as a homeowner and consumer, can further examine the reasons behind the increases that I have seen in my Pepco bills.

These increases have been felt by everyone who owns a home in the Washington area, and have created a hardship for many of the people who are serviced by Pepco, particularly the elderly and citizens of fixed incomes.

One retired couple wrote to me saying,

My husband and I are retired and exist on a fixed income with only periodic legislative increases to help aid the burden of inflation. We now are unable to bear the burden of these increases for the necessities of life, such as the increase in Pepco rates.

Another person who represents a significant portion of the population pointed out to me that he will have to dip into his family's already

tight food budget in order to pay his Pepco bill. This, of course, is why we in Congress are taking a careful look at food stamps which can be used by those who simply can't afford the necessities of life.

Mr. Chairman, we are all aware of the drastic toll which inflation is taking on our national economy and on our individual budgets. The price of practically everything we buy today bears little relationship or resemblance to the prices which we paid for goods several years ago.

Because of this fact, people have been forced to alter their buying habits. By having the option of choosing the quality, quantity, or type of product in most cases, the consumer is able to offset, to a degree, the personal effects of inflation. In purchasing electricity, however, the consumer has no option on which to rely.

First, he cannot put off buying his electricity as he might a new coat, for his home requires electricity year round. He can, of course, cut down on the use of electricity—and I must commend Pepco for reminding people to conserve electricity and pushing energy-conserving measures such as increased insulation.

But if the homeowner manages to reduce his consumption to a significant degree, he is rewarded by the discovery that he pays more for a unit of electricity the less he uses.

Second, with electricity, and unlike most other commodities, the consumer is unable to find a lesser quality substance. Third, electricity is a product for which there is no substitute.

The most important thing to remember when we speak of electricity is that the consumer cannot purchase his supply from another company if he does not like the price, service, or quality of the product.

It is because of this monopoly status which electric utilities hold, as well as the extreme complexity of the industry, that the citizens generally feel powerless to challenge Pepco's increases and are thus forced instead to readjust their food budgets to make their payments.

But the question that citizens raise for Pepco is, "Why do you have to advertise on TV and in the papers?" a challenge of the company's use of his money for commercials that are being used for such purposes as explaining why the rates have to go up. The citizen would like to question Pepco, as we will have the opportunity to do, as to why it is that Pepco's fuel costs have risen 250 percent since January of 1973 while the fuel adjustment cost has increased by more than 250 percent in the same time period.

Though the citizens of the District of Columbia may wish to raise many questions and challenge the rate increases and rate structure in general, they currently have no one to whom they can specifically turn for assistance.

The citizens of Maryland do have a "People's Counsel." And I am pleased, Mr. Chairman, that we have Gary Alexander here today, the citizens counsel for Maryland, who is going to ask some of these—rather, who has some of these tough questions. And I am looking forward to his testimony today.

The bill submitted by you and Mr. Diggs is a meritorious attempt to focus on the question of how the consumer in District can best be heard, and is a vehicle by which we can open many of the questions which face the electric consumer all across the Nation.

Thank you, Mr. Chairman.

Mr. ADAMS. Thank you, Mr. Gude, for an excellent statement. Does any member of the committee wish to make a statement?

Mr. FAUNTROY. Mr. Chairman.

Mr. ADAMS. Mr. Fauntroy.

STATEMENT OF HON. WALTER E. FAUNTROY

Mr. FAUNTROY. Thank you, Mr. Chairman.

First I want to commend you and Mr. Diggs for focusing on the critical problem of increased consumer costs in the area of public utilities.

I have met with numerous community organizations on this serious issue, and I welcome the opportunity to begin getting some answers to the questions that have been bothering me and many of the people who have been coming to me with their complaints.

I think in this regard we are particularly grateful to the members of the Lamond-Riggs Civic Association, who have raised this issue on behalf of all the citizens of the Nation's Capital.

UTILITIES MONOPOLISTIC NATURE

Public scrutiny of utility companies in many ways is at the heart of this matter. If we dislike the services we are receiving from our public utilities, we do not have the alternative of taking our business elsewhere. If we are dissatisfied with the delivery of services of Government, for example, we can vote the officials of that government out of office.

We have no such recourse with officials of public utilities. We must rely entirely on the Public Service Commission to protect our interests. I assume that a major purpose of this hearing is to see whether they are, in fact, doing that.

The rate-making process is shrouded in an odd kind of secrecy, stemming from the seemingly arcane mass of infinite detail that surrounds it. There are few means available to public and public policy makers to interpret the import of the vast materials supplied the PSC in the ratemaking process. There is no institution whose sole role is to unabashedly represent the interests of the consumer.

The proposal made by Mr. Diggs and Mr. Adams for a "People's Counsel" is one approach. I would hope that we could explore others as well, such as strengthening the ability of the Public Service Commission to obtain outside counsel to make a consumer investigation; to allowing compensation for consumer groups bringing a successful complaint; and perhaps even establishing a capability in the District of Columbia Office of Consumer Affairs to advocate consumer interests by intervening not only in matters before the PSC but also before all of the agencies of the District government that handle consumer matters.

I want to thank you for your leadership in this regard.

Mr. ADAMS. Thank you, Mr. Fauntroy, for an excellent statement.

Does any other member of the committee wish to make a statement before we go to the first witness?

Mr. BRECKINRIDGE. Mr. Chairman.

Mr. ADAMS. I will go to you, Mr. Breckinridge, in just a moment.

Mr. McKinney.

STATEMENT OF HON. STEWART B. MCKINNEY

Mr. MCKINNEY. Just briefly, Mr. Chairman, I would like to congratulate both of you on the hearings. Coming from New England, where power rates are the highest in the Nation, the frustration I feel as a congressman by not being able to get at the facts has been something I have really felt. In fact, I was interested in looking at my mail here and finding that I have 15 or 20 letters concerning bills people cannot pay for power.

It seems to me that in the District of Columbia, with the tremendous amount of elderly we have and with the tremendous amount of people living on basically a subsistence budget, that your move to hold these hearings is invaluable to the city and invaluable to me as a Congressman, because I am hoping to find out why and how some of the things that are going on in my district and the whole Nation are happening.

I hope that perhaps the Congress as a whole will look at these hearings not just as a matter of the District of Columbia but as a purview or assembly of the facts of the whole Congress, particularly in most parts of the country where we so tremendously constrain the use of expensive residual oils to make power.

Thank you.

Mr. ADAMS. Thank you, Mr. McKinney.

INTERSTATE AND FOREIGN COMMERCE COMMITTEE

I might state to you that I am also a member of the Interstate and Foreign Commerce Committee. I have contacted the chairman of the Subcommittee on Communications and Power, Mr. McDonald, and indicated to him that the findings of this committee will be submitted to his committee for their information and whatever action they might want to take when we complete this.

Mr. Breckinridge.

STATEMENT OF HON. JOHN BRECKINRIDGE

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

I would like to thank both of you for your leadership in this particularly difficult area. And I, in my statement, would like to relate it to the problems that have existed throughout the Nation.

And if I might put it into perspective of what is being done in other areas, during the latter part of the 1960's and the early-1970's, the Attorneys General of the United States initiated a self-study. And in a part of that study they directed themselves to the problem confronting the consumer. And then, more particularly within that area, they directed themselves to what they referred to as intervention before regulatory agencies.

And I would just like to read into the record a brief portion of that report which was published in 1971, because I think it puts into perspective the problems confronting us today.

ATTORNEYS GENERAL STUDY OF UTILITY REGULATORY PROCEDURES

The Committee on the Office of Attorney General has recommended that the Attorney General should, when appropriate, appear before regulatory boards to represent the public. The Attorney General serves as counsel for such boards in most jurisdictions.

An increasing number of Attorneys General are assuming the additional responsibility of representing the public before such groups when this appears necessary to insure a proper presentation of the facts and the issues involved".

Now the joint chairman of this report, the Honorable Robert Morgan, who is now his party's nominee for the United States Senate, made this contribution to, I think, the thinking of this committee, Mr. Chairman, in this language: ¹

The very nature of the adversary system of our common law jurisprudence requires that there be a spokesman for the consumer. Where there is no consumer's advocate, the rate increases requested by regulated industries follow as a matter of course, whether justified or not. Without a consumer's advocate, all that need be done by the counsel seeking a rate increase is to make the necessary filing requesting the increase and introduce a bare minimum of evidence necessary to back up the request.

Enlightened self-interest dictates that the evidence to be used by the industry should be marshalled in a light most favorable to the industry. Without an adversary, counsel representing regulated industries was formerly quite possibly the happiest man engaged in the practice of law. His witnesses and evidence went unchallenged. His victories were as regular as clockwork. The consumer was possibly the unhappiest man around. He paid the higher rates and had to pay, in addition, the legal fee of his adversary's counsel.

Within the context of the adversary system then, is it proper for the regulatory board itself to act as a consumer's advocate? The regulatory board has the function of sitting as an impartial tryer of facts. If the only facts in evidence are on the side of the regulated industry, then the regulatory board must grant the relief requested.

The consumer's advocate has the opportunity of giving the other side of the picture, of presenting a different viewpoint, backed up by other evidence. There is also the benefit to the consumer of cross-examination of the utility's witnesses, which should measurably increase the regulatory board's capacities to view the matter from a balanced perspective.

In theory, the resulting decisions from truly adversary proceedings should be fair both to the industry and to the public, for both sides of the matter will have been presented. It is felt that an added dividend will be the restoration of public confidence in the adversary regulatory system.

I think, gentlemen, that states the proposition before us today. I would hope that in adopting this bill, or this bill in amended form—as I trust the Congress will—that we will also recognize that the mere appointment of such counsel is not the answer to the problem; that counsel needs the support of Congress, engineers, and that staff essential to the proper discharge of the duties which we have under consideration today.

Thank you very much.

MR. ADAMS. Thank you, Mr. Breckinridge.

I am particularly pleased that you are here this morning because of your long background and experience with regulatory commissions and particularly with State's attorneys offices. And we are looking forward to your questioning of the various witnesses as they appear.

MR. SMITH. Did you wish to make a statement?

MR. SMITH. Mr. Chairman, just briefly I wish to commend the chairman of the full committee and the chairman of this committee for bringing these hearings. I think this is an opportunity, as has been pointed out, for not only us in the District of Columbia but also for people all over the United States to see some of the major problems involving all public utilities and increasing rates.

We may not in these hearings come to any definitive answers, but perhaps we shall understand the system better and perhaps we shall

¹ Attorney General Robert B. Morgan, "The People's Advocate in the Market Place", Wake Forest Intramural Law Review (1970).

better understand what options might be available or possible in the nationwide effort, in which I am sure most of the utility companies join, in keeping the rates within livable bounds.

And so I do commend you, Chairman Diggs, for initiating on these hearings.

Mr. ADAMS. Thank you, Mr. Smith.

The first witness this morning before the committee will be representing the Public Service Commission, Mr. William R. Stratton, chairman.

Mr. Stratton, if you will introduce those who appear here with you we will appreciate it, so that we will know who is appearing this morning in addition to the chairman of the Public Service Commission.

Mr. Stratton.

STATEMENT OF WILLIAM R. STRATTON, CHAIRMAN, PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA; ACCOMPANIED BY H. MASON NEELY, VICE CHAIRMAN

Mr. STRATTON. Thank you, Mr. Adams.

I am William Stratton. Sitting on my right is H. Mason Neely, who is the vice chairman of the Commission.

Mr. ADAMS. Mr. Neely, you are welcome and we will be pleased to hear from you.

Mr. NEELY. Thank you, Mr. Chairman.

Mr. STRATTON. Absent from the proceedings today is the third member of the Commission, Douglas Schneider. He, as you know, is a delegate of the Mayor on the Commission, and has other responsibilities, including liaison with the Metro agency for the Mayor.

That board meeting of the Metro agency is this morning and, typically, there are items on the agenda there that it was felt that he would have to be there to be informed and advised on. And hence his absence today, which I extend my apologies and his.

Mr. Chairman, my statement today is addressed to the Chairman's letter and request that I testify. And in that sense, it does not reach some of the questions that you posed in your opening statement. I take it that I will have an opportunity to deal with those during the questioning period that follows.

But first, if I may, I would like to read the statement into the record. It is not as short as I wish it was, but the points are important enough that I think they deserve the time.

Mr. ADAMS. Mr. Stratton, you may proceed in any fashion you wish. If you wish to place the whole statement in the record and summarize points of it, you may proceed that way. Or, of course, if you wish to read it, that is fine also.

Mr. STRATTON. Thank you, Mr. Chairman.

COMMISSION'S CONCERN

Mr. Chairman, it is consumer concern with rising utility bills that has prompted this hearing. The Congress has delegated the responsibility of regulating utilities to the District of Columbia and to the Commission upon which I sit.

We hold—in our offices—the public interest in trust. The environment, as all of us know, in which utilities and their customers must live, and in which the Commission must work has changed dramatically in recent months and years. And we share your view that it is timely that the public record contain an accounting of the Commission's discharge of its responsibilities.

The chance to comment on the pending bill to revise the Office of People's Counsel offers the opportunity to discuss with you an issue which is very close to my heart, namely, how best to achieve effective representation of every affected group in proceedings before the Commission. I will return to that subject shortly, but first there are some other points that I feel I should mention.

I want the committee to know at the outset with all the conviction that I can bring to bear to this statement that I truly believe that the District Public Service Commission is second to none at the State level in safeguarding the interests of the consumers. I have appended to my statement a list—and I might say it is a complete list—of specific actions ordered or inspired by our Commission in the recent years which reflects this concern.

And an example of the things that don't appear on there is the fact that both I and a member of the Commission's staff are serving on a committee on utility billing practices that operates under the National Association of Regulatory and Utility Commissions, considering billing issues on a nationwide basis.

On a second point, our present plans to monitor the areas that have been most productive of consumer discontent with utility bills in recent months, I am appending a letter which the Commission has sent to Mayor Washington on that subject. The letter outlines two investigatory initiatives we will soon be taking. And as I go on I will mention a third.

FUEL COSTS

First is a formal inquiry into Pepco's fossile fuel purchasing activities. As the committee is probably aware, it is rising fuel costs that are responsible for most of the increase in electric bills in the past years.

Under rules approved by this Commission—that is to say, our Commission—Pepco is permitted to pass increased fuel costs through to its customers automatically, after certification of the amount of the increase by the Commission's resident accountant.

Some have said that the automatic passthrough provision of what is called "the fuel adjustment clause" contributes to a "cost-plus mentality" on the part of the utility. That is to say, a lack of concern in achieving the most economic fuel purchases possible, because the penalty for a higher price is not borne by the utility itself.

Now our inquiry—which we will pursue through outside experts engaged by the Commission—will examine Pepco's organization and practices, past and prospective, in the purchase of fossil fuels to ascertain their effectiveness in obtaining the lowest prices possible. And, in addition, we will seek advice on changes that might be made to the fuel adjustment clause which can be expected to insure the motivation necessary to achieve every economy in fuel purchases.

BILLS FOR CONSUMER

Secondly, we will initiate a staff inquiry into Pepco's procedures into calculating and rendering estimated bills. Customer complaints over estimated electrical bills increased markedly this summer, coincident with the rise in the dollar amount of most of those bills.

We intend to respond to that by a review of the utility's internal rules for estimated billing to insure that they are reasonable and fair.

I should say at this point that these inquiries will be pursued in the form of a formal case. They will be open for intervention and participation by those who have suggestions to us on how best to pursue the inquiry.

OPPOSE PEOPLE'S COUNSEL

Now, if I may, I will move to the bill to reinstitute the Office of People's Counsel. The concept is a very appealing one. When I went on the Commission late last year, I believed that we should have such a public advocate in the District of Columbia, and I still believe that a "people's counsel" will provide a useful and effective voice for the otherwise unrepresented.

But I must tell the committee that I have since concluded that there is a better way, a better approach. A better approach, in my view, would be to extend authority to the Commission to reimburse fees and expenses to members or groups from the public who themselves appear before us to urge their own cause.

ENLARGE COMMISSION'S AUTHORITY

I would like to explain why I have modified my point of view on this subject. I am confident that every elected official is aware that his constituency is made up, in fact, of many "publics" with many "interests," and that no single one of these "publics" can lay legitimate claim to represent the public interest, in the broad sense of the word. They all have particular interests, particular focuses, particular concerns on the particular issue.

The overall public interest is discovered, in my view, in a weighing and balancing process in which the interests of as many segments of the public as possible are considered. The Congress does this in its day-to-day work. And so far as utility regulation is concerned, the Congress has delegated this function and responsibility to the Commission upon which I serve. And I believe that the responsibility of determining what is in the overall public interest should continue to repose in our trust.

The lack of confidence that regulators labor under is not rooted in the belief, in my judgment, that we do not or cannot act in the public interest. Rather, it is that we do not hear all the voices that want to be heard or that we do not heed all that we may hear.

As to the claim that the District Public Service Commission does not or will not listen, I disagree. The Commission, and I personally, have sought and continue to seek expressions from every side—formal and informal expressions, I might say—to guide us in establishing rates and distributing their incidence among the various several classes of rate payers.

INTERVENORS IN RATE PROCEEDINGS

To this end we have liberalized our rules and practices concerning intervention—which, as you all know, is the description of the term that is used to identify the parties that participate in our cases—they are intervenors.

We have liberalized our views concerning intervention in our cases so that no one with a legitimate interest, even though it may not be expressible in dollar terms—and this, of course, is going to hurt over the years for intrevenors. No such person is denied the opportunity to appear before us, and many of our consumer-related orders and rulings are the direct result of competent and responsible presentation before us by intervenors.

CONSUMER INTERESTS

The real problem is that we don't respond—or at least appear not to respond—to some of the proposals that are urged upon us, or to some of the interest groups who appear before us. To the extent that this is true there is an explanation.

It is that our proceedings—conducted pursuant to the law passed by the Congress—are complex and detailed. And as the Congress knows, although we are delegated the legislative function of establishing rates, we reach our determinations in something that is very much akin to a judicial proceeding. And in the last analysis, our judgment has to be rooted and based and founded on a record that is brought to us and established before us in a competent way. And it is especially important when you consider that many of our rulings are, of course, appealed to the courts.

Indeed, I think I am correct in saying that almost all of them in the last few years have been. I am delighted to say they have been affirmed almost uniformly, too, which illustrates, I think, the fidelity that we have shown to the elements of due process and fair record-making before us.

Nevertheless, as I say, these proceedings are complex and detailed and before we can adopt any particular position, its validity must be established in the record in a formal proceeding, much like a court case, before us.

To make an effective presentation in a utility rate hearing requires effort—and I mean it—timetaking, backbreaking drudgery, hard, slogging effort, and expertise. And the kind of expertise and effort that are required in these cases has to be sustained with money. And money is a commodity in very short supply for most consumer and environmental groups. Fresh ideas and special focuses are there in abundance, but the wherewithal to mount their effective presentation is lacking.

So, the quest, in my view, should be how best to insure effective representation before the Commission of those who are otherwise inadequately represented. The bill under consideration today is a step toward achieving the goal of adequate representation.

A "People's Counsel" would have the professional capability—if it were appropriately funded—the resources to plead a cause effectively before the Commission. If I have a problem with it—and I have

indicated that I do—it is the underlying premise of the bill, and that is that the people have a unitary interest which one public advocate can represent.

I honestly don't believe that to be the case. And just to illustrate that—I don't have this attached to my statement; I will hand some copies up to you—but I would like to indicate to you the list of intervenors in a Pepco case—not the most recent—but I think the one before which illustrates for you the diversity of points of view that are urged on us.

Among the intervenors were these: The Sierra Club; Students Hot on Conserving Kilowatts; Safeway Stores, Inc.; Friendship House Association; the city of Washington—by that I mean the government; Washington Urban League; Washington Gas Light Co.; the District of Columbia Citywide Consumer Council; the Consumer Action Component of the United Planning Organization; the Center City Community Corp.; the General Services Administration of the U.S. Government; the District of Columbia Federation of Civic Associations; the Interfederation Council; the Public Utilities Committee of the District of Columbia Federation of Civic Associations; the Senior Citizens Committee of the Federation of Civic Associations; I think you will notice by the last two names I have mentioned that even within the civic association there is a diversity of interest.

Also among that list, the Senior Neighbors and Companions Club Advisory Council, and the Electric Utility Employees Union. Sixteen intervenors, sixteen different points of view. I think that makes my point.

And so it seems to me that there will be cases—and they will come very early in the career of the "People's Counsel"—in which the selection will have to be made from among the many causes who seek his representation.

I tell you he will have to make these choices, not only because he couldn't represent every interest, no matter how vast his resources, but more significantly because the interests themselves are, in fact, often in conflict. The day that he makes his first choice is the day that the public will experience its first disillusion with the office. And it is also the day when the first pressures will be felt for a second public advocate to represent the interests spurned by the "People's Counsel."

So, I am led to the conclusion that the best course is to commence with the program that I think we will wind up with anyway, and that is one which will support many voices, speaking directly to the Public Service Commission and without an intermediary.

Thank you, Mr. Chairman. That concludes my statement.

[The Commission's letter to the D.C. Government follows:]

PUBLIC SERVICE COMMISSION
OF THE DISTRICT OF COLUMBIA,
Washington, D.C., September 23, 1974.

HON. WALTER E. WASHINGTON,
*Mayor-Commissioner,
District of Columbia,
Washington, D.C.*

DEAR MAYOR WASHINGTON: I apologize for my delay in answering your letter of August 28. I was away from the city until September 9th and have been almost continuously occupied with utility rate hearings meanwhile.

Of course the Commission will comply with your request to investigate the aspects of utility practices mentioned in your letter.

Before describing what we propose to do in detail, there is one very important point I want to make, and it is this: the most significant elements of cost included in an electric utility's bill are the cost of the primary fuel (oil or coal) which it converts to electric energy, and second, the cost of the money that it must employ in its business to build the facilities necessary to produce and distribute energy to its customers. It is the upward pressure on the cost of fuel and the cost of money that is primarily responsible for the rising bills of utility customers. These costs—for fuel and for money—are determined in the last analysis in national and world markets over which an individual utility or regulatory commission has comparatively little influence. As all of us are well aware, even the exercise of powers of the Federal Government have not been able to control fuel prices or interest costs to any significant degree. The foregoing basic facts are little understood or appreciated by the public at large.

The specifics of the investigation you have asked us to mount, include the following:

- (1) The adequacy of steps being taken by utilities to hold down their costs,
- (2) The adequacy of their procedures to insure the accuracy of bills,
- (3) The adequacy of our own procedures for monitoring utility practices,
- (4) Whether the bills sent to utility customers contain sufficient information presented in a way that will enable customers to understand the nature and reasons for the utilities' charges, and finally,
- (5) Whether the utilities are doing enough to advise consumers on how to save on their energy bills.

You have indicated that the Office of Consumer Affairs is available to us in the study and we will draw upon their resources, particularly in helping us analyze exactly what questions it is that consumers are asking and how best to answer them.

Our investigation will proceed on the following basis:

First, we will open a formal investigation into the question of whether the electric utility's fuel purchase commitments have been made upon as advantageous a basis as possible. As you may know, we permit the energy utilities to pass through their fuel costs on an automatic basis (after review of their figures by a member of our Accounting Staff). It is sometimes claimed that automatic pass-through provisions foster a "cost-plus" mentality, in that they deprive a utility of the incentive to seek fuel at the lowest possible cost. While there are considerations on the other side, I do believe it is in order for us to examine the terms by which the electric utility serving the District has obtained its fuel supplies and the effectiveness of their future activities in this regard. We will engage experts to assist us in this investigation, which will commence soon.

Second, we will examine the electric utility's procedures for computing estimated bills. There is no question that estimated bills have been a productive source of consumer complaints. Within this investigation, which the staff will conduct, we will look with great detail into the mechanics of bill estimating by the electric utility, and also explore the question of whether the bills themselves can be made more informative. This investigation will also review the activities of the electric utility in making conservation information available to its customers, a subject on which the Commission has already developed extensive information for itself.

Other cost-control procedures of the electric utility will be explored in its next rate hearing before us, which, according to news articles, will be filed in the near future.

Thirdly and going somewhat beyond the specific areas of investigation that you have recommended—we also intend to review very carefully and completely the electric utility's projection of load growth, construction and financing requirements in the years ahead.

Finally, I am told there is some question as to the adequacy of our financial and personnel resources to undertake this investigation. It is true that our staff is employed at the moment in the many important pending cases before us, and I have no reason to believe that this burden will lessen in the months ahead. We do have on the staff the personnel and expertise to conduct the billing investigation that I have outlined above. The very technical and specialized investigation into the fuel adjustment clause and the utility's performance under it will be conducted pursuant to our formal investigative powers and with outside experts. The cost of this investigation will be assessed against the utility. On that basis I see no impediment to our making an investigation of the depth, and the quality of analysis that I am sure you envision.

Very truly yours,

WILLIAM R. STRATTON, *Chairman.*

SPECIAL ACTIONS ORDERED BY PSC

1. Deposit Policy

A formal investigation of the policy and practices for the rendering of services of the Washington Gas Light Company was begun in 1968. This investigation was concluded in 1972 after final determination by the U.S. District Court. Certain features of this proceeding were authorized after agreement with the WGLCo. and others were authorized in conformity with the disposition of the Court. The results of this proceeding have had considerable effect upon the policy and practices of the other utilities.

2. Employment Practices

The Commission has also conducted an investigation into the employment practices, particularly those of the Potomac Electric Power Company. The first part of this investigation resulted in an affirmative action program which the courts refused to affirm on appeal. A second part of this program was conducted concurrently with the review of GSA's contract compliance requirement with PEPCO. Results were that the company was in substantial compliance with the then existing requirements.

3. Interests on Deposits

All utilities have a requirement in their filed tariffs providing for deposits by their customers to guarantee payment of their bills in certain instances. These deposits have had an interest rate more or less nominal. The Commission has now required that these interest rates be adjusted to point closer to the current interest rates which are between those paid by savings and loan organizations and regular commercial interest rates.

4. Penalties

Various rate schedules of the utilities contained in their filed tariffs provisions provided for penalties when bills were not paid within a specified time. This was a practice of many years standing, amounting to approximately a 10-percent charge on the bill which was imposed only one time regardless of the length of time the bill was outstanding. The Commission has authorized, in the case of PEPCO, as a first step, a penalty charge which is commensurate with the actual additional cost caused by late payment. Late payment charges for the WGL Co. have been reduced to half of their former amounts and are presently under further review.

5. Change in Bill Information

The Commission has also required that customers bills be made more informative. Of course there is a limitation as to how much information can be printed on an IBM card but it is believed that the bill as it is now presented has been improved by reason of the disclosure of the unit rate of the fuel adjustment and the total amount in dollars of the fuel adjustment.

6. Peak-Load Price Plan

The Commission sponsored a forum this past spring to consider the merits and problems which would arise if utilities service was billed on the so-called peakload pricing plan. This plan would provide that the customers causing the peakload would be required to pay an additional cost and that customers not contributing to the peak-load would be given some special consideration. The Commission's present summer residential rate schedule for electricity for consumption in excess of 1,000 KWH per month is approaching this plan by the constant rate in this consumption bracket. Elements of this plan have been implemented in very few jurisdictions but are under active consideration.

Mr. ADAMS. Thank you, Mr. Stratton.

We have a number of witnesses this morning, so I will ask the committee members to try to keep their questioning in the first round to 5 minutes at a time, and then we will come back. I will try to observe an example for that.

USERS OF SERVICE

Mr. Stratton, the first question I have is that in your order, November 16, 1973, in the formal case No. 596, which was the last Pepco increase, you state this on page 18:

We must and do recognize that these classes of service—(referring to the non-residential users)—account for some two-thirds of Pepco's total service in terms of volumes and revenues, and account for all of Pepco's recent low growth in the District of Columbia. Residential usage has actually declined.

On that basis I then looked at the order which was presented by Pepco and which you placed in effect, December 3, 1973. And in looking at the charges that are involved there, it appears to me that under your billing system you were paying during the summer rates for monthly consumption individual residential use under "R", a rate running from 2 cents per kilowatt to 2.77 cents per kilowatt hour for over 400; but if I go to the areas which are experiencing the growth, if you are using 100,000 kilowatt hours it is 2.75; if you go 100 above that it is 2.26; if you go 500 above that it gets down to 1.2 cents per kilowatt hour.

So, in effect, those who are causing the growth are paying less than the residential user; isn't that correct?

Mr. STRATTON. Mr. Adams, let me try to answer your question this way—

Mr. ADAMS. Well, just first—and then I will hear your explanation, because I want to take just the 5 minutes—yes or no.

Mr. STRATTON. No.

Mr. ADAMS. They are not?

Mr. STRATTON. No.

Mr. ADAMS. All right.

Now explain to me why those figures don't run that way.

Mr. STRATTON. Let me make clear that I want to talk to you in terms of general ratemaking principles and not—

Mr. ADAMS. Precisely.

I don't care about this case; it is over and gone. I used it simply as an example for you to explain to me why it is—and I am going to ask you this next—that the plant expansion and so on which is used as a basis for general rate increases should be spread among residential users at a heavier rate than the larger users.

Mr. STRATTON. Well, I think the point is and—of course, if I had the chance to answer your first question other than "yes" or "no"—

Mr. ADAMS. Well, go ahead and explain it.

Mr. STRATTON. Well the point is this: that low growth occurs in many ways in the utility. It occurs by virtue of more kilowatt-hours generated and consumed during the year. But it also occurs—and significantly, I think, in the ratemaking process—in terms of time of year and times of day.

And those, I think, are the significant things that one must consider as he relates low growth to plant requirements.

It isn't as generally recognized, I think, as it should be that the size of an electric plant has to be related to the peak demand imposed on the system. And if, at a given time, the peak demand is assessed, it is the users at the time of the peak who, in fact, are causing the requirement for plant expansion.

Now while it is probably true—and we take it that it is true in that case, in terms of kilowatt-hours usage to year and residential uses declining in the District of Columbia—I think it would also be discovered that residential use at the peak time of demand is, in fact, on an increase in plant.

And since that is the premise underlined in the requirements for plant sizing, then, in fact, the residential users as well as everybody else who is using electricity at the peak time, is responsible for low growth, plant expansion, and capital requirements.

Mr. ADAMS. Your plant, your users and your basic structure in the District of Columbia for the utility is presently in place, is it not?

Mr. STRATTON. Some is in place and some is under construction.

Mr. ADAMS. Well, I mean for the residential users. There are not going to be any more, according to your report, and your statement is that the amount being used is going down.

Mr. STRATTON. Well, I take it from your question that I wasn't clear enough in my first answer and in the point I am trying to make. Let me try again.

Mr. ADAMS. No. I understand your point because I know something about utility regulation and utility use. We do a lot of it in the Northwest.

Mr. STRATTON. Right.

Mr. ADAMS. And your basic premise is that there is a flat residential load that peaks during certain hours of the day.

Mr. STRATTON. And times of the year.

Mr. ADAMS. And times of the year.

And what I am saying to you and what your report reflects is that that situation has basically stabilized in the District of Columbia. Now it will, when laid on top of it industrial and other use for expansion elsewhere, be a part of the peak. I don't disagree with that.

But the construction, as you state in your report, of new plants and the production of the peak above the stable situation that presently exists, is caused by either new customers or growth in the so-called "large users," either industrial, apartment, or government, or those who use large amounts.

That is the point that I am making.

Mr. STRATTON. I have trouble, I have to tell you, accepting that characterization of the statement in this order.

Mr. ADAMS. That is why we are holding the hearings.

Because we know that day after day you listen to very effective advocates—as Mr. Breckinridge said—of utilities. And I don't in any way criticize them for putting their best foot forward in stating this.

This problem is existing throughout the United States, and we want to know here in the District if that isn't true: in central cities the residential user basically has his structure, both in terms of generation and distribution, in place.

Mr. STRATTON. I think as a general statement I can accept that.

Mr. ADAMS. All right.

Now, on page 20 of your last rate increase—and I will ask you this question first, because I want to be sure it is in the record—now, this is in addition to fuel passthrough. I hope in the second round of ques-

tioning I will have an opportunity to inquire on that, because I think that is a separate problem.

There was an 11-percent increase in 1970 granted by the Commission, an 11-percent increase granted in 1972, and a 12.5 increase in 1973; making a total increase of 34.5-percent increase in 3 years in the average by the Commission.

Now, turning to your last order, you based this on an in-plant investment by the company. And on page 20 you indicate \$551,748,000 as your rate base. Of that, you have \$50,454,000 as construction work in progress.

I assume there will probably be another request for an additional increase because of additional construction. Now that is being placed on the residential users in the District of Columbia as part of the rate base.

And I would like to have you explain to me why you think that is correct.

Mr. STRATTON. Well, I think the rate base is determined independently as to the classes of customers we have. The rate of return, of course, is the key. And, in turn, the revenue requirement has to be met by all classes of customers.

Mr. ADAMS. Does it?

Mr. STRATTON. In totality, yes, sir.

Mr. ADAMS. In totality.

But there you arrive at the question of who you charge what.

CAPITAL COSTS

Mr. STRATTON. Correct.

The Commission's philosophy—and one I share—is that we look or try to look as best we can in the very complex area in terms of distributing the revenue requirement among customers through the cost-causative factors.

Now, insofar then as the customers take baseload electricity from the plant that is in place, the justification for a plant and rate structure is there. Insofar as customers cause increases in loads, new construction, they are the ones that, in our judgment, ought to bear the costs of increasing the plant capacity.

And I think that you can see that we addressed ourselves to just that point in this last case.

Mr. ADAMS. Well, you went below 400 kilowatt-hours in that.

Mr. STRATTON. Right.

Mr. ADAMS. But the basic residential user above 400 kilowatt-hours, according to the rate structure that I reviewed in your December 16 report, is paying a higher rate than the commercial user using a great time deal more power.

Mr. STRATTON. I believe that is true.

Mr. ADAMS. I will come back, Mr. Stratton. I have taken more time than I should have under the 5-minute rule.

Mr. Chairman.

Mr. DIGGS. I just have a single question.

ADVERTISING

About the advertising expenditure, do you control it, do you limit it? Is there any consideration given to excluding some types of it, particularly promotional types during times of shortage?

How does this advertising cost get reflected into the rates?

Mr. STRATTON. Generally speaking the answer is yes, we do allow it. I believe I am correct in saying that it appears in the general and administrative overhead elements of the rates.

The general amounts of advertising, its general tone and focus are the subject of our own overview. They are more than almost any aspect of the utility business, and the subject of public comment and criticism I suppose, with the exception of recent weeks when the estimated billing complaints have been significant, it is the advertising complaints that I see most often.

There is an ongoing dialog with all of the utilities in the District of Columbia on the general size of the advertising budget, its effectiveness and its focus. Promotional advertising is actively discouraged by the Commission.

I have to tell you that the action isn't as vigorous as it might be if I thought it were abused. Generally speaking, I think that our utilities compared to others in other parts of the country have a pretty responsible advertising program, a pretty responsible consumer information program.

By and large, Pepco's advertising has as its focus efforts to level the load. That is to say to get people to use electricity at times and in seasons when new plant isn't required. Doing this creates revenues which support the huge capital costs of the company with no increase in investment.

I think this is something that the Commission ought to encourage.

Similarly, the Chairman talked about a Washington Gas Light advertisement that he heard this morning, "Stay with gas." The gas company cannot take new customers. To the degree that it doesn't keep its present customers and keep selling gas, those who remain in the system are going to have to pick up the revenue shortfall, or at least the cost component of it that isn't borne by those who will stay with gas.

The Commission, I think, is responsible for accepting a reasonable level of advertising. I don't have the facts at my fingertips right now with regard to the advertising budget of either of these companies. I know the electric company can tell you what their's is sometime today. My impression is that it is in the order of \$400,000 or \$500,000 a year, so far as the District of Columbia is concerned.

Now that is reasonable, I think.

Mr. ADAMS. Mr. Gude.

Mr. GUDE. Thank you, Mr. Chairman.

FUEL COSTS

I have one question, Mr. Stratton. On page 3 of your statement, you mention the danger of going into a "cost-plus mentality", as far as the purchase of fuels is concerned.

What evidence do you have that the purchase of fossil fuels by Pepco, insofar as they work to obtain the lowest price possible, is being carried out as efficiently as that of other utilities across the country or other ratemaking areas?

You initiated an investigation, and this indicates that you have concern that maybe Pepco has a "cost-plus mentality." Do you have evidence to indicate that you have concern that maybe Pepco has a "cost-plus mentality"; do you have evidence to indicate some other utilities are doing a better job?

Mr. STRATTON. I wouldn't put it that way. I would rather say this: that the fuel costs being such a large element of the bill, I think that consumers of the District of Columbia deserve the assurance that the fuel adjustment clause—the burden that is visited upon them ultimately—doesn't contain the seeds for the propensity to a "cost-plus mentality."

I don't have evidence one way or another that Pepco's effectiveness in fuel purchasing is better, or worse, or the same as utilities-at-large in the United States.

Mr. GUDE. Has your staff made a comparison of the Pepco system as compared to other systems?

Mr. STRATTON. If they have, it has not been with the kind of thoroughness that I would want to explore it on on the public record, let me put it that way.

Mr. GUDE. Then you are not aware that there has been a study by the staff in this area?

Mr. STRATTON. I guess it is the word "study". I have asked a staff member to consider the question of how best to explore the area, explore the subject. So it is really more of a brainstorming effort at this juncture than an effort of comparative tables, which is why I don't have a conclusion about Pepco's performance.

Mr. GUDE. I certainly hope you will move on with more than just a brainstorming effort.

Mr. STRATTON. We will.

Mr. GUDE. Thank you, Mr. Chairman.

Mr. ADAMS. Mr. Fauntroy.

Mr. FAUNTROY. Thank you, Mr. Chairman.

COMMISSION INVESTIGATIONS

Mr. Stratton, I have before me a file of a number of pieces of correspondence exchanged between you and a number of civic groups, particularly the Lamond-Riggs Civic Association, in response to a number of questions they raised. You provided a number of rather detailed and technical answers, particularly on the cost picture, for Pepco in particular.

I take it from your recommendation to the committee with respect to this legislation that you take the view stated by the National Association of Attorneys General cited by my colleague, Mr. Breckinridge, that a public service commission really must function as an impartial arbiter as over against a consumer advocate in these matters. And that, therefore, consumers must be provided with the kind of expertise to balance the considerable expertise garnered by the utilities.

I have one question, and that is do I understand your recommendation to mean that you are prepared to make the funds available under your authority to investigate the utilities and charge to utilities the cost of that investigation to the various publics, which you have identified as being the ones who are not adequately represented before you at present?

Mr. STRATTON. No, Mr. Fautroy. That is not my position.

I believe that the investigatory authority ought to remain with the Public Service Commission and its appointed agents. My notion of how best to compensate intervenors would, I believe, require an amendment to our law that would permit us to order the utility by assessment to bear all or some fraction of the fees or expenses of intervenors in our cases.

Now that is different from extending our investigative authority to nongovernmental groups.

Mr. FAUNTROY. I am not suggesting extension of authority, but extension of money to purchase the considerable expertise which is apparently the requisite for a consumer group to adequately represent its public before your agency.

FUNDING

And I know from my discussion with the citizens groups that it is at this point where they feel most frustrated and I—inasmuch as you tend not to see the role of the Commission necessarily as the advocate for the various publics—it would seem to me to be a logical extension of your recommendation that the funds that would be available to you for advocacy investigation might be made available to citizens groups without the specific legislation to extend that authority.

Thank you, Mr. Chairman.

Mr. NEELY. Congressman Fautroy, May I say a few words?

Under title 43, section 412 of the District of Columbia Code, the Public Service Commission of the District of Columbia is allowed to charge the expenses of a investigation that they conduct against the utility involved.

And this is exactly what we intended to do in the case of Pepco in our investigation.

However, the question does arise of the consumer groups that have intervened in our cases in the past. Those some 16 consumer groups that Mr. Stratton has outlined this morning, they are not compensated by the Commission. And the Commission would like to have some type of legislation whereby these consumer groups, their attorneys and also their expert witnesses who come in, are compensated.

Mr. ADAMS. Thank you, Mr. Fautroy.

Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. Stratton, thank you for your statement. I think you have answered some of our questions about how a public service commission operates. I was interested in your answers that you feel—and I tend to agree with you—that a public service commission is just not set up to be a consumer advocate when you are trying to be an impartial judge or arbiter between whatever claims there might be.

I would expect, to the extent possible that you and your staff do try to do this, but it is not an efficient method.

INTERVENORS

And I was interested in your suggestion that perhaps the best way might be to reimburse counsel for private intervenors in order that they would have the means to intervene in many cases. I am sure that there are lots of people who might like to intervene and don't have the expertise. I think it is a very good suggestion.

The "people's counsel" that has been suggested, as I think you may have stated in your statement, because of the great variety of intervenors, eventually would require as many assistants as there were intervenors, each one with a little different interest in the operation.

In regard to the variety of interests, what are your thoughts about reimbursing private counsel of intervenors? Do you have to find some reasonable method of limitation, because if there were no limitations, I would think that almost every single resident of the District of Columbia might want to come in and intervene if his counsel fees were going to be paid. I might even consider it myself.

Mr. STRATTON. It might even be as high as his electric bill.

Mr. SMITH. But I would expect that if this plan were adopted and if legislation were to give authority to the Commission to do this, that reasonable regulations could be adopted in order to draw some sort of reasonable limitation on the number of counsel or intervenors that could appear.

Mr. STRATTON. Absolutely.

Mr. SMITH. Not only in the amount of money but in the amount of time, because your hearings might go on forever.

Mr. STRATTON. Absolutely.

Congressman Smith, we draft up something and then receive expressions from the public. What I would want the public to comment on would be a regulation which would permit the Commission, in the first instance, to accept its intervenors and attempt to identify their interests; to require intervenors with common interests to pool their effort in representation; to encourage intervenors to focus their attention on the case that is most important to them; to tell us in advance whether or not they are going to ask for a reimbursement at the end.

Mr. SMITH. I think that these would all be sort of difficult questions, but you feel that they could be—

Mr. STRATTON. There is no doubt that going into this there would be some tugging and hauling, some give and take.

I am not going to say that it is going to work perfect right away. Indeed, I think I am a bit of a maverick among utility commissioners in suggesting its approach.

But I happen to have faith in the people, and I happen to believe that we can make this work. I cannot think of a better jurisdiction in the country to take the first crack at it than here in Washington.

Mr. SMITH. I think it is a very interesting idea.

FUEL COSTS

In regard to the automatic passthrough for increasing fuel costs, is that now on a percentage basis or is the entire increase passed through?

Mr. STRATTON. I think the Pepco people can tell you in detail how it works, but generally it is this: In September—right about now—our resident accountant over at Pepco is assessing the invoices of the company for fuel purchases this month, considering the—I guess you would call it the “heat content” the heat value of the coal; some kind of coal burns hotter and produces more electricity than some other—so we evaluate and attempt to tie the heat value of the fuel to the electricity produced.

And ultimately, out of the various computations that occupy four or five pages and include some projection of Pepco’s fuel costs for the balance of the month, we arrive at a figure. And let’s say, for purposes of illustration, it is a penny per kilowatt hour, and that is certified by our accountant, and this is the fuel adjustment cost for next month.

Pepco effectively picks up its costs a month after they are incurred in terms of cash. And if I can just add one comment, since there is a bit of an estimated factor in here, each month also includes an adjustment for the error in the estimate.

Mr. SMITH. Well, I guess I was asking the question because we have mentioned the possibility of a “cost-plus mentality” where you don’t care whether you buy your energy cheaply or not. If the cost passthrough applied to only a percentage of the increase so that the utility, or Pepco, or whoever it might be, had to assume part of that increase, it might be one method of doing away with any “cost-plus mentality,” if it were present.

Mr. STRATTON. It is an approach.

Frankly it is one that I am not ready to accept without the evaluation that we are going to undertake here.

Mr. NEELY. Congressman Smith, may I say a word?

Mr. SMITH. Yes, Mr. Neely.

PEOPLE’S COUNSEL

Mr. NEELY. I want to get back to your question about the expertise. One of the problems that we envision with just one, single “People’s Counsel”—unless you have a staff of many—would be that question of expertise.

We have three major utilities—the C. & P. Telephone Co., Pepco and the gas company—in the District of Columbia. In addition to that we also have the taxicab companies, and we regulate them also.

For one “People’s Counsel” to have the expertise in all of these fields, he would really have to be a jack-of-all-trades. Also, he would have to have a staff of at least a chief accountant or accountant to help him out in the cases that he presents.

In the past—at least the past 2½ years that I have been on the Commission—we have had a very liberal rule of intervention. We have allowed every single consumer group that has requested leave to intervene in our cases, we have allowed them to intervene. And this is a policy we will continue in the future.

FUNDING

We have now a motion pending from the Consumers Union of the United States before the Commission for attorney fees and expenses.

We have been sitting on this motion now for about 2 months, and we haven't made a decision as of yet.

And one of the reasons we have not made a decision on it is the problem of where we would get our statutory authority to award counsel fees.

So once again we are proposing that.

Mr. SMITH. Well, I would take it that you think you might have the authority, but you are not quite sure. And you would rather have it in black and white.

Mr. NEELY. That is correct.

Mr. STRATTON. I should say on that point, the lawyers are still exchanging briefs and papers before us. Frankly, Congressman, my approach is not to take the risk of losing the point on appeal, but to wait a couple of years for the answer, rather than seek the statutory authority that is in doubt.

Mr. SMITH. I think you are wise in doing that.

RESIDENTIAL USE

I have one other question, Mr. Chairman. The chairman raised the question of residential rates carrying the cost of increased construction, when recent history has shown during the last year that residential usage was decreasing instead of increasing.

It seems to me that during the last year there have been strenuous efforts to get everybody—residential, industrial, commercial users—to cut down on their use of electricity, gas and so forth.

And from what I read, I understand that this effort has been quite successful, that people have been turning off their lights and using a little bit less.

If it does turn out in the District of Columbia that the residential use remained constant or decreased a little bit in the future, I would expect that this would require the Commission to rethink this problem in regard to new plant construction.

Now history has shown, I understand, that residential use continues to increase, not particularly because new people come in but because of increase in use of a variety of new and different electrical appliances and so forth.

And so the peak, the residential peak continues to increase and requires new plant. Would you comment on that?

Mr. STRATTON. Well, I hope I am not the only person you ask to comment on that. I hope Dr. Olson, who is a highly respected authority, can react to this.

I think it is in order, I might say, for the members of a public service commission to be generalists. I don't claim to be an expert in rate design theory. Only somebody who can accept different pitches and accept finally that which I believe accomodates the broad public interest.

I believe that there is a fallacy in that point from the rate-making standpoint, because I think it presumes that the electricity that I may use in my residence comes from the plant that was built in 1930 and not the plant that was built in 1970 at a much higher cost. And that not so.

And so I think as you look down the future's path, you have to presume that everybody's electricity is coming from the system-at-large and that every individual kilowatt hour costs an average price which is determined by the overall cost of generation for the company.

Mr. ADAMS. Would the gentleman yield?

Mr. SMITH. I would be happy to do so.

Mr. ADAMS. The precise problem, Mr. Stratton is that there has been a major effort from the President of the United States down to tell people to reduce their electrical consumption, which they have done. And the reward for this has been an increase in price because of an expansion which they are not causing.

Now that problem you are going to have to answer, and public utility commissioners throughout the United States are going to have to answer, and public utilities are. That is our problem. You cannot regard somebody for doing what you are asking them to do by saying, "Because you are using less, we are going to charge you more".

Thank you, Mr. Smith.

Mr. SMITH. That is my problem with your analysis.

Whether this is a temporary phenomenon or a permanent one, I think nobody knows at this time.

Mr. ADAMS. Mr. Breckinridge.

PEOPLE'S COUNSEL

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

Mr. Stratton, Mr. Neely, I find your proposal very interesting. I have listened to some of the arguments on both sides of this proposition of a "people's counsel" or, if you will, a multiplicity of intervenors. I suppose the current illustration of that school of thought is reflected by the consumer protection agency bill, which was passed by the House and is now in the Senate.

And it takes the line that in these areas of complex matters, unless you have a separate point of authority and responsibility representing the consumer as such, there really will not be an adequate representation; there rather will be a splintering and fragmentation.

At this point, Mr. Chairman, I should like to include in the record an excerpt from a statement by North Carolina Attorney General Robert B. Morgan in the Wake Forest Intramural Law Review in the matter of intervention before regulatory bodies.

[The matter referred to follows:]

6.64 INTERVENTION BEFORE REGULATORY AGENCIES

The very nature of the adversary system of our common law jurisprudence requires that there be a spokesman for the consumer. Where there is no consumers' advocate rate increases requested by regulated industries follow as a matter of course whether justified or not. Without a consumers' advocate, all that need be done by the counsel seeking a rate increase is to make the necessary filing requesting the increase and introduce a bare minimum of evidence necessary to back up the request. Enlightened self-interest dictates that the evidence to be used by the industry should be marshalled in a light most favorable to the industry. . . . [W]ithout an adversary, counsel representing regulated industries was formerly quite possibly the happiest man engaged in the practice of law. His witnesses and evidence went unchallenged. His victories were as regular as clockwork. The consumer was possibly the unhappiest man around—he paid the higher rates and had to pay, in addition, the legal fee of his adversary's counsel.

Within the context of the adversary system it is improper for the regulatory board itself to act as the consumer's advocate. The regulatory board has the function of sitting as an impartial trier of the facts. If the only facts in evidence are on the side of the regulated industry, then the regulatory board must grant the relief requested. . . .

The consumer's advocate has the opportunity of giving the other side of the picture, of presenting a different viewpoint backed up by other evidence. There is also the benefit to the consumer of cross-examination of utility witnesses, which should measurably increase the regulatory board's capacity to view the matter from a balanced perspective. In theory, the resulting decisions from truly adversary proceedings should be fair both to the industry and to the public, for both sides of the matter will have been presented. It is felt that an added dividend will be the restoration of public confidence in the adversary regulatory system.⁴⁹

INTERVENORS

Mr. BRECKINRIDGE. Now to state that is not to argue your proposal, which I find most intriguing. Looking over your list of intervenors here, you have got 16 fellows who can pose a considerable demand on the purse of the District of Columbia, I guess.

Safeway Stores could pay their way and, I think, Washington Gas Light Co. could pay their way, and I would hope that the General Services Administration might be able to scrape up a buck or two. But the rest of these people under your proposal would have a valid claim on the taxpayers' dollar.

And I take it that you took draft regulations that would require those of a class to join together and unify their practice under a single leadership and thereby minimize the cost. On the other hand, I can hear the argument to the contrary.

Let me ask you, is this being done in areas that you can cite to us by way of example for drafting purposes. Do you know of statutory provisions that handle these problems this way?

Mr. STRATTON. I know of none in the field that I work in, sir. I believe that there has been some publication in law reviews and such other journals on the subject. I can try to dig those up.

I don't think it would be too hard a job for me because it is a subject that I have done some dipping into, some research myself.

Mr. BRECKINRIDGE. Mr. Chairman, I would like to ask for unanimous consent that the record be kept open to us this morning for the chairman to make available to us some bibliography in this area. It might be helpful to the committee.

Mr. ADAMS. Is there objection?

[No response.]

Mr. ADAMS. There being no objection, so ordered.

[The material requested follows:]

SOME RECENT ARTICLES ON STANDING AND INTERVENTION

Albert, *Standing to Challenge Administrative Action: An Inadequate Surrogate for Claims for Relief*, 83 Yale L.J. 425 (1974).

Butzel, *Intervention And Class Actions Before The Agencies And The Courts*, 25 Adm. L.R. 135 (1973).

Cramton, *The Why, Where And How of Broadened Public Participation In The Administrative Process*, 60 Geo. L.J. 525 (1972).

Davis, *The Liberalized Law of Standing*, 37 U. Chi. L. Rev. 450 (1970).

K. Davis, *Administrative Law Treatise*, 702-87 (Supp. 1970).

K. Davis, *Administrative Law Text*, 419-39 (3d. ed. 1972).

Gellhorn, *Public Participation in Administrative Proceedings*, 81 Yale L.J. 359 (1972).

⁴⁹ Attorney General Robert B. Morgan, *The People's Advocate in the Market Place*, Wake Forest Intramural L. Rev. (1970).

- Hasl, *Standing Revisited—The Aftermath of Data Processing*, 18 St. L.L. Rev. 12 (1973).
- MacIntyre & Volhard, *Intervention in Agency Adjudication*, 58 Va. L. Rev. 230 (1972).
- Scott, *Standing In The Supreme Court—A Functional Analysis*, 86 Harv. L. Rev. 645 (1973).
- Shapiro, *Some Thoughts On Intervention Before Courts, Agencies And Arbitrators*, 81 Harv. L. Rev. 721 (1968).
- Comment, *Public Participation in Federal Administrative Proceedings*, 120 U. PA. L. Rev. 702 (1972).

Mr. BRECKINRIDGE: Thank you.

I take it that what you are saying, Mr. Stratton, does not in any way preclude the operation, the creation of the operation of a "People's Counsel" function as an ongoing public service and a continuing responsibility that would lend a continuity on the representation of the people's side to the same extent that there is with reference to the regulated utilities, an ongoing continuity of representation on that side.

Mr. STRATTON. I cannot quarrel with your point, sir, as it breaches continuity, but my statement does try to make clear that I do see an inconsistency between widespread supporting intervention and the notion of the task confided to the "People's Counsel".

Mr. BRECKINRIDGE. Well, now, basically in rate-making cases the argument revolves around the cost of a dollar. And it is the responsibility of the public service commission in whatever jurisdiction we are practicing this matter to protect the public interest in every respect. That is correct, is it not?

Mr. STRATTON. Yes, sir.

And if I can just interpose one thing, I think on the large question of capital cost and rates or return we do a good job already in testing those propositions.

Typically, in Washington, we have the General Service Administration as an intervenor, with the expertise to present a decent case on that. We invariably engage a staff expert on that particular subject.

I think where most consumer concerns come most prominently to focus is the question of rate design and the distribution of the revenue requirement among the rate classes.

Mr. BRECKINRIDGE. Well my experience has been a little contrary to yours, Mr. Stratton.

It is the practice of the case, as it relates to the value of the properties and the assessment of the overall rate that comes into play in these matters when they are in dispute. And it is a matter of common knowledge that the regulated industries are more than adequately staffed with respect to the presentation of that evidence, and it is a matter of equally common knowledge that the public is no, and that a continuing ongoing responsibility would better be met by an independent office representing that public interest.

Mr. STRATTON. The point is well taken.

PEPCO RATE INCREASES

Mr. BRECKINRIDGE. I would like to get just a little understanding where we are today, if I might leave that subject, Mr. Stratton, with reference to the present Pepco matter. And I am sorry to say I have not followed it as closely as I should.

But the matter I was reading from was with a 1971 date, so let me go back 3 years.

How many rate increases has Pepco been allowed in the last 3 years?

Mr. STRATTON. I think if you will make it four, the answer is three.

Mr. BRECKINRIDGE. Mr. Chairman, may I make it four?

There have been three increases in the last 4 years?

Mr. STRATTON. Since 1970, yes.

Mr. BRECKINRIDGE. Can you tell me what the percentage of those increases have amounted to, taking the last year preceding the first rate increase as a test year?

Mr. STRATTON. Mr. Adams has read the percentage figures into the record which I believe to be correct.

I think rounded off it has been 11, 11, and 12.5 in the last three rate cases.

Mr. BRECKINRIDGE. Roughly averaged, that comes to 45 percent?

Mr. STRATTON. Nearer a 35-percent increase.

Mr. BRECKINRIDGE. What is the present rate increase request?

Mr. STRATTON. There is nothing present at the moment.

Mr. BRECKINRIDGE. I guess I had a source of misinformation. I had the understanding that they were seeking or about to seek a 23-percent rate increase.

Mr. STRATTON. They have not filed a rate case with us, sir.

Mr. BRECKINRIDGE. You have no knowledge of any such proposal?

Mr. STRATTON. I don't solicit rate increase petitions.

I read in the papers that we are liable to get one pretty soon.

Mr. BRECKINRIDGE. All right, sir.

Mr. Chairman, I think that is all I have. Thank you.

Mr. ADAMS. Thank you,

Do you wish to inquire, Mr. Nelsen.

Mr. NELSEN. Yes.

PEAKLOAD

I will have to leave in a few minutes, but I was interested in the reference to the peakload.

I used to be in the power business in the REA. One of the real problems we had was peakload on the powerplant, because it simply meant that if you went over that level you were in trouble with standby power and all of that.

Now, of the residential load and the industrial load, which one contributes the most to the peak?

Mr. STRATTON. Well, we don't really have an industrial load, as such, in the District of Columbia.

Mr. NELSEN. I am thinking about the system, because the distribution system is owned by the power companies, is it not?

Mr. STRATTON. Indeed so.

Mr. NELSEN. Then the power company establishes an overall rate on the basis of overall history.

Does the residential rate contribute more to the peak than does the industrial load?

Mr. STRATTON. I think the nature of the load in the District of Columbia is such that it is rather evenly distributed because our heavy load a year is typically the commercial office buildings, apartments—things which the power demands on a daily and seasonal basis tend to coincide with the residential load.

Mr. NELSEN. In calculating a rate for a power company, the statement has been made that the system is in place here in the District of Columbia, but a power company's rate would not be established on individual cities as they go along. Wouldn't they average out the rates to residents as well as industrial customers over all of their system?

How do they calculate the rates here in the District of Columbia? Is it done on a system basis or on a city basis?

Mr. STRATTON. It is done on a city basis because that is the limit, that is as far as it runs. But it runs on the basis of factors developed for the system as a whole.

The Pepco system is rated by three commissions—ourselves, Maryland, and Virginia.

Mr. NELSEN. Would it be possible for a power company in the rate-making process to have different rates all over the system to different cities with populations of different size? How do they do it?

Mr. STRATTON. Well, as between Virginia, the District, and Maryland, there are some minor variations in the rates that are charged.

Mr. NELSEN. If the municipal system has it so the city is the customer, that is one thing. But if it is a city where the power company owns the system, they are dealing with the total system; that is a little bit different process, I would guess.

DISTRIBUTION OF COSTS

I am just trying to figure out if it is justifiable to say that here in one city the factors are thus and so which could qualify for a lower rate.

Is it fair to say that that should be the rate for that city when the cost may be way higher in another?

Maybe I don't make myself quite clear, but I am just saying this, that you cannot use an example of one city alone to establish a rate for a total power company system. I think that is an accurate statement, is it not?

Mr. STRATTON. Well I don't think we do establish the rate for the total system, simply because we don't have that broad jurisdiction. We do assess rates that apply uniformly in the District of Columbia across the board on a nondiscriminatory basis. Congress has told us to do that.

Mr. NELSEN. Yes.

But you could also say on the reverse side that you cannot determine the rate for the entire system by a history of one town alone. The power company would be averaging out their rate.

Mr. STRATTON. Absolutely.

Mr. NELSEN. Thank you.

Mr. SMITH. Will the gentleman yield?

I think the analogy here is a little bit different than in most States, for instance, in the State of New York there is a State public service commission. And when the electric system which services the State of New York, or any part thereof makes a rate application, they take the State as a whole or the service area as a whole.

Here we are in a different situation because we have one utility which serves the District of Columbia and other areas regulated by the District of Columbia Public Service Commission and two other State public service commissions.

I would expect that this public service commission would work in harmony with the other two State public service commissions. But it must result in some variation of rates among the three.

Mr. STRATTON. Well sure.

Mr. SMITH. Whereas this would not be true if the system was in the city only.

Mr. STRATTON. Absolutely.

Mr. BRECKINRIDGE. One more question, Mr. Chairman.

Mr. ADAMS. Mr. Breckinridge.

COMMISSION STAFF

Mr. BRECKINRIDGE. Mr. Stratton, with reference to the staffing of the PSC in Washington, how many persons do you have on your staff and with what qualifications, background, and experience?

Mr. STRATTON. I am glad you asked that.

Altogether, including the commissioners, there are about 32 of us. About—well, I won't say "about"; I will be precise with you—five of those people are in our securities division, which regulates the brokerage industry here in Washington; three of them are engaged in the testing and calibration of meters; there is an engineer of long experience and broad knowledge, and he has been around the Commission for a long time. He is our source of lore and history—a very valuable person.

We have a person detailed full time to handling consumer complaints. We have got six—seven people—six or seven people in the administrative functions, stenography, filing, keeping the records appropriately maintained.

We have two attorneys who are delegated to us from the corporation counsel's office.

Mr. BRECKINRIDGE. Are they full time?

Mr. STRATTON. Yes, sir.

And then we have an accounting bureau, of whom four members are paid by appropriated funds and three are paid through funds that we raise by assessment against the utilities. We keep a resident auditor, accountant in each utility, insuring clients a uniform system of accounting.

We have a chief accountant who is a GS-15. He is a specialist recently engaged from the Federal Power Commission, where he had long experience in the electric and gas jurisdiction of that commission.

Mr. BRECKINRIDGE. What is educational background and training?

Mr. STRATTON. He is a certified public accountant with the training that that implies. I cannot tell when and where he went to school exactly, except to say that he has been in the regulatory accounting business with the Maritime Administration, the Federal Power Commission, and so on through his professional career which extends back 25 years or so.

And then the array of six accountants who work for him, people who have been with the Commission for varying lengths of time. We are attempting to, through training programs, to upgrade their qualifications, to broaden their expertise. And they range from a junior man who has just been taken on a year or so ago to the man who has been on for 15 years or so.

I think the experience and the qualifications of the staff is reasonable. I have to say that in this year's budget development process I

have asked the accountant to recommend to me changes in the staff, expansion if necessary, development of new qualifications if necessary. We have that under review at the moment.

Mr. BRECKINRIDGE. Do you feel that you have adequate staff?

Mr. STRATTON. I am new enough to the bureaucracy to say that—

Mr. BRECKINRIDGE. I mean these are all relative terms.

Mr. STRATTON. I think we are close to having a tight, close-knit, highly qualified staff.

There are some talents that we are in short supply of. I think some modest increases in staffing are in order, and we are going to recommend them, I think, in the budget process this year.

Let me give you an example, particularly I think to our resident accountancy program. This has tended over the years to be, I think, more an auditing function to insure compliance with accounting rules; whereas I think the focus we really ought to be taking is one which goes beyond that with today's business and management controls. There really isn't a real problem.

The kind of issues we really want our auditors to look into are the areas of prudence of expenditures. I think that is the area that the Commission ought to be informed of. And we will be going in the direction of cost accounting and cost analysis, proper reevaluation.

EXPERTS

Mr. BRECKINRIDGE. Whom do you look to for advice in the area of economics in the industry?

Mr. STRATTON. Typically, there we engage outside experts. It is usually in the context of a rate case. It usually happens that in recent years we have always had rate cases from just about every utility, so we have had an expert available to us within that context to look into just those things—allocation factors, let's say, among the jurisdictions, rate of return questions, rate of design questions. That kind of stuff.

Mr. BRECKINRIDGE. You suffer from no financial limitations or inhibitions in regard to the acquisition of those expert services?

Mr. STRATTON. No, sir; because we do that in the context of a rate case by assessment against the utility.

There is a limitation in the statute as to how much to assess over the years, but we haven't reached that.

Mr. BRECKINRIDGE. This is a routine part of your practice in any rate case?

Mr. STRATTON. Absolutely.

Mr. BRECKINRIDGE. That is all.

Thank you, Mr. Chairman.

Mr. ADAMS. Thank you, Mr. Breckinridge.

Mr. Stratton, I have two brief questions, because we do have other witnesses that we want to receive.

PEPCO NET INCOME

In examining the statements for Pepco and the rate increases, I have tried to analyze where the money is going, because the fuel increase, as you have explained and as Mr. Gude questioned, is being passed on to the customers. So they are not taking that into account.

Mr. STRATTON. That is the fuel increase over and above the base cost; yes.

Mr. ADAMS. Right.

And I have examined the plant here and there are certain factors which we may have to ask you back at a later time to explain, such as construction which is in progress. It is \$50 million, and I don't know of any plant being built in the geographical confines of Washington, D.C. You may be building some outside, but I don't know.

Now, in examining the amounts, I will read you three sets of figures. And tell me if this is where the money has gone.

PEPCO PROFITS

The net income of Pepco in 1970 with the first increase was—well, let's take 1969, before the first increase—was \$26,810,000. That is net income after interest. I know interest rates have gone up, so we have to take that factor out.

Then there is a rate increase and their net income rises to \$32,634,000. There are no figures available for 1971, but for 1972 the net income is now listed at \$44,859,715—there was another rate increase that year. There was another rate increase in 1973, and the amount has now risen to \$55,988,300.

In other words, the net income of the utilities has doubled under the rate increases that it started in 1970.

Now, do you think that this is what we should be doing as a public utility commission during this period of time? It may be justified for the sale of common stock or the sale of preferred stock or financial bases, but you have the same company doubling its income in 3 years, taking out the factors of interest and fuel?

Mr. STRATTON. I think those figures, Mr. Adams, would take on added meaning if they were related to the investment that underlay them.

PEPCO EARNINGS AND DIVIDENDS

Mr. ADAMS. Well, will you supply for the record the earnings per share, which I do not have available and are not available in the FPC files for the company for the period from 1969 to 1973?

Mr. STRATTON. Surely.

Mr. ADAMS. And then will you supply for the record the dividends paid during that period of time?

Mr. STRATTON. Surely.

[The material requested follows:]

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., September 30, 1974.

HON. BROCK ADAMS,
House District Committee,
Longworth House Office Building,
Washington, D.C.

DEAR MR. ADAMS: Enclosed are financial data relating to Potomac Electric Power Company, which you requested I supply at last Thursday's hearing.

I should also mention that on December 28, 1973, in Order Number 5620 the Commission corrected the statement on page 18 of Order Number 5614 to which you referred at the hearing. In absolute terms residential use did not decline as Order 5614 suggests. Rather, it rose at a slightly lower rate than overall usage, and, thus, declined as a percentage of total usage.

Please let me know if I can assist your Committee's inquiry any further. I shall be happy to do so.

Very truly yours,

WILLIAM R. STRATTON, *Chairman.*

SUMMARY OF EARNINGS STATISTICS 1968-73

	1968	1969	1970	1971	1972	1973
Net income ¹	\$30,235	\$26,810	\$32,634	\$36,863	\$44,860	\$55,988
Increase (decrease) over 1968 (percent)		(11.3)	7.9	21.9	48.4	85.2
Earnings for common stock ¹	\$26,589	\$21,717	\$24,851	\$28,470	\$34,197	\$45,374
Increase (decrease) over 1968 (percent)		(18.3)	(6.5)	7.1	28.6	70.6
Average number of common shares outstanding ¹	19,681	19,836	19,837	21,367	22,409	26,564
Increase (decrease) over 1968 (percent)				8.6	13.9	35
Earnings per share	\$1.35	\$1.09	\$1.25	\$1.33	\$1.53	\$1.71
Increase (decrease) over 1968 (percent)		(19.3)	(7.4)	(1.5)	13.3	26.7
Dividends per share	\$1.06	\$.53	\$.85	\$1	\$1.02	\$1.08
Increase (decrease) over 1968 (percent)		(50)	(19.8)	(5.7)	(3.8)	1.9
Return on total capitalization (percent)	6.7	6.2	6.6	6.9	7	7.7
Return on common stock equity (percent)	10.5	8.3	9.1	9.4	10.5	11.4
Investment in property and plant ¹	\$951,403	\$1,092,596	\$1,209,144	\$1,280,593	\$1,401,411	\$1,608,122
Increase (decrease) over 1968 (percent)		14.8	27.1	34.6	47.3	69
Additions to property and plant ¹	\$121,781	\$149,604	\$123,058	\$76,968	\$132,218	\$217,325
Market value per common share (yearend)	\$20	\$13.50	\$15.25	\$15.50	\$16	\$12.12
Book value invested per common share (yearend)	\$13.18	\$13.73	\$14.10	\$14.34	\$14.88	\$15.41

¹ In thousands.

	Percent authorized return on	
	Rate base	Common stock equity
Public Service Commission of the District of Columbia rate orders issued during this period:		
Formal case No. 541, \$9,100,000 (11.2 percent) increase effective July 1, 1970	7.1-7.5	11.19-12.55
Formal case No. 568, \$12,516,000 (11.3 percent) increase effective Aug. 1, 1972	7.84	12.5
Formal case No. 596, \$17,808,000 (13.7 percent) increase effective Dec. 8, 1973	8.3-8.5	12.5

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., December 28, 1973.

ORDER NO. 5620

FORMAL CASE NO. 596

IN THE MATTER OF APPLICATION OF POTOMAC ELECTRIC POWER COMPANY FOR AN INCREASE IN ITS RATE OF RETURN AND FOR AN INCREASE IN RATES FOR RETAIL ELECTRIC SERVICE

ORDER DENYING MOTIONS

The Commission has received two applications for reconsideration of its Order No. 5614, issued November 16, 1973, which approved a revenue increase for Potomac Electric Power Company (Pepco) and directed Pepco to prepare and file new rate schedules under which none of the approved increase would be obtained from residential customers using less than 400 KWH per month.

Seeking reconsideration of our order are the General Services Administration (GSA), an intervenor in this proceeding on behalf of the customer interest of the executive agencies of the Federal government and the District of Columbia Department of Highways and Traffic, and the Apartment House Council of Metropolitan Washington, Inc. (Apartment House Council) whose petition for intervention recited its interest as "represent[ing] many owners of improved real estate located in the District of Columbia who are customers of [Pepco]." Both GSA and the Apartment House Council (hereinafter Applicants) actively participated in all phases of this proceeding.

At the outset, the Commission deems it worthy of note that Applicants do not seek reconsideration of Order No. 5614 insofar as it addresses and decides the issues of rate base, revenues, expenses, operating results, rate of return or overall revenue requirements. Rather, Applicants urge only that we reconsider our findings and conclusions in respect of the allocation of the revenue increase among classes of customers, i.e., high tension, general service, and residential, and require Pepco to prepare and file rate schedules which, in consideration of cost of service, load characteristics, and rate of return by class of service, would reduce the amount of the increase in revenue allocated to high tension and general service customers.

As noted above, Applicants participated actively in this proceeding, through presentation of direct testimony, cross-examination, and on brief and argument. The contentions now advanced in support of their applications for reconsideration are essentially the same contentions urged on us prior to our decision and the issuance of Order No. 5614, contentions which we found helpful in reaching our decision and which were thoroughly and carefully considered and weighed, but which in the final analysis we found unpersuasive.

Viewed in this light, and having in mind the well established principle that the purpose of requests for reconsideration is not served by rearguing matters already presented and decided, the Commission could in this instance pursue the statutory procedure of denial by silence. Review of the applications and Order No. 5614 suggests, however, that further explication of our reasons for denying Applicants' contentions as presented both on the record and in their applications for reconsideration may be both appropriate and helpful.

We must first acknowledge that Applicants have correctly pointed out that high tension and general service customers do not account for all load growth in the District of Columbia, and that residential usage has indeed increased slightly. The recitation to the contrary in Order No. 5614, expressed as it is in absolute terms, is inaccurately stated. What has happened, and what was intended to have been reflected in Order No. 5614, is that in relative (rather than absolute) terms, *i.e.*, class use as a percent of total use, residential use has declined. It now accounts for slightly less than 15% of total use. Conversely, the percent of total use represented by non-residential use (general service and high tension) has increased, with general service alone using over 55% of the total. This comparison of relative use indeed demonstrates more clearly than the trend of absolute numbers the cost-causation factor which was an underlying rationale of our determination that low usage residential customers should not be required to bear the burden of increased rates.

In this connection, our decision was also influenced by the fact noted in Order No. 5614, that non-residential use represented some two-thirds of Pepco's total service in terms of volume revenues. This fact, considered in the light of the principle that it is the increased rate, not the amount of the increase,¹ that must meet the test of justness and reasonableness, convinces us that Apartment House Council's plea for the elimination of disparities in rates of return among classes has little merit. The allocation of the revenue increase allowed Pepco by Order No. 5614 and the increased rates permitted to go into effect pursuant to Order No. 5617, issued December 3, 1973 will not materially change the revenue relationships among classes of customers, and will have a relatively minor impact on existing rate of return relationships.

Indeed, our decision appears to be in harmony with that of the New York Public Service Commission in *Re New York State Electric and Gas Corp.* 93 PUR 2d 302 (1971), a case cited to us in the Apartment House Council application. There the New York Commission, recognizing an existing disparity in rates of return from different service categories, rejected the notion that the disparity should be substantially or completely eliminated. Elimination of the rate of return disparity, said the Commission, "would upset the historical usage patterns established in NYSE & G's service territory over many years, and would be harmful both to the company and to a large class of its customers" (93 PUR 3d, at 309). Given the similar circumstances existing in the District of Columbia,² we find the quoted language from the majority opinion more persuasive than the passage from the dissenting opinion of Commissioner Jones quoted, without identification as such, by Apartment House Council.

Turning then to the GSA application, we must and do recognize that on this record high tension users, considered separately as a class, appear to have achieved relative stability of usage in recent years. Usage by this class, however, continues at a level of approximately twice that of the residential class, and we do not understand GSA to contend that high tension users should not bear an equitable share of the costs incurred by Pepco in meeting the needs of high tension users. Even were costs the sole criterion of rate making, a theory with which we do not agree; and even were predictable cost measurable with the accuracy which the use of arithmetic numbers appear to endow them, we would be both unwilling and unable to find the 8.4% rate of return which the increased rates are calculated to

¹ We must note in passing that Apartment House Council's calculations of the increase itself are incorrect. Rates to general service customers are increased approximately 15%, and high tension rates 16%, figures which do not appear out of line with an average increase of approximately 14%.

² Elimination in this proceeding of the rate of return disparity in the District of Columbia would require an increase in residential rates of \$15.9 million, a reduction in general service rates of \$2.4 million, and an increase in high tension rates of \$4.5 million, a patently unjust and unreasonable result.

produce from high tension service to be unjust or unreasonable in relation to our overall rate of return finding of an 8.3-8.5% range as fair and reasonable to Pepco and its customers.

For the reasons stated herein, together with those set forth in Order No. 5614 as the basis for our refusal to adopt Applicants' contentions at that time, it is our opinion that the applications for reconsideration filed by GSA and the Apartment House Council should be denied.

Therefore, it is *Ordered*, That the Motions of the General Services Administration and the Apartment House Council of Metropolitan Washington, Inc. for Reconsideration of Public Service Commission Order No. 5614 are hereby denied.

A true copy: *Chief Clerk*.

By the Commission:

H. MASON NEELY, *Acting Chairman*.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
LONGWORTH HOUSE OFFICE BUILDING,
Washington, D.C., October 8, 1974.

MR. WILLIAM R. STRATTON,
*Chairman, Public Service Commission,
Washington, D.C.*

DEAR CHAIRMAN STRATTON: AS you know, on Thursday, September 26, the House Committee on the District of Columbia held the first of two hearings on H.R. 16782, to provide for a People's Counsel in the Public Service Commission.

During that hearing the Committee requested the Public Service Commission to supply the following information:

1. A listing of other commissions (including but not limited to public utilities commissions) which allow financial reimbursements to intervenors or consumer representatives.

2. PEPCO's earnings per share for the years 1969 through 1973.

3. PEPCO's dividends per share for the years 1969 through 1973.

To assist in the completion of the Committee records, we would appreciate receiving the above information by Friday, October 18, 1974.

Thank you for your attention to this matter.

Sincerely,

CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., October 11, 1974.

MR. CHARLES C. DIGGS, Jr.,
*Chairman, Committee on the District of Columbia,
Longworth House Office Building, Washington, D.C.*

DEAR MR. DIGGS: This is in response to your letter of October 8. Please accept my apologies for the fact that the Committee has not yet received all the information which I offered to provide when I testified on September 26.

The information requested in items numbered 2 and 3 in your letter was sent to the Committee on September 30. Apparently this correspondence did not reach you and so a copy is enclosed with this letter.

As to question number 1, I do not have a complete answer as yet. To the best of my knowledge, however, there is no regulatory commission which allows financial reimbursement to intervenors. Federal regulatory commissions generally take the position that without affirmative statutory authority they cannot award such assistance: for examples, see the last paragraph of the AEC Order of April 1, 1974 in Docket No. 50-289 and the FCC Order of January 30, 1974 in Docket No. 19167. The Federal Power Commission reached the same conclusion and its determination was affirmed in *Greene County Planning Board v. FPC*, 455 F. 2d 412 (2nd Cir., 1972). The Court's opinion does not, in my judgment, completely close the door to an award of fees and expenses to intervenors in an FPC case.

I should also point out that a Court of Appeals, in dismissing the intervenor's appeal in the AEC case mentioned above, hinted that in a case where intervenors are indigent there may be discretionary authority in the Commission to use appropriated funds to assist them in preparing their case. In a footnote the court referred

to an opinion of the Comptroller General of July 24, 1972 (B-139703) which suggests that the Federal Trade Commission may in certain circumstances defray expenses incurred by indigent parties to its cases.

My research to date has turned up no instances in which a State utility regulatory commission has awarded expenses to intervenors either from appropriated funds or by assessments against a utility company. Generally speaking, I believe State commissions also take the position that affirmative authority is necessary before they make such awards. For your information I am appending a brief bibliography of articles in law journals on the subject of standing and intervention. Also enclosed is a copy of the Comptroller General's opinion I referred to and a copy of the FCC decision that I have mentioned. The FCC order is quite exhaustive in its discussion of the subject.

Very truly yours,

WILLIAM R. STRATTON, *Chairman.*

Mr. ADAMS. I don't ask us to browbeat somebody for making money, but I have heard the explanation given that utilities are unable to market their stock, and that utilities are having great problems in borrowing money. And that this is the reason why earnings must be significantly increased. Earnings have doubled during this period of time, and I want to know—and the only way I can do it is to analyze your response as to what has happened, because it seems to me that with a monopoly and with an established group of customers and a rapidly-increasing income that this matter has been taken care of.

Yet I agree with Mr. Breckinridge—and this is one of the concerns of this committee—is that before the elected government can come into existence here that maybe another 23 or whatever percentage of increase laid on, and we want to know is this going to plant? Is it necessary for earnings or where it is?

Would you supply it for the record?

Mr. STRATTON. I will supply the information you see; yes, sir.

Mr. ADAMS. Now, my final question.

In the past there has been a competition among utilities' customers. You have volunteered an answer to one of my questions, that the gas company was justified in trying to hold its customers.

CONSERVATION OF ENERGY

Do you think in a period—and this is a generalist question; it is my last—in a period of shortage of fuel and shortage of energy that oil companies, gas utility companies, electric utility companies should be competing with one another for customers, or simply trying to supply what we have in effect now so that the customers who can reduce their consumption—if we do reduce our energy consumption—we can stabilize the energy picture?

This is as opposed to the general pattern that has occurred in the past, whereas everybody has wanted to grow.

Mr. STRATTON. In the short run, that is a goal that obviously can be reached. But I think the price is a very high price to pay for it in the long run in terms of this requirement for energy.

I think we are in a situation—what experts in the field call the growth curve—where there is, in fact, a little bit of a ripple, and a dip, and it is going down. And we are all feeling significant hardship on that account.

Mr. ADAMS. Thank you, Mr. Stratton.

The Commission's regulation under title 18, part 17, will be included in the record at this point.

[The regulation referred to follows:]

PUBLIC SERVICE COMMISSION REGULATION

TITLE 18

Part 17—Economic Stabilization Act

Rule 17.1—Compliance with the Economic Stabilization Act of 1970:

(a) The Commission will not, on or after the effective date of this rule, permit any tariff filing by any utility for an increase in rates to become effective pursuant to an order of this Commission unless the Commission finds and determines that—

(1) the increase is cost-justified and does not reflect future inflationary expectations;

Guidelines. An application for a rate increase must be accompanied by cost data for a recently concluded test year. Where special circumstances require, a different test year may be utilized.

In general, adjustments will be made to test year data to reflect changes in costs occurring during the test year not reflected in test year data, and known changes in costs occurring subsequent to the test year. All known decreases in costs, as well as increases, will be included in the adjustments made. Adjustments also will be made to eliminate the effects of abnormal or unrepresentative conditions reflected in the test year data.

Adjustments for changes in test year costs will not be made unless either (i) the change is subject to definite computation or reasonable estimation, or (ii) in exceptional instances, a cost adjustment is dictated by overriding considerations of public policy and should be allowed despite difficulties in estimation. In the case of adjustments falling within the latter category—which might include an increased allocation for research and development or for a needed program to protect public health and safety—the Commission will require periodic reporting, or impose other protective conditions, to assure that the funds allowed are expended for the purpose intended. In no case will an adjustment be made on the basis of general predictions of future increased costs.

(2) the increase is the minimum required to assure continued, adequate and safe service or to provide for necessary expansion to meet future requirements;

Guidelines. Where rate increases are sought to cover costs associated with safety, expansion of service, improvement of service, or environmental or ecological protection, the increases will not be permitted except in instances where the costs qualify as test year adjustments within the scope of the preceding Guidelines.

(3) the increase will achieve the minimum rate of return needed to attract capital at reasonable costs and not to impair the credit of the public utility;

Guidelines. In determining the appropriate rate of return, the Commission will consider the capital structure of the applicant during the test year or near the date the applicant's increased rates will become effective, by computing the costs of various components of the capital structure—interest on debt, dividends on preferred stock, return on common stock. Adjustments generally may be made in the capital structure, and in the costs of various types of capital, in a number of situations, as, for example, where: (a) adjustments may be required to reflect new financings which are known to be imminent; (b) adjustments may be required in order to permit the applicant to eliminate a discrepancy between the existing capital structure and an objective capital structure intended to assure the financial soundness of the applicant (e.g., to permit the replacement of excessive amounts of debt with some form of equity financing when the financial soundness of the applicant otherwise would be impaired); (c) the applicant is a subsidiary of another company and the capital requirements of the latter are taken into consideration; or (d) adjustments may be required to correct for excessive capital costs incurred as a result of improvident financing practices.

The rate of return allowed by the Commission will not reflect expectations of future inflation.

(4) the increase does not reflect labor costs in excess of those allowed by policies of the Federal Price Commission;

Guidelines. A wage or salary payment in excess of labor costs allowed by Price Commission regulations and policies will not be given effect for rate purposes. An application for a rate increase which is based in whole or in part on increased wages or salaries in excess of those allowed by Price Commission regulations will be allowed

only with respect to the portion of the wage settlement or salary increase which does not exceed Price Commission regulations or policies. At the present time, the Price Commission's guidelines provide in general that wage or salary increases in excess of 5.5 per cent per year are not allowable unless the increase is required by a contract which became binding before November 8, 1971, or unless the excess cost would work an undue hardship on the employer if it were disallowed.

Cases involving wage or salary increases in excess of 5.5 per cent per year, not covered by a prior contract, necessarily must be considered on a case-by-case basis in order to determine whether undue hardship would result from disallowing that portion of the increase in excess of 5.5 per cent per year.

(5) the increase takes into account expected and obtainable productivity gains.

Guidelines. Expected productivity gains will be taken into account to the extent such gains are susceptible to quantitative measurement in accordance with the comment under subsection (1). In particular, all productivity gains associated with increases in costs for which adjustments are allowed must be considered with a view to achieving a consistent and balanced projection of future operating experience.

Obtainable productivity gains will be taken into account by identifying, to the extent practicable in a rate case, any present or projected expenditures of the applicant which are wasteful or unnecessary. Expenditures for promotion, including advertising, will receive particular attention. Where it is shown that an applicant can reduce the costs of its operations by eliminating or curtailing wasteful or unnecessary expenditures, the Commission will so find and such expenses will be disallowed in computing costs for rate making purposes.

(b) Any utility which, on the effective date of this rule, has pending before the Commission a tariff filing for an increase in its rates, shall, if such information is not already included in the utility's filing or in the record, make a showing that the conditions enumerated in subsection (a) have been satisfied.

(c) Any utility which makes a tariff filing for a rate increase on or after the effective date of this rule shall, as part of its filing, make a showing that the conditions enumerated in subsection (a) have been satisfied.

(d) This rule shall not apply to—

(1) any rate increase intended to pass through specific allowable costs for purchased gas expenses, and fuel costs under a previously approved tariff provision:

(2) any rate increase which does not increase the utility's aggregate annual revenues by more than one per cent—

(A) intended to adjust relationships between classes of customers, or

(B) resulting from a revision or alteration of the nature or type of services offered to customers, or

(3) any rate increase intended to pass through specific allowable costs for purchased gas expenses, and fuel costs, where—

(A) the total increase or increases under this subsection do not exceed 2 1/2 per cent of the utility's annual revenues resulting from the particular type of service to which the increase or increases are applicable;

(B) the revenue requirements of the utility have been the subject of a comprehensive proceeding concluded within 12 months of the new filing (or the last of several such filings); and

(C) there is no basis for believing that any of the criteria stated in subsection (a) will be contravened.

(e) The Executive Secretary shall make available to the Price Commission such orders, regulations, periodic reports or other information as the Price Commission may require by regulation or otherwise.

I think over the long run the Nation—and as far as I am concerned the utilities serving the District of Columbia—have to be ready to meet the increased call upon energy. That is the expectation of the people that we work for. And what this means is hardship now beyond which might otherwise be endured.

Mr. ADAMS. But for the present you are saying to me, I assume, that you accept the position that has been stated nationally, that we have an energy shortage and that we should be conserving it. I gather your answer accepted that position.

Mr. STRATTON. Absolutely.

Mr. ADAMS. Thank you, Mr. Stratton, thank you, Mr. Neely. We appreciate very much your appearing here this morning.

Mr. NEELY. Thank you.

[Witness excused.]

Mr. ADAMS. The next witness before the committee is Mr. Charles Olson, associate professor of public utilities, University of Maryland.
Mr. Olson.

STATEMENT OF CHARLES E. OLSON, ASSOCIATE PROFESSOR OF PUBLIC UTILITIES, UNIVERSITY OF MARYLAND

Mr. OLSON. My statement is a fairly short one, and I plan not reading it. So I will proceed with that and make myself available for any questions at the end.

Mr. ADAMS. Thank you.

Would you move the microphone a little closer to you, Mr. Olson?

BACKGROUND

Mr. OLSON. My name is Charles E. Olson. I reside at 9420 Garden Court, Potomac, Md. I am an economist specializing in regulatory problems in the public utilities and transportation industries.

I am employed by the University of Maryland at College Park as an associate professor in the College of Business and Management. The courses I teach are in public utilities and transportation.

I also act as a consultant on regulatory problems to numerous government and industry clients, and have testified approximately 40 times before State regulatory commissions, never on behalf of a regulated public utility.

I have testified a number of times for State attorneys general and other consumer groups, including attorneys general in the States of Virginia, North Carolina, Massachusetts, Minnesota, and Kentucky.

I have also testified for other consumer groups.

I am generally familiar with the electric utilities in this area, have previously testified in cases involving Pepco and Washington Gas Light Co.

PURPOSE OF TESTIMONY

The purpose of my testimony is twofold. First, I will present an overview of the electric company power industry. The objective of this overview is to familiarize the committee with the structure of the industry and its regulations so that it will better understand the impact of any legislation it seeks to pass.

In this presentation I will place specific emphasis on Pepco so as to facilitate the committee's investigation of the company.

Second, some of the reasons for the recent increases in electric rates, including Pepco's, will be discussed and analyzed.

ELECTRIC POWER INDUSTRY AND PEPKO

The electric power industry provides electric energy for many uses to all types of customers, from small residential users to large industries. Because electric energy is not found in nature it must be produced.

The electric power industry performs two essential functions—converting nonelectric forms of energy into electricity and distributing the electricity to its users.

Falling water, coal, oil, gas, and nuclear fuels are the energy sources that are converted into electricity; the distribution network consists of wires, poles, and related hardware that brings electric energy directly to the consumer.

Pepco is one of some 200 major investor-owned electric systems that supply about 75 percent of the Nation's electric energy. The remainder is supplied by Federal and State systems, municipal systems, rural electric cooperatives, and small privately owned companies.

Geographically Pepco is a small system, supplying only the District of Columbia and the surrounding suburban area. However, a high saturation of air-conditioning equipment and other appliances by Washington's rapidly growing population have resulted in Pepco currently being one of the larger electric systems in the Nation.

In the 15 or so years prior to 1974, Pepco's peak demand and its kilowatt-hour load grew at a rapid rate, averaging nearly 10 percent a year. Since 1974, Pepco's sales and its peak load have both fallen by 7 percent and 5 percent respectively.

This decline is due to energy conservation in general and to the specific effort of the General Services Administration to reduce the usage of the Federal Government. In turn, reduced usage since the energy crisis has caused Pepco to reduce its demand forecasts and its construction budget.

REGULATION

Most investor-owned utilities are regulated by State commissions and the Federal Power Commission. Pepco's District of Columbia sales are regulated by the District of Columbia Public Service Commission; its Maryland and Virginia sales are regulated by the commissions in those jurisdictions, while its wholesale sales are regulated by the FPC.

Regulation is essentially a substitute for the competition that can't work in electric power supply. Electricity is most economically supplied in a given geographic area by a single entity because it would be too costly to build and maintain multiple generation and distribution systems.

In short, monopoly is the most economical market structure for the electric power industry, and commission regulation was established to prevent the abuses that accompany it.

Under our system of privately owned electric monopolies with close regulatory control, it is useful to delineate the roles of the companies and their regulators. In that the regulated utilities bear the ultimate responsibility for good quality service, they must initially decide what the pattern of demand growth will be and what construction is necessary to serve expected loads. They must do the necessary studies to determine how costs are incurred so they can propose reasonable rate structures to their regulatory bodies.

They should operate in the most efficient manner possible, making every effort to minimize their costs over the long run, consistent with the provision of good quality service.

The role of the regulatory commission is to act as a reviewer of the utility's actions and as the decisionmaking body on the rates, service, and financing. By far the most attention has been paid to the commission's rate-setting authority as this power is of most concern to the ultimate consumer.

Additionally, with the inflation of the past 5 years, a great deal of the effort of regulatory commissions has gone into hearing and deciding rate cases. But the proper role of the regulatory commission is much broader than merely hearing rate cases.

Commissions should carefully review all utility actions and operations that affect costs and rates. For example, demand forecasts and construction programs should be carefully reviewed by regulatory commissions because of their ultimate effect on costs and rates. If commissions find such forecasts or construction programs to be unreasonable, they should order them to be modified. Any area of utility operations that can affect rates should be the subject of commission review.

CURRENT PROBLEMS FACING ELECTRIC POWER INDUSTRY AND ITS REGULATORS

Presently there is a great deal of concern about the rapid rise in electric rates, including those of Pepco. There are several reasons for this concern. First, consumers came to expect declining electric prices because technological improvement permitted significant rate reductions during the 1950's and 1960's.

Second, while customers have recently become accustomed to some price increases, they did not expect electric bills to rise more rapidly than consumer prices. Third, real incomes have not risen as much as they have in the past, making it more difficult for consumers to absorb price increases. This is especially true of Federal employees who have experienced declines in real wages during the past year.

Fourth, an increasing percentage of electrically heated homes has significantly increased the amount of the electric bill to many families in this area.

Fifth, and finally, people have felt that reduced usage for conservation or other reasons would result in smaller electric bills, or at least not increasing bills. But the rapid increase in fuel costs and other items has made it impossible for most electric users to reduce their usage to hold their bills at a constant level.

FUEL COSTS

The reason that rates are going up is that costs, especially those for fuel, are increasing rapidly and utilities are attempting to pass them on to their customers. The cost of fuel is difficult to control for a regulated utility such as Pepco, especially the price of oil.

The price of coal has been pushed up by the switch away from oil and by higher mining and transportation costs. As a result of increases in fuel costs, Pepco is currently charging its customers more than 1 cent per kilowatt-hour for fuel cost increases experienced during the last year. This alone has increased Pepco's rates by more than 30 percent.

FINANCING COSTS

But other costs are also increasing for Pepco and the rest of the electric industry. Pepco's last bond and preferred stock issues were at a cost of more than 11 percent and the dividend yield on its common stock is about 12 percent.

This translates into a higher rate of return requirement if capital is to continue to be attracted on reasonable terms. I might add that Pepco's last issue of common stock was not on reasonable terms because it was at a price that was less than the book value of the stock.

CONSTRUCTION COSTS

The cost of new construction is also rising at a very rapid rate. The plants Pepco is currently serving the District of Columbia area with cost less than \$150 per kilowatt of capacity.

In contrast, the new unit under construction at Dickerson will cost nearly \$600 a kilowatt, while the proposed nuclear plant, if constructed, will probably cost in excess of \$700 a kilowatt. These costs are difficult to control because of higher and higher wage costs and ever-changing environmental regulations.

Regulatory commissions cannot do a great deal to influence this situation. They can monitor fuel procurement practices, but this is not likely to reduce fuel costs significantly. There is little they can do about the rate of return requirement because the capital markets dictate what must be paid for money.

Construction programs can also be monitored, but it must be remembered that most construction costs are beyond the control of utility management.

It should be remembered here that with the regulatory commission's function being largely that of a reviewing body, that the blame for Pepco's sharply higher rates should not be placed on the District of Columbia Public Service Commission.

I might add that I concur with Commissioner Stratton's opinion that the District of Columbia Commission is one of the finest in the country. I have testified before close to 20 such commissions and it seems to me that it is run well and has the consumer interests more at heart than most of the rest of them that I have testified before.

AUTOMATIC FUEL ADJUSTMENT CLAUSE

Regulatory commissions have been urged to eliminate fuel adjustment clauses and even to roll back rates to prior levels. Such actions would be unwise and would only serve to aggravate an already bad situation. The fuel adjustment clause is a necessary mechanism to keep rates in line with costs and thereby balance consumer and investor interests. Added fuel costs obviously cannot be borne by the stockholders who have already experienced some degree of confiscation. It is highly doubtful that Pepco or most other electric utilities could continue to attract capital for expansion if the fuel adjustment clause were eliminated at this time.

POSSIBLE SOLUTIONS

The picture I have presented is obviously not a very good one. Unfortunately, I can offer no solutions that will pay off in immediate rate reductions or even prevent further rate increases in the near-term future.

But there are several steps which I believe, if taken, can keep costs and therefore rates to a minimum. There are also actions that would do little more than offer false hope to consumers, which I will comment on as well.

DEMAND FORECASTING

Beginning with the solutions which would be helpful to the industry and the consumer, I will first discuss demand forecasting. Inaccurate demand forecasts by electric utilities lead to higher than necessary construction programs and ultimately to higher rates. If forecasts are to be as accurate as possible, the methodology used in preparing them should be as sophisticated as it is possible and the responsibility for them shared between the utility and the regulatory commission.

This area is one that regulatory commissions have generally not concerned themselves with. But a moment's reflection will make it clear that the demand forecast has a definite influence on rates.

The demand forecast determines how much new plant must be built which, in turn, affects the construction budget. Once plant is constructed—or even under construction—it goes into the rate base; the rate base is an element, then, determining how much in total the customers of the utility must be charged.

Previous errors in Pepco's demand forecasting have resulted in excess capacity and more plant under construction than is necessary now or for the next several years. I do not blame Pepco for this, but I do believe that a more sophisticated and broadly-based approach would have resulted in a smaller construction program and lower rates.

For example, if the District of Columbia Public Service Commission had been reviewing Pepco's demand forecasts, they might have better predicted the higher prices of coal and oil and the effects they would have on electricity consumption. They might also have had more insight into the impact of environmental controls on rates and on usage.

CONSTRUCTION BUDGET REVIEW

A second step that the commissions should take in meeting their responsibility to the public is that of reviewing construction budgets so as to determine whether the plant mix proposed to meet expected loads will do so at the lowest possible cost. Here a brief review of Pepco's situation will be of aid in analyzing this problem.

LOW LOAD FACTOR

The markets in which Pepco operates have resulted in Pepco's having a relatively low load factor. This means that Pepco's ratio of average sales to sales at the time of system peak is low by industry standards and that its capacity is poorly utilized.

In 1973, load factor was 47.3 percent, and will be even lower this year.

There are two reasons for the low load factor in Pepco's service territories. First, there is a large air conditioning demand which contributes to the system peak, but which provides actual load during only a small percentage of the hours of the year. Secondly, Pepco has no high load factor industrial customers.

Faced with this poor load factor, how should Pepco serve its load so as to minimize unit costs? At one extreme it could invest in nuclear units which have high capital costs but low fuel costs. When operated continuously, nuclear plants have a low cost per kilowatt-hour.

At the other extreme are combustion turbines. These units have low capital costs but very high fuel costs. They are economical to meet low load factor demands such as for air-conditioning. Between the nuclear and combustion turbine extremes are base load fossil-fuel units and cycling units.

The District of Columbia Public Service Commission should be well-informed concerning just how Pepco will meet its loads in a manner that will minimize costs. For example, with its low load factor, should Pepco be making a commitment to nuclear power? Could pricing reforms and consumer education programs lead to lower demands at the time of system peak and an improved load factor?

In connection with this I have brought along a paper that I wrote on this subject. It was published about 8 months ago in the Public Utilities Fortnightly. And I will make it available for the record, if the committee is so interested.

Mr. ADAMS. Without objection, it will be included at the end of your statement.

[The document referred to appears at the conclusion of Mr. Olson's testimony.]

Mr. OLSON. Yet another question is how intensively should Pepco be utilizing its combustion turbines.

The decisions that are based on the answers to these questions will have a significant impact on costs, and should therefore be of vital concern to the Commission.

In my opinion, demand forecasting and construction planning are two very important areas that the Commission should concern itself with. There are, of course, other areas that the Commission should concern itself with, such as accounting practices and financial requirements, but they are of secondary importance in terms of their effect on rates.

Turning now to the specific concerns of this hearing, I do not believe that an investigation of Pepco would uncover any unreasonable practices or inefficiency. Pepco's problems are largely those of the industry, and it seems to have done relatively well in dealing with them.

In addition, I believe that an efficiency study of the company, done to meet the requirements of Maryland law, revealed nothing unusual about Pepco.

PEOPLE'S COUNSEL

I am also not certain how a People's Counsel would help District of Columbia ratepayers. The Commission's staff is already represented

by counsel in rate cases. And I might add that they seem to be represented by very good and very consumer-minded counsel.

Maryland has a people's counsel who is appointed by the Governor. But the Maryland People's Counsel has no separate staff other than an assistant attorney. But it does have a large budget from which consultants can be hired.

While these funds permit the Maryland people's counsel to put on a show in rate cases, there is no longrun benefit because no permanent staff is being developed.

A far better alternative for the District of Columbia would be funding for additional staff members. And I believe one area of critical importance here is more help in the engineering and economics area.

Additional staff will allow the Commission to better understand the problems of District of Columbia utilities and consumers, and thereby minimize the longrun costs of utility services.

That completes my statement, Mr. Chairman.

Mr. ADAMS. Mr. Olson, I have just one question. It goes to your statement that you can put on a show of rate cases but there is no longrun benefit because no permanent staff is being developed.

PRICE BASIS

Which leads me to the question of the pricing mechanism of utilities throughout the United States. In the past, utilities have priced on the basis of selling either nondemand power or large blocks of power at prices considerably below what they charge the residential or regular users, on the basis that they were competing with other modes of energy supply for these customers and they wanted to grow as a company and make money.

Now, what I am asking you is, you have indicated the problem of peak load, and you have indicated that residential consumers, if they reduce their demand—which they have done under instructions from the President of the United States—that, in effect, this just makes the problem worse and they are going to be charged more.

Now why haven't you recommended in your paper what is wrong with requiring additional payments for additional usage above a certain amount, so if I want to be cool this summer and run my air-conditioner, I must pay for it?

Mr. OLSON. That is something I have frequently recommended to regulatory bodies.

Mr. ADAMS. Well, I wonder why it isn't in your paper.

It seems to me if you are going to conserve energy, and you have got a regulated system so you don't use market forces, that the regulatory body should be dealing with a series of rates that start at the necessities of life; and as you go more to the luxury trade—which the air-conditioner is—and the amount you run it is, that you should receive some cost benefit for it. Otherwise, there is no incentive for trying to cut back on your consumption.

Mr. OLSON. It is difficult to do in-use type of pricing in this industry.

For example, hospitals—which absolutely require air-conditioning, as do some individuals for their very health.

I think the answer is just to level rates so that there are not substantial discounts for the larger residential users. And in some measure this has happened.

CUSTOMERS' USE

The last order of the District of Columbia Public Service Commission put the increase on customers utilizing only 400—

Mr. ADAMS. Do you know of anybody—and you are an expert on this—that generally runs a home? Give me some idea of who uses 400 kilowatts, what its average use is.

Mr. OLSON. I don't have the figures right in front of me for the average home in the District of Columbia—

Mr. ADAMS. Just in generalities describe a house to me and what you get for 400 kilowatts.

Mr. OLSON. Throughout Pepco's service territory the average usage is about 700 kilowatt-hours a month. Now there are many users in the District of Columbia in rowhouses and apartments that would use less than 400 kilowatt-hours a month.

Mr. ADAMS. Do you have any analysis of about what 400 kilowatts buys the consumer? We have the whole range, starting with the light bulb and running up through central air-conditioning. I just want a general statement from you on what you get.

Mr. OLSON. Yes, sir.

That would give you electricity for your lighting, for a reasonably size refrigerator and for other small appliances, including a television set. It would not give you electricity for an electric hot-water heater, it would not give you electricity for an air-conditioning system.

Mr. ADAMS. How about a washer and a dryer?

Mr. OLSON. It would give you electricity for—it would depend on the number of children, I am afraid, in the family. If you use the dryer quite extensively, that is a big user of electricity.

Mr. ADAMS. Then I gather that your conclusion to this is that there should be some reward for the consumer who tries to save energy, and that should be reflected in the rate system?

Mr. OLSON. Most definitely.

But the largest reward should go to the customer who saves energy at the time of the system peak, when fuel costs and capacity costs are the highest.

Mr. ADAMS. That is part of what I am talking about.

Mr. OLSON. Yes, sir.

Mr. ADAMS. In other words, you would vary it with summer and winter; in other words, you would tie your rate structure into the realities of your production system.

Mr. OLSON. Yes, sir.

Mr. ADAMS. Then that would allow you to go—as you point out in your paper—to combustion turbines, and the people who use the additional amounts have to pay for the expensive-type power.

Mr. OLSON. I think to the extent that it is practical to do that, that should be done.

PEAK LOAD CHARGES

Mr. ADAMS. Well, you pointed out in your paper, I think, a beautiful model of how that occurs.

If you buy a nuclear plant, that's for everybody and you have got to spread it over everybody because you don't get an advantage unless you have a lot of production and a very stable load. But with a turbine that you can throw on- or off-line during peak periods, you can then charge people for the use of that facility during the peak period, or if the load factor goes above your standard load system, then you reduce your construction costs in your overall base to a minimum.

Mr. OLSON. That is correct.

But there is an additional difficulty, though, in measuring what consumers are using at the different times of the day and the time of the year.

Mr. ADAMS. But that is not hard when you get a meter and you are billed monthly, and you are billed on a total amount for the month.

Mr. OLSON. It is difficult to tell whether that use was right at the time of the peak or whether it was during the evening hours, whether it was for an air-conditioner or for a 120-gallon hot water heater.

Mr. ADAMS. We don't have to fine tune it that much, do we, Professor? If we use so much for basic utilities, once we go above that amount, you and I both know that in the real world you have either got the air-conditioner on or you are using the dryer; aren't you?

Mr. OLSON. That is true. But to find the basic use is difficult.

Mr. ADAMS. No, I am not trying to define the use. I am just trying to plug into you with your experience of what the real world of use is and the real world of production is, and not make everybody pay for the excesses—if you want to call them that—or the luxury uses of some, so that you can get your pricing and your production tied together.

I think that is what you are telling me in your statement.

Mr. OLSON. I am telling you that, but I am also indicating that the measurement problems are quite difficult.

Mr. ADAMS. Professor, all I am going to say to you is that I have just finished sitting on the Budget Committee and I have just finished sitting on the Interstate Committee on the Power Commission, and everybody is saying to everybody that things are difficult. And my standard reply to them is, "What we've got now is a mess, so let's do something different and the appropriate steps. . ." with people like yourself advising us, to try and make it better, and not just say and think that because it is difficult we are going to sit there.

Now isn't that a legitimate position to take?

Mr. OLSON. That certainly is, and I am doing the best I can.

Mr. ADAMS. Thank you, Mr. Olson.

Mr. Smith.

USE MEASUREMENT

Mr. SMITH. Professor Olson, thank you for your statement.

You have brought us, I think, a basic understanding of what makes the electric utility business run. Along with what Chairman Adams has been asking you about, you have said the measurement of minimum use is a very difficult thing, and you are very correct on that.

As an example—we have touched on it—the minimum use of a family of six children would be considerably different than that of a family of two persons. And at this point you have a social problem of defining "minimum use."

But at least I agree with the chairman that with knowledgeable people like yourself, thinking about the problem and with some new technological facilities such as computer facilities and so forth, these things become somewhat possible of definition, although still probably never perfect, as most ratemaking schemes are never perfect.

DEMAND FORECASTING

I was interested in your statement that you felt the Public Service Commission should become involved along with the utilities in demand forecasting. I assume from what you say that this ordinarily is not done.

Mr. OLSON. That is correct, to my knowledge.

There are no commissions that are actively involved. The Maryland commission does review demand forecasting because the Maryland law requires the issuance of a certificate of convenience and necessity before a powerplant may be built. And the utilities must justify the need to build powerplants.

So the Maryland commission does review the forecast of the company. However, they do not get involved in the work themselves, and as far as I know, they don't even have an economist on their staff who can evaluate these forecasts.

Mr. SMITH. I think it is an interesting concept and I can understand why the Public Service Commission has shied away from it, with the feeling that this is an economic function of the utility and if they make the wrong guess they don't want to be involved in it.

But at least one thinks that down the road it would be helpful.

PEOPLE'S COUNSEL

I was interested in your statement that Maryland does have a people's counsel for at least appearing and intervening at ratemaking hearings, which leads me to venture the thought that perhaps as this concept is developed here for the District of Columbia, just as we have councils of local government, one of the possibilities might be a council of People's Counsels—if I might coin a phrase—for Maryland, Virginia, and the District of Columbia that would have proper staff for working as a harmonious group instead of as individual people's counsels for the three jurisdictions.

So it is something to be thinking about as we go down this road.

In other words, the People's Counsel of Maryland and a possible one to be created in the District of Columbia, and a possible one in Virginia might be working together, or perhaps even have a common staff, as we in Congress are about to have, hopefully, a combined Senate-House budget staff.

This might be a possibility to think about.

Mr. OLSON. I think that would be very useful, especially where you have the same companies in several of these jurisdictions. I think a common staff could analyze all of the problems and provide necessary information and testimony for the various people's counsels in the different jurisdictions.

PRIVATE VERSUS PUBLIC POWER

Mr. SMITH. One other question I wanted to ask you, Professor Olson.

It seems to me that if the traditional method of supplying utilities in most of the United States—and about 70 percent is under private enterprise—if this system should break down because of the inability to attract capital for future planning and construction to meet future demand, the end of the road, of course, is nationalization or socialization of the utilities. So they would be run by the Government.

There has been a long controversy as to the respective efficiency of the private enterprise-run utilities and publicly run utilities, such as some of our great power purveyors in the State of Washington, Mr. Chairman, and in the Far West.

And I would think that enough time has now gone by in which economists, perhaps, have been able to make some comparisons of the efficiency of the two systems, and I wondered if you had any fairly brief comment about them.

Mr. OLSON. There has been a great deal of study. Unfortunately, the conclusions are not very firm in this area.

It is generally recognized that the Tennessee Valley Authority and the Bonneville Power Administration are very efficient suppliers of electricity—they being Federal systems. It is also recognized that there are a number of privately owned systems that compare in efficiency to these two large Federal systems, and the one that is most often cited is the American Electric Power Co., which is a holding company serving some six or so States.

But there are also inefficient systems that are Government owned. The one that is most frequently cited, I believe, is the one in Jacksonville, Fla., which has experienced very, very high costs and is currently the subject of an investigation by the attorney general in Florida because of the higher rates.

So I think there is a mixed picture here, and you find good companies and companies that are perhaps not as efficient in both areas here.

Mr. SMITH. Thank you very much.

Mr. ADAMS. If investment capital is not available for utilities—and I don't direct this at Pepco, but at the national problem, which will be discussed tomorrow at the economic summit—if the national problem of utilities is the inability to raise capital, that, of course, is what Mr. Smith was referring to.

That problem is eliminated with the municipal or the public power system. But I might also point out that you have to have the productive capacity available, as well as the distribution system, to do that.

And we use a mix in the State of Washington. The public utilities and the private utilities both, and they also have their own controlled generating systems—both public and private. We have now united these into a grid, where the entire saving, as you might know, is done through one grid system.

So I don't mention that in any way as any kind of a threatening thing, but Mr. Smith is certainly right. If we can't beat the problem otherwise, that is what is going to happen.

Now, prior to going to the other members, I apologize. I must leave for a few moments. And I apologize particularly to the witnesses here. These hearings always take longer than we think they are going to.

I would like, if there is no objection, to enter this statement into the record of the Mayor's representative, Mr. C. Frances Murphy, who is here.

Is there objection?

[No response.]

Mr. ADAMS. There being no objection, that will be entered into the record.

[The statement of Mr. Murphy follows:]

PREPARED STATEMENT OF C. FRANCIS MURPHY, D.C. CORPORATION
COUNSEL

Mr. Chairman, thank you for the opportunity to appear today to express the views of the Government of the District of Columbia on a bill to establish a People's Counsel in the D.C. Public Service Commission.

The statement of the Chairman of the Public Service Commission gives you a comprehensive picture of the nature of the work of the Commission, its jurisdiction and its position with regard to the investigation of the increasing utility rates in the District of Columbia. As you are aware, Mayor Washington on August 26, 1974, requested the Public Service Commission to investigate the sharply rising utility rates. He stated the investigation should center on the adequacy of steps being taken to hold down the costs of service and to assure the adequacy of bills as well as ways to reduce costs and the adequacy of the Commission's monitoring procedures. Mr. Stratton has advised you of his response as Chairman of the Commission to Mayor Washington.

On behalf of Mayor Washington I want to assure this Committee that the Mayor remains committed in his concern for consumers to providing adequate support to the PSC so that it can do its job. Mr. Stratton has indicated that the Commission is prepared to undertake the investigation which Mayor Washington requested. The method by which the Commission proposes to conduct the investigation—by utilizing independent consultants—will insure that the Commission has before it all the relevant information it will need to reach a decision with regard to existing rates and any new requests by the utility company for rate increases.

The Government of the District of Columbia favors the establishment of a mechanism which will enable the views of the consumers to be represented adequately before the PSC. We favor the concept of having an attorney who would be available to represent consumer interests in proceedings before the PSC. We think that an attorney must be able to intervene in rate proceedings and to initiate proceedings on behalf of consumers interests. As you are aware, in the past there had been a People's Counsel involved in ratemaking matters. We think it would be appropriate to reestablish that position, which was abolished in 1952, to provide today's consumers with a voice in utility ratesetting and regulatory proceedings.

We also foresee a role for the new Office of Consumer Affairs to work on behalf of consumers through the People's Counsel. We hope the Office of Consumer Affairs will be able to expand its work on behalf of consumers as the Office develops its programs and the People's Counsel would offer a new mechanism for the Office to use in further protection of consumer interest.

Thank you for this opportunity to testify. I will be happy to answer your questions.

Mr. ADAMS. And, Mr. Chairman, if you would chair and continue, thank you.

I would like to ask the question of the other members of the committee so that I can inform the other witnesses, whether they would like to proceed later in the afternoon or on Monday morning.

Then I will state to the witnesses that we will finish with Mr. Olson, and I apologize to Mr. Alexander and Mr. Wells, and to the representatives of Pepco. And we will have to proceed the first thing on Monday morning with those representatives. And we will get to them as promptly as possible.

Also, is Mr. Nevius here?

Mr. NEVIUS. Yes.

Mr. ADAMS. I understand that you have testimony. Do you wish to deliver it to the committee or do you wish to place it into the record at this point and return?

What is your pleasure?

Mr. NEVIUS. Well, unfortunately, I have a conflict on Monday morning that would make it difficult for me to appear. And so if the committee is not able to hear my testimony today, I will be happy to put it in the record.

Mr. ADAMS. Let us do this, Mr. Nevius.

Is there any objection to Mr. Nevius' statement being placed in the record?

[No response.]

Mr. ADAMS. Without objection, so ordered.

[The statement of Mr. Nevius follows:]

PREPARED STATEMENT OF HON. JOHN A. NEVIUS, CHAIRMAN,
CITY COUNCIL

Mr. Chairman, before starting on the substance of my own comments, let me state that, in the very short time available to them between the receipt of the request to testify, September 23, and the "due date" of this testimony, September 25, I have asked my colleagues on the City Council to provide me with any individual opinions they may entertain concerning the proposed legislation calling for a People's Counsel to be established on the District of Columbia Public Service Commission.

Council Member Henry S. Robinson has asked me to express his support of the objectives of this legislation. He points out that the City Council in its FY '73 and FY '74 budget report called for the creation of an Office of Public Ratemaking to represent both the public and the Government of the District of Columbia before the Public Service Commission, Washington Metropolitan Area Transit Commission and the Washington Metropolitan Area Transit Authority. This legislation would help to meet at least part of that objective. The Committee may wish to consider incorporating into the proposed bill some public representation at WMATC and WMATA of the type proposed for the Public Service Commission. I myself am not sure whether such representation would be appropriate at the Washington Metropolitan Area Transit Authority which is not a regulatory body in the same sense as the other two. Dr. Robinson has submitted a letter to the Committee expanding on the views which he would like included in the record. Council Member Tedson Meyers has asked me to submit the attached letter expressing his support of the bill calling for a "People's Counsel." Mr. Meyers is in the hospital as the result of an unfortunate motorcycle accident and is unable to submit his testimony in person. I am happy to be able to say that he is recovering nicely. My other colleagues were unable because of time constraints to respond to my request for separate views.

SUPPORT PEOPLE'S COUNSEL

As for myself, I support wholeheartedly the objectives of the proposal for a People's Counsel. Indeed the Committee is no doubt aware of the part-time efforts of a series of "People's Counsels" working on behalf of the public interest and employed by the State of Maryland. These efforts have succeeded in sharpening the issues in cases before the Maryland Public Service Commission. The Committee may also be aware that the State of Montana has recently put into practice this same concept with some apparent initial success. Nevertheless, I would urge the Committee, before definitively approving the draft bill under discussion here today, to examine other alternatives.

One such possibility already suggested by Chairman Stratton arises because of the recent growth in the numbers of well-established, non-profit consumer groups which increasingly attract capable and well-qualified attorneys and researchers as well as the support of a wide spectrum of consumers. These consumer groups have specialized in a number of areas and have, therefore, accumulated a great deal of expertise in depth. Chairman Stratton and I believe that this alternative would harness such expertise and enthusiasm. The cost could be paid by assessing the industries, under the supervision of the Public Service Commission in exactly the same way that the bill proposes to finance the "People's Counsel." This arrangement has two distinct advantages over the proposal before us this morning. These groups can control their own advocacy without reliance on government attorneys, and the taxpayer doesn't pay the bill.

ALTERNATIVE

Another alternative might be an arrangement whereby the Mayor and Council would appoint an attorney or attorneys, chosen from among the private firms and public interest attorneys well-established in the District of Columbia, to represent the citizens of the District in individual rate cases. Indeed in a number of cases in the past, the City Council has intervened through its own attorney in rate cases before the Commission. I believe that the appointment by the Mayor and Council of a private attorney would better meet the need that these cases illustrate, because of the resources which would be available to an independent attorney not dependent upon government employment. This alternative would have the same advantages of my first suggestion and would also avoid the necessity for establishing a permanent position, which might not be necessary on a full-time basis if and when the number of rate cases generated by inflationary pressures decrease as these pressures diminish.

Speaking of inflationary pressures, please permit me a small digression. As we all know, public utilities are being crushed between rising costs of capital and startling increases in fuel prices on the one hand, and the necessity on the other hand to maintain a high level of service to consumers, requiring both increased wages and salaries and expansion of plant and equipment. These industries must of necessity pass on to consumers their fair share of the rising expense of meeting this objective.

There are also the complicated issues of new technology, air pollution control and just plain obsolescence. This does not mean that they should be permitted to take unfair advantage of the consumers. On the other hand, the consumers would be the first to cry out at the deterioration of the services they have come, rightly, to expect. It would also be a disservice to the nation to permit obsolescence or deterioration of plant and equipment. Legislative proposals such as the one before us or those I have suggested will serve to protect the consumer and the public utilities industry to the eventual benefit of both, while adequate provision for future needs is made at the same time.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
Washington, D.C., September 24, 1974.

HON. BROCK ADAMS,
*Chairman, Subcommittee on Government Operations, House of Representatives,
Committee on the District of Columbia, Washington, D.C.*

DEAR CONGRESSMAN ADAMS: I clearly support your legislation (H.R. 16782) to reestablish the office of Peoples Counsel before the Public Service Commission. This "representative of the people" on matters of rate, service and valuation of utilities is most clearly needed. Rapidly rising utility bills, especially from the Potomac Electric Power Company, have served to increase public suspicion of rate making and service regulation activities within the Commission. Citizens in the Northeast section of the city have probably seen the sharpest jump in our bills.

In the Council's fiscal year 1973 and 1974 budget reports, recommendations were made to create an office of Public Rate Making to represent not only the public but the District government before the Public Service Commission, the Washington Area Transit Commission (WMATC) and the Washington Metropolitan Area Transit Authority (WMATA) in rate-making proceedings before these bodies. The points to be made here are: First, establishment of a Peoples Counsel within the Public Service Commission may tend to restrict the "Counsel's" activities solely to that Commission when the consumer-related activities are handled by other bodies, e.g., WMATC—charter buses and WMATA—regular buses and subway. Clearly, one office should be established to handle all of these rate-making matters. Secondly, the Peoples Counsel should not be subject to political nor governmental influences subsequent to appointment by the Mayor and conformation by the Council. The Council's recommendation created the Division of Public Rate Making within the office of Corporation Counsel which could have had the office subjected to a potential conflict with another part of the office of Corporation Counsel which represents the Public Service Commission pursuant to § 43-204, D.C. Code.

Thank you for this opportunity to comment.

Yours truly,

HENRY S. ROBINSON, Jr.,
Councilman, D.C.

GOVERNMENT OF THE DISTRICT OF COLUMBIA,
CITY COUNCIL,
Washington, D.C., September 25, 1974.

HON. BROCK ADAMS,
Chairman, Subcommittee on Government Operations, Committee on the District of
Columbia, Washington, D.C.

DEAR MR. CHAIRMAN: As a member of the City Council who has been deeply involved with consumer protection efforts in this city, I have reviewed with great interest the draft bill to establish a People's Counsel as an arm of the Public Service Commission.

I support the draft bill. I have long believed that the Corporation Counsel's office should serve as the point of the lance for consumer affairs, but it has had neither the staff nor the policy direction to do so.

Moreover, the Director of the city's Office of Consumer Affairs, in testimony before me, has stated that he does not perceive himself or his office strictly as a consumer advocate, but rather as a mediator between consumer and business groups. Thus, in the context of public regulation for which this bill is designed, the city has no clearly partisan entity to represent the consumer before the Public Service Commission. Worse, without the People's Counsel, arms of city government easily could masquerade as representative of the people's interest in rate-making cases.

In a memorandum I have received, Chairman Nevius refers to "established private sector consumer interest groups." This is a very nebulous description. Many consumer interest groups are not "established." Others, such as "consumer consultant" firms, to which I have been exposed in my work on the Council in connection with consumer protection legislation, are actually employed as public information pacifiers by the very industries we have sought to regulate.

Legitimate and concerned consumer groups tend to be understaffed, and underfinanced, and although they make up for this shortage in part by energy and dedication, the presence of a People's Counsel can serve the legitimate interests of such groups very well. Early in my service in Washington, as assistant to the Chairman of the Federal Communications Commission, I observed with interest the strenuous efforts of regulated utilities to force the General Services Administration to desist from representing the Federal Government as a consumer before Federal regulatory agencies. GSA won its right to continue. Recently the Defense Department has undertaken such a role, particularly with regard to communications rates, as it is certainly the highest single source of revenue for regulated communications carriers. Thus a People's Counsel standing up for the least organized or least informed users of regulated utility services is warranted, and should be a welcome arm of government. I would suggest that the House District Committee might strengthen the Counsel's role still further by making clear in the bill itself that the Counsel would be free of policy direction by the Commission, and has the authority to initiate complaints as well as merely responding to those initiated by others.

Nothing in the legislation appears to indicate that the presence of a People's Counsel at the Public Service Commission would replace consumer groups or remove their right to appear and fight for consumer causes. If anything, I would think the presence of strong new aid would give them heart and develop useful, mutual cooperation in the public interest.

Sincerely,

TEDSON J. MEYERS,
Council Member

P.S.—This is a very serious matter and unfortunately, due to an automobile mishap, I was forced to edit these comments from my hospital bed. Of course I would have preferred more time to make additional comments, but the exigency of this situation necessitates urgent action by the Committee, which action, as proposed, has my full support.

Mr. ADAMS. And if it appears that the committee is unable to finish the hearing on Monday and we go to another day, then we will notify you and any other witnesses who place their statement in the record, and they will have an opportunity to testify at that time.

Mr. NEVIUS. Thank you, Mr. Chairman. I will be happy to do so.

Mr. DIGGS. Mr. Fauntroy.

Mr. FAUNTROY. Thank you, Mr. Chairman.

PEPCO SERVICE

Mr. Olson, I have two questions. You properly point out in your statement that the plant Pepco is currently serving the District of Columbia with costs less than \$150 a kilowatt, and in contrast, the new unit under construction at Dickerson will cost nearly \$600 a kilowatt, and the one at Douglass possibly \$700 a kilowatt.

One of the things that ratepaying citizens find difficult to understand is why if the actual cost of the delivery of the service in our areas is substantially lower than the cost in other jurisdictions, we should be required to subsidize that expansion.

DISTRIBUTION OF COSTS

To put it another way the question is what in your considered judgment of the problems of a public service commission in a tri-State area, evaluating the rate requests—in this case, the District of Columbia—on the basis of the cost of the delivery of that service in the District of Columbia, and leaving to the public service commissions in the other two jurisdictions the responsibility for assessing the rates for the services delivered in those jurisdictions.

Mr. OLSON. I am not familiar with what the legal problems would be with such an arrangement, but I don't think you can find anyone that would do a better job of looking after the District of Columbia's ratepayers than the District of Columbia Commission.

Mr. SMITH. Will the gentleman yield for just a minute?

Mr. FAUNTROY. Yes.

Mr. SMITH. Did I understand that the gentleman from the District of Columbia is asking—well, let me put it this way: As I understand it, Pepco is a unified system serving three States, with some of its plant in the District of Columbia, some in Maryland and perhaps in Virginia—I don't know exactly where they are.

But it would be very difficult to say that the cost of delivery of power in the District of Columbia is so much without considering the entire system. I think that is possibly the problem that you are asking.

Mr. FAUNTROY. Well, you are giving an answer.

Mr. SMITH. Possibly the answer to your question.

Mr. FAUNTROY. The question which puzzles me, you have already stated the actual cost in the District of Columbia. Is that the import of your testimony, is \$150 a kilowatt?

Mr. OLSON. That's the cost of existing plants that serve both—

Mr. FAUNTROY. Three areas?

Mr. OLSON. They serve all three areas.

But I think it is fair to say that expansion is taking place in the District of Columbia as well as in the suburban areas. There are new office buildings being constructed every year. Residential customers over the years have increased their consumption, and it is likely they will continue to do so, although probably at a somewhat slower rate.

So these new plants are, in effect, being built to serve all customers. In part, they are also being built so that some of the more inefficient units in the District can be removed, which I would think the District would favor because some of these were real environmental problems.

Mr. FAUNTROY. The Chairman of the committee has alluded to the fact that not only have the residential customers in the District of Columbia been cutting back on their use of electricity, but also the number using it has been declining relatively. And it is just very difficult to understand why with that factor the cost rise on an apparently spread out basis for residential use.

CAPITAL INVESTMENT

My second question, sir, has to do with the problem that you indicate the utilities have with the investment capital. I wonder if you could assess for us the relative value of passing on savings to consumers that were obtained from two government actions: one, the guarantee of the bonds required by the utilities for expansion, which conceivably would lower the interest rates that they would pay for that expansion need; secondly, the viability of interest rate subsidies which might be passed onto consumers.

GOVERNMENT GUARANTEES AND INTEREST SUBSIDIES

This, short of Mr. Smith's suggestion, that perhaps many of us are looking to, really, the public takeover of utilities of this nature, which, again, would seem to me a very expensive undertaking.

Mr. OLSON. Both actions—the guarantee on utility bonds and the interest rate subsidies—would have the effect of lowering the cost to the company and therefore rates to the consumer.

And they would probably mean that the utilities would now have to issue additional amounts of common stock.

What it would mean, in addition, is that on the average taxes would have to go up. Interest rate subsidies obviously would have to come out of the budget. And to the extent that more debt capital were issued, it would mean that there would be more interest payments relative to dividend payments, which are tax deductible.

And so, there would not be as much income before taxes generated by the utilities that would supply tax dollars to the Federal Treasury.

So, the customer would feel lower rates, but at some point he would feel higher taxes as well.

I don't think there is any escaping these costs.

PUBLIC OWNERSHIP

Mr. FAUNTROY. What, finally then, is your assessment of the prospect of public ownership of utilities, as it has been expanded about on the Hill?

Mr. OLSON. I don't think it would decrease the real cost of providing the service. It would transfer some of them to the taxpayers from the ratepayers.

Mr. FAUNTROY. Thank you.

Mr. DIGGS. Mr. Breckinridge.

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

I think Mr. Smith probably preempted me. We have items of interest that seem to parallel each other.

PEOPLE'S COUNSEL

Let me ask you a couple of questions, Professor Olson. I want to get your feel for this People's Counsel matter. Did I understand you to say that you have been before some 20 regulatory commissions all over the country, and always on the side of the consumer; did I understand that correct?

Mr. OLSON. Yes, sir.

Mr. BRECKINRIDGE. And you happened, I am pleased to say, to have visit my State of Kentucky. When were you down there?

Mr. OLSON. I was in Kentucky in May of 1972.

Mr. BRECKINRIDGE. What case was that you were on?

Mr. OLSON. Kentucky Utilities.

Mr. BRECKINRIDGE. Was that as a result of the invitation of the attorney general?

Mr. OLSON. Yes, sir, it was.

Mr. BRECKINRIDGE. And you were also in North Carolina. At whose invitation were you there?

Mr. OLSON. Mr. Robert Morgan, the attorney general. I testified for him eight times.

Mr. BRECKINRIDGE. Did you happen to be in the audience when I read from a National Attorney Generals Association report?

Mr. OLSON. Yes, sir.

Mr. BRECKINRIDGE. Quoting General Morgan?

Mr. OLSON. Yes, sir.

Mr. BRECKINRIDGE. Would you differ with the views that he expressed therein, or would you be inclined to subscribe to them?

Mr. OLSON. I am inclined to subscribe to his view that the best approach for deciding these cases is an adversary setting in which the consumer is represented.

I go along with that view, and I think in the past it has made some difference in the amount of rate increases granted. I think there is probably a lot less slack today because of prior interventions.

INTERVENORS

Mr. BRECKINRIDGE. Now, over the past dozen years or so—and this is a fairly recent development—the intervention of special counsels such as you has come from outside the regulatory agency itself; has it not?

Mr. OLSON. That is correct.

Mr. BRECKINRIDGE. And had it not been for that intervention and for the adversary proceedings thereby established, why the respective public service commission would have been in less of a position of deciding on the basis of the data put forward primarily by the proponents rather than the consumers.

Mr. OLSON. Yes.

But I might qualify that by saying most commission staffs do present a case. I think as the interventions have increased, that the quality of the staff cases has, in general, gone up as well.

Mr. BRECKINRIDGE. Well, I was very pleased on your remarks about the competence of our Commission here, and I am very glad to hear that we have one of the Nation's outstanding commissions.

But I would like to make the point that we must resolve matters at this time in practice and not with reference to personalities, and if we have an adversary system, there must be someone to represent the other side.

And in this instance the other side is the consumer, and your experience is that he is—if I understand you correctly—best represented when brought in by outside counsel.

Mr. OLSON. I think that is correct.

If they were to be done in the District of Columbia, I think it would be a duplication to have a people's counsel along with Commission attorneys.

Mr. BRECKINRIDGE. Now I am not going to argue with you because reasonable men can differ on this, and it is a matter of relative competence in 50 different jurisdictions, at least. And, of course, if you go down to the cities that exercise regulatory authorities, then hundreds of jurisdictions.

But as a matter of practice, the recent experience has been that the adversary system has been achieved from independent counsel from the outside. These have been the attorneys general who you have been retained by.

Mr. OLSON. The most significant results have been obtained in those situations.

Mr. BRECKINRIDGE. Thank you very much, Professor. I appreciate it.

[The document referred to by Mr. Olson follows:]

REFORMING ELECTRICITY RATE STRUCTURES IN THE UNITED STATES

(By Charles E. Olson)

Significant changes are needed in the electric rate structure in the United States. Some of the author's recommendations include taxes on electricity to balance more equally its price and social cost; mandatory pollution control equipment; higher rate levels; cost studies by utilities; studies of the consumption and load factor relationship; identification of rate schedules producing low rates of return; incorporation of knowledge of cost relationships into rates; and consideration of changing higher incremental prices to large new loads.

During the past two years there has been a dramatic shift in emphasis in a number of electric utility rate cases. Issues of rate of return and revenue requirements which once consumed most of the time in regulatory proceedings were joined in importance by the rate structure issue in a number of cases.¹ This article analyzes the electric rate structure issue; its purpose is to present what the author believes are the reforms necessary to make electric utility rate structures more responsive to current problems.

The discussion is organized as follows: The remainder of this section reviews the criteria of sound utility rate structures. The next section considers the way rates should be designed in theory, while the one following it presents a summary of the way in which rates have been made in practice. Then revision and reform of existing rate structures are considered, with emphasis on the administration problems and equity issues that a transition would bring. Finally, some brief conclusions are presented.

The rate structure is not a new issue to public utility rate making or economics. A number of books and articles have been written on the subject over the past sixty years,² the best known volumes currently are Bonbright's "*Principles of*

¹ The cases being referred to here are those in which basic rate design revision was advocated, not those concerned with rate differentials between classes.

² See "*Electric Utility Rate Economics*," by Russell E. Caywood, New York, New York, 1956; "*Price Discrimination in Selling Gas and Electricity*," by Ralph Kirby Davidson, Baltimore, Maryland, 1955; "*Public Utility Rate Structures*," by L. R. Nash, New York, New York, 1933; and "*Electrical Engineering Economics*," by D. J. Bolton, 2nd ed., London, 1951.

Public Utility Rates" and Kahn's "*The Economics of Regulation: Principles and Institutions*."³ A careful examination of these volumes is an appropriate starting point in a reexamination of electric rate structures.

Bonbright notes eight criteria of a sound rate structure in his book. They are:

1. The related, "practical" attributes of simplicity, understandability, public acceptability, and feasibility of application.
2. Freedom from controversies as to proper interpretation.
3. Effectiveness in yielding total revenue requirements under the fair return standard.
4. Revenue stability from year to year.
5. Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers. (Compare "The best tax is an old tax.")
6. Fairness of the specific rates in the apportionment of total costs of service among the different consumers.
7. Avoidance of "undue discrimination" in rate relationships.
8. Efficiency of the class rates and rate blocks in discouraging wasteful use of service while promoting all justified types and amounts of use:
 - (a) in the control of the total amounts of service supplied by the company;
 - (b) in the control of the relative uses of alternative types of service (on-peak *versus* off-peak electricity, Pullman travel *versus* coach travel, single-party telephone service *versus* service from a multiparty line, etc.).⁴

After spelling out his list, Bonbright notes that there are three primary criteria of a sound rate structure. They are the financial need objective (No. 3), the fair cost apportionment objective (No. 6), and the optimum use or consumer rationing objective (No. 8).⁵ While it is obvious that criteria that Bonbright considered to be primary in 1961 are the same ones that responsible individuals concerned with utility rate making feel are generally important today, it is also clear that the environmentalists were the ones that explicitly brought before the regulatory commissions the consumer rationing objective. Before 1971, this issue was not one that was ever directly considered in electric utility rate cases.

The criteria of a sound rate structure, as spelled out by Bonbright and adhered to by economists, are as fundamental as they ever were to sound rate design and should be implemented to the maximum possible extent by regulatory bodies. These criteria are the same ones that govern prices generally in a market economy. If the maximum amount of output is to be obtained from a given stock of resources, all goods must be priced at their marginal cost to the economy. If they are not, consumers will make incorrect decisions and a less than optimal pattern of resource allocation will take place. This happens because consumers always wish to substitute things that are cheap for things that are expensive in allocating their incomes. If consumers perceive a good or service to be cheap when it is really expensive, more resources will be allocated to produce that good than would have been had it been priced at its actual cost; this happens because goods that seem cheap are substituted for those that are more costly.

Sound rate making requires that public utilities earn their authorized rates of return, that costs be fairly apportioned among customers, and that rates discourage wasteful usage and encourage cost-justified usage. These are the principles upon which rate makers in a market economy should rely and are at the heart of the recommendations in this article.

PUBLIC UTILITY RATES IN THEORY

There are numerous articles and books that have laid out the criteria for the "optimal" pricing of utility services,⁶ this section presents a short and non-technical discussion of the way in which public utility rates should be made in the absence of the many "practical" constraints to the "correct" pricing of utility services. Its purpose is to show how prices would be set in an economy in which resource allocation is the sole basis for setting prices.

In simple terms, prices should be set at their marginal cost to society. This means that they should reflect all costs of production, including the scarcity value of natural resources and the environmental costs of pollution. If marginal costs are declining, prices set at marginal cost will not recover average costs and some form of subsidy will be necessary; likewise, if marginal costs are increasing,

³ "*Principles of Public Utility Rates*," by James C. Bonbright, New York, New York, 1961, and "*The Economics of Regulation: Principles and Institutions*," by Alfred E. Kahn, New York, New York, 1970.

⁴ Bonbright, *op. cit.*, p. 291.

⁵ *Ibid.*, p. 292.

⁶ See in particular "*Optimal Pricing and Investment in Electricity Supply*," by R. Turvey, Cambridge 1969, and "*Marginal Cost Pricing in Practice*," J. R. Nelson, ed. Englewood Cliffs, 1964.

prices set at marginal cost will yield more than average costs and a tax will have to be imposed if excess profits are to be prevented. Prices that deviate from marginal costs will result in nonoptimal levels of production and cause a misallocation of resources.

The production and distribution of electric energy cause three types of costs to be incurred: customer costs, energy costs, and capacity costs. Because three distinct types of costs result from electric production and distribution, electric tariffs should in theory include a customer charge, an energy charge, and a capacity charge. Initially, each customer should be required to pay a connection charge that covers the cost of connecting his premises to the distribution network.

This would include the nonrecoverable portion of the costs of the drop wire, the meter, and other on premises work. Every billing period there should be a charge for the cost incurred in reading the meter and doing the billing. Every customer should pay a charge per kilowatt-hour for the electricity he receives, based on the variable cost (including energy losses) of production. Finally, each customer should pay a charge to cover the cost of the marginal unit of capacity on the system.

The only one of the prices discussed above that is difficult to determine theoretically is the one required to cover capacity costs. The correct marginal price depends on the slope and shifting of the cost curves and the nature of demand. Unit capacity costs may decrease, increase, or remain constant, depending on whether there are economies of scale, diseconomies of scale, or constant returns to scale. Unit capacity cost may decrease if technology improves, depending on the nature of the change.⁷ Finally, inflation will shift the capacity cost curves upward.

Presently, the electric power industry is and will continue to be an increasing cost industry, even when the inflation factor is ignored. Scale economies at the system level have been exhausted in most regions of the country; in other words, all new base load generating units are and should continue to be large enough to take advantage of economies of scale. Technical progress in electric generation is currently very limited and thus not an available source for cost reduction. While the economies of higher transmission voltages and increased interconnections of electric systems have not yet been fully utilized, further gains in this area are likely to be small because all but the sparsely populated regions of the U.S. are already interconnected by high-voltage systems.⁸ These arguments, while making the point that real electric costs will not decrease, do not support the initial statement that costs will increase in real terms. In this writer's opinion, real costs are and will continue to increase if the environmental and natural resource costs of electric generation and transmission are considered. Site shortages, increased pollution, and more rapid depletion of natural resources are pushing the total unit costs of electric production even higher.

Actual capacity charges should be set on the basis of the relationship between demand and supply. Price should be set at the level at which the quantity demanded is equal to the marginal social cost. In that the demand for electricity in the United States is so high and continuing to shift outward, pricing at the current marginal social cost of production is appropriate.

How this should be done in practice will be discussed later in this article.

PUBLIC UTILITY RATES IN PRACTICE

Public utility rate-making practice in the United States deviates significantly from the way in which rates should be set in theory. There are four factors which explain this deviation. First, rates are based on average historical costs which are currently well below current costs. Second, rates are based on private costs, not social costs. To the extent that resources are at less than their cost to the economy and pollution-related costs are not internalized, electric costs are too low. Third, no serious attempt has generally been made to assign costs to customer classes on the basis of causality. Many utilities have never made a comprehensive study of the way in which historical costs should be allocated; many of those that have done fully distributed cost studies have recommended that rates deviate from average costs on value of service grounds. Finally, rates have not been designed to reflect the causality of the way in which customer, energy, and capacity costs are incurred.

⁷ Technological change might reduce energy costs and keep constant or even increase capacity costs; this has been the case, for example, with nuclear generation.

⁸ For more on this point, see Chapter 13 of Part 1 of "The 1970 National Power Survey," especially the map on pp. 1-13-2 and 3 and also the cost information on pp. 6-9 of that chapter. There have, of course, been additional high-voltage lines placed in operation since then.

Residential rates are, almost without exception, declining block charges. The more a customer purchases, the lower will be the average price paid per kilowatt-hour. This applies regardless of the time of day the consumption takes place for all utilities and applies regardless of the time of year for many. Most residential rate schedules do not include a service charge to cover the customer-related costs; minimum bill provisions are more common. The higher charges in the initial blocks are intended, however, to recoup the customer-related costs. The declining block prices were probably premised on the assumption that unit costs would decline, but the block rate pattern has never been supported by studies of cost casualty.

General service rate schedules are of the same type as residential rates, usually with somewhat higher prices in the initial blocks. Again, explicit service charges are usually not made and the rates are never related to the time of day, but sometimes include a seasonal element. The larger commercial customers are usually assessed demand charges; these rates are generally higher than the demand charges in industrial schedules, but are not based on the load imposed on the system at the peak. Almost without exception, commercial customers pay rates that are relatively high in comparison to cost than do the other classes of customers; this practice has been followed because it has always been assumed that their demands are the least elastic.⁹

Industrial rates are designed to decrease the average price charged per kilowatt-hour as the customer's load factor increases. In other words, the higher the industrial customer's average load is relative to his peak demand, the lower is the average price he pays per kilowatt-hour. The rate forms used to achieve this result are the Hopkinson and Wright rates.¹⁰ The fact that these rate schedules do not include separate customer charges is not important, in that customer costs are a very small proportion of industrial bills. What is important is that industrial rate schedules do not include capacity charges based on the demands that such customers place on the utility during the times that peak demands can occur. Customers should not be encouraged only to have high average loads relative to their peak loads, but rather to have high average loads relative to system peak loads. A further weakness of many industrial rate schedules is that they are below average costs because the selling utility desires to attract industry to its service territory. This practice is often encouraged by regulatory commissions on the grounds that it is beneficial to the state.

Wholesale rates are designed in the same way as industrial rates, but are usually lower. This has been due to a variety of factors, including the threat of self-generation by co-operative and municipal customers. The weaknesses of these rates are of the same type as the industrial schedules.

To sum up: Rate making for electric utilities has resulted in prices that deviate substantially from marginal costs. This has been due to a variety of factors, including current costs that are sharply above historical costs, a failure adequately to reflect natural resources and environmental costs, improper cost assignment, and poor rate design. The following section suggests a number of steps that can be taken to make electric rates conform more closely to costs.

TOWARDS SOUND REVISION OF ELECTRIC RATE STRUCTURES

The previous sections discussed the criteria of sound rate structures and the way in which electric energy rates in the United States deviate from ideal economic norms. This section presents the steps that ought to be taken to reform electric rate making in view of the numerous administrative and equity problems that make changes in rate making difficult.

ADMINISTRATIVE PROBLEMS

Assuming that regulatory commissions want to revise electric rate structures to conform to economic costs, there are serious barriers that will have to be overcome before such changes can be made.¹¹ The most difficult of these is the gap that

⁹ Interestingly, this assumption is not supported by a recent study of the demand for electricity. See "Electricity Demands in the United States: An Econometric Analysis," by T. D. Mount, L. D. Chapman, and T. J. Tyrrell, Oak Ridge National Laboratory, June, 1973 (ORNL-NSF-EP-49), p. 9.

¹⁰ For an explanation of the Hopkinson and Wright rate forms, see "Public Utility Economics," by Paul J. Garfield and Wallace F. Lovejoy, Engelwood Cliffs, 1964, pp. 156, 157.

¹¹ Several regulators have indicated to me that legislative changes will have to be made before these changes can be made. I disagree. Regulatory statutes are broad enough to permit these changes in that they are in the public interest. Further, legislatures did not intend that rate regulation should be static, but rather that new problems should be dealt with by expert regulatory bodies.

exists between historical and average costs. Public utility rates in the United States are based on the historical costs of providing service, primarily because of the importance that has been attached to the prevention of monopoly profits. This has resulted in a serious underpricing of electric power in an economic sense.

The historical cost approach to rate making has been used because rate makers have preferred to rely on known data on revenues, expenses, and investment. In so doing they have been able in the past to reduce the uncertainty regarding actual earnings, thereby making it easier to determine future revenue requirements. This approach allowed capital attracting on favorable terms during the era of declining electric costs that spanned the first sixty years of commission regulation, because it usually resulted in increase rates of return on equity capital. Today, the historical test-year approach not only results in serious earnings attrition, it has also caused a significant underpricing of electricity.

The steps that regulatory agencies can take to increase rates to economic cost levels are limited, but should be considered. The use of projected test years would result in rates being based on *current historical costs*, rather than on *past historical costs*. A commission-imposed requirement of increased R&D expenditures would also increase the revenue requirement. Finally, higher rates of return, while contrary to the public interest in the sense of preventing excessive accounting profits, would help bring rates up to more economic levels.

All of the above suggested actions appear contrary to what has traditionally been known as good regulation. But all would bring rates much closer to fulfilling the financial need and consumer rationing objectives discussed above. In spite of the resource allocation improvements these changes would make, they would still not bring electric rates up to the level of marginal cost. This is because average costs are currently only about one-half marginal costs, and regulatory commissions could not justify a doubling of electric rates. They could recommend taxes on electricity, however, as a means of bringing electric power prices up to economic costs.

Regulatory commissions are also powerless to include the external costs that electric utilities impose on society in their rates. The strip mining of coal, miner diseases, and subsidies to the petroleum and nuclear industries all impose costs on society that are not included in electric rates and which are beyond the reach of regulatory authorities. Pollution also imposes costs, but many regulatory authorities can require the use of pollution abatement techniques to the extent that they are available. To this extent, some externalities can be internalized, but this still leaves regulatory commissions a long way from rates based on social costs.

In the areas of cost allocation and rate design, commissions can do much more than they have in the past, but there are problems in these areas as well. Cost apportionment in the past has been largely based on judgment, although some fully distributed cost-of-service studies have been done. Economists have long held that the capacity-related costs of public utilities should be assigned to customer classes in proportion to their likely demands at time of system peaks.¹² But the cost studies that have been done have not, until recently, relied on the peak responsibility method. Further, the electric utilities have often advocated and the regulatory commissions have frequently permitted substantial deviations from what these studies have shown costs to be on value of service grounds. To make matters worse, value of service or demand studies are never done for rate cases; this has meant that the commissions have not even known if their deviations from cost of service were based on rational economic considerations.

Regulatory bodies must require comprehensive cost-of-service studies and apportion historical costs to achieve equal rates of return if fairness and efficiency in electric utility rate making is to be achieved. Without these studies, rates will continue to deviate substantially from average costs and even further from marginal costs. It is only when rates come into line with costs that consumers can begin to make the appropriate judgments about their consumption patterns that will result in an optimal allocation of resources.

Electric utilities and commissions have done even worse in the area of rate design. Fully distributed cost studies, even when done and done correctly—i.e., basing the assignment of capacity costs on peak responsibility—have not provided the information necessary properly to structure rates. These studies show what the service charge should be, based on the customer-related costs, and what the energy charge should be, based on the energy costs, but do not reveal the proper pattern of rate blocking for purposes of rate design. Why, for example,

¹² See Davidson, op. cit., and Kahn, op. cit.

should the demand charges to large customers decline? Because of an assumption that large customers help utilities to achieve scale economies? Or, because it is assumed that declining demand charges will induce growth and that this will lower unit costs? There is no reasonable explanation for this almost universal practice.

Residential rate schedules have even less justification for their design. Declining block charges can be justified in part on the assumption that customer costs should be recovered in the early blocks, but often customer costs are not even known. Most of the decline in block rates is premised on the unsupported assumption that the system load factor is improved by residential consumption in the trailing blocks. This practice has resulted in most residential rate schedules deviating very badly from cost of service, especially where summer peaks prevail.

While the cost problems will not be easy or inexpensive for commissions and utilities to solve, they must be dealt with if electric rates are to become rational and fair. Fully distributed cost-of-service studies should be undertaken by all utilities, as should marginal cost studies. Further, much more must be found out about the load patterns of all types of customers and the larger electric-using items such as air conditioners. While several utilities and their regulatory commissions have already undertaken such studies,¹³ most have been slow to admit that these studies are necessary. Customer and customer class contributions to peak loads must be determined and the relationship between consumption levels and demands at time of system peaks clearly established. The expense will be significant here and it will be necessary to hire and train numerous people to do this work, but the effort will not be great relative to the stakes involved.

Regulators must take firm control of electric pricing to see that the goals of financial need, fair cost apportionment, and consumer rationing are achieved. While there are severe limitations that regulators face in this task, there are significant improvements that can be made. The most severe limitation, it will be recalled, is the conflict between fair profits and marginal cost-based rates. Prices based on marginal costs would produce significant economic rents (usually, but incorrectly called excess profits) and would no doubt work an economic hardship on many customers. This problem has not yet been faced and will grow in importance during the next ten years. Regulatory bodies do have the authority to apportion historical costs more fairly and to design rate structures more efficiently. These tasks should be taken up immediately.

EQUITY CONSIDERATIONS

The previous section suggested that sharply higher electric rates and significantly revised rate structures may work a hardship on many customers. An important consideration in public utility rate making has been fairness or equity in the sense that rate changes should not be too abrupt, because customers have come to count on existing rate patterns. This is Bonbright's fifth criteria of a sound rate structure; namely, that there should be "Stability of the rates themselves, with a minimum of unexpected changes seriously adverse to existing customers."¹⁴ While this reasoning is very sound, it should not be used to prevent necessary reforms, as the consequences of not reforming rate structures will be far worse. The question is one of proper consideration to the equity issue while the transition to sound rate structures is being made.

At the outset, it must be determined what the problem rate schedules are and what kinds of customers are being served on them. In most instances this can be determined without cost-of-service information, but cost data are essential to a clear picture. Once the problem schedules are identified, they should be closed where possible. In those situations in which it is not possible to close such schedules, the customers should be informed that substantial increases in rates and restructuring are coming. This is a step that commissions are usually unwilling to take. Once these steps have been taken, the next problem is that of closing the gap. schedules that illustrate the dilemma of the regulatory commissions. A winter peaking Vermont utility charges 1.7 cents per kilowatt-hour in the trailing block of its residential rate schedule; the high price and dubious availability of heating oil makes this a very attractive price for heating. While the demand for electric heat under this rate schedule gallops, the incremental cost of new energy at the peak rises well above two cents per kilowatt-hour. What should be done? A North Carolina utility sells large amounts of electricity to industrial customers at 0.8 cents per kilowatt-hour and grows rapidly, but it finds that its new capacity is costing more than twice as much as its existing plants. What should be done?

¹³ Consolidated Edison, Detroit Edison, and others have led in this area, as have their regulatory bodies.

¹⁴ Bonbright, op. cit. p. 291.

Another utility has a very low rate for uncontrolled water heating and there is significant growth in this usage. Yet another utility is earning only 3 percent on its wholesale sales. What should these utilities do?

Regulatory commissions can close certain rate schedules to new customers; others are more questionable. Water heating schedules can be closed, as can electric heating schedules. But can industrial schedules be closed and higher rates charged to new industrial customers? Can new residential customers be charged higher rates than existing ones? Probably the answer is no to both questions, although the answer is not as clear for industrial customers.

Regulatory commissions can also tell the utilities to inform their customers that rate increases are coming and that they will be higher to some customer classes than to others. While warnings will not blunt the effects of sharply higher rates, they will allow advance planning and make less acceptable the pleas of unfairness. Commissions should also try to determine how rapidly rates must rise and pass this information along. Finally, commissions should decide how long they will permit rate disparities to go on and at what rate they will eliminate them. This information should also be made available.

Equity actions by commissions should not include efforts to determine how much customers can afford to pay, because this will reduce the effectiveness of utility rates in properly allocating resources. It would also increase regulatory work loads greatly.

Equity considerations in rate making are important, but are also secondary to the primary goals of financial need, fair cost apportionment, and consumer rationing. While every effort should be made to ease the burden that will be imposed by costbased rates to some customers, timetables should be established and adhered to. Then once rate schedules become firmly cost based, commissions should not again make the mistake of allowing special discount to favored groups.

RECOMMENDATIONS

This article has discussed the weaknesses of electric rate structures in the United States and suggested that significant reform is necessary. Before concluding, it would seem appropriate to outline what the author is recommending and what he is not recommending, so that his ideas are clearly before the reader.¹⁵

The recommendations are as follows:

1. Regulatory commissions should recommend that legislatures place taxes on electricity to bring its price closer to its social cost.
2. Pollution abatement techniques should be required on all electric generation facilities; they should be of the latest acceptable technology and highly maintained.
3. Rate levels should be kept as high as is reasonably possible; this means that projected test periods and adequate rates of return should be allowed.
4. Fully distributed cost studies that reveal rates or return by rate schedule should be undertaken by all electric utilities. The peak responsibility method or one of its variants should be used as the basis for allocating generation and transmission costs.
5. Marginal cost studies should also be undertaken. These studies should reveal what the costs of new equipment will be, what the replacement cost of plant is, and the way in which costs vary with load.
6. Studies of the relationship between consumption and load factor should be undertaken for all customer types. Work of this type is essential to sound rate design for those rate schedules that do not utilize demand charges.
7. Rate schedules that produce low rates of return should be identified. Those that can be closed should be. A timetable should be established for bringing the ones that cannot be closed up to a fully compensatory level.
8. Knowledge of cost relationships should be incorporated into rates as soon as it becomes available. This is very important in rate schedules that carry low incremental prices.
9. Consideration should be given to charging higher incremental prices to large new loads. This would keep existing rates lower and not encourage uneconomic industrialization.

¹⁵ To say that there has been confusion on this issue is to put it mildly. Numerous articles in the *PUBLIC UTILITIES FORTNIGHTLY* and elsewhere suggest that environmentalists and others who have discussed the need for rate-making reform are recommending inverted rates. The allegations are always unreferenced. Rate structure reform is not equivalent to inverted rates, nor can it be said how much reform will reduce growth rates. Clarity on this subject is essential.

This article does not recommend (1) arbitrarily inverting rate structures or (2) the rationing of electricity. Both of these actions would be inconsistent with the goals of public utility rate making. What this article is suggesting, is that the established goals of rate making be at long last put into practice.

COAL PROSPECTS BRIGHTER

The year 1973 was not kind to the coal industry "but I am convinced that future historians will say that was the year coal began its greatest upward climb," Carl E. Bagge, president of the National Coal Association, said in a recent summary of the past year's industry events. "Profits were not good in 1973. In fact, many operators reported losses," he said. "Production also dwindled somewhat from the 595 million tons mined the year before to an estimated 590 million-ton level.

Now our national leaders understand, however, that we must use coal—by far our most abundant domestic energy resource—if we are to get through this crisis with our economy and national integrity intact. Late last year, Bagge said, the Federal Energy Office asked 19 utilities to convert 26 power plants from oil to coal in order to conserve our scarce supplies of oil. More plants will no doubt be asked to convert this year, he said, which could increase the rate of coal consumption by nearly 70 million tons at the end of next year.

At the same time, a crash research and development effort to increase the production of coal and to develop synthetic coal-based fuels began last year. A report to the President by Atomic Energy Commission Chairman Dixy Lee Ray released late last year recommends that \$2.175 billion be spent on developing new coal extraction and utilization technologies, Bagge said. And international co-operation spawned by the National Coal Association's International Research Conference last fall also promises to pay great dividends, he said.

"Right now, however, the industry's greatest concern is to mine enough coal to meet the outcry for domestic fuel," Bagge said. "Before our access to Middle Eastern oil was cut off, the National Petroleum Council estimated that we would have to double coal production by 1985 simply to fill conventional demands, and triple it to meet those needs combined with the new markets which will be created by the conversion of coal to synthetic gas and oil. In light of the developments in the Middle East, these estimates are now considered conservative."

The National Coal Association's Economics Committee recently projected coal demand would rise to 650 million tons in 1974.

Mr. DIGGS. The Chair wishes to compliment the witnesses for their education of the committee, and for others who are present and who will be exposed to the testimony through the communication media as a result of the hearing this morning.

Before adjourning until 9:30 a.m. on Monday, I would like to request that all the remaining witnesses check with Linda Smith so that we can work out the most equitable and convenient way of receiving testimony on Monday. Please do that immediately following adjournment.

The committee stands adjourned until 9:30 a.m., Monday.

[Whereupon, at 12:45 p.m., the committee was adjourned, to reconvene Monday, September 30, at 9:30 a.m.]

UTILITY RATES AND PEOPLE'S COUNSEL FOR THE PUBLIC SERVICES COMMISSION

MONDAY, SEPTEMBER 30, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, D.C.

The full committee met, pursuant to notice, at 9:40 a.m., in room 1210 Longworth House Office Building, Hon. Brock Adams presiding. Present: Representatives Diggs (chairman), Adams, Delegate Fauntroy, Representatives Breckinridge, Gude, and Smith.

Also present: Robert B. Washington, Jr., chief counsel; James T. Clark, legislative counsel; Dale MacIver, assistant counsel; Linda Smith, professional staff member; Ira Lewis, staff consultant; Ralph Ulmer and Leonard Hilder, professional staff members.

Mr. ADAMS. The subcommittee will come to order.

As is generally the case when hearings open, the chairman will make a short opening statement to put in perspective where we are, and then we will go immediately to the witnesses. The first witness this morning whom I will call in a moment, after I have made the brief statement, will be Mr. Gary Alexander, People's Counsel of Maryland Public Service Commission. Next, we will have a panel, and then we will finish with the Electric Company this morning.

We have deferred hearing the Potomac Electric Power Co. representatives because we wanted to be certain they had an opportunity to respond to whatever the other witnesses said.

I attended the summit conferences last weekend and at the time of that conference, President Ford said in his closing remarks that we must all be inflation-fighters and energy-savers, and he specifically instructed all of us to draw up a list as to the ways in which we could accomplish that objective. I intend to start with that this morning. My own list begins with a reduction of kilowatt-hour usage of electricity.

These hearings will provide the utility companies and their customers with an opportunity to discuss how they can be inflation fighters and energy savers. It seems very clear to me that to fight inflation, there should be no new increases in the price of electricity in the Washington area. Also, obviously, in order to save energy, we must all consume less electricity, gas and oil.

During the first day of testimony we heard from the Public Service Commission and an expert in public utility rates. Today we shall hear from executives of the Potomac Electric Power Co. and the people's counsel of the Maryland Public Service Commission, and a panel of consumer representatives which we have tried to organize out of the many, many people who have individually complained about the manner in which local electric rates have been rising, and the manner on which their meters have been read.

I hope the witnesses will address themselves to these types of questions. How can we halt any further increases in price, by (1) rewarding those who use less electricity, by giving them lower utility bills; and (2) charging additional amounts to users who do not conserve electricity.

If anyone is to pay for the increased costs of energy production, it seems that it should be those who make the largest demands on energy supplies.

With those few brief opening remarks, I would like to call the first witness this morning, Mr. Gary Alexander, who is people's counsel of the Maryland Public Service Commission.

Mr. Alexander, we are looking forward to your testimony. As you know, there is legislation pending which has been introduced by Chairman Diggs and myself to create a people's counsel for the Public Service Commission activities in the District of Columbia.

We will therefore be very interested in both your comments as to the activities of your office in Maryland, and any other general comments you wish to make on the Government operation of the Public Service Commission, and the manner in which a people's counsel can function with regard to that Commission.

Mr. Alexander.

**STATEMENT OF GARY R. ALEXANDER, PEOPLE'S COUNSEL,
MARYLAND PUBLIC SERVICE COMMISSION**

Mr. ALEXANDER. Good morning, Mr. Chairman and members of the committee, in responding to the Commission staff's request, I provided a somewhat detailed statement. I would ask that that be incorporated into the record.

Mr. ADAMS. Is there objection?

Without objection, the statement of Mr. Alexander will appear in the record at this point.

[The prepared statement of Mr. Alexander follows:]

**STATEMENT OF GARY R. ALEXANDER, PEOPLE'S COUNSEL, MARYLAND PUBLIC
SERVICE COMMISSION**

PEOPLE'S COUNSEL IN MARYLAND

Since 1924, Maryland has had the office of People's Counsel to represent the general public in all matters before the Maryland Public Service Commission. Operating as a separate, independent entity within that Commission, Maryland law provides that the People's Counsel may conduct independent investigations, hire expert witnesses, or utilize the Commission's staff to prepare its case. The People's Counsel is appointed by the Governor and serves at the pleasure of the Governor with no specific term set by law. In practice, it is the People's Counsel who spearheads the Commission's review and scrutiny of major matters before our Commission.

Other states provide for similar public representations through a People's Counsel or Consumer Counsel (Indiana, Missouri, Montana, etc.). Still other states rely upon intervention through a separate office of the State Attorney General. It is only in this method by allowing the public to truly become a proper party in all proceedings that state and Federal regulatory commissions can gain the credibility so necessary to make the difficult decisions with which they are faced today. In short, the public must not only be represented *independently* before regulatory commissions, but regulators should encourage such participation so that all issues may be fully aired.

MARYLAND PUBLIC SERVICE COMMISSION

The jurisdiction of the Maryland Public Service Commission is quite broad. The Commission regulates approximately seventeen electric utilities, eleven gas utilities, two telephone utilities, numerous water and sewage utilities (approximately seventy-five), numerous passenger bus carriers, freight companies, mobile radio telephone companies, certain railroads. In addition, the Commission also is charged with licensing taxi cab companies and individual taxi drivers. The present Commission staff numbers approximately seventy and is divided into various sections as follows: Transportation (approximately twenty-five); Engineering (approximately fourteen); Accounting (approximately eleven); Hearing Examiners (approximately five).

The reason I point out the broad Commission jurisdiction is that under Maryland law People's Counsel may be involved in any proceedings before the Commission. In addition, a recent 1974 amendment authorized People's Counsel to appear before the Interstate Commerce Commission in connection with rail abandonment proceedings.

At the present time the position of People's Counsel is theoretically a part-time position. I say theoretically, since in practice the large number of rate increase applications and other matters have also increased the time requirements of the position. Donald F. Rogers has been Assistant People's Counsel for approximately three years, and this position is part-time also. The salary of People's Counsel is \$15,000.00 and the Assistant People's Counsel earns approximately \$10,000.00 annually. The current budget for the office of People's Counsel is nearly \$100,000.00 which includes salaries. The major budget item expense relates to outside consultants, expert witnesses or others who may be retained from time to time in connection with specific cases. Of course, with the tremendous increase in cases, the budget should be supplemented, and I have requested additional funds to be included, which I hope will be approved by the General Assembly.

It should be noted that People's Counsel by being assigned to one State agency (the Public Service Commission) should be able to develop expertise in public utility law and familiarity with the various companies under that jurisdiction. Of course, the primary function of the office is to review and participate in rate cases. We used to have companies coming in once every three years for rate relief; but in 1974 alone, we have had our major utility, Baltimore Gas and Electric, with three different applications. In practice, it is the People's Counsel who leads the review and scrutiny of the company's presentation in a rate case.

WASHINGTON GAS LIGHT COMPANY RATE CASE

For example, the Commission presently has under consideration the application of Washington Gas Light Company for permanent rate relief. On January 31, 1974, the Commission denied temporary rate relief which we opposed to that Company. Hearings began in April and there were eleven days of examination of Company witnesses and hearings in Baltimore with more than 4,000 pages of testimony. Our office conducted a major investigation into the cost claims of that Company relating to the new safety regulations which were just adopted by our Commission. We also presented the testimony of a rate-of-return expert witness. The Commission also held hearings in the service area of the Company in Rockville, Prince George's, and Charles Counties, and took public testimony. Following the conclusion of hearings, our office requested oral argument and the opportunity to file a brief. I filed an 85-page brief in that case, and it is now under consideration by the Commission. This is only one example of the participation by our office in a major rate case.

PEOPLE'S COUNSEL AND OTHER INTERVENORS

It should be noted that having a People's Counsel does not preclude intervention by other groups, classes of service or others who may desire to be parties to proceedings before our Commission. Under Maryland law it is the function of our office to represent the public generally. Therefore, we have some difficulty being involved in rate design, although this has changed in several recent cases where we have offered evidence supporting peak load pricing and other alternatives to the traditional declining block rate method. Our Commission has also permitted intervention by legal aide bureaus representing inner-city residents, although it has taken the position that other groups may not intervene as formal parties since their interests can be represented by People's Counsel. Our Commission also recently passed a rule limiting cross-examination time by intervenors when testimony has been prefiled, but no limitation exists with reference to People's Counsel participation.

During 1974 we have been involved in everything from Anchorage Water Company which serves eleven people in Chevy Chase to PEPCO's application for permission to construct its first nuclear plant at Douglas Point, Charles County, Maryland. We have had rate increase applications (both temporary or permanent) from Baltimore Gas and Electric, Delmarva Power and Light Company, Potomac Edison Company, and several others. We have had applications for rate relief from Washington Gas Light Company, Eastern Shore Gas Company, Cambridge Gas Company and others. We participated in hearings and the development of the new Maryland Gas Safety Regulations that resulted from several tragic gas explosions in the Washington metropolitan area. These regulations are believed to be the strongest in the country, but as I indicated, we are still examining company estimates very closely as to the cost of their implementation. We requested and the Commission granted an investigation into the electric fuel rate adjustment for all of the State's seventeen electric companies. We propounded questions to each of the State's electric utilities and petitioned the Commission for a freeze limit. I am hopeful that the Commission will take prompt action on our request along with our request to hold additional hearings for certain companies regarding the fuel rate adjustment.

CHARGES FOR LATE PAYMENT

Recently, I concluded an investigation prompted by several consumer complaints and petitioned the Commission to conduct an investigation relating to late payment charges by all of the State's electric and gas utilities. We found that only Baltimore Gas and Electric had a provision that allowed its customers to waive late payment charges twice during the year. We believe that this should be uniform for all utility customers, and that if someone goes on vacation in Montgomery County or Prince George's County, they should have the same right to waive their late payment charge that exists in the service area of Baltimore Gas and Electric Company. We also are requesting the Commission to look into the late payment charges to make sure they comply with recent changes in Maryland law setting limits for late payment charges.

As a result of several consumer complaints, hearings are now being held regarding the quality of mobile telephone service in the State of Maryland. The C & P Telephone Company, at our request, voluntarily withdrew a "roamer charge" which was not cost-justified and agreed to further study the matter. Hearings are still going on on the question of quality of service to this class of customer.

LEGISLATIVE ACTIONS

In addition to the many other areas which we have participated in this year, our office followed legislative developments in Annapolis. I commented and gave opinions on more than a dozen bills which were pending in the General Assembly. I also intend to request approval again from the General Assembly for permission to intervene before Federal regulatory agencies such as the Federal Power Commission, Federal Communications Commission, Federal Energy Administration, etc. Of course, the Maryland Commission has the right to intervene and I persuaded them to intervene in the Columbia Gas case now pending before the Federal Power Commission. Columbia Gas is the major pipeline supplier for our gas utilities. The decisions made at these Federal levels are critical since the costs are passed right along to consumers.

I could go on and on relating numerous matters that we participate in from day to day. I have found that the Commission's staff and the Commission itself accepts our office and looks to us to carry the burden of protecting the public interest. I truly believe that our efforts have produced cost savings on behalf of the public. More importantly, I think that the system, itself, of having a People's Counsel mandates credibility through the independent functioning of our office.

RECOMMEND D.C. PEOPLE'S COUNSEL

Finally, I would endorse the creation of a People's Counsel office for the District of Columbia Public Service Commission. We have certain companies (PEPCO, Washington Gas Light Company) which overlap our jurisdictions. When companies apply for an increase, they usually do it in all three jurisdictions (Maryland, D.C. and Virginia) and it would be most helpful to have a D.C. People's Counsel reviewing the case and to coordinate our review with that office.

These are hard times for the utility companies. They are not enjoying the fat profits that they made during the 1960's. But things are much worse for the con-

sumer during this terrible period of inflation. Even if we didn't save one nickel for the consumers, they should know that we were out there fighting for them. I would urge your Committee to adopt an independent People's Counsel office for the District of Columbia Public Service Commission.

Mr. ALEXANDER. The only thing I intend to do this morning, Mr. Chairman, would be to summarize somewhat briefly the written statement with some supplemental comments based upon what I have heard so far from prior witnesses.

I am Gary R. Alexander from Prince Georges County, Md. I was appointed by Governor Mandel on January 8, 1974, to the position of People's Counsel to the Maryland Public Service Commission.

Since 1924 Maryland has had the office of People's Counsel to represent the general public in all matters before the Maryland Public Service Commission.

Mr. ADAMS. What date was that?

Mr. ALEXANDER. 1924.

Mr. ADAMS. Thank you.

PEOPLE'S COUNSEL, MARYLAND

Mr. ALEXANDER. Operating as a separate, independent entity within that commission, Maryland law provides that the People's Counsel may conduct independent investigations, hire expert witnesses, or utilize the commission's staff to prepare its case. The People's Counsel is appointed by the Governor and serves at the pleasure of the Governor with no specific term set by law. In practice, it is the People's Counsel who spearheads the commission's review and scrutiny of major matters before our commission.

PEOPLE'S COUNSEL IN OTHER STATES

It should be noted that other States also provide for similar public representations through a People's Counsel or Consumer Counsel, such as Indiana, Missouri, Montana, et cetera. Still other States rely upon intervention through a separate office of the State attorney general. It is only in this method by allowing the public to truly become a proper party in all proceedings that State and Federal regulatory commissions can gain the credibility that is so necessary to make the difficult decisions with which they are faced today. In short, the public must not only be represented independently before regulatory commissions, but regulators should encourage such participation so that all issues may be fully aired.

JURISDICTION

I have recounted in my prefled testimony the jurisdiction of the Maryland Public Service Commission which is substantially different from the District of Columbia Public Service Commission in that we have 18 electric companies, 11 gas companies, and I will not recount the very broad jurisdiction of the Maryland Public Service Commission other than to state that the reason I pointed it out was to show that under Maryland law the People's Counsel is a party to all of those proceedings; everything that goes on within the commission, everything before the Commission the People's Counsel may be involved in.

PEOPLE'S COUNSEL SERVICES

At the present time, the position of People's Counsel is theoretically a part-time position. I say theoretically since in practice the large number of rate increase applications and other matters have also increased the time requirements of this position. Donald F. Rogers has been Assistant People's Counsel for approximately 3 years. This also is a part-time position. The salary of People's Counsel is \$15,000 and the Assistant People's Counsel earns approximately \$10,000 annually. The current budget for the office of People's Counsel is nearly \$100,000 which includes salaries. The major budget item expense relates to outside consultants, expert witnesses or others who may be retained from time to time in connection with specific cases. Of course, with the tremendous increase in cases that we are experiencing at the present time, I believe the budget should be supplemented, and I have requested additional funds, and I would hope that the next session of the Maryland General Assembly would look kindly on this request.

It should be noted that People's Counsel by being assigned to one State agency, the Public Service Commission, should be able to develop expertise in public utility law and familiarity with the various companies under that jurisdiction. Of course, the primary function of the office is to review and participate in rate cases. We used to have companies coming in once every 3 years for rate relief. Due to the present I guess economic climate, what have you, we seem to be getting some companies in three times a year, requesting rate increases. This puts not only a tremendous burden on the commission's staff, of course it does the same for our office.

RATE CASES IN MARYLAND

As an example, I cited on page 3 of my pre-filed testimony the Washington Gas Light Co., as an example of how the People's Counsel participates in a rate case. The commission presently has under consideration this rate increase for permanent rate relief for Washington Gas Light Co. On January 31, 1974, the commission denied temporary rate relief which we also opposed. Hearings began in April and there were 11 days of examination of company witnesses and hearings in Baltimore with more than 4,000 pages of testimony. Our office conducted a major investigation into the cost claims of that company relating to the new safety regulations which were just adopted by our commission. The company also requested a conservation adjustment which is the first time that issue had been brought before our commission.

The company argued that because of conservation by its customers, they should be allowed x amount for additional revenue that they lost resulting from conservation.

Mr. ADAMS. By conservation, you are not talking about conservation measures in the sense of environmental, but the fact that the customers were using less gas.

Mr. ALEXANDER. That is correct.

As a result of the impetus by the November message of the President, the patriotic concerns of the people to reduce, we opposed their request for revenue because of conservation.

We also presented the testimony of a rate of return expert witness. The Commission also held hearings in that case in the service area of the company in Montgomery County, Prince Georges, and Charles Counties, and took public testimony. Following the conclusion of hearings, our office requested oral argument and the opportunity to file a brief. I filed an 85 page brief in that case, and it is now before the Commission for a decision. This is only one example of how the office of People's Counsel might participate in a major rate case.

I think it is important to note that having a People's Counsel does not preclude intervention by other groups, classes of service, or others who may desire to be parties to proceedings before our Commission.

Under Maryland law, it is the function of our office to represent the public generally. Therefore, we have some difficulty being involved in rate design, although this has changed in several recent cases where we have offered evidence supporting peak load pricing and other alternatives to the traditional declining block rate method. Our Commission has also permitted intervention by legal aide bureaus representing inner-city residents, although it has taken the position that certain other groups may not intervene as formal parties since their interests can be represented by People's Counsel.

During 1974 we have been involved in everything from Anchorage Water Co. which serves 11 people in Chevy Chase to Pepco's application for permission to construct its first nuclear plant at Douglas Point in Charles County, Md. We have had rate increase applications, as I have outlined in my testimony, from several electric and gas utilities. We have participated in hearings and development of the new Maryland gas safety regulations that resulted from several tragic gas explosions in the Washington metropolitan area. These regulations are believed to be clearly in the public interest, but another job of People's Counsel is to review the cost factors when the companies come in and request revenue in a rate case or otherwise, to implement these regulations. We have to go through that information and find out exactly what they do need, and we have been presenting evidence to the Commission in connection with various rate cases relating to those.

FUEL RATE ADJUSTMENTS

We requested and the Commission granted an investigation into the electric fuel rate adjustment for all of the State's 17 electric companies. People's Counsel propounded questions to each of the State's electric companies. We received the answers. The Commission just last Thursday came out with a major order in connection with the fuel rate adjustment investigation. The order, after a lengthy examiner's report, pointed out that we had great dissimilarities between the fuel rate adjustment clauses that each of the companies utilize each month in passing this along to your customers.

The Commission intends to hold hearings in the public service areas with the major electric companies. We intend to participate. We have also begun hiring an independent consultant who will assist the office of People's Counsel in reviewing the extremely detailed financial and accounting information for the fuel rate adjustment of the various electric utilities.

Recently, I concluded an investigation prompted by several consumer complaints and petitioned the Commission to conduct an investigation relating to late payment charges and security charges

by all of the State's electric and gas utilities. We have also, during 1974, taken a position on a number of occasions that the companies should notify their customers in connection with various proceedings. Certain notice of public hearings should be given to each customer in his envelope. We have a major company that gives recipes out each month. We believe that the customers would be much better informed with real informational type advertising.

ADVERTISING

Because of consumer complaints, and I think Congressman Diggs mentioned this on Thursday, we have been investigating the advertising of PEPCO, the recent expenditures that they have been making, and we have had various correspondence with the company regarding their radio and TV ads recently. These are just a few areas in connection with the type of thing that our office becomes involved in in addition to consumer complaints, their rate cases, and quality of service. We may also be involved from time to time in connection with legislative matters.

During the general assembly in 1974, January, February, and March, we had requests from various legislators to comment on a number of different bills. We expressed our opinion on I would say about a dozen bills, and assisted them in that regard.

AMENDMENTS PROPOSED

I have several points that I would like to make regarding the request by our office to the Maryland General Assembly. We requested the power to intervene before various Federal regulatory agencies. I would like to suggest that this committee give some consideration to including such a provision in your bill which is before the committee this morning. Obviously the right of the People's Counsel to intervene before the Federal Power Commission, before the Federal Communications Commission, before the Federal Energy Administration is important. Any decisions made at those levels ultimately affect the consumers of the various companies so that every time there is a major increase in natural gas prices at the wellhead, sooner or later it is going to filter down on the bills of our companies' customers.

(1) I urge the committee to grant the District of Columbia People's Counsel the power to intervene before certain Federal regulatory agencies. Of course, the District of Columbia Public Service Commission has that right. I am saying that the People's Counsel should have that right independently of the Commission.

(2) Another important point that I think should be made is that the bill as drafted does not appear to permit the District of Columbia People's Counsel the right of appeal. I think this is extremely important. We have this power under Maryland law. We supplied the staff with a copy of our provision. An independent right of appeal for the District of Columbia People's Counsel I think is extremely important and should be considered by the committee.

Some of the greatest case law that we have in Maryland was made by the former People's Counsel in the utility field that have appealed cases to our circuit, and of course, the Court of Appeals in Maryland. So I would urge the committee to consider the power independently for the People's Counsel to appeal also.

I have found that the Commission in Maryland and its staff accepts our office and looks to us to carry the burden of protecting the public interest. I truly believe that our efforts have produced cost savings on behalf of the public. But more importantly, I think that the system itself of having a People's Counsel mandates credibility through the independent functioning of our office.

It should be remembered that the Commission is the decision-making body. The office of People's Counsel is merely the advocate for the general public.

SUPPORTS PEOPLE'S COUNSEL FOR DISTRICT OF COLUMBIA

So I would endorse the creation of a People's Counsel Office for the District of Columbia Public Service Commission. We have certain companies, Pepco, Washington Gas Light Co., that overlap our jurisdictions. When these companies apply for an increase, they usually do it in all three jurisdictions—Maryland, the District of Columbia, and Virginia—and it would be most helpful to our office to have a District of Columbia People's Counsel reviewing the case and to coordinate our review with that office.

FUNDING COUNSEL

Of course, I would have one caveat that I would urge either on this committee or subsequent District of Columbia agencies, that the financial commitment to adequately fund the independent office has to go along with creating the office also. I think that even if we did not save one nickel for the consumers, that the system itself of having an independent representative of the public within the Commission, operating independently, is most important. I think that the people have a right to know that we are out there fighting for them, even if we could not save them one nickel. So that I would urge the committee to favorably consider the legislation that is before you this morning.

INTERVENORS

I had one other comment that I wanted to make regarding the District of Columbia Public Service Commission's proposal to have intervenors or their counsel paid in lieu of having a People's Counsel. I think that the argument or the proposition is interesting. I do feel that it is somewhat impractical, and I would like to give these examples.

If the 16 counsel for the intervenors were to be paid, the participation by People's Counsel goes much further than that. As I pointed out, our budget allows us to retain outside expert witnesses. The rate of return witnesses that we might offer in a major case might cost anywhere between \$10,000 to \$25,000 on one case, so that the payment to intervenors is not going to let them adequately conduct a case to oppose the various companies. You have to consider the expert witnesses that might be retained also.

Also, there is nothing preventing the District of Columbia Public Service Commission to still allow broad intervention, even if a People's Counsel Office is created, because we do so many other things other than just rate cases, and I think it is fairly clear except with Safeway or some of the other intervenors that may have been pointed out

before the committee, that our office really has a united front with the intervenors. We are all generally opposed to granting an increase to the companies.

In addition to that, as I tried to indicate, the number of other types of problems, the bill problems, the quality of service, the complaints, construction contracts, all of this type of thing, the intervenors really cannot handle something like that. This is something that needs someone that has continuity within the Public Service Commission to review and analyze, so that I want to be—well, my position is really, we have never opposed anyone from intervening before the Maryland Public Service Commission. I think there can be a People's Counsel and still have extremely broad intervention so that all types of groups may be in the case.

Most of the intervenors look to People's Counsel. They have the funds available through People's Counsel to hire the expert witnesses also.

Another important point that I think you all can address yourselves to through bills such as this is some type of regional effort. I think that to allow our office to be able to pick up a telephone and call the District of Columbia Public Service Commission, if there was a People's Counsel, it would be extremely helpful rather than call 16 different counsel for various intervenors. We have, as I indicated, overlapping jurisdiction, and I think that a joint effort by people's counsels in all three jurisdictions might be extremely helpful in reviewing the various requests for problems that come up.

And as I indicated, I think there should be some type of continuity through the Office of People's Counsel so that intervenors may come and go. You may have one intervenor on one case, one intervenor on another case. I think it is extremely important to have some type of continuity within the Office of People's Counsel itself.

These would really be the only items that I wanted to bring to your attention. I would be happy to try to answer any questions you might have regarding the functioning of our office itself.

Mr. ADAMS. Thank you, Mr. Alexander, for excellent testimony.

Mr. Diggs?

The CHAIRMAN. Thank you, Mr. Chairman.

Mr. Alexander, to whom are you accountable?

PEOPLE'S COUNSEL INDEPENDENT

Mr. ALEXANDER. Well, as I indicated, the law says that the People's Counsel is appointed by the Governor, and he serves at the pleasure of the Governor. There is no specific term set by law, so that I would assume that as to accountable, really we are accountable to the people. The job specifically says we represent the public generally, but the Governor appoints us.

The CHAIRMAN. But you are answerable to him? I am just trying to determine.

Mr. ALEXANDER. I would assume so.

The CHAIRMAN. Does that suggest that under the counterpart bill, that People's Counsel should be answerable to the Public Service Commission or to be independent? What would you suggest?

Mr. ALEXANDER. It has to be independent of the Public Service Commission. There is no question about that, so that you may want to consider a specific term. Merely the fact that he is appointed by the

mayor may not lead to any conflict within the Commission itself. I think the important point is to have the People's Counsel position independent within the Commission. We have many cases where I disagree with the Commission's staff. When I go ahead, I look for an independent witness. I may look for someone who is extremely qualified, but I am also going to look for someone who is fairly conservative, so that that is the position that we would bring before the Commission. The company obviously would be looking for a liberal expert witness. We would be looking for someone that is fairly conservative.

So I think independent within the Commission is the important thing.

As to the method of how the job is chosen, that would really be up to the committee.

The CHAIRMAN. Do you really think there ought to be serious consideration to having a moratorium on rate increases in the District of Columbia until such time as this component becomes part of the decisionmaking process?

Mr. ALEXANDER. I do not know what the legal situation would be regarding that. I am sure all the companies would immediately take it to court, but I do think it is certainly compelling; anything that we could do to have a moratorium in accordance with the national policy that Congressman Adams just enunciated certainly we would be in favor of.

The CHAIRMAN. Thank you, Mr. Chairman.

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. Gude.

Mr. GUDE. Thank you, Mr. Chairman.

PEOPLE'S COUNSEL TERM

Mr. Alexander, is your term a fixed term, or do you serve at the pleasure of the Governor?

Mr. ALEXANDER. Just at the pleasure of the Governor. That is the way the law is expressed.

Mr. GUDE. Do you think that People's Counsel should have a fixed term?

Mr. ALEXANDER. I would say that the way things are going at this point, I think that sooner or later the job would be made a full-time position. The prior People's Counsel recommended, there were some bills that were kicked around the general assembly for some time in connection with that. This is supposed to be a part-time job, as is the Assistant People's Counsel, and I think that sooner or later it will become a full-time job, there is no question. The spate of rate increases and other matters are just—

Mr. GUDE. Whether part or full time, should it be a fixed term or at the pleasure of the appointing authority?

Mr. ALEXANDER. I think if it was made a full-time job, it would be my personal view that there should be a fixed term. I think that would also give some type of credibility to the—so that there would be no removal, no pressure, and that type of thing.

Mr. GUDE. What period of time would you recommend for a term?

Mr. ALEXANDER. I think in Maryland the Commission is set for a 6-year period. I am not familiar with the District of Columbia terms. In other words, members of the Commission are set for 6 years.

I would think that 3 or 4 years at a minimum would be important because it would take really some time to become familiar with the position. I think that 3 or 4 years would be a minimum.

FUEL RATE ADJUSTMENT

Mr. GUDE. In regard to the operation of your office, to what type of mechanism do you look to ascertain whether the various utilities under the Commission's surveillance are doing the best job possible to obtain the cheapest possible fuel?

Mr. ALEXANDER. Well, as I indicated, we have had the fuel rate adjustment investigation in effect. No one heard of the fuel rate adjustment until January, probably, or February of this year. For example, we have had consumers that send us an analysis between last year's bill and this year's bill, and I think on my own bill, the fuel rate adjustment has gone up from 92 cents last year to \$24, so so that no one really heard of the fuel rate adjustment to any great extent. This has really become an item of magnitude, and our investigation—we looked at—we asked the companies to provide us with a list of all of their suppliers, and also we were trying to determine whether or not they were buying and selling from a subsidiary supplier. We have analyzed all of those results, and we do not find any conflict-of-interest situation. It would appear that they are dealing at arms' length with their suppliers.

This was an important facet we looked into, though.

Mr. GUDE. What specific company are you speaking of when you say you found that they were working at an arm's length?

Mr. ALEXANDER. I would say that would cover—we have the generating companies, and of course, we have the companies that buy power, the larger companies being the generating companies, primary companies in Maryland are Pepco, Baltimore Gas & Electric, Delmarva on the Eastern Shore, Potomac Edison in western Maryland. There are a number of fairly large companies, and all of the companies answered our questions, and it really included all companies.

BUDGET

Mr. GUDE. Your appointment is by the Governor, but the Governor recommends the budget and the legislature appropriates the money.

Mr. ALEXANDER. That is correct, but there is—

Mr. GUDE. And you said the total budget for your office is \$100,000.

Mr. ALEXANDER. Just approximately, very close to that.

Mr. GUDE. And \$25,000 of that is for you and the Assistant Counsel?

Mr. ALEXANDER. That is correct.

Mr. GUDE. So that leaves you \$75,000 for consultants. Is that adequate?

Mr. ALEXANDER. In a normal time, that would be adequate, but at this time it is not. As I indicated, we used to have companies normally that came in once every 3 years. We have Baltimore Gas & Electric, which has been in three times this year, and in each case we have to present evidence, so that I do not think it is adequate, but the law that creates the People's Counsel specifically says that if the People's Counsel needs additional funds, he may apply to the Board of Public Works if it is insufficient to meet the People's Counsel expenses in representing the people of Maryland.

I would seriously doubt that if we needed additional funds that whoever was authorized to provide those funds would turn it down. I cannot foresee that situation.

Mr. GUDE. Have you applied for additional funds?

Mr. ALEXANDER. Not yet, because we are still within our budget. In other words, as far as the fiscal year is concerned, we are still within our budget, although we read in the newspaper Pepco is getting ready to come in. We will probably have increases from applications from other major companies throughout the balance of the fiscal year, which would end June 30 of next year, and I am sure that we will be applying for additional funds.

STAFF

Mr. GUDE. Are you providing any professional staff under the \$75,000? Does this money have to be utilized for consultants?

Mr. ALEXANDER. No. It could be used partially for consultant. It also would include any secretarial staff, and that type of thing. We try to use the Commission itself and the Commission staff as much as possible, which we are allowed to do under the law. We can either utilize the Commission staff, we can go outside the Commission staff, and we try to work in that fashion.

Mr. GUDE. Would it be preferable if you had your own staff rather than relying on the Commission's staff?

Mr. ALEXANDER. No. I do not think so. Well, it depends on the type of staff we are talking about. The secretarial, I do not think it would make any difference. The Commission has a chief auditor and an auditing department. They have an engineering department, and that type of department. I think that we should be allowed to use them if we want. There are many times when we agree with their positions, and we feel that they have made an adequate review, and we would go along with whatever interpretation they have. Then, again, there are other times when we would not agree. We think there should be another type of consultant brought in, and I think that is a time to go outside the Commission staff, and to retain the various type experts necessary.

EVIDENCE PRESENTED

Mr. GUDE. When population figures and growth figures are obtained that relate to requested increases in utility rates, are these developed by the information staff, or how are they obtained?

Mr. ALEXANDER. I am not exactly sure I understand. As far as population figures, they really would not be relevant, except that in many rate cases, a company will argue that they have to increase future construction, et cetera, because of additional growth in housing, to meet the demands and forecasts for the future. That would be normally the method that would come in, as far as a rate case is concerned; and of course, we would present evidence to show sewer moratoriums' economic problems, to show that there is little growth, if any, and we would counter that argument if the situation demanded.

Mr. GUDE. Then the Commission accepts the population figures and the growth figures that are presented by the utility in an application?

Mr. ALEXANDER. No. Well, I do not speak for the Commission. I am independent of the Commission, and of course, they are the decisionmaking body. If we felt that the evidence furnished by the

company was inadequate or incorrect, we certainly, I would think, would attempt to show it differently. But I guess it would depend on the case or the company involved, or the type of application also.

Mr. GUDE. You have never questioned the presentation of the utilities, as far as population growth or population figures are concerned.

Mr. ALEXANDER. I am trying to recount the number of cases in 1974. To my knowledge, I do not think that, as far as any of the cases that I have handled, population has been an issue of any significance that I can recall.

ADVERTISING

Mr. GUDE. One further question. The question of advertising has arisen several times, and the use of television has been made to explain the increase in cost to the public. Is the expense of going on TV to explain, by advertising, justified? Would it not be most appropriate that the utility merely notify the customer by notice accompanying the bill?

Mr. ALEXANDER. I would subscribe to that theory. Pepco specifically, or in connection with Pepco, we requested that they produce their advertising budget for the past several years. They have gone from an expenditure of \$1 million in about 1971, which was primarily for promotional advertising, to an expenditure of \$400,000, I believe, budgeted for this year, 1974, and it is supposed to be no promotional advertising; all informational advertising. In my running dispute with the company, we are taking the position that, if and when they come in for a rate increase, we intend to ask the Commission to disallow that particular item, I would say primarily on the fact that it is unnecessary. I think it is unwarranted, and it is certainly not informational. You do not have to have television spots to tell people that their electric bills are going up. All they have to do is open up their monthly bill. If they wanted to be informational, all they would have to do would be to include something with the bill, which they have done on occasion.

In addition to that, I think that something in the line of advising customers how to read meters—geez, there is a host of things you can really inform people that they do get a lot of calls on, and I think that this is clearly not in the public interest. I think we have had a lot of consumer complaints, as far as my office is concerned, about it, and I do not think it is proper.

Mr. GUDE. You do support advertising to promote conservation of electricity?

Mr. ALEXANDER. I think that is necessary. I think there are also better ways of doing that, but I do think that is important.

Mr. GUDE. Thank you, Mr. Chairman.

Mr. ADAMS. Mr. Fauntroy?

Mr. FAUNTROY. Thank you, Mr. Chairman.

EXPERTS REQUIRED

Mr. Alexander, I have been working with a number of citizens' groups in the District of Columbia, residential consumers, and they are faced with a problem which is probably—one of the groups, the Lamond-Riggs Citizens Association, to put out an appeal for addi-

tional voluntary expertise. And their problem is that reviewing the various statements which are offered by the utilities in justifying the rates, they find the need for a variety of rather expert skills to determine whether or not those justifications are, in fact, valid.

For example, looking at the statements of earnings and retained income, it would seem we would need the services of an accountant of some skill. Looking at statements regarding property and plant construction, it would seem like you would need another kind of expertise, perhaps a development specialist. Looking at operations, you may need another kind of expertise, management expertise that might be able to determine whether or not, for example, a Lear jet is necessary for the transportation of company officials, and the like. Then, looking at the whole investment picture, it seems that you would need another kind of expertise to see whether or not that justification is, in fact, valid.

PEOPLE'S COUNSEL CAPABILITY

One of the questions raised by People's Counsel is whether or not that office can garner on behalf of citizens that kind of expertise, and I wonder if you would just comment on how, in your judgment, you have been able to handle the development of the kinds of—or at least had them available to you as counsel—the kind of expertise that would enable us to, in fact, justify or invalidate reasons given for the various rate increases.

Mr. ALEXANDER. Well, I think, as I tried to indicate before, I think you have to have some focal point to decide what is necessary, what is not necessary, to go through a specific case, because these are extremely technical items that you mentioned. The whole uniform system of accounts and accounting procedures, in my opinion, are designed for the benefit of the utilities. I think that the entire morass of exhibits that we get from a company when they come in, certainly there is no question that attorneys such as myself do not have the capability of analyzing all of the specific accounting detail. And that is why we have to go outside to determine what type of experts are necessary.

INTERVENORS

If the various intervenors were doing that, to be paid by the Public Service Commission and what have you, I think it would be extremely costly. I think that our office has the capability, through experience, through some history that has been developed, plus consultation with the commission staff, to determine what areas we want to attack in a given case. I think that the consumer ultimately foots the bill for our office, just like the other side—PEPCO or whatever rate increase case would be coming in. So I think that to have a system where there are different intervenors going out at public expense and hiring witnesses would be somewhat costly also, and I think it is a difficult job of going through all of this material. There is no question about it; we attempt to pinpoint the highlights, to hit the major items, through consultation with expert witnesses within limitations of our financial budget. That is all we can do.

Mr. FAUNTROY. That is my concern; the limitations of the financial budget. Some of us have been thinking that perhaps the Public Service Commission here had a responsibility to become more than just an

impartial judge, but advocate itself, and utilize the funds that it has at its disposal for investigation, funds which are charged to the utility in question, to garner the kind of counter-expertise necessary to assure the public that the people are being fairly treated. That is our major concern about one counsel without sufficient money to compete effectively on behalf of the people.

Mr. ALEXANDER. Well, I wanted to indicate also that having a People's Counsel does not preclude intervention by other groups. I think that is important. If they have a liberal policy of permitting interveners, there is no question our office has never opposed any interveners. They are still going to have all of the big—maybe Safeway or GSA coming in intervening. There is nothing I do not see incompatible with having a People's Counsel and still having the intervention process. I think it is important to do that, because obviously the more assistance that we can get, the more we would welcome.

I do not want to imply that the People's Counsel is the only way to go. I think it should go hand-in-hand with the intervention process, and we are in favor of broad intervention.

RATEMAKING

Mr. FAUNTROY. Does your Maryland Public Service Commission assess justifiable rate increases on the basis of the service delivered to the people within your jurisdiction, or do you look at the whole operation of a utility on a metropolitanwide basis?

Mr. ALEXANDER. The normal method would be, when a company comes in for rate relief that operates in Maryland, the District of Columbia, or Virginia, one of their witnesses would present an allocation study that shows which expenses are common, which relate to Maryland only, which relate to the District of Columbia, and which relate to Virginia, and we review that type of material also in connection with the rate case. And I am sure the commission staff does, too. They should segregate, obviously, any charges that are applicable to one jurisdiction only, and that is a very detailed and complex part of every case.

Mr. FAUNTROY. I suspect you understand why I raised the question. We wonder in Washington why, with residential usage apparently shrinking, the rates go higher for us; and we are wondering whether or not you would allow that kind of thing in your own—

Mr. ALEXANDER. No; we would not; and we would not allow any cost that was justified strictly for the District of Columbia or Virginia to find its way into Maryland charges, either. So it works all three, hand-in-hand, and that is one of the things I indicated—or that would be one of the areas where I think that a D.C. People's Counsel would be able to work with our office, to review these things also.

Mr. FAUNTROY. Thank you, Mr. Chairman.

Mr. ADAMS. Thank you. Mr. Alexander, you have given an excellent description of the office that we are dealing with. I want to indicate that, in addition, we are going to introduce the bill again, for a People's Counsel, to be reintroduced with Mr. Diggs and myself, and Mr. Fraser, Mr. Dellums, Mr. Fauntroy, Mr. Breckinridge, Mr. Stark, Mr. Gude, and Mr. McKinney all joining in. So we are proceeding with the legislation.

PUBLIC SERVICE COMMISSION ROLE

I have just one question, which goes to a fundamental statement made by the chairman of the District of Columbia Public Service Commission here, when he testified before us. It has been my opinion that, historically, a public service commission was created to represent the people against a monopoly which was created by the Government, because the delivery of electrical service was more efficiently done by a monopoly. Therefore, traditionally, the thought of the legislative branch was, we cannot hold hearings like we are doing here every day, and certainly not go into rate cases—we are to pass laws. So we delegate this to a public service commission, which is supposed to watch the utility.

Mr. Stratton said to us that they no longer consider that their role. They believe they are to be an impartial arbiter, balancing the interests of the company against the interests of the consumers. Now, in your experience, is that now the character of a public service commission such as the one that you deal with, where they sit as judges rather than being, in effect, advocates to protect the public against the monopoly which the Government has created?

Mr. ALEXANDER. I would say that, certainly, as far as our Commission is concerned, I do not believe that they are the advocate for the public. Certainly, they are the decisionmaking body. I think, in all their decisions, they attempt to balance the interests of the public on one hand with the interest of the company and its financing requirements on the other hand, and I do not subscribe to the theory that Mr. Stratton advanced, or at least that you have outlined.

I believe that while they may have the interests of the public, certainly, at heart, they are not advocating on behalf of the public. There is no question about it.

ADVERSARY PROCEEDINGS

Mr. ADAMS. Well, the fundamental questions to me—and why we are talking about this bill and I am trying to draw on your experience, because you appear before these commissions now—is the nature of the proceedings. What happens is the commission is there; the company comes in and requests an increase in rates; the large consumers, who are well-financed—and there is a list of them here, running all the way from Safeway to GSA and so on—appear and fight for their bills so that it is really, then, an adversary proceeding with no adversaries.

Mr. ALEXANDER. That is completely correct.

Mr. ADAMS. I mean, adversaries in terms of the general public, the person who simply plugs in his toaster, and so on. So therefore, it is your position that it is necessary, due to—I will not say new structure—but due to the existing structure of a public service commission, that there should be built into it now an adversary-type proceeding for the individual consumer?

Mr. ALEXANDER. Yes, absolutely.

Mr. ADAMS. Thank you, Mr. Alexander. Your testimony was very helpful to the committee.

Mr. ALEXANDER. Thank you.

Mr. ADAMS. The next set of witnesses whom we have before us is an attempt by the committee—and I am not apologetic for it, but simply trying to state the circumstances of how we have attempted to handle this. There are many, many people who want to come in and complain about their electric bills. I am sympathetic to their position. I feel the same way. But we obviously cannot have them all gather together in one room. And so what we have attempted to do is create a panel. On this panel, which I will now call. If any of you feel that you are not properly represented, I will at the end of the testimony indicate there will be a period of time where the record will be kept open during a recess of the hearings. I have indicated this already to the minority members, where they can file statements. We would be most happy, as members of the committee, to receive statements which will be placed in the record by individuals, so we are not trying to shut anybody off. We are just trying to bring people as best we can before the committee.

As the panel, I would like to call now Mr. Frederick Wells—he is the public utilities consultant for a consumer group, Resources for the Future; Ms. Dorothy Maultsby of the Lamond-Riggs Citizens Association, District of Columbia Federation of Civic Associations; Ms. Ann Brown, chairman of the Consumer Affairs Committee of Americans for Democratic Action; and Mr. Peter Schuck of the Consumers Union, who was inadvertently left off of our printed witness list.

These four people will be the panel, and as I understand it, Mr. Schuck will start the panel by addressing us first.

Mr. Schuck?

STATEMENT OF PETER H. SCHUCK, CONSUMERS UNION OF UNITED STATES, INC.

Mr. SCHUCK. Thank you, Mr. Chairman.

BACKGROUND

The Washington office of Consumers Union, of which I am the director, was established in November of 1972 in order to play an active role in monitoring regulatory policies of significance to consumers. While virtually all of our work has been done in connection with the actions of Federal regulatory agencies, the Washington office has participated in two proceedings before the District of Columbia Public Service Commission. Last year, we intervened in the Pepco rate proceeding, and this year, we have intervened in the pending Washington Gas Light Co. rate proceeding. In addition, we have applied to the District of Columbia Public Service Commission to prohibit the use of certain propaganda by Pepco in support of its nuclear powerplants from being charged to ratepayers, and from being included in the monthly billing packets.

LIMITATIONS ON CONSUMER PARTICIPATION

A brief summary of our role in these two proceedings may impart some sense of the formidable obstacles to meaningful consumer participation which exist, and which necessitate immediate reforms, including the establishment of a People's Counsel. The resources

available to us for advocacy and litigation are extremely limited. There are a total of four attorneys in my office, yet we seek to have an input into all Federal legislation of significance to consumers and major regulatory actions of all the Federal agencies affecting consumers, as well as carrying a substantial caseload of litigation in the Federal courts. Given these resource and time constraints, it is simply not possible for Consumers Union to do more than participate in a very occasional rate proceeding before the District of Columbia Public Service Commission. Even with respect to those very few proceedings in which we participate, our role must of necessity be limited. Thus, we have not raised all rate issues which should have been raised, but have been obliged to limit ourselves to one issue in each proceeding. Thus, in the Pepco case, we raised only the issue of late payment charges—

Mr. ADAMS. I did not hear that. The issue of—

Mr. SCHUCK. Late payment charges.

Mr. ADAMS. Thank you.

Mr. SCHUCK. In a footnote on page 3 of my statement, I explain the issue that we raise.

WASHINGTON GAS LIGHT CO. CASE

In the Washington Gas case, we are addressing only the issue of the perverse incentives contained in the existing declining rate block structure. We cannot afford to appear at all or even most hearing sessions, even in those hearings in which we are in agreement. We cannot afford to pay for expert witnesses. In short, we cannot fully participate in the advocacy process.

And if Consumers Union, which is the largest consumer organization in the Nation, cannot fully participate in even a few proceedings, it is easy to understand why there are few or no consumer intervenors in most rate proceedings. Consider the current Washington Gas Light case, a very typical rate proceeding. Consumers Union is the only representative of normal residential consumers. The issue we are raising in that case is an extremely important and complex one that none of the other intervenors wished to raise, and which the staff of the Commission—which numbers, we understand, barely 30 persons—has hardly a chance to consider. This issue is the propriety of the existing declining block rate structure, under which small users pay more per therm of gas than do large users. Of course, it has its counterpart electrical rates. In gas distribution, as in electricity production, it is no longer true that serving large users is more efficient and less costly than serving small users. During times of shortage and inflation, which makes replacement or creation of new facilities much more costly than maintenance of the old, serving the demands of ever-larger users places a greater drain on the system than does serving the little customer. In gas, this is particularly noticeable because, as traditional supplies of cheap gas from the American South contract, they must be replaced or enlarged by such expensive sources as synthetic gas and liquefied natural gas, both of which are much more costly than the traditional supplies. Marginal cost pricing would encourage conservation of these scarce resources. Needless to say, the large users who are the only intervenors in most rate cases are not enthused about our position.

We believe that our participation in these two cases has been valuable—notwithstanding that the current case has not yet been decided. But no individual consumer and no private consumer organization that I know of can afford to purchase the expertise—in the form of lawyers, accountants, economists, and the like—and this goes to Mr. Fauntroy's point—to participate adequately in a complex proceeding before the Commission. Even a consumer organization like our own, which has a small legal staff and some access to expertise, and can afford to bear some costs of copying and postage, could not afford to participate regularly in these proceedings. Consumers Union has members in Maryland and Virginia as well as in the District, but we simply did not have the resources to enter the Washington Gas Light rate proceeding in all three jurisdictions. Similarly, we have Virginia members but lack the resources to participate in the very important Veeco case. It is doubtful whether we will intervene in other District of Columbia rate proceedings, unless some way is found to reimburse us for the expenses which we undertake on behalf of the general public.

REIMBURSEMENT OF INTERVENORS

Consumers Union believes that reimbursement authority already exists. It is found in title 43, section 412 of the District of Columbia Code. That provision is set forth in my prepared statement. We believe that this statute gives the District of Columbia Public Service Commission the power, if not the duty, to require a regulated utility to pay the legal expenses incurred in a rate proceeding, not only by the Commission but by an intervenor as well, at least where the intervenor has made a substantial contribution to the furtherance of the public interest in the proceedings.

This is not a novel doctrine. The Federal courts have long exercised their equitable powers to award reimbursement of reasonable attorneys' fees to private parties who vindicate important public interests through litigation. The Senate Judiciary Committee is considering legislation to extend this reimbursement principle and formalize it in statutory law.

After the end of the Pepco case, in which Consumers Union succeeded in eliminating Pepco's illegal and perverse late payment charge, Consumers Union filed a motion for expenses under title 43, section 412, seeking reimbursement for the reasonable expenses, including attorneys' and expert witness fees incurred in the course of participation in the proceeding. The motion was filed on January 4, 1974. After responsive briefs from Pepco and a reply from Consumers Union, the matter rested with the Commission, but it has not yet been ruled upon. Pepco recently filed with the Commission a motion to dismiss the Consumers Union motion. We are hopeful for a Commission decision on this important matter as soon as we are able to respond to Pepco's latest filing.

EXPERT TESTIMONY

Rate proceedings are extremely complex matters. In both the Pepco case and the still ongoing Washington Gas Light case, Consumers Union has been fortunate to secure the services of a public-spirited economist, who is sitting on my left, with experience in public utilities regulation, to study the issues and to serve as an expert witness. We have been doubly fortunate that this expert has been able

to serve on a "contingent fee" basis, so to speak. If we are successful in obtaining reimbursement for his services, whatever value is placed upon those services by the Commission will be his compensation. And if our motion fails, he has agreed to sustain the loss. In addition, our participation has taken significant amounts of time of our Washington staff attorneys, not to mention clerical time and the out-of-pocket costs attributable to the need to copy and serve all the parties to the proceeding with testimony and documents.

In these cases, we have represented and benefited not so much our members—most of whom live far away from the District—as the interests of the ratepayers in the District, most of whom are not Consumers Union members. Under the circumstances, the costs of that representation and benefit should be borne by the ratepayers, not by our members. In our view, that is what title 43, section 412, is all about, and that is what the court cases awarding counsel fees are all about.

In sum, then, some way has to be found to encourage groups like Consumers Union to intervene in rate proceedings, and support those efforts financially. If not, those very occasional efforts will probably cease for lack of resources. For a rate proceeding is simply too time consuming a matter, and our chances of success are too slim, to justify tying up 25 percent of our office on a proceeding of economic concern to only a small portion of our membership. And, to repeat a point made earlier, most if not all other consumer groups have even fewer resources for this type of activity than we do.

PEOPLE'S COUNSEL

Turning now to the proposal to establish a People's Counsel in the District of Columbia, we would recall that this is not a new proposal. Between 1926 and 1952, as you may know, an official called the People's Counsel represented the interests of the public before the District of Columbia Public Service Commission. Since 1952, however, when the 1952 Reorganization Plan No. 5 went into effect, the general public has been without any specific representative to represent its interests in matters concerning public utilities.

The Commission itself it supposed to represent the public interest, and from all that we have observed, it strives mightily to do so. One must recognize, however, that the public interest is often difficult to discern. More often than not, the public interest is best determined through a process of advocacy, in which facts, perspectives, arguments, rebuttals, cross-examination, and other mechanisms for getting at the truth are employed by someone other than the decisionmaker.

Rate proceedings are particularly suitable forums for such advocacy, since the utility controls the data, records, witnesses, and expertise upon which the Commission must ultimately rely. If, as is so often the case, there is no one to interpret the data in new ways, cross-examine the company's witnesses, demonstrate the boundaries of expertise, and adduce new definitions of the public interest, the proceedings become little more than a sham, an elaborate and time-consuming ritual.

A People's Counsel could help to fill the yawning void of consumer advocacy before the Commission, although we should not delude ourselves that such a reform will solve the problem. The utilities, with their law firms, accountants, engineers, computer programmers, and other assorted support troops—all of which are paid for by the rate-

payers—will continue to overwhelm the opposition with a flood of statistics, briefs, printouts, charts, and arguments. Given the minimal level of funding and personnel which can be anticipated if the people's counsel is established, one can easily predict that the contest will remain quite unequal.

AMENDMENTS PROPOSED

This is not an argument against a People's Counsel, of course; consumers need all the help they can get. It is, however, an argument for several safeguards in any such legislation.

First, the budget of the People's Counsel should be adequate to the task, and should recognize that the potential savings to consumers and taxpayers from an effective advocacy process will far outweigh the costs of such an office.

Second, establishment of a People's Counsel must not displace efforts to encourage other private citizens and organizations to intervene in Commission proceedings. Mr. Alexander made the same point. In that connection, the bill's use of the phrase "for petitioners" should definitely be deleted in order to make it clear that the People's Counsel will not be the exclusive representative of consumer interests in rate proceedings.

Third, the bill should reaffirm that title 43, section 412 of the D.C. Code authorizes reimbursement for an intervenor's expenses, at least where the intervention has assisted the Commission in performing its difficult task.

Fourth, the People's Counsel should be authorized to invoke the Commission's factfinding and subpoena powers in order that its investigations and representations may be effective and useful to the Commission.

In addition, the public should be assured access to the Counsel's files, unless some strong public interest dictates otherwise.

Finally, the bill should provide that the costs of the Counsel's Office are to be borne by the ratepayers and not by the taxpayers.

Once again, we thank you for the invitation to testify.

Mr. ADAMS. Thank you, Mr. Schuck, for an excellent presentation.

We will go to questions after the witnesses have prepared their testimony, so we will have all of the information before us.

Mr. Wells?

STATEMENT OF FREDERICK WELLS, PUBLIC UTILITIES CONSULTANT, RESOURCES FOR THE FUTURE

Mr. WELLS. Thank you.

My name is Fred Wells. I am an economist at Resources for the Future (RFF) in Washington, D.C. The views I present here are strictly my own. RFF takes no position in this matter.

NEED FOR CONSUMER REPRESENTATION

It is really my belief that even though the District of Columbia Public Service Commission is a very sympathetic Commission in terms of small consumers' problems, there is a need for additional representation of small residential and small commercial interests in District rate

hearings. My reason for this stand is that neither the Commission staff nor ordinary intervenors are likely to present a good case for small customers on a consistent and adequate basis. The staff of the District Public Service Commission is evidently not large enough to cope with all of the aspects of each rate case. In general, they attend to rate base and rate-of-return issues rather than rate structure issues. This approach of the Public Service Commission staff is understandable. Concentration of a rate base and the rate of return on that rate base is an attempt to determine the appropriate total amount of the rate increase.

In contrast, taking a stand on the rate structure implies a decision on who—that is to say, which District customers—should pay for that increase; and this the Commission staff is not eager to do.

Now, based on the last PEPCO rate case, which was formal case 596 in 1973, the Commission staff presented two witnesses. Only one of these witnesses addressed the Pepco proposed rate structures at all, and he devoted less than one page to the topic. The substance of his testimony was to approve of Pepco's proposed rate structure.

In the current Washington Gas Light case, formal case 610, the Commission staff presented three witnesses. But again, one page of testimony was devoted to the rate structure, and again in favor of the Washington Gas Light proposed rates. I have brought along those relevant pages, if you would like to look at them, to see what the Commission staff did.

Mr. ADAMS. Are they available so that we could place them in the record at this point?

Mr. WELLS. Yes, indeed.

Mr. ADAMS. Is there objection?

Without objection, the materials will be placed in the record at this point.

[The material referred to follows:]

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,

September 6, 1974.

FORMAL CASE No. 610

IN THE MATTER OF THE APPLICATION OF WASHINGTON GAS LIGHT COMPANY
FOR AUTHORITY TO INCREASE EXISTING RATES, TOLLS, CHARGES AND SCHEDULES FOR GAS SERVICE

DIRECT TESTIMONY OF SEYMOUR MANHEIMER, CHIEF ACCOUNTANT

* * * * *

December 31, 1974, of \$74,519,000 reflects the Company's claimed rate base as adjusted by the Staff to eliminate the compensating bank balances. Line 2 reflects the computation of return at 8.9% rate of return recommended by Mr. John Raymond. Line 3, Net utility operating income of \$2,353,000 is brought forward from Schedule A, page 1, line 21, column (h). Line 4, shows the deficiency in return which is the result of subtracting line 3 from line 2. Line 6, shows the additional revenue requirement which was computed by dividing line 4, by the complement of the composite tax rate of 45.448% per line 5.

Q. Please explain the purpose of lines 7 through 11.

A. Lines 7 through 11 represent the computation of the additional revenue requirement using the Company proposed rate of return of 9.00%.

Q. Does this complete your explanation of Schedule B?

A. Yes.

Q. Have you reviewed the proposed rates submitted by Mr. Wilson?

A. Yes, sir, I have.

Q. Do you have an opinion as to the rate design proposed by Mr. Wilson?

A. I have found that the two main classes of customers affected by the proposed increases are the General Services Schedule "A" customers and the Large Volume Interruptible Schedule "I" customers. Therefore, any change in the one class of customer will obviously have a contra effect on the other class of customer. The Company in its rate design established rates on the basis of "value of service" for the Schedule "I" customers which, based on the Company's proposal, results in a revenue increase of 88% for summer service and 57% for winter service to such customers. The proposed rates for Schedule "I" customers of 13¢ in the summer and 14¢ in the winter are below the Schedule "A" rates and reflect the lower quality of service being rendered to interruptible customers.

In my opinion the "value of service" concept utilized by the Company is appropriate because:

- (1) "I" rates should exceed "out of pocket" or directly assignable costs of serving interruptible customers;
- (2) the "I" rate design should recover some of the fixed costs which would otherwise have to be borne by the general service customers;
- (3) the "I" rate design should reflect rates which are less than the general service rates due to a lower quality of service; and
- (4) the "I" rate design should recognize that alternative fuel supplies are more expensive to the "I" customer.

Q. What percentage increase was assigned to Schedule "A" customers?

A. Company Exhibit WGL 8, page 18, shows that customers using 30 therms will receive an increase of 12.9%, customers using 600 therms will receive an increase of 17.9%, and those customers using 1,000 therms will receive an increase of 20.2%.

Q. Do you have any comments concerning the late payment charge?

A. Yes, I agree with the Company's proposal to reduce the late payment charge from a one-time charge of 5% for bills not paid within 20 days after rendition to a monthly charge on unpaid bills. The proposed charge is 1% on bills not paid within 20 days after rendition and, thereafter, 1½% for any unpaid balance remaining at the end of each subsequent monthly billing cycle. This proposal will bring the Company's late payment charge policy in line with that of Potomac Electric Power Company.

Q. Does that complete your testimony?

A. Yes, it does.

STAFF EXHIBIT 2

BEFORE THE PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
JULY 27, 1973

FORMAL CASE No. 596

IN THE MATTER OF APPLICATION OF POTOMAC ELECTRIC POWER COMPANY FOR
INCREASED RETAIL RATES

DISTRICT TESTIMONY AND EXHIBITS OF E. EDWARD MCLEAN, PUBLIC UTILITY
CONSULTANT

* * * * *

A. Yes, sir. My personal preference is to use an average rate base and adjust the rate of return as appropriate, keeping in mind the rates of erosion and the interval before new rates can begin.

Q. Aren't there other ways to compensate for attrition?

A. Yes, sir. To mention some—a dollar addition to rate base; a dollar addition to indicated increases; a percentage increase to rate of return; and finally, use of a year-end rate base. Various combinations could also be used. The important thing is that the Company should be given the opportunity to earn the prescribed rate of return over a test year beginning with the institution of new rates.

Q. To return to Schedule F, what is the revenue increase required if a rate of return of 8.4% is used?

A. On year-end rate base, \$20,805,000, and \$14,606,000 if average rate base is used.

Q. And if the Commission should adopt the return suggested by Mr. Davis' exhibits, what increase is indicated?

A. \$25,046,000 on year-end rate base, and \$18,587,000 on average rate base.

Q. Do you have any other comments regarding Schedule F?

A. No, sir.

Q. Have you reviewed the proposed rates submitted by Mr. Walters?

A. Yes, sir, I have.

Q. How do you feel about the increases as allocated by Mr. Walters?

A. I found that the proposed increases follow the same general pattern as those in the last case. The percentage increase assigned General Service and Large Power are greater than those assigned to Residential Service. I have no personal quarrel with a larger increase being assigned a business type user in contrast with a residential user. It must be remembered that business enterprises enjoy a tax credit for any item of expense associated with the business, while a residential user does not. Also, there are many residential customers with limited incomes and increases in essential items such as this work a real hardship.

Q. What percentage increase was assigned to residential customers?

A. Approximately 12%, as against 18.2% for General Service and 19.0% for Large Power. Street Lighting is assigned a 17.1% increase.

Q. Do you subscribe to a differential between summer and winter rates, the type that is built into the Company's rates?

A. Yes, sir. For this company the peak occurs during the summer time, and is largely caused by the extensive use of air-conditioning equipment. It is proper to charge customers taking power during peak times a higher rate than those taking power during off-peak times. This tends to compensate for idle time of installed capacity required to meet peak demands. In other words, those that require electrical energy during peak times should pay more, because it costs more to produce, factoring in the idle time.

Q. But not all electrical energy costs more in the summer, does it?

A. No, sir, only energy consumed in excess of 400 kilowatt hours.

Q. Do you have any other comments?

A. No, sir.

Mr. WELLS. As I stated above, however, I do not take issue with the fact that the Commission staff would prefer to generally ignore the rate structure problem. No matter what stand they take in the matter, they are likely to irritate various groups of customers. On the other hand, it should be absolutely clear that any claim that the Commission staff represents the interests of ordinary consumers in the rate structure matter is simply inaccurate.

Again, I would point out, however, that the Commissioners themselves, at least from my point of view, have been very sympathetic to the small consumer. Essentially, the interests of small consumers are left to interveners on a hit-or-miss basis. If a group such as Consumers Union or Friendship House decides to get involved, then their interests will be protected, but otherwise not. Even if they do intervene, they seldom have the resources to carry out an adequate analysis and presentation. Some way is needed to insure that small consumers' interests are protected.

There appear to be three methods to deal—well, I should really stop at that point, and contrast my opinion with that of Mr. Thompson in his prepared statement. He feels, going to page 2 of his statement, that from his own experience in the District over the last 3½ years the rate proceedings before the Commissions are completely adversary, resulting in a comprehensive examination of all issues in the public the rate proceedings before the Commissions are completely adversary, interest. I seriously doubt that, from my experience. It has only been because Consumers Union and Friendship House got into these cases, and there is no guarantee, as Peter Schuck pointed out, that that would continue in any way.

ALTERNATIVES TO PEOPLE'S COUNSEL

There appear to be three methods to deal with the problem of rate structure to the small consumers. A People's Counsel can be set up—that is the first alternative. The Public Service Commission staff can be increased—that is the second one; and appropriate interveners can be funded—that is the third. No matter what course is followed, it is important that certain dangers be avoided.

The thing that, I guess, bothers me most about the People's Counsel proposal is that such a counsel might simply make appeals about the plight of low-volume customers, or to decry the total rate increase, but nothing more. While such appeals have their place, it is not enough, because you can be sure that the utility company and other intervenors representing larger customers, such as GSA, will have plenty of expertise to argue their positions. The key to an adequate presentation is to get into the rate structure issue, and other relevant issues, in a substantive way. This is quite important, because most rate structure issues are very muddled, since utilities do not conduct cost studies relevant to appropriate determinations of rates. Nobody has the facts pinned down: what the rate structure should be, which party presents the evidence supporting his own position? A small consumer should be well represented in this welter of counterclaims and evidence.

STAFF

Thus, the People's Counsel, or appropriate alternatives, should have some experience in utility cases and should be supported by an adequate staff.

By adequate staff I mean that there should be economists as well as lawyers, accountants and efficiency experts. Since I am an economist, this would seem to be special pleading on my part but all I can say is that the issues an economist will bring up will often not be considered by others.

EXPERTS

Because of their training, economists have a special usefulness in rate structure issues and their points of view should be heard.

For example, they are the leading proponents of peak period pricing which is now gaining a foothold in the electric utility industry. The present Public Service Commission staff appears to have only lawyers, accountants and engineers and should be extended to include economists.

RECOMMENDATIONS

My own leaning at this time is toward beefing up the Public Service Commission staff and establishing a People's Counsel division within the District Public Service Commission rather than going to a separate People's Counsel.

There are two reasons for this.

First, speed is necessary to set up camp before the upcoming Pepco rate hearing.

And second, needless duplication of public service staffwork already being done would be avoided.

INTERVENORS

Reimbursement of intervenors is also possible as well, but I am not sure how one goes about deciding who should and who should not be reimbursed. Perhaps reimbursement could be made on a discretionary basis by the Commission to intervenors who both do substantive work and represent groups that might not otherwise afford such representation.

I would certainly not favor blanket reimbursement of all intervenors such as GSA and Safeway Stores and the Apartment House Council and the rest of that crowd, but only reimbursement for those who cannot afford legal fees and witness fees.

Whether or not a People's Counsel is established separately or within the Public Service Commission, the staff of the Commission should be strengthened within the area of economic analysis.

I would also suggest that whatever approach is taken, the result should be reviewed at an early date by this committee, to make sure that small consumers' interests receive adequate representation.

Having outlined my position on the People's Counsel proposal I would like to address some of the issues that such a counsel should pursue.

DECLINING BLOCK RATES

The first one, I think, that is very important these days is the declining block rate issue.

Mr. ADAMS. I am sorry. I did not hear you.

Mr. WELLS. I am sorry. The ordinary declining block rates we now have.

Mr. ADAMS. Thank you.

Mr. WELLS. Except for residential usage during the summer the more electricity a customer uses the lower charge per kilowatt hour under existing rate structure he receives. Public utility companies favor such declining block rates for a variety of reasons.

For example, they feel these rates provide more revenue stability. Utilities also argue that these rates reflect economies of scale. The more the customer uses the less the cost per kilowatt hour will be. And I would address, I think, Mr. Thompson's analogy at page 9 of his statement. It is very relevant.

He says a very simple analogy might be drawn with the familiar automobile rental contract where a charge is made for daily rental, as well as a charge for each mile that the car is driven, and therefore, the more miles you drive, the lower the average price per mile will be.

That is understandable.

However, I would contrast that with the actual situation. There are no real studies to show that this actually exists. And there is some evidence which in fact indicates that the more you use, the higher the cost may be. The less the customer uses, for example, the less need there is for an expensive new plant. In the case of residential customers, small customers are often congested together so the costs of serving them are less than serving larger residential customers in less dense areas.

Picking up Mr. Thompson's analogy, on page 9, I would say the difference might be between somebody renting a Cadillac and some-

body renting a Pinto. That is one aspect of the problem that that analogy does not quite cover.

I would say in this case the people out in Northwest Washington, they are renting Cadillacs, and the people in the congested inner city areas are renting Pintos and existing rate structures do not take that into account.

Also, larger residential customers have much more air-conditioning load and air-conditioning creates all sorts of problems in costs.

Again, I would make another analogy with Mr. Thompson's analogy, and that is that some automobile companies' rental agencies have a lower weekend rate than they do during peak business hours during the week. And I would say that again, the poor and the small consumers in the city are renting the cars on the weekends rather than during the middle of the week because they do not use as much air-conditioning.

What is needed at this point are some studies to clarify the facts.

The People's Counsel attached to the Public Service Commission staff would be in an ideal position to get such data from the utilities on an ongoing basis.

I would point out that the ordinary intervenors and other witnesses do not have easy access to such data and do not have the necessary ongoing relationship with a utility to obtain proper data.

I do not believe as is often contended by utilities, that such studies are prohibitively expensive. By using sampling techniques and by avoiding the common practice of allocating every last dollar, I think very useful results can be obtained rather inexpensively.

At the same time, studies should also be carried out to determine whether the rate differences between different customer classes for example, residential versus large commercial customers are justified.

In this connection, there appears to be some chance that the Commission will order Washington Gas Light in the current case to do a class business cost study. Unless the Commission takes an active role in specifying what this study should include, very little useful information relative to rate structure will be derived.

An economic analysis section within the Commission staff in conjunction with the People's Counsel could help insure that this study is not conducted along the traditional but largely meaningless lines.

I should also add that Washington Gas Light, this should be the first class of business cost of service study that Washington Gas Light has conducted in its entire history, which I guess extends over 100 years.

PEAK PRICING

Mr. WELLS. The time of day metering concept, peak pricing, is one that is gaining ground and could help slow the increase in electricity costs. The basic idea is that the costs of meeting peak electricity demands are much more expensive than those of supplying offpeak power.

The utility could use special metering equipment to report the peak or offpeak usage consumed, where this will reduce peak usage and help flatten demands, so that the old plant is used more efficiently and thus a very expensive new plant is not required.

There are some questions about whether the sayings will offset the costs of the additional meters.

Econometric estimates of the price elasticity of demand are required.

On the other hand, about 150 of the largest customers of Pepco are metered in such a way that detailed records of usage are compiled throughout the day and throughout the year for that matter.

There is no reason these customers should not be charged higher rates for peak usage. Right now, Pepco does have a very limited form of peak pricing in place now for these very large customers, but it is quite inadequate.

As I understand it, Pepco's objections to this proposal are that it would disrupt the customer too much and there is little price response among these customers anyway, especially since many of these customers have already instituted energy conservation programs.

I might add that they have never conducted their own econometric analysis to determine that. I disagree with these arguments and would hope for a fairly rapid action in this matter if a people's counsel is established.

I would also contrast that with a statement on page 9 made by Mr. Thompson in which he says well, we are looking at the matter. It had the data for a long time. They could have moved over into a peak load pricing system all along.

NUCLEAR POWER

Another matter which a people's counsel might look into is the proposed Douglas Point nuclear plant. It is somewhat late to get into the hearing but they might be allowed in at this point anyhow because the plant has been delayed a couple of years.

The questions a people's counsel might consider are, do we need such a plant and what would be the impact on District of Columbia customers.

The capital costs of the plants are now estimated at about \$1.4 billion or about \$500 for every person living in the Washington metropolitan area.

Mr. ADAMS. How much?

Mr. WELLS. It is \$500 per person, every man, woman, and child and that includes people in Virginia as well who will not be served in that plant. In view of these magnitudes I question whether Pepco has investigated their capacity requirements, and the need for this plant adequately.

Currently, Dr. Mark Sharefkin also of Resources for the Future, and myself, are engaged in such an analysis on behalf of the Sierra Club, the Prince Georges Environmental Coalition and the Environmental Defense Fund.

Our arguments are essentially that if we had a provision in Pepco's pricing and if we considered elasticity of demand and responsiveness of demand to pricing through an econometric analysis we might not need that plant at all.

That could save us all a lot of money from the very high bills that are coming at us.

PEOPLE'S COUNSEL SERVICES

While the people at Pepco had been very cooperative in supplying data in this matter and have even assembled a special set of data

on magnetic tape for econometric analysis, people's counsel would have had far easier access to such data and could continue such analyses on an on-going basis. The magnitude of the analysis involved, the sneer work of it and the importance of this nuclear plant demanded more resources than that of two economists working on the problem in their spare time, be dedicated to it.

A people's counsel with a competent staff should be involved in this licensing procedure. In addition to the current averaged in approach to ratemaking it is fairly likely that District of Columbia customers will pay more than their equitable share of the Douglas Point plant if it is built.

If in the future most of the growth occurs in the suburbs in Maryland that plant will be built for suburban customers, but the very high cost of that plant will be paid to a disproportionate extent by District of Columbia customers.

I am convinced that this very same thing has happened and will continue to happen with respect to Washington Gas Light supplies.

HIGH-COST GAS

High-cost gas is being purchased by Washington Gas Light primarily for the sake of suburban customers, but through the averaging mechanism District customers end up paying more than their fair share and I have addressed this problem at great length in my direct testimony submitted in the current case, Formal Case 610.

ADVERTISING

In addition, I think there are a number of other issues which the people's counsel might address as well. Mr. Alexander mentioned a number of them. For example, advertising. I fully agree with Mr. Alexander in terms of the problems with Pepco and Washington Gas Light in their advertising. They have come a ways, but they have a lot farther to go.

They could also look at late payment charges, deposit policies, corporate donation policies, and employment practices.

Thank you.

That ends my statement.

Mr. ADAMS. Thank you, Mr. Wells, for an excellent presentation and we will go to questions later.

Now, I would like to call on Dorothy Maultsby of the Lamond-Riggs Citizens Association.

Ms. Maultsby.

STATEMENT OF DOROTHY MAULTSBY, PRESIDENT, LAMOND-RIGGS CITIZENS ASSOCIATION AND CHAIRPERSON, SPECIAL CITIZEN COMMITTEE FOR INVESTIGATION OF SOARING UTILITY COST IN THE DISTRICT OF COLUMBIA

Ms. MAULTSBY. Good morning, Mr. Chairman, members of the subcommittee.

I am Dorothy M. Maultsby, president of the Lamond-Riggs Citizens Association and chairperson, Special Citizen Committee for Investigation of Soaring Utility Cost in the District of Columbia. On

behalf of the committee, may I extend to you our sincere appreciation for the keen interest you have taken in the plight of citizens of the District of Columbia relative to questionable electric rate increases.

BACKGROUND

The problem of questionable utility rates has plagued the citizens of the District of Columbia for quite some time. Much frustration has been experienced over the inability of citizens to meet their basic obligations due to unmanageable rate hikes.

The problem surfaced on Sunday, August 11, 1974. A telephone poll of the citizens of the Lamond-Riggs Community revealed the fact that electric bills rose as much as 600 percent between June 1974 and July 1974. Over 50 residents were contacted, most of whom had a 90-percent increase over the month of June. Bills ranged from \$29.34, \$17.86, \$45, and \$30.60 to \$238.43, \$105.60, \$125.26, and \$133.29, respectively. Documentation of these figures are shown in attachment No. 1. Dirty and unreadable meters were also discovered. Meters were not read, yet monthly assessments did not reflect "estimates." In several instances, residents were on vacation for several weeks during the billing period only to return to find huge electric bills when only a minimum amount of electricity was used. Also discovered were electric bills which were 50 percent greater than gas bills yet 95 percent of the appliances in the home are run by gas.

Citizens of the community questioned the accuracy of the bills. They also labeled the billing practices inaccurate, inequitable, and insufficient.

As a result of these concerns, a meeting was called on August 19, 1974, to discuss the issue. Representatives of the Potomac Electric Power Co. were invited. During the meeting, the fact that questionable billing practices were taking place throughout the community was evident.

COMPLAINTS TO AGENCIES

To further reiterate concern over the matter, a press release was adopted by the citizens present. The release consisted of nine requests made to the District of Columbia City Council, the District of Columbia Public Services Commission, the Federal Power Commission, and the Potomac Electric Power Co. (See attachment No. 2.)

Following that meeting on August 25, 1974, individual letters were submitted to each of the agencies listed above. (See attachments Nos. 3, 4, and 5.) The correspondence stipulated the exact request made to individual agencies in the press release. Of those requests, there was a specific call to the Public Service Commission and the District of Columbia City Council to hold a public hearing to air complaints of District of Columbia residents relative to unfair billing practices by Pepco. Additionally, the Public Service Commission was requested to make an immediate investigation of the unfair billing practices by Pepco. Also there was a citizens' call to the Public Service Commission for an immediate and indefinite moratorium on all rate increases requested by the Potomac Electric Power Co. in the District. Unfortunately, members of the Public Service Commission have not extended the concerned citizens of the District of Columbia the courtesy of a reply. The requests have been completely ignored.

As of this date, there have been no scheduled hearings by either the District of Columbia City Council or the Public Service Commission to hear the citizens of the District of Columbia who are continuously besieged with questionable and unfair billing practices.

The Potomac Electric Power Co. did, however, meet with the Citizens Committee on August 27, 1974, to discuss the issue. At that time, additional requests for concrete information were made to the Potomac Electric Power Co. (See attachment No. 6.) The Public Service Commission was also requested, at that meeting, to furnish the committee with documented evidence of the rate increase hearings, the number of people in attendance and the specific individuals representing the citizens of the community.

The Commissioners were also requested at the meeting to furnish the Citizens Committee with the maximum cutoff for the fuel adjustment increase. This specific information has not been received.

My statement was prepared prior to receipt of the information. Mr. Chairman, one day after the announcement of your committee hearings on electric rates we received a very brief letter from the Public Service Commission stating that the transcripts were prepared and we could pick them up.

Mr. ADAMS. Have you received them yet?

Ms. MAULTSBY. Yes; I have them. But they are 10 volumes, to which I will refer in my statement, of 1,180 pages and I think we received them; well the data is in there, and we have not had the opportunity to go through them.

Mr. ADAMS. Thank you.

Ms. MAULTSBY. Other information pertaining to the hearing was received by the committee in the form of a transcript, this is the Public Service Commission, on September 23, 1974, following correspondence addressed to me from the Executive Secretary, Public Service Commission dated September 18, 1974, and that is attachment No. 7.

This is the first and only correspondence received from the Public Service Commission concerning our requests. It might be noted that the transcripts consisted of 10 copies or 1,108 pages of typewritten material.

The Citizens Committee has not had time to review the documents and no guidance was given by the members of the Public Service Commission.

PEPCO RATE CASES

The documents accompanying the transcripts revealed, however, that during the hearing on the application for Pepco rate increases on November 16, 1973, District of Columbia consumers were not adequately represented. The Center City Community Corp., Community Council and Friendship House which is another Neighborhood Service Agency, were the only citizen interest groups represented. (See attachment No. 8 for appearances.)

Attachment No. 9 reflects the results of those hearings, with no true consideration given to the interest and welfare of the citizens who were to undertake part of the financial responsibility for rate increases.

We wish to further point out, that according to news reports, the Washington Post, August 28, 1974, Mayor Walter Washington requested the Public Service Commission to conduct an immediate investigation of Pepco's billing practices. The response from the Commission was "that no inquiry into higher utility cost is underway. That the Agency does not even have the manpower to carry out such investigation." (See attachment No. 10.)

The irony of such response is that the Public Service Commission, according to former PSC officials, has the authority to recruit adequate personnel to undertake such investigation and bill the Potomac Electric Power Co. for such services.

The Commission's chief accountant did however, assist the PSC Commissioners in explaining higher electric bills to the Citizens of Lamond-Riggs, all to the advantage of Pepco.

It would be very easy to continue to bring to you examples of the gross injustices imposed upon citizens by the Potomac Electric Power Co., that is, counting the number of air-conditioning units in windows of homes, constantly telling citizens whose bills rose 90 to 100 percent that their bills were correct; pretending to read meters while standing several feet away from the meters; omitting reading meters on a monthly basis.

And I would like to say here, Mr. Chairman, that I can produce evidence from citizens who have seen these and other practices taking place. I did omit dirty light meters which could not be read which had to be cleaned prior to reading.

We think such proceedings are highly unnecessary. The documentation and response to our request for clarification of Pepco's billing practices are unsatisfactory. The burden of responsibility is placed squarely on the shoulders of the citizens by Pepco.

Further, the Public Services Commission has, throughout our entire encounter with the Potomac Electric Power Co., (1) been nonresponsive to the citizens whom they are appointed to serve; (2) has catered to the whims and wants of big business—namely, the Potomac Electric Power Co.; (3) has shown no interest nor put forth any initiative on its own to review or consider the plight of the consumer; (4) has displayed a lackadaisical and arrogant attitude in the disposition of their duties and responsibilities as related to consumer needs and problems.

Such attitude on the part of the Public Service Commission causes grave concern on the part of citizens of the Washington Community. It is evident that there is specific need for immediate action to be taken so that the interest of consumer affairs in the District of Columbia be properly distributed among consumers, businesses and government and the like.

RECOMMENDATIONS

We therefore recommend the following:

1. An immediate and indefinite moratorium on all rate increases requested by the Potomac Electric Power Co., until the company can fully justify and substantiate the huge increases in charges to District of Columbia residents.
2. The immediate establishment, by the Public Service Commission, of a maximum cut-off for fuel adjustment increase. It is recommended that the charge remain constant with the July rate until the charges are reviewed.

3. A complete and open investigation of the Potomac Electric Power Co.'s operational activities to determine the extent of unfair consumer charges and make immediate correction of same.

4. An immediate cutback, by order of the Public Service Commission or a 75-percent decrease in the \$450,000 Pepco advertising budget. This amount for advertising hardly seems necessary since consumers must use electricity. Effective public relations stems from efficient service and fair billing practice—not radio and television brainwashing.

5. That the decision in PSC Formal Case 596, December 3, 1973, wherein Pepco was granted by PSC an increase in bills for monthly consumption in excess of 400 kilowatthours be reviewed and the level of kilowatthours be adjusted to lower the cost of consumption of kilowatthours for summer—that is currently 400 kilowatthours—and winter—and that is currently 1,500 kilowatthours—to a rate that is fair and just.

6. That the Potomac Electric Power Co. inform consumers 60 days in advance of any proposed changes or establishments of rate, schedules, pending increases, special adjustments clauses and other operational changes that would result in increased charges to the consumer. Note: This method would eliminate the need for \$400,000 worth of television public relations activities. Such information could be easily disseminated by mailing with monthly bills.

7. An announcement by the Public Service Commission of all requests for utility rate increases or other changes in utility operations that would affect the consumer. The announcement should be made 60 days in advance to the chairman of the City Council, the D.C. Consumer Agency and the District of Columbia Federation of Civic Associations. The City Council would be responsible for disseminating the information to all organizations and affected citizens.

8. That prior to any rate increase in public utility cost in the District of Columbia, the Public Service Commission would hold public hearings on such requests. Attendance at the hearing should reflect adequate consumer representation.

9. Monthly meter readings by the Potomac Electric Power Co. on a continuous basis. Note: It is evident from past Pepco performance that the meters are not read monthly. And I do have documentation from newspapers to that affect.

10. A quarterly report to the people of the District of Columbia by the Public Service Commission, wherein an accounting of the activities of the Commission are revealed. An annual meeting to be attended by utility users should be established by PSC to explore problems, and to determine future courses that are in the best interest of the community citizens and businesses.

PEOPLE'S COUNSEL

Finally, we endorse your recommendations for a people's counsel in the District of Columbia. The fact that the citizens of the District of Columbia have not been adequately considered or represented in the activities surrounding utility cost is quite evident.

Additionally, the current Public Service Commission organizational structure is not designed to take into consideration the interest of the consumers of the District of Columbia.

Two members are Presidential appointees and one member is appointed by the Mayor. This structure allows members of the Commission to labor under the idea that they are responsible to those who appoint them.

AMENDMENT PROPOSED

We therefore recommend that the people's counsel be elected by the people of the District of Columbia.

Under the concept of home rule, such arrangement would afford the people of the District of Columbia true representation. The counsel, it is felt, would work more effectively in the interest of those who elected him/her. We are in complete accord with other recommendations contained in the bill.

We would also accept an appointment until the mechanics of the election of a people's counsel could be worked out.

We wish to again thank you for your interest.

Hopefully, we have provided you with the views of the citizens of the District of Columbia who are suffering from the unfair billing practices of the Potomac Electric Power Co. and the inactivity of the Public Service Commission.

Thank you.

Mr. ADAMS. Thank you, Ms. Maultsby, for an excellent statement.

Is there any objection to the attachments that are attached to your formal statement being included in the record at the conclusion of Ms. Maultsby's testimony?

Is there any objection from members of the committee?

Mr. ULMER. Mr. Chairman, it would be most helpful, if the information is available, if Ms. Maultsby could supply the kilowatt-hour usage in the two columns between June and July.

Ms. MAULTSBY. All right. I do have that. It might be contained in your statement from the Potomac Electric Power Co. which we disagree with.

We feel it is incorrect.

Mr. ULMER. I notice in a few cases you do supply that information, but in the majority of them that information is not available.

Ms. MAULTSBY. All right then. Excuse me, sir. If I might be clear, the attachment 1 where the kilowatthours are not included, is that what you are talking about?

Mr. ULMER. Yes. I am talking about attachment 1 entitled "Pepco Consumer Problems (electric bills)" that lists the individual electric bills by family.

Ms. MAULTSBY. Yes sir. And we will have additional bills because I might mention that in accordance with the chairman's request that we conserve energy we have put forth concerted effort through the 51 civic organizations throughout the District to do just that.

I am still receiving calls that light bills are continuing to rise but we are putting forth that effort and I will supply that information.

Mr. ULMER. Thank you, Mr. chairman.

Mr. ADAMS. Thank you, Ms. Maultsby.

Without objection, the attachments will be included at the end of your statement.

[The attachments referred to follow:]

LAMOND-RIGGS CITIZENS ASSOCIATION,
Washington, D.C., August 19, 1974.

The utility bills of the citizens of the Lamond-Riggs community have increased at an alarming rate. Particular reference is made to the activities of the Potomac Electric Power Company. Residents constantly report electric bills that double or triple the previous month's assessment. Dirty and unreadable light meters have been discovered. Meters go unread yet assessments do not reflect estimates. Residents who are on vacation for several weeks return to find their electric bills much greater than the previous month, yet services were utilized at the minimum rate. Electric bills have been found to be more than 50% greater than gas bills yet 95% of appliances in the home are run by gas.

The Lamond-Riggs Citizens Association, which represents approximately 4,000 families, is sensitive to the flood of calls and expressed concern of the citizens of the community. The billing practices of the Potomac Electric Power Company are questionable. The gross inaccuracy, inequitable and insufficient consumer services rendered by the company can no longer be tolerated. PEPCO's inflationary practices are unwarranted. Therefore, the Lamond-Riggs community calls for the following actions of relief:

1. A call by the Public Services Commission of D.C. for an immediate and indefinite moratorium on all rate increases requested by the Potomac Electric Power Company in the District of Columbia.
2. An immediate investigation by the Public Services Commission of the D.C. of PEPCO's unfair billing practices.
3. A public hearing co-sponsored by the Public Services Commission of the D.C. and the D.C. City Council to air complaints of citizens of the District who are unfairly charged by PEPCO for services rendered.
4. An open investigation by the Federal Power Commission (FPC) of PEPCO billing practices and consumer services to determine the extent of compliance with the laws of the Commission.
5. The immediate placements by the Potomac Electric Power Company of experienced, competent and reliable meter readers to render meter reading services to the community.
6. The return of actual monthly meter reading practices by the Potomac Electric Power Company until all investigations of unfair billing are made, hearings are completed and findings are made public by the two commissions.
7. The establishment of a D.C. City Council Special Ad Hoc Committee to monitor the billing practices of the Potomac Electric Power Company on a continuous basis. The composition of the Committee should encase at least one community resident from each voting ward in the District of Columbia. The Committee members should represent all segments of the Ward.
8. The identification of the names of assigned meter readers on each monthly electric bill rendered by Pepeco.
9. An immediate inspection of all D.C. light meters over 15 years old or otherwise questionable; a report of the condition of the meters and immediate replacement of damaged or otherwise unworkable meters, at no cost to the consumer.

These requests are made in the best interest of the Lamond-Riggs community and the future of the Potomac Electric Power Company.

For additional information please contact Mrs. Dorothy M. Maultsby, President of the Lamond-Riggs Citizens Association. Home XXXX or Work 245-7056.

LAMOND-RIGGS CITIZENS ASSOCIATION,
Washington, D.C., August 23, 1974.

Mr. W. REID THOMPSON,
Chairman, Board of Directors,
Potomac Electric Power Company, Washington, D.C.

DEAR MR. THOMPSON: Reference is made to our oral request for your Agency's representation at a special meeting of the Lamond-Riggs Citizens Association on Monday Evening, August 19, 1974. The meeting, which was held at the Christian Reformed Church, centered around soaring electric bills submitted to community residents by the Potomac Electric Power Company. Your representative, Mr. Hal Stroube was in attendance. We were not, however, satisfied with the responses he gave concerning our astronomical electric bills. Also Mr. Stroube informed us at the meeting, that our electric meters were read each month. His later statement in the Washington Post newspaper on August 21, "that PEPCO has a policy of reading meters every six months," creates concern for his ability to communicate effectively with our Committee. Newspaper accounts of the meeting are attached,

along with a ten point Press Release approved by the Lamond-Riggs Community residents.

Specific requests made to your organization in the press release are as follows:

- a. The immediate placements by the Potomac Electric Power Company of experienced, competent and reliable meter readers to render meter reading services to the community.
- b. The return of actual monthly meter reading practices by the Potomac Electric Power Company until all investigations of unfair billing are made, hearings are completed and findings are made public by the two commissions.
- c. The identification of the names of assigned meter readers on each monthly electric bill rendered by PEPCO.
- d. An immediate inspection of all D.C. light meters over 15 years old or otherwise questionable; a report of the condition of the meters and immediate replacement of damaged or otherwise unworkable meters, at no cost to the consumer.
- ¹ e. Substantiation by PEPCO that the rates are the same for the entire Metropolitan Area.

Also attached is a list of citizens who questioned the validity and accuracy of their electric bills. Please review these items carefully and be prepared to respond to them when we convene our meeting with your agency and the D.C. Consumer Agency.

If there are questions regarding the contents of the press release or the citizens list, you may contact me on 245-7056 (day) or LA6-5032 (evening).

Your cooperation and consideration of our request will be highly appreciated.

Sincerely,

DOROTHY M. MAULTSBY, *President.*

Attachments: As stated.

AUGUST 25, 1974.

Mr. JOHN A. NEVIUS,
Chairman, District of Columbia City Council, District Building, 14th & E Streets, N.W., Room 507, Washington, D.C.

DEAR MR. NEVIUS: Reference is made to our oral request for your Agency's representation at a special meeting of the Lamond-Riggs Citizens Association on Monday Evening, August 19, 1974. The meeting, which was held at the Christian Reformed Church, centered around soaring electric bills submitted to Community residents by the Potomac Electric Power Company. Accurate newspaper reports of the meeting are attached, along with a ten point press release approved by Lamond-Riggs Community residents. Also attached is a list of citizens who questioned the validity and accuracy of their electric bills. Specific requests made by the Lamond-Riggs Citizens to the D.C. City Council are as follows:

- a. A public hearing co-sponsored by the Public Services Commission of the District of Columbia and the D.C. City Council to air complaints of citizens of the District who are unfairly charged by Pepeco for services rendered.
- b. The establishment of a D.C. City Council Special Ad Hoc Committee to monitor the billing practices of the Potomac Electric Power Company on a continuous basis. The composition of the Committee should encase at least one community resident from each voting ward in the District of Columbia. The Committee members should represent all segments of the Ward.

It is respectfully requested that you review these items carefully. Also a close review of the citizens list is important. Please inform us of your response to our requests.

If there are questions regarding the attached items please contact me on 245-7056 (day) or LA6-5032 (evening).

Sincerely,

LAMOND-RIGGS CITIZENS ASSOCIATION,
DOROTHY M. MAULTSBY, *President.*

AUGUST 25, 1974.

Mr. WILLIAM R. STRATTON,
Chairman, Public Service Commission, Room 204, 1625 I Street, N.W., Washington, D.C.

DEAR MR. STRATTON: Reference is made to our oral request for our Agency's representation at a special meeting of the Lamond-Riggs Citizens Association on

¹ Submitted and approved at the August 19, 1974 meeting.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., September 18, 1974.

Mrs. DOROTHY M. MAULTSBY,
Chairman, Lamond-Riggs Citizens Association, Washington, D.C.

DEAR MRS. MAULTSBY: The Commission now has available for you the transcript covering the last rate case of the Potomac Electric Power Company (Formal Case No. 596). Will you kindly call me and arrange to have it picked up from this office.

I am including herewith copies of this Commission's orders (Nos. 5614, 5616, 5617) covering this case which I trust will be helpful and informative to you.

Sincerely yours,

DONALD E. CROTSLEY,
Executive Secretary.

(Order No. 5614)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., November 16, 1973.

(Formal Case No. 596)

In the matter of application of Potomac Electric Power Company for an increase in its rate of return and for an increase in rates for retail electric service.

FINDINGS, OPINION AND ORDER

Before: H. Mason Neely, Acting Chairman and Douglas N. Schneider, Jr., Commissioner.

Appearances: C. Belden White, II and Linus H. Deeny, Assistant Corporation Counsel, Thomas J. O'Reilly, Agent, for the Public Service Commission; Cameron F. MacRae, Jack McGregor, Edward A. Caine, and Carl D. Hobelman for the Potomac Electric Power Company; Renn C. Fowler, Woodrow D. Wollesen, William Castleman, II, and Maurice J. Street, for the General Services Administration; Paul H. Ford, Samuel S. Hollingsworth, Henry F. Krautwurst and Paul H. Harrington, for the Washington Gas Light Company; Mose Lewis, III, and Clifford G. Trott, for the Washington Metropolitan Area Transit Authority; W. Frank Stickle, Jr. for Safeway Stores, Inc.; John C. O'Brien for Friendship House Association, Inc.; Peter H. Shuck for Consumers Union of the United States, Inc. and Josephine D. Butler; Susan Freeman Schapiro for Center City Community Corporation; Charles Jay Pilzer and Neil J. Newman for the Apartment House Council.

(Order No. 5617)

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA,
Washington, D.C., December 3, 1973.

(Formal Case No. 596)

In the Matter of Application of Potomac Electric Power Company for an increase in its rate of return and for an increase in rates for retail electric service.

ORDER

Pursuant to our Order No. 5614, issued November 16, 1973, Pepco prepared and filed on November 26, 1973 proposed rates and revised late payment provisions. By Order No. 5616 issued November 30, 1973, we rejected Pepco's proposed rate schedules as not in conformance with the requirements of Order No. 5614 and directed Pepco to prepare and file new schedules. Pepco has now done so, and these schedules are properly before us for consideration.

For the reasons stated in Order No. 5614, we directed Pepco to revise its late payment provisions and to design rate schedules which would produce no increase in charges for residential use of 400 Kilowatt-hours per month or less. We also rejected the contentions of the Apartment House Council that rate schedules

should be designed to produce an approximately equal rate of return from all classes of customers, and the GSA argument that any necessary increases be spread across the board on a uniform percentage basis, with Government customers being served at the average rate of return.¹

We have reviewed the rate schedules submitted by Pepco (Appendix-I to this Order) and the revised late payment provisions (Appendix II to this Order) and find them to be in compliance with our directions and conclusions. *We also find that the existing rate schedules are unjust and unreasonable, in that they do not afford Pepco an opportunity to earn a fair rate of return, and that the rate schedules and late payment charge revisions now before us are and will be just and reasonable.* We will therefore allow Pepco to place these schedules and revisions in effect. The rate schedules shall be effective with respect to retail electric service furnished by Pepco on and after December 8, 1973. The revised late payment provisions shall be effective with respect to bills for service issued on and after January 8, 1974.

Therefore, It Is Ordered:

Section 1. That the revised rate schedules filed by the Potomac Electric Power Company on November 30, 1973 (Appendix I of this Order) are hereby approved and found to be just, reasonable and non-discriminatory, and shall become effective for service furnished to customers in the District of Columbia on and after December 8, 1973.

Section 2. That the revised late payment provisions (Appendix II of this Order) shall be effective with respect to bills for service issued on and after January 8, 1974.

By the Commission:

H. MASON NEELY,
Acting Chairman.

[From the Washington Post, Aug. 21, 1974]

VEPCO SEEKS RATE RISE OF 23 PER CENT

(By Paul G. Edwards)

Virginia Electric and Power Co. asked yesterday for an emergency increase of more than 23 percent in electricity charges, which have already gone up almost 40 percent in little more than a year.

If the new rates are approved by the Virginia Corporation Commission, the average Northern Virginia residential customer would pay a summertime home electricity bill of \$58.58 a month, compared with \$44.38 at present and \$32.18 in June, 1973.

The average Northern Virginia customer uses 1,341 kilowatt hours of electricity a month. This is enough power to fuel a household with a number of major electric appliances including several window air conditioners, an electric range, washer, dryer, refrigerator, freezer and possibly water heater.

Veeco President Justin Moore Jr. said the steep rate increase is needed to rescue the company from what he called "the economic crisis of recent months." He also said that even if Veeco is granted the full increase on an emergency basis, it will ask for even higher rates when it comes before the State Corporation Commission for an annual review of charges next spring.

Veeco officials have blamed their economic crisis on sky-rocketing fuel costs—most of which are passed on to customers automatically—and huge increases in construction costs and interest rates.

The spiraling interest rate levels and construction inflation have hit the company in the early stages of a \$3 billion power plant expansion program planned for the next five years.

As a result of its soaring costs, Veeco reported its first monthly operating loss in memory last month.

The news of the \$1 million loss in July, compared with a \$10.5 million profit in July, 1973, followed by about two months the down rating of Veeco bonds by major bond rating agencies. The lower bond ratings mean that investors demand higher interest rates for money lent to finance the company's power plant construction. Veeco paid 11 per cent on \$100 million in construction bonds sold last month.

¹ The GSA "Application For Reconsideration," filed with the Commission on November 28, 1973, will be the subject of a separate order.

The company earlier had announced deferral of \$100 million in construction projects planned for 1974 and yesterday it said that the 1975 construction budget will be reduced by \$181 million to \$476 million.

Veeco's huge construction budget, the company says, is necessary to meet ever rising demand for electric power, especially during peak air conditioning months. Adding to construction costs is the decision by Veeco to build expensive nuclear power plants instead of oil and coal burning plants as the company expands.

Although nuclear plants are more expensive, Moore said their construction will benefit Veeco customers in the long run. He said the present cost of generating electricity with coal and oil is almost six times higher than the cost of using nuclear fuel.

The company said it is asking for a 22.5 per cent rate increase across the board to be effective Oct. 1. The Corporation Commission said the requested residential rate increase would total 23.2 per cent for all but small users, whose bills would go up by slightly larger percentages.

The proposed rate increase comes hard on the heels of a 2.2 per cent rise in residential charges that became effective July 1 and a 4.6 per cent increase at the beginning of the year.

The proposed increase in the basic utility rate actually is about 29 percent, the company said. The smaller increase of 22.5 percent calculated by Veeco or 23.2 percent calculated by the State Corporation Commission results from including the present oil and coal cost pass-through in the bills. No change is proposed in the pass-through formula.

The 29 percent increase approximates the total of all rate increases granted almost annually to Veeco since 1969. The five years of steady rate increases that began in 1969 followed almost 20 years of stable and even declining electric rates that resulted from increased plant productivity.

A State Corporation Commission spokesman said that under emergency rate application procedures, the three-member commission will hold a hearing early next month on the Veeco request and then grant all, part or none of the increase. Money collected as a result of higher emergency rates must be segregated by Veeco and refunded to customers if the charges are found to be unreasonable in the next regular rate hearings next year.

Following the summertime residential bills (based on July through October meter readings) under past, present and proposed Veeco rates for usage of 600, 1,341 and 2,500 kilowatt hours. Rates are slightly olwer in winter.

600 KILOWATT HOURS

June, 1973, \$15.55; Now, \$19.99; Proposed \$24.63.
(Fuel pass-through has risen from 28 cents to \$4.16.)

1,341 KILOWATT HOURS

June, 1973, \$32.18; Now, \$44.38; Proposed, \$58.58.
(Fuel pass-through has risen from 63 cents to \$9.29.)

2,500 KILOWATT HOURS

June, 1973, \$58.19; Now, \$82.55; Proposed, \$101.70.
(Fuel pass-through has risen from \$1.18 to \$17.33.)

POTOMAC ELECTRIC POWER CO.,
Washington, D.C., September 14, 1974.

Mrs. DOROTHY M. MAULTSBY,
*Chairman, Lamond-Riggs Citizens Association,
Washington, D.C.*

DEAR MRS. MAULTSBY: In accordance with the agreement reached during our meeting at the District Building on August 27, 1974, the following actions have been taken by Potomac Electric Power Company ("PEPCO"):

I. METER TESTS

We have tested the meters of ten of those customers whose names appear on the list provided to us entitled "PEPCO Consumer Problems" and dated August 19, 1974. We have also analyzed the billing of these customers to determine

if any irregularities occurred, and have discussed with the customers anything that we discovered that may be causing excessive electric consumption.

The meters were instrument tested in accordance with regulations set forth by the Public Service Commission of the District of Columbia. In each case the meter was found to be accurately recording, within allowable limits, the electricity consumed. A report of the test results are attached as Exhibit 1.

In the case of one customer we noted an apparent billing irregularity. In this case no bill was rendered in the normal manner in the month of July. The August bill therefore was exceptionally large, being some fifteen times larger than the June bill. In the course of our investigation we determined that a meter reading had been obtained for the July bill but that the consumption was so great we did not bill the customer, believing that there might have been a meter reading error. The reading obtained the following month confirmed the prior months' reading and the customer was rendered a bill covering a two-month period. The Company regrets and apologizes for the fact that it rendered the August bill without an explanation of what had occurred.

At the time of our inspection of aforementioned customer's home, we found the air-conditioner to be running even though the thermostat was in the "Off" position. We further found that the air-conditioner coils were frosted over, thereby preventing the passage of air. These conditions explain the large increase in consumption.

In no other case did we find any indication of a billing irregularity. In some cases we found refrigerator or freezer door gaskets that were not tight, but in general the consumption could be readily justified by the operating appliances and devices.

II. PERSONAL CONTACT OF CUSTOMERS

We have personally contacted each of those customers whose names appear on the list provided and discussed their bills with them. It is our belief that the conversations between the various members of the Lamond-Riggs Citizens Association and our Consumer Information representatives satisfactorily answered your associates' questions. Each telephone contact was followed by a letter to the customer giving further information on the "Fuel Cost Adjustment" that has so significantly increased all of our customers' bills. A copy of a typical letter is attached as Exhibit 2.

III. RESPONSES TO SPECIFIC REQUESTS AND QUESTIONS

In response to the various specific requests and/or questions presented (A) in your letter of August 23, 1974, to Mr. Thompson, (B) in the "Additional Request to PEPCO" dated August 27, 1974, and (C) by the members of the Lamond-Riggs Committee during our meeting, the following is presented:

(A) Responses to specific requests made in letter of August 23, 1974 to Mr. W. Reid Thompson. A copy of said letter is attached as Exhibit 3. (The lettered numbers of the responses below correspond to the lettered numbers of specific requests listed in said letter.)

(a) To the best of its ability the Company employs only competent and reliable personnel. More than 70 percent of the Company's meter readers have a minimum of one year's experience.

(b) The Company has not departed from its endeavor to read all meters on a regular monthly basis.

(c) The Company maintains records as to which meters are read by which employee, but sees no value in identifying the meter reader on the monthly bill, and thereby rejects this request.

(d) Single phase electric meters are tested in accordance with a Selective Sampling Plan approved by the Public Service Commission. The plan recognizes that watt-hour meter accuracies drift toward under-registration rather than toward over-registration during the aging process. The requested testing of all meters more than fifteen years old would be an unwarranted and unjustifiable expense. The Selective Sampling Plan provides for replacement of faulty meters at no cost to the customers.

(e) Rates in the District of Columbia, Maryland, and Virginia are approved by the appropriate regulatory authorities in each jurisdiction following extensive public hearings. The rates in the three jurisdictions are not the same, but for a given class of customer, e.g., Residential, the rates are the same within each jurisdiction.

(B) Responses to additional written requests presented at meeting of August 27, 1974. A copy of said additional requests is attached as Exhibit 4. (The numbers of the responses below correspond to the numbers of said requests.)

1. A comparison of average monthly bills (exclusive of sales tax) and kilowatt-hours for Maryland, Virginia, and the District of Columbia for the billing months of June and July 1973 and June and July 1974 is below. The averages presented are those of residential customers in the areas served by Pepco.

	June 1973		June 1974		July 1973		July 1974	
	Dollars	Kilo-watt-hours	Dollars	Kilo-watt-hours	Dollars	Kilo-watt-hours	Dollars	Kilo-watt-hours
District of Columbia.....	12.66	434	16.03	411	16.94	622	20.19	524
Maryland.....	22.27	818	28.94	755	31.94	1,254	36.89	991
Virginia.....	8.91	280	9.99	235	12.45	424	13.95	342

2. Average kilowatt-hour consumption quoted by the media, as well as those indicated in the preceding answer, are merely the total kilowatt-hours consumed by all residential customers within a given area divided by the number of such customers. The average consumption cannot be related to any particular customer. For the billing month of August 1974 the listed complainants from the Lamond-Riggs Citizens Association used an average of 1604 kilowatt-hours. However, the consumption of the individual complainants during that month ranged from a low of 310 to a high of 3290 kilowatt-hours. The amount of energy consumed is dependent upon the individual consumer's particular electrical appliances and devices and his use of them.

3. The requested listing of bills, covering the billing months of June, July and August 1973 and 1974 is attached as Exhibit 5. In the interest of confidentiality, only account numbers are shown for identification. We selected customers 4, 6, 13, 20, 21, 41, 44, 46, 47, and 60 for the meter tests referred to in Section I on Page 1 above.

4. A copy of the Company's Prospectus dated September 9, 1974 is attached as Exhibit 6. This Prospectus provides all pertinent financial data requested.

5. The Company is the sole supplier of electricity to the Southern Maryland Electric Cooperative. The rates applicable to these sales for resale are subject to the approval of the Federal Power Commission. The Company is a member of the Pennsylvania-New Jersey-Maryland (PJM) Interconnection. As a member of the PJM PEPCO sells power to and purchases power from utilities serving other communities and states. The rates of charge of such sales are based on a very complex formula directly related to the cost of production. The charge is in excess of the cost of production.

(C) Specific oral questions asked by members of the Lamond-Riggs Citizens Association during the August 27th meeting.

Question 1. There was an accusation that meters were not read or not read accurately.

Answer. As previously stated, we attempt to read all meters monthly. We are approximately 91 percent effective in this effort. Statistics show that meter reading errors occur less than two times in each 1000 readings.

Question 2. Has there been an increase in the charge for street lighting to the District of Columbia?

Answer. The most recent rate case provided for an increase in the charges for street lighting of 14 percent. All energy for street lighting is subject to the Fuel Cost Adjustment.

Question 3. Why should PEPCO advertise?

Answer. The Company believes that it is obligated to take all necessary steps to keep its customers informed about its construction plans, about ways to conserve energy, and about the effects of inflation, among other things. Advertising is an integral means of such communication, giving us the opportunity to reach the greatest number of our customers at the lowest cost per individual.

Question 4. If a customer pays only a portion of his bill will he be penalized?

Answer. Normally, if a customer pays a portion of his bill, the unpaid balance would be subject to the late payment charge. The Company, however, recognizes the unexpected impact of large increases in electric bills and will consider arrangements, on an individual basis, for time payment and/or waiver of the late payment charge.

Question 5. Clarification of the 400 kilowatthour ruling regarding residential consumption was requested.

Answer. The Public Service Commission of the District of Columbia in Formal Case 596 in 1973, which established the present residential rate, ordered the Company to increase bills for monthly consumptions in excess of 400 kilowatthours only. Consequently, bills for less than that amount of electricity were unchanged in the proceeding. The provision for adjustment for charges in cost of fuel, which is a part of the approved tariff, applies uniformly to all energy billed under the schedule.

Question 6. How much has the cost of oil and coal increased?

Answer. During the past eighteen months the cost of fuel burned in our generating station has nearly tripled.

Question 7. How much major construction is planned by PEPCO in the "near" future?

Answer. As stated in the attached Prospectus (Exhibit 6), estimated construction expenditures will be approximately \$270 million in 1975; \$300 million in 1976; and \$350 million in 1977.

We sincerely hope that the information provided herein, along with that which is attached fully answers your questions. We have provided this information at this time for your review prior to our meeting on September 17, 1974.

Sincerely yours,

CHARLES W. NICHOLSON.

Attachments.

RESULTS OF METER TESTS PERFORMED FOR THE LAMOND-RIGGS CITIZENS ASSOCIATION

Roslyn G. McKill, 721 Jefferson Street, NE, tested September 4, 1974, load at time of test—2,196 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	99.8
Normal load.....	99.7
Heavy load.....	99.4
Average.....	99.6

Jessie C. Fernanders, 5050 11th Street, NE, tested September 6, 1974, load at time of test—3,888 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.2
Normal load.....	99.7
Heavy load.....	99.7
Average.....	99.8

Guy A. Jones, 901 Hamilton Street, NE, tested September 5, 1974, load at time of test—1,000 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	99.8
Normal load.....	99.6
Heavy load.....	99.4
Average.....	99.7

NOTE: In reporting electric meter test results the percent accuracy indicates whether a meter is under-registering or over-registering. For example, if 1,000 kilowatthours were consumed, a 99.8% accurate meter would register consumption at 998 kilowatthours, and a 100.2% accurate meter would register 1,002 kilowatt hours.

Isaac Harris, 210 Oneida Street, NE., tested September 9, 1974, load at time of test—370 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.0
Normal load.....	100.0
Heavy load.....	99.7
Average.....	99.7

Elisha Kornegat, 206 Peabody Street, NE., tested September 4, 1974, load at time of test—550 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.7
Normal load.....	100.2
Heavy load.....	100.2
Average.....	100.3

Waverly L. McNeil,* 5915 3rd Street, NE., tested August 26, 1974, load at time of test—none.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.0
Normal load.....	100.2
Heavy load.....	99.8
Average.....	99.9

Jerome L. Rollins, 5310 Eastern Avenue, NE., tested August 21, 1974, load at time of test—none.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.1
Normal load.....	99.4
Heavy load.....	99.4
Average.....	99.5

Dixie L. Hughes, 500 Nicholson Street, NE., tested September 5, 1974, load at time of test—576 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.0
Normal load.....	100.0
Heavy load.....	99.8
Average.....	100.0

Arthur L. Stephens, 233 Oneida Street, NE., tested September 4, 1974, load at time of test—518 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	99.9
Normal load.....	99.9
Heavy load.....	99.5
Average.....	99.8

Charles M. Howard, 243 Quackenbos Street, NE., tested September 5, 1974, load at time of test—700 watts.

Percentage of accuracy

	<i>Percent</i>
Light load.....	100.2
Normal load.....	99.9
Heavy load.....	99.6
Average.....	99.9

Raymond Branson, 324 Oglethorpe Street, NE., tested September 6, 1974, load at time of test—300 watts.

*Not selected for testing—tested previously at customer's request.

Percentage of accuracy

	Percent
Light load.....	99.6
Normal load.....	99.4
Heavy load.....	99.3
Average.....	99.4

EXHIBIT 2

POTOMAC ELECTRIC POWER Co.,
Washington, D.C., September 13, 1974.

Mr. JOHN DOE,
Washington, D.C.

DEAR MR. DOE: As you are aware, representatives of the Lamond-Riggs Citizens Association and the Potomac Electric Power Company met together in Room 501 of the District Building on August 27, 1974. Also in attendance at this meeting were two Commissioners of the District of Columbia Public Service Commission and several District of Columbia officials. The meeting was conducted under the direction of Mr. William B. Robertson, Director of the District of Columbia Office of Consumer Affairs.

At the conclusion of this meeting the Potomac Electric Power Company agreed to conduct an investigation on the Lamond-Riggs Citizens Association members whose complaints were registered on a listing submitted to the Company at the meeting. In addition, the Potomac Electric Power Company agreed to test the electric meters supplying ten of the registered complaints.

In accordance with our agreement, instrument tests were performed by this Company on ten of the meters serving the Lamond-Riggs Citizens Association members. These tests were administered in accordance with regulations set forth by the District of Columbia Public Service Commission. The results of these meter tests revealed that all ten meters were accurately recording, within allowable limits, the electricity consumed.

In keeping with our promise to contact each Lamond-Riggs Citizens Association member who had registered a complaint, we contacted you on September 13, 1974. It is my understanding that the questions which prompted your original inquiry have now been answered by a representative of our Consumer Information Department. Our Representative also discussed the cost of fuel, both coal and oil, which has increased drastically since the first of this year.

As our fuel costs fluctuate each month so does the "Fuel Cost Adjustment" that appears on your electric service bill. To assist you in having a better understanding of the energy crisis and its relationship with the increase in the cost of fuel, several months ago we enclosed, with our billing, an insert entitled "The Fuel Cost Adjustment And What It Means To You." For your information, I am enclosing a copy of that insert.

To better illustrate the impact that this rising "Fuel Cost Adjustment" has had on your electric service bill, I have compared the August billing period of 1974 with the same billing period in 1973. The charge for 1000 kilowatt hours in the August 1974 billing month was \$41.39 of which \$10.52 was "Fuel Cost Adjustment." For the comparable period in 1973, you used 1390 kilowatthours and were billed for \$36.89 of which only \$.72 was attributable to the "Fuel Cost Adjustment."

You can be assured that we at Pepco are doing everything that we can to keep the cost of electricity at a minimum. Unfortunately, no one could have predicted the impact that the energy crisis has had on the price of electricity. We regret that we have had to increase the price for electricity as much as our customers do but we have no choice but to pay the high price for oil and coal. We make no additional profit from the "Fuel Cost Adjustment," it is merely a means to reimburse us for the additional money we must pay for our fuel.

In conclusion, I can assure you that the past charges for electric service were rendered correctly and that your meter is accurately recording the electricity consumed. We fully understand and sympathize with your concern about the rising costs and hope that this explanation will aid you in analyzing your future PEPCO bills.

Sincerely,

R. McKAY.

EXHIBIT 3

LAMOND-RIGGS CITIZENS ASSOCIATION,
Washington, D.C., August 23, 1974.

Mr. W. REID THOMPSON,
Chairman, Board of Directors, Potomac Electric Power Co.,
Washington, D.C.

DEAR MR. THOMPSON: Reference is made to our oral request for your Agency's representation at a special meeting of the Lamond-Riggs Citizens Association on Monday Evening, August 19, 1974. The meeting, which was held at the Christian Reformed Church, centered around soaring electric bills submitted to community residents by the Potomac Electric Power Company. Your representative, Mr. Hal Stroube was in attendance. We were not, however, satisfied with the responses he gave concerning our astronomical electric bills. Also Mr. Stroube informed us at the meeting, that our electric meters were read each month. His later statement in the Washington Post newspaper on August 21, "that PEPCO has a policy of reading meters every six months," creates concern for his ability to communicate effectively with our Committee. Newspaper accounts of the meeting are attached, along with a ten point Press Release approved by the Lamond-Riggs Community residents.

Specific requests made to your organization in the press release are as follows:

(a) The immediate placements by the Potomac Electric Power Company of experienced, competent and reliable meter readers to render meter reading services to the community.

(b) The return of actual monthly meter reading practices by the Potomac Electric Power Company until all investigations of unfair billing are made, hearings are completed and findings are made public by the two commissions.

(c) The identification of the names of assigned meter readers on each monthly electric bill rendered by Pepco.

(d) An immediate inspection of all D.C. light meters over 15 years old or otherwise questionable; a report of the condition of the meters and immediate replacement of damaged or otherwise unworkable meters, at no cost to the consumer.

(e) Substantiation by Pepco that the rates are the same for the entire Metropolitan Area.

Also attached is a list of citizens who questioned the validity and accuracy of their electric bills. Please review these items carefully and be prepared to respond to them when we convene our meeting with your agency and the D.C. Consumer Agency.

If there are questions regarding the contents of the press release or the citizens list, you may contact me on 245-7056 (day) or LA6-5032 (evening).

Your cooperation and consideration of our request will be highly appreciated.

Sincerely,

DOROTHY M. MAULTSBY, *President.*

EXHIBIT 4

AUGUST 27, 1974.

LAMOND-RIGGS CITIZENS ASSOCIATION

Meeting With Special Committee on Soaring Electric Bills

ADDITIONAL REQUEST TO PEPCO

1. A comparison of average monthly bills and kilowatt hours for Maryland, Virginia and the District of Columbia for June and July 1973 and June and July 1974.

2. Show why, according to PEPCO's figures, it takes 1341 kilowatt hours of electricity per month for the average Virginia family as opposed to more than three times that amount for many individuals listed on the attached list.

3. Supply to the Lamond-Riggs Committee, a list of electric bills submitted to the citizen on the attached list for June and July 1973 and June and July 1974.

4. Supply the Lamond-Riggs Committee with the latest accounting of all assets and liabilities of PEPCO including ratio of earnings to expenditures.

5. Does PEPCO share electricity with other communities or states? If so, at what rate? Is the rate higher or lower than the expense to produce it? Does PEPCO sell electricity to rural electric corporations. If so, at what rate?

DOROTHY M. MAULTSBY, *Chairman.*

Account number	June, 1973		June, 1974		July, 1974		August, 1973		August, 1974	
	Kilowatt-hours	Amount								
06-4430-1297	840	\$24.05	1,160	\$45.66	2,360	\$59.18	3,310	\$88.50	2,770	\$112.42
05-0700-1292	630	18.87	580	23.46	1,140	30.87	1,290	34.55	1,220	50.71
05-3060-1292	500	15.62	500	23.46	920	25.77	1,350	27.51	1,090	45.01
06-2890-1297	850	24.26	1,500	42.98	1,800	46.18	2,340	59.09	1,030	122.85
06-2680-1295	380	12.57	500	20.39	1,970	50.12	2,440	62.26	2,440	93.97
05-3640-1292	290	10.08	510	20.78	530	16.28	1,960	38.32	2,310	56.26
06-1510-1295	620	18.61	830	33.03	960	26.68	1,780	46.00	1,700	69.48
06-1860-1295	630	18.12	780	31.11	2,140	54.08	1,940	37.55	1,700	69.48
06-2670-1295	600	18.12	830	33.03	1,260	33.64	1,130	44.88	2,840	115.23
06-2640-1295	450	14.37	510	20.78	1,020	28.08	1,710	28.67	1,390	57.04
06-0160-1297	860	24.15	1,050	41.46	2,150	54.30	1,600	19.01	1,970	40.19
05-3270-1292	860	17.87	430	17.72	(PC) 710	20.75	2,750	68.66	2,586	104.80
05-1740-1292	340	11.47	400	16.57	860	24.37	570	22.10	34,98	51.43
05-3110-1292	860	24.51	760	30.35	560	16.78	570	23.26	(PC) 8.0	51.43
06-0330-1297	540	16.61	690	27.67	550	22.74	890	35.61	1,250	34.98
06-2910-1295	710	20.87	1,150	45.27	2,410	60.33	830	33.30	1,460	59.85
05-1723-1292	620	18.61	860	34.17	1,890	48.26	1,380	54.53	1,210	49.83
05-3760-1292	430	13.87	550	22.32	600	18.02	1,270	50.29	2,510	101.99
05-2940-1290	580	17.61	520	21.16	1,930	25.99	500	20.56	2,180	88.75
05-2685-1292	260	9.25	780	31.11	1,200	32.26	650	25.35	2,780	82.56
02-0040-1230	330	11.19	200	9.32	1,940	26.23	570	23.26	960	39.79
05-1580-1292	620	18.61	350	14.75	550	16.78	280	12.31	1,600	65.47
06-4180-1297	490	15.36	560	34.17	2,160	54.53	910	25.66	52,62	1,280
05-0500-1292	260	9.25	310	13.31	1,690	43.62	660	22.87	1,850	35.38
06-3090-1295	600	18.12	1,270	31.85	1,460	14.65	1,450	57.24	2,190	89.15
06-2900-1295	600	18.12	270	9.48	380	15.96	380	15.96	1,700	89.48
06-2100-1297	470	14.87	1,130	44.51	2,700	9.48	330	14.14	860	35.77
05-3150-1292	470	14.87	1,130	44.51	1,570	40.85	360	15.03	410	17.72
05-3130-1292	530	16.36	800	28.43	2,990	73.79	2,650	49.90	2,380	96.78
04-2140-1268	420	13.63	580	23.46	2,800	22.98	1,900	51.05	3,090	125.26
06-2710-1297	600	18.12	700	28.05	780	22.98	1,900	51.05	2,110	49.88
					610	18.26	1,190	32.22	1,060	43.80
					1,000	27.62	580	23.66	900	37.38
							700	28.28	1,180	48.62

See footnotes at end of table.

Account number	June, 1973		June, 1974		July, 1973		July, 1974		August, 1973		August, 1974	
	Kilowatt-hours	Amount	Kilowatt-hours	Amount	Kilowatt-hours	Amount	Kilowatt-hours	Amount	Kilowatt-hours	Amount	Kilowatt-hours	Amount
06-3390-1297	360	12.03	360	15.12	540	16.53	460	19.01	1,050	28.94	780	32.56
05-0600-1292	(E) 1,440	38.07	700	28.05	(E) 1,440	37.83	1,190	47.19	(E) 440	38.07	1,970	80.32
06-3410-1297	630	18.87	610	24.61	770	22.23	930	37.16	1,160	31.51	1,340	55.04
04-1040-1250	590	17.87	550	22.32	860	24.37	650	26.35	1,240	33.38	1,120	46.20
05-3160-1292	270	8.61	680	27.29	710	20.75	750	30.22	840	24.05	1,010	41.79
05-3700-1292	270	9.52	270	11.85	300	10.31	280	12.31	430	13.87	310	13.88
05-3210-1292	240	8.71	340	14.39	730	21.24	(PC) 460	19.01	(E) 730	21.36	870	36.13
06-1330-1295	480	15.12	680	27.29	2,070	52.44	760	30.60	3,200	79.18	3,200	133.29
06-2840-1295	430	13.87	510	20.78	1,120	30.40	570	23.26	1,520	39.93	1,530	62.66
05-1010-1290	(E) 810	23.33	(E) 540	23.08	(E) 810	30.17	1,200	47.58	3,470	85.48	1,690	69.08
05-1630-1292	540	14.63	1,110	30.17	1,110	30.17	800	32.14	1,150	31.28	1,640	67.08
05-1630-1292	540	16.61	390	16.20	900	25.29	730	29.43	1,390	36.89	2,000	41.59
05-0540-1292	800	23.10	1,220	47.95	2,460	61.49	1,990	78.07	2,340	59.09	2,900	121.53
05-1660-1292	640	19.11	950	37.62	2,280	57.32	1,360	53.75	3,340	82.45	2,380	96.78
06-3060-1295	370	12.29	470	19.25	570	17.28	470	19.41	950	26.60	840	34.98
05-2880-1290	600	18.12	750	29.97	1,000	27.62	660	26.74	1,120	30.57	970	40.36
06-4440-1297	660	19.61	830	33.03	1,290	34.34	1,480	58.39	1,800	46.37	2,640	92.36
05-1725-1292	590	17.87	490	20.01	980	27.16	740	29.83	1,580	40.33	3,390	67.88
06-4420-1297	590	17.87	910	36.09	1,500	39.22	1,080	42.96	1,950	49.32	1,860	78.91
06-4350-1297	630	18.87	860	34.17	1,280	43.71	1,190	45.66	2,350	59.32	1,860	78.91
06-1560-1297	740	21.60	800	31.88	2,550	63.58	1,280	50.68	3,020	74.97	3,160	128.07
Total	28,690	875.94	35,160	1,413.94	64,340	1,716.05	47,530	1,902.19	85,370	2,259.94	85,020	3,478.98
Average	551	16.84	663	26.68	1,237	33.00	897	35.89	1,647	43.46	1,604	65.64
Cooling degree hours	122	11.19	388	29.20	2,128	13.06	868	88.88	3,176	26.60	2,920	238.43
11-0880-1445	330	14.63	730	24.26	1,550	40.38	(1)	44.48	2,640	66.10	2,050	83.53
01-1355-1140	460	18.87	640	23.76	1,840	47.12	430	17.86	1,730	44.83	2,600	105.60
11-2850-1446	630	18.87	640	23.76	1,840	47.12	430	17.86	1,730	44.83	2,600	105.60
13-2780-0118 ²	490	15.36	450	18.49	510	15.79	760	30.60	740	21.61	700	29.35
19-2430-1872												

² Commercial account.

¹ No bill.

[From the Washington Post, Aug. 28, 1974]

PEPCO TO ASK NEW RAISE IN RATES BY 1975

(By Deborah Sue Yaeger)

Potomac Electric Power Co. officials, already besieged by consumer complaints over sharply rising electric bills, said yesterday they will seek additional rate increases by the end of the year.

While officials declined to specify the proposed increase, they said it would affect all of Pepco's consumers in the Washington metropolitan area. Pepco serves the city, the Maryland suburbs and part of Arlington County.

Meanwhile, Gary R. Alexander, people's counsel to the Maryland Public Service Commission said he has petitioned that panel to freeze the charges that electric utilities in the state pass on to consumers for the higher cost of fuel.

In the city, the District's public service commission said that no inquiry into higher utility costs is under way, despite Mayor Walter E. Washington's weekend request for an "immediate investigation." Moreover, one commission official said the agency does not even have the manpower to carry out such an investigation.

The disclosure by Pepco that it will seek a rate increase follows last week's announcement by the Virginia Electric & Power Company that it must have an immediate 23.2 per cent increase. The Pepco announcement came at a press conference called to explain the reasons for rapidly rising Pepco bills.

Hal Stroube, Pepco's director of communications repeated his earlier explanation that increased consumption of electricity and a higher fuel-cost adjustment charge were the two main factors causing higher electric bills in July.

Pepco received 17,000 telephone calls last week in the wake of newspaper stories about a doubling or tripling of electric bills of Northeast Washington residents. This total represents almost a 50 percent increase over the 10,000 to 12,000 weekly calls Pepco's consumer complaint department normally receives.

"Invariably people blamed (defective) meters for higher electric bills," Stroube said. However, he said, power consumption in July sometimes doubles because of round-the-clock air-conditioning. Consumption of electricity didn't rise so much as usual in June, Stroube said, because June was "considerably cooler" than the 20-year average for that month in Washington.

During the last few weeks, Stroube said, Pepco has received almost 4,000 requests for meter checks. "There's no reason for meters to be checked and tested as often as some customers wish," he said.

Between 1969 and 1973, he said, Pepco tested 29,000 meters in its laboratory. Of these, Stroube said, eight were defective: seven meters ran too slowly (resulting in undercharging) while only one was fast (overcharging), he said.

In light of a 225 per cent increase in oil prices since January, 1973, and a 172 per cent increase in coal prices during the same period, Stroube said "We're trying to hold our costs down so we don't have to pass on higher fuel costs." He did not specify the methods used to minimize costs.

However, in response to a question about the costs of Pepco's television advertisements, Stroube said, "We intend to run additional advertising." He said he hoped the ads would explain the increases and thus reduce the number of telephone inquiries, the answering of which he labeled a huge expense.

The fuel cost adjustment charge—the automatic pass-through to consumers of increased costs in fuel used to generate electricity—has added dramatically to consumer bills during the past six months.

"For a person to have the same electric bill as last year (in dollar terms)," Charles W. Nicolson Pepco's director of consumer services said, "he would have to use about one-third less kilowatt hours this year."

The reason consumers are paying more, in some cases, for less electricity is that the fuel cost adjustment rose from almost .0004 of a cent per kilowatt hour in July, 1973 to more than 1 cent a kilowatt hour. This increase has added 25 per cent to the total bill of most electric users, Stroube said.

Maryland people's counsel Alexander said fuel cost adjustments have "escalated unbelievably during the past six months." He has asked the Maryland PSC to roll-back fuel adjustments to May, 1974, levels.

Alexander's four-month review of the automatic pass-through showed a "distinct lack of uniformity" among utilities in their computation of these rates. Alexander urged uniform rate adjustment and accounting practices for all utilities.

According to Douglas N. Schneider, one of the three D.C. public service commissioners and Mayor Washington's representative to the panel, the commission is conducting an informal examination of Pepco's billion and meter-reading practices.

However, the commission's executive secretary, Donald E. Crotsley, said flatly yesterday, "There are no investigations under way."

"To my knowledge, none is planned," Crotsley added. "I'm sure I would have heard of any investigation since it's part of my job to know what's going on at the PSC."

The commission's chief accountant, Seymour Manheimer, said one member of his staff is helping Schneider explain higher electric bills to the Lamond-Riggs Citizens Association. However, he said, his staff "hasn't been asked to look at Pepco's billing or estimating practices."

Further, Manheimer said, "If I were ordered to conduct an investigation, I couldn't do it."

He said his five-member staff is not large enough for such an inquiry, especially now when, he says, he's bogged down preparing testimony for coming commission consideration of an average 20.7 percent rate increase in the District requested by the Washington Gas Light Co.

[From the Washington Post, Aug. 21, 1974]

PEPCO BILL COMPLAINTS GROW

(By Deborah Sue Yaeger)

"The bad news is that electric bills nationally are going to be increasing. Electricity has been way underpriced."

So runs Potomac Electric Power Company's official response to a new wave of consumer complaints over sharply higher electric bills.

"This isn't a forecast on my part," said Hal Stroube, Pepco's director of communications, "it's the hard, cold facts of life."

Stroube was responding to the fact that after a story about the complaints of upper Northeast residents appeared in yesterday's editions of The Washington Post, consumers throughout the Washington metropolitan area contacted The Post with similar tales of a doubling or tripling of electric bills.

After reading the story on the Lamond-Riggs Citizens Association meeting Monday night where residents verbally pounded Pepco about higher prices Evelyn Flynn called to say she was desperate.

Miss Flynn rents a two-story, four-bedroom house at 1037 Evarts St., NE with four other roommates. Last month, her electric bill increased from \$9.75 in June to \$257.29 in July.

"Pepco representatives offered to arrange time payments, \$50 down and a certain amount each month, but they assured me (the bill) was correct," Miss Flynn recalled.

The \$257.29 represents Miss Flynn's July bill plus an accumulation of what the company said were undercharges stemming from 10 months of estimated bills.

Late yesterday afternoon Pepco's Stroube said: "We feel quite certain that the Flynn bill is in error and we are investigating it immediately."

Although Pepco has a policy of reading electric meters at least once every six months, according to Stroube, the utility estimated Miss Flynn's bill from last Oct. 5 until the most recent meter check on Aug. 5.

Stroube conceded that Miss Flynn's estimated bill for the 10-month period was based upon the electricity consumption of the home's previous tenant, even though Miss Flynn sent in a card stating her tenancy last November.

Last night Pepco dispatched one of its 76 meter readers to verify the computer-logged consumption of 6,000 kilowatts.

"It's outlandish," Stroube said. "There had to have been an error on this one," he agreed. "Either the meter reader or a key punch operator transposed numbers."

Will Miss Flynn have to pay the total sum should last night's meter inspection verify the meter reading on Aug. 5?

"Of course," said Stroube. "If the meter reading proves correct, then obviously she owes that much of an electric bill."

Maryland residents also called in complaints about electric bills.

Nancy Ledford of 5005 54th Pl., Hyattsville, called to say that her electricity bill almost tripled between June and July, increasing from \$33.84 to \$94.98, even

though she and her family were on vacation in South Carolina from July 17 through July 23.

In addition, Mrs. Ledford said, the kilowatt hours used, according to her bill, quintupled from May to July, growing from 540 kilowatts to 2,680 kilowatts.

"I can understand a \$10 increase during the summer because of air-conditioning," Mrs. Ledford said, "but a tripling?" Mrs. Ledford added that she kept the air conditioner's thermostat at 80 degrees to conserve energy.

Dorothy Morris of 1120 Tanley Rd., Silver Spring, said she was disturbed by a bill for July that was 50 percent greater than last year's, even though her family consumed 80 kilowatts hours less of electricity for that month this year.

"What really burns us," Mrs. Morris said, "it Stroube's sanctimonious preaching on television. It's unnecessary to use that amount of money in such a wasteful way and then charge exorbitant rates."

Stroube, who appears in Pepco advertisements, said Pepco's advertising budget totaled \$450,000 in 1973. To date this year, Stroube said, Pepco has spent an estimated \$44,000 on ads.

Mr. ADAMS. We will now hear from Ms. Brown, Consumer Affairs Committee of the Americans for Democratic Action.

**STATEMENT OF ANN BROWN, CHAIRMAN, CONSUMER AFFAIRS
COMMITTEE OF AMERICANS FOR DEMOCRATIC ACTION, AND THE
DISTRICT OF COLUMBIA DEMOCRATIC CENTRAL COMMITTEE,
MEMBER, ADVISORY BOARD FOR THE DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AFFAIRS**

Ms. BROWN. I am Ann Brown and I am chairman of the Consumer Affairs Committee of ADA and of the District of Columbia Democratic Central Committee and am a member of the advisory board for the District of Columbia Department of Consumer Affairs. Our committee does not represent the people of the District in a partisan way, but rather seeks to represent their concerns and interests in consumer matters.

I promise I am not going to read my whole statement, although just giving my title seems to take 5 minutes.

Mr. ADAMS. All right, Mrs. Brown, your entire statement will appear in the record at this point and you may summarize it.

Ms. BROWN. Thank you. That is what I will do.

[The prepared statement of Ms. Brown follows:]

SEPTEMBER 30, 1974.

STATEMENT OF ANN BROWN

Thank you for inviting me here to testify. My name is Ann Brown and I am Chairman of the Consumer Affairs Committee of ADA and of the D.C. Democratic Central Committee and am a member of the Advisory Board for the D.C. Department of Consumer Affairs. Our Committee does not represent the people of the District in a partisan way, but rather seeks to represent their concerns and interests in consumer matters. If the rate of our complaints is any indication, the people of the District are vitally concerned, frustrated and furious over utility rate increases and the way in which those utility rates are assigned.

People are sitting in the dark. Those who are lucky enough to have air conditioners have been sitting in the heat for they dare not run them. This is not just a matter of economics; this is a matter of people. We have heard much talk about stockholders and rates and business judgment and investment returns. But we really must change our priorities to think about people and not just business economics. "Power to the People" and "People before Profits" have been the activist cry of citizen groups all around the country, who are now beginning to oppose the long unopposed policies and practices of the nation's utility industry.

We must thank the House District Committee for holding this hearing to review utility proceedings. Consumers in the District have been frustrated and

angry because they felt they had no place to go. And we consumer advocates have been equally anxious about what forum we would have to air the people's grievances. You have provided the appropriate forum at this place and in this case. The D.C. City Council in this period is a lame duck. The Mayor is busy trying to get re-elected. And the danger would have been, as you have said, that the utilities would try to slide through increases before the new Council would come into session. This must be prevented and this hearing is exactly the preventive medicine that is needed.

Part of the frustration that is felt by consumer representatives and the people alike is there is no really educated person or group that they can turn to for effective representation at the Public Service Commission. The People's Counsel is exactly what is needed in this case. The post of People's Counsel was abolished in 1957, and in the last few years, while rates are skyrocketing, the Public Service Commission has evidenced a lack of responsiveness to the peoples concern. We must not be led down the garden path by Mr. Stratton's devious suggestions that we give money to a myriad of consumer groups that they could use to educate themselves before the Public Service Commission. This merely means to simply divide and conquer. The People's Counsel could meet with many of the public and represent all of the myriad interests of the consumers. Basically there really is no great divergency of view. The people are concerned about controlling the rate rise even in a period of inflation by some responsible means. If a need for more divergent views is anxiously awaited, the District could do what the Arizona Corporation has done; that is, form an advisory committee to redraft utility regulations concerning utility deposits, disconnections and termination service. This committee could work closely with the People's Counsel.

Evidence that the Public Service Commission has been unresponsive to consumer needs has come to us from several sources. One group of complainants to our Committee will say that they cannot reach the Public Service Commission because the lines are all busy, due, in part, I am sure, to the mammoth number of complaints. Furthermore, people tell us that when they write the Public Service Commission, they either receive no answer or a very dilatory one. We must wonder why the Public Service Commission needed to be pushed into holding much needed hearings. Certainly the plethora of complaints should have been indication enough that the Commission must hold hearings. Why would a letter from the Mayor and these Congressional hearings be necessary to further convince the Commission if they were truly balancing the interests between Pepco and the people? The Commission is supposed to find the middle ground between the people and Pepco. But who represents the public interest? That is what is lacking in the process. We must give the consumer a voice in the form of the People's Counsel.

The Public Service Commission has the power to hold investigations in rate cases and could charge Pepco for the expense. An intelligent appraisal of the Commission shows that the staff has weaknesses in community affairs. Their strengths lie in their overall accounting supervision. But monitoring individual's complaints is their very weakest area.

The Mayor himself can also intervene in a rate case, as the District government is one of the largest users of electricity in the area. The Mayor must also be responsive to the consumers interest. This matter, now of crisis proportions, has not leaped on us suddenly. It has been a while in the making. So the Mayor must respond to his citizens' concerns independently, not just in the heat of a Democratic Primary. The new City Council should also investigate the methods by which public utility rates are set by the Public Service Commission to insure that the formulas used take into account how the public's money is being used by these corporations. Rate making law has not been reviewed in the District for at least a decade. Our own Committee, the Consumer Affairs Committee, in conjunction with the Public Interest Research Group, is subsidizing four advanced-government students and their professor at George Washington University to do an in-depth study of the Public Service Commission. This is certainly long overdue, and should have been taken on previously by the D.C. Government.

Our Committee became involved in the issue of utility rate increases because of the enormous number of complaints we were receiving from individual consumers. Complaints have been well documented in the newspapers, to which I will add only a couple of especially poignant ones. But I may say that the consumers of the District are suffering and suffering acutely. Electric bills have gone up 600 per cent, a rate that is higher than the normal inflationary rate. This especially wrecks havoc with the budgets of people on the lower spectrum of the income scale, on fixed income recipients and on government workers. This, of

course, is a large balance of the makeup of our city, which has been especially hard hit by increases. I can tell the day that a batch of utility bills are received because of a large number of complaints that we receive. People are frustrated that they have no place to turn. They have been unable to receive satisfaction from the Public Service Commission which has been particularly lethargic in consumer relations.

And even the Department of Consumer Affairs of the District of Columbia, fought for so hard by consumers in the District, has proved a distinct disappointment in this area. The Mayor's original description of the authority of the Department of Consumer Affairs included representing consumers before utility hearings. This is certainly something that should be within the power of the Department of Consumer Affairs. However, this part of the job description was cut in the Mayor's final orders to the Department.

Further, one wonders whether the Department of Consumer Affairs as it now exists has the will to adequately represent consumers at rate increase hearings. If they did, the Director of the Consumers Affairs Department should certainly be lobbying to add this duty to the job description of his Department. I am only going to add here a few examples of some specific complaints that we received because I think that they are especially dramatic.

A lady in northwest Washington who does not have air conditioning and who has mostly gas appliances, kept a record of her bills. In August 1973 she had a \$20 bill, which was commensurate with the rest of her bills since she did not have air conditioning. But in August 1974, she had a \$42.19 bill, over 100 per cent increase, and at a time when she does not have air conditioning. One wonders if the Pepco meter surveyors simply add more for the period of air conditioning in the more middle-class neighborhoods.

Another complaint that we received was from a lady who kept a record not only of her bills but of her kilowatt hours and fuel adjustment costs. In September 1973, her electric bill was \$44.81. She used 1,740 kilowatt hours and her fuel adjustment cost was .0003815. In September 1974, her bill was \$70.86, almost 75 per cent higher while she used 1,710 kilowatt hours which was less than the kilowatt hours that she used in 1973. But her fuel adjustment cost was \$18.91, as opposed to her normal fuel adjustment cost in 1973.

I would like to touch briefly on some of the aspects that could be looked into by the People's Counsel and the Public Service Commission about Pepco's rates. Most of these have been mentioned before in testimony or by the Congressmen themselves, so I'll not go into great detail except to affirm our support for some of these measures. When I finish talking about the measures that have been mentioned before, I am going to talk about two aspects that will be new to the hearings and that I think are quite important. The first of these will be a small example of inefficiency at Pepco which may be just the tip of an iceberg of greater inefficiencies. The other topic will be certain information we have acquired as to whether Pepco is buying coal as inexpensively as possible.

The first thing that we would support for D.C. is the suggestion by Gary R. Alexander, the People's Counsel to the Maryland Public Service Commission, that Maryland's public service panel freeze the charges that the electric utilities in the State pass on to consumers for the higher cost of fuel. This could certainly be done in the District until a hearing was held about how these passthroughs are conducted. Mr. Alexander has further requested the Maryland PSC to roll back fuel adjustments to May 1974 level. His four-month review of the automatic passthrough showed a "distinct lack of uniformity among utilities" in their computation of these rates. Certainly a roll-back to May 1974, until an investigation is conducted into our automatic passthroughs, would be an excellent idea for the District. The automatic passthrough in itself is an abhorrent idea. Peter Bradford, Utility Commission in Maine, wrote, "I would never support the concept of an automatic passthrough for increased operating costs. Such a concept would be an invitation to ineffective operations and inefficient regulation."

Another area of Pepco's operations which we question are the formulations of their advertisements. A great deal of money is spent on advertising. One would wish that less of that money could be spent on advertising and more plowed back into the company, so that consumers would have some benefit by means of lower rates. These ads are a direct insult to the consumer. Ads that would educate the consumer about how to use less energy or what kind of appliances use less energy might be useful. The present ads, however, are slick with lectures about something the consumer already knows well; that is, that prices are rising. All that the consumer has to do is to look at his latest electric bill to know that! A letter by an irate consumer in the Washington Post September 27 stated this very well:

"Why does Pepco insist on dramatically increasing their operating expenditures by financing repeated television commercials 'starring' Mr. Hal Stroube to tell us that which we already know? In these commercials Mr. Stroube details all of Pepco's increasing costs time after time. Would not a simple letter to Pepco's customers have been adequate? Or perhaps is Mr. Stroube trying to convince himself and his cohorts?"

Instead of having advertisements encouraging users to use less electricity the ads do directly the reverse for the public interest and encourage people to use more power. Is this the proper time for the electric companies to be competing with the gas companies to gain more customers? It would seem financially better for the electric company at this point to just sustain their regular customers so they would not have to be building more and more expensive facilities.

Another letter in the September 27 Washington Post explains that even people who want to buy an appliance that uses less electricity are thwarted by the manufacturers. This man wanted to buy a new refrigerator but realizing that self-defrosting refrigerator uses much more energy he tried to buy a manual defrosting refrigerator—with no luck. The letter goes on to say that:

"I do not advocate the government forcing the manufacturers to do away with all convenience features built into appliances, but I do feel that if business and government groups are sincere in their stated mission of conservation, manufacturers should at least offer a purchaser the choice of passing up energy-wasting appliances. Government leaders could at the same time bend every effort toward encouraging the public to keep energy consumption in mind before purchasing those appliances."

We have a case here where the public is educating the government and the business community. The public is not unknowledgeable about energy problems and inflation. The response of the consuming public has been good about using less electricity. Now we need some cooperation from the business community and from the government.

Two recommendations that I am sure you have already heard get an extra plug from our Committee. One is that electric companies must come up with proposals to distribute electricity charges more fairly among consumers and, further, should make the bills themselves more easily understandable. Billing and rate structure innovation is an important aspect of this problem. "Peak pricing" is a means of making charges to residential customers more fair. The system must reward those noncommercial users who cut down on using electricity at peak hours. If peak hours were reduced in this way, that would mean that utilities would not have to be constantly building expensive generating capacity to provide power for peak demand such as hot summer days when air conditioning use is heavy but then have no need for that capacity during moderate weather. Full peak pricing systems require meters that measure power demand at any one time as well as total kilowatt hours used over a period of time. In fact, at this time the Green Tariff of Electricite' de France should be applied here. These rates based on time of use as related to the system load. We fervently ask why should the residential user subsidize the large industrial and commercial user of electricity?

One idea which is pursued nationally by the Environmental Action Foundation is urging that no more than a 50 per cent fuel cost adjustment be permitted without a formal rate hearing. The Foundation is also opposed to allowing any automatic passthroughs of nonfuel operating costs. This idea has caught on in Georgia, which has put an absolute limit on fuel adjustment costs, while New Jersey has placed a partial limit on them.

The Center for Science in the Public Interest in its Public Interest Newsletter put out another interesting idea for trying to equalize rates. This rate design proposal that has been recently proposed is "lifeline". Lifeline is a system that would provide a basic minimum amount of electricity to all utility consumers at a low, unchanging rate. This concept was first introduced last summer in Vermont by a coalition of low-income organizations, senior citizens, environmentalists and labor groups. Ralph Nader's Public Interest Research Groups and other public interest organizations in at least nine states are working to promote the lifeline concept. Bills to establish lifeline programs have been introduced though not yet approved in New York, Vermont and Massachusetts. Such a lifeline program would be essential to the poor people in Washington and should be introduced in D.C. immediately.

There are two other suggestions that have surfaced both from the Congress and from private groups. One is from the American Public Power Association in Washington, D.C., which purports that public ownership of the utilities is a

necessity, if the private profit system can't work. This example is given to support this: On May 30, 1974, the citizens of Massena, New York, voted by an almost two to one margin to approve a \$4.5 million bond issue to purchase the local power facilities from the Niagara Mohawk Corporation. Prior to the referendum, Niagara Mohawk had imported a 45-man team from its headquarters in Syracuse, New York, and invested \$100 thousand in a campaign to convince Massena's 5,100 voters to reject the proposition. Obviously, the utility was concerned about the ripple effect of the referendum. However, the voters were more impressed by the fact that residents of nearby Plattsburgh, which had converted to public power in 1941, were paying less than half for electricity than what Niagara Mohawk customers paid. Activity has taken place on public ownership in other communities in the country coordinated by the Environmental Action Foundation and the Movement for Economic Justice. Surely public ownership should be under consideration if the utility companies cannot meet public interest.

Another suggestion put forth by Senator Lee Metcalf (D.-Montana) has been the creation of a national power grid managed by the Federal government. Such a grid could quickly transfer power from areas with surplus capacity to those of peak demand. The Metcalf proposal would have a direct bearing on the current state of rate increase requests that could prevent sizeable increases in already swollen bills. Since most companies argue that they need the rate increases for money to finance the building of new generators, Metcalf insists that if there were a national power grid each company would not have to maintain the 20 percent reserve capacity now considered proper margin of safety. There would be less need to build generators and obviate the need for at least some rate increases.

While we acknowledge that Pepco's legitimate costs actually are rising, we also argue that many costs can and should be reduced. These include profit margins, executive's salaries, advertising, charitable contributions and facilities expansion. We also contend that energy conservation, flatter rate structures and an end to promotional activities could lower the growth rates for power demand. A prominent utilities rate consultant, Theodore Maynard of National Utility Service, notes that waste and inefficiency are rampant in the industry. "Wastage of power generated may exceed 30 per cent," he said. "Most countries don't have private electric systems like ours," Maynard explained. "If the present trend continues, it seems likely that the big private utilities will go down one after another with the Government stepping in much the same as it did to bail out Lockheed and the Penn Central Railroad."

One of the most important ways that utilities can cut costs is by buying fuel to convert to electricity as inexpensively as possible. Mary Drob, a member of our Committee, has been especially interested in the price that Pepco pays for coal. It appeared to her and to me as well that our Public Service Commission should be energetically looking into this. Here are some of the points made in a letter to Mr. Stratton by Ms. Drob:

1. It was explained to me that Pepco had to change from oil to coal. Since coal is 40 per cent cheaper per BTU, why isn't my bill lower than a year ago?
2. It has been said that Pepco buys only on the spot market which is the most expensive way. Why should I pay for their poor management?
3. It had been rumored that Pepco had a decent contract with a coal company, which was broken so that the coal company could make fantastic profits abroad. If so, what are you doing about it?
4. It has also been rumored that other utilities on the east coast have had their contract for coal sent abroad. If this is so, should you not be working with Congress to correct the matter?
5. How come D.C. utilities pay more for coal than any of the other 48 mainland states?

Ms. Drob did some research into how much we pay for coal. She obtained copies of the Federal Power Commission reports on power plant fuel prices for May 1974 and May 1973. In checking the pertinent figures for the District of Columbia in comparison to other states, it was obvious how much more Pepco pays for coal in comparison with most other states. One reason that the D.C. price is so high is that they are buying a very low sulphur coal. From these tables one can see what a tremendous variation there is in the price of coal in various part of the country, which may be due, of course, to transportation costs. But it is also influenced to a large extent by whether or not the utility has the benefit of solid long-term contract or ownership of their own mine or are buying coal on the very volatile spot market.

The May 1973 Federal Power Commission report shows that the average price paid for all coal purchases by Pepco for the District of Columbia is the second highest rate—59.3 cents per 106 BTUs—of any of the rest of the country. New Jersey is the only state paying more at 61.2 cents, but *all* other states paid less than the District. For instance, the State of Washington paid 37.8 cents, Michigan paid 36.5 cents, Kansas paid 29.9 cents and Kentucky paid 30.4 cents. The average in the United States was 39.5 cents—a far cry from the District of Columbia's 1973 price for coal. The 1974 Federal Power Commission report on fuel cost tells much the same story. Only the State of Connecticut paid a higher rate per 106 BTUs than the District of Columbia, which paid 146.4 cents, while Michigan paid 77.5 cents, Washington State paid 35.6 cents, Colorado paid 34.4 cents, Tennessee paid 45.4 cents, North Carolina paid 95.4 cents and Pennsylvania paid 70.4 cents. These rates of the District of Columbia do not make it appear that Pepco is doing very efficient buying of its coal.

We do not claim to have all the answers about this matter of coal costs. We have taken the trouble to get some very interesting statistics about average coal purchase prices and have found that D.C. is way up at the top for most expensive purchases. When Mr. Stratton was asked at these hearings about the money that was spent by Pepco for coal, he pleaded ignorance. Now ignorance may be bliss for the Public Service Commission if they wish to play *patsy to Pepco*, but ignorance is agony for the District of Columbia residents who are paying higher electricity prices constantly. We therefore propose that Mr. Stratton ask the following questions of Pepco and that both Pepco officials and the Public Service Commission be responsible for accurate and prompt answers to these questions:

1. How does the price you pay for coal compare to that of other utilities? Please be specific.
2. From which coal companies are your largest purchases made? Who owns these coal companies? Are any of them owned by oil companies?
3. If your oil contract is so good, why are you buying so much coal?
4. Is your coal buying by spot purchase or contract? Which is cheaper?
5. Isn't there a danger of future kickbacks in the *carte blanche* arrangement of fuel adjustment costs? How do you guard against this and pay competitive prices?
6. Would a Federal oil and gas corporation help solve your problem?

In talking about the ways that costs could be reduced, recent evidence shows that the demand for electricity is beginning to stabilize, while the industry, however, continues to project the need for ever greater production of electricity. So the utilities are embarking on what may be viewed by historians as the most costly and dangerous folly of all mankind—the construction of nuclear power plants. Their construction requires vast amounts of capital, which is being increasingly raised through rate hikes as normal money markets remain tight. I do not propose to get into the very complex problem of nuclear generating stations today, but our Committee Study of the problem did bring up an interesting point about efficiency at Pepco.

A summer intern for our Committee did research into Pepco's Douglas Point Nuclear Generating Station, which is in the process of being built. Our bright and ambitious student reported that Dr. Robert Mueller of NASA feels that Pepco may be overestimating the demand of the metropolitan area in the 1980s. By the use of such conservation techniques as more efficient appliances, architectural improvements, better insulation and home caution, the need for such an extensive new source of energy as Douglas Point may not be needed. Dr. Olson in his testimony before this Committee concurred with Dr. Mueller.

While our summer intern, Mark Wagenheim, was researching Pepco's Douglas Point Nuclear Generating Station, he came upon a small example of inefficiency and waste of money at Pepco. I bring it to your attention today not because it is such a gargantuan waste—because it certainly is a small waste—but because it may be only the tip of an iceberg.

Mark tried to get into an office at Pepco which was highly advertised in their myriad of elaborate booklets on nuclear power. The office is called the Office of Public Responsibility. This office was supposed to provide, as Pepco suggests in a separate pamphlet about the office, a centrally located library for documents relating to the Douglas Point Nuclear Generation Station and access by the public to documents not normally available without orders from judicial or regulatory bodies; facilities for locating, reviewing and duplicating selected documents; and a technical staff to aid interested parties in obtaining answers to questions and to facilitate company response to their suggestions. The hours of the office were advertised as 9:00 to 5:00 daily except Saturday and Sunday.

Mark found that the office was never open any of the days in early July that he went there. On a Tuesday he called and was told it wasn't open, but he got the Pepco general number and was put in touch with Mr. Van Strange at the nuclear information department of Pepco. He told Mark to stop by before lunch. The office was still closed. He told him what the office was supposed to do, and, in fact, Mr. Strange took Mark out to an expense account lunch, but Mark was never able to get into the office that week.

At 4:00 p.m., Friday, of this July week, I telephoned the number listed for this office. At first the operator couldn't place the office at all. Finally, she too, sent me to the Nuclear Information Department where the lady who answered the phone in that Department said, "You are going to have trouble reaching that Office."

"How about if I come to the office on Monday?" I asked innocently. She said I should contact Mr. Earl Hill in a different office, and he might be able to let me in the Office of Public Responsibility. She then told me that the Department of Nuclear Information does approximately the same thing as the Office of Public Responsibility. I began calling the Office of Public Responsibility with some regularity in July and was never able to find anybody there. The calls would be referred to the Department of Nuclear Information.

At the same time I was called by a newspaper reporter who had stumbled on this Office of Public Responsibility and was himself wondering at the apparent waste of money. He told me that a Mr. Embley, an engineer, had been brought down from General Electric as the Director of the office at quite a high salary. Mr. Embley lasted five months and then returned to G.E. despite the fact that his engineering background made him a perfect person for the well-paid job. It was reported to me that he found out that a lot of money was being spent on the office and yet the office was basically useless.

On Friday, September 27, in preparation for this testimony, I called back the Office of Public Responsibility. Due to the fact that the newspaper reporter and community groups had been calling with some frequency and inquiring about the office, it had been newly staffed on August 1. Two new employees had come to the office—one a file clerk and one a new Director of the Office. In speaking to the file clerk first, I ascertained that the office had just passed its one-year anniversary and the file clerk estimated that in one year the office had answered approximately 175 inquiries. Neither the clerk nor the Director would tell me how much it cost to run the office. The Director said that the figures were compiled monthly but that this was to be the sole information of Pepco.

One hundred and seventy five inquiries is a drop in the bucket for an office with a staff of two people, a duplicating machine and lots of reports. Our consumer committee receives more than that many complaints in a year at no cost at all to the consumer. Mr. Embley was an engineer and technical assistance is promised by the office to interested persons. However, neither the new Director nor the file clerk have engineering experience and simply go to other engineers within Pepco for the information. Basically this is just a duplication of effort because the consumer could be directed precisely to the engineers rather than going through a fully staffed office.

Here we have this example of a full office originally expensively staffed with expensive equipment and documents that lost its experienced director within five months because of his dissatisfaction with the inactivity of the office and which was reorganized after a period of total nonstaffing and nonresponsiveness to any community queries. This reorganization took place because of inquiries from private citizens groups and from a newspaper reporter. Yet even now the office is not effectively able to carry out its duties and becomes merely a redundant filtering place for other existing Pepco information centers. Finally, although the office is extensively advertised and much is promised in various public relations booklets put out by Pepco, the office has received a small number of inquiries and in fact does not live up to the PR promises in these booklets.

If we estimate the cost of running this office both without staff and with staff \$40 or \$50 thousand would be a possible estimate. Nor \$40 or \$50 thousand on a highly advertised office may not be an isolated incident. If \$40 or \$50 thousand is wasted in this manner, is Pepco practicing inefficiencies of other \$40 or \$50 thousand or other millions of dollars? The problem of efficient management is an area that the Public Service Commission should delve into deeply. It is scandal that they have not done so at the present time.

I hope in this testimony that we have raised intelligent questions—questions that need to be answered. We don't claim to have all the answers. We do claim to

know that the people of the District of Columbia are suffering sorely from soaring electric rates. The people of the District of Columbia deserve the answers to these questions and it is up to the Public Service Commission and to Pepco itself to provide us with these answers.

Because Public Service Commission appears to play the patsy to Pepco the cries of anguish of the citizens of the District of Columbia have gone unheeded. It is absolutely imperative that a People's Counsel represent these interests and seek answers to these questions from the Public Service Commission and Pepco.

Ms. BROWN. If the rate of our complaints that our committee receives is any indication, the people of the District are vitally concerned, frustrated and furious over utility rate increases and in the way in which those utility rates are assigned.

People are simply sitting in the dark. Those who are lucky enough to have air conditioners have been sitting in the heat for they dare not run them. This is not just a matter of economics; it is a matter of people. We have heard much talk about stockholders and rates and business judgments and investment returns. But we really must change some of our priorities to think about people and not just business and economics. Power to the people and people before profits have been the activist cry of citizen groups all around the country, who are now beginning to oppose the long unopposed policies and practices of the Nation's utility industry.

We really must thank the House District Committee for holding this hearing to review utility proceedings. Consumers in the District have been frustrated and angry because they felt they had no place to go. And we consumer advocates have been equally anxious about what forum we would have to air the people's grievances. You have provided the appropriate forum at this place and in this case. The District of Columbia City Council in this period is a lame duck. The Mayor is busy trying to get reelected. And the danger would have been, as you have said, that the utilities would try to slide through increases before the new Council would come into session. This must be prevented and this hearing is exactly the preventive medicine that is needed.

NEED FOR PEOPLE'S COUNSEL

Part of the frustration that is felt by consumer representatives and the people alike is there is no really expert person or group that they can turn to for effective representation at the Public Service Commission. The People's Counsel is exactly what is needed in this case. The post of People's Counsel was abolished in 1957, and in the last few years, while rates are skyrocketing, the Public Service Commission has evidenced a lack of responsiveness to the people's concern. We must not be led down the garden path by Mr. Stratton's devious suggestions that we give money to a myriad of consumer groups that they could use to educate themselves before the Public Service Commission. This merely just means to simply divide and conquer. The People's Counsel could meet with many of the public and represent all of the myriad interests of the consumers. Basically there really is no great divergency of view. The people are concerned about controlling the rate rise even in a period of inflation by some responsible means.

If there are varied opinions to be considered, the District could do what the Arizona Corp. has done; that is, form an advisory committee

to redraft utility regulations concerning utility deposits, disconnections and termination service. This committee could work very closely with the People's Counsel.

COMPLAINTS

Evidence that the Public Service Commission has been unresponsive to consumer needs has come to us from several sources. One group of complainants to our committee will say that they cannot reach the Public Service Commission because all of the lines are busy, due in part, I am sure, to the mammoth number of complaints. Furthermore, people tell us when they write the Public Service Commission, and we have just heard about that, they either receive no answer, or a very dilatory one. We must wonder why the Public Service Commission needed to be pushed into holding these much-needed hearings that they have announced. Certainly the plethora of complaints should have indicated that the Commission must hold hearings, and why would it hold a letter from the Mayor and these congressional hearings to be necessary to further convince the Commission. The Commission's purpose is to find a middle ground between the people and Pepco, but who represents the public interest in this process? That is what is lacking.

RATEMAKING

The ratemaking law should be reviewed in the District since it has not been reviewed in at least a decade. Our own committee, the Consumer Affairs Committee, in conjunction with another consumer group, the Public Interest Research Group, is subsidizing four advanced-Government students and their professor at George Washington University to do an indepth study of the Public Service Commission. This is certainly long overdue and should have been taken on previously by the District of Columbia government.

As I have said, our committee became interested in utility rates because of a large number of complaints from individual consumers. I am only going to document two of the particularly interesting ones that have come to us. Complaints really on this matter should be taken by also the Department of Consumer Affairs in the District of Columbia. But they have proved a distinct disappointment in this area. The Mayor's original description of the authority of the Department of Consumer Affairs included representing consumers at utility hearings, and this is certainly, or it should be something which is certainly within the power of the Department. However, this part of the job description was cut out in the Mayor's final orders to the Department.

Further, one wonders now as the Department is set up whether it will really adequately represent consumers at rate hearings. If they did, the Department of Consumer Affairs should certainly be lobbying to add this job to the job description of the Department.

COMPLAINTS

Here are a couple of complaints that I wanted to mention to you. One, a lady in Northwest Washington who does not have air conditioning and who has mostly gas appliances, kept a record of her bills.

In August 1973 she had a \$20 bill, which was commensurate with the rest of her bills since she did not have air conditioning. But in August 1974, she had a \$42.19 bill, over 100 percent increase, and still she does not have air conditioning. One wonders if the Pepco meter surveyors simply add more for the period of air conditioning in the more middle-class neighborhoods.

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I just want to touch briefly on a few aspects that could be looked into by the People's Counsel and the Public Service Commission about Pepco's rates. Most of these have been mentioned before either by the Congressmen or by previous witnesses, so I will not go into detail on them except to affirm my support.

FUEL COSTS

The first thing that we would support for the District is the suggestion by Gary Alexander, the people's counsel to the Maryland Public Service Commission, that Maryland's public service panel freeze the charges that the electric utilities in the State pass on to the consumers for the higher cost of fuel. This could be done in the District. Mr. Alexander has further requested the Maryland PSC to roll back fuel adjustments to the May 1974 level. His 4-month review of the automatic passthrough showed a distinct lack of uniformity among utilities in their computation of these rates. The automatic passthrough is really a very difficult idea. Peter Bradford, utility commissioner in Maine, wrote:

I would never support the concept of an automatic passthrough for increased operating costs. Such a concept would be an invitation to ineffective operations and inefficient regulation.

ADVERTISING

Another area of PEPCO's operations which we question are the formulations of their advertisements. A great deal of money is spent on advertising. One would wish that less of the money could be spent on advertising and more plowed back into the company, so that consumers would have some benefit by means of lower rates. These ads are a direct insult to the consumer. Ads that would educate the consumer about how to use less energy or what kind of appliances use less energy might be useful. The present ads, however, are slick presentations with lectures about something the consumer already knows well; that is, that prices are rising. All that the consumer has to do is to look at his latest electric bill to know that.

PEAK PRICING

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charges more fairly among consumers, and, further, should make the bills themselves more easily understandable. Billing and rate structure innovation is an important aspect of this problem. Peak pricing is a means of making charges to residential customers more fair. The system must reward those noncommercial users who cut down on using electricity at peak hours. If peak hours were reduced in this way, as the telephone company does when you call after 8 p.m. it is cheaper, that would mean that utilities would not have to be constantly building expensive generating capacity to provide power for peak demands such as hot summer days when air conditioning use is heavy, but then have no use for that capacity during the rest of the year. Full peak pricing systems require meters that measure power demand at any one time as well as over a whole period of time.

FUEL ADJUSTMENT COST

Another idea which has been pursued nationally by the Environmental Action Foundation is urging that no more than a 50-percent fuel cost adjustment be permitted without a formal hearing. The foundation is also opposed to allowing any automatic passthroughs of nonfuel operating costs. This idea has caught on in Georgia, which has put an absolute limit on fuel adjustment costs, while New Jersey has placed a partial limit on them.

LIFELINE

The Center for Science in the Public Interest in its Public Interest Newsletter put out another interesting idea for trying to equalize rates. This rate design proposal that has been recently proposed is lifeline. Lifeline is a system that would provide a basic minimum amount of electricity to all utility consumers at a low, unchanging rate. Organizers in at least nine States are working to promote the lifeline concept. Bills to establish a lifeline program have been introduced though not yet approved in New York, Vermont, and Massachusetts. Such a lifeline program, it can easily be seen, would be essential to the poor people in Washington and should be introduced in D.C. immediately.

PUBLIC OWNERSHIP

There are two other suggestions that have surfaced both from the Congress and from private groups. One is from the American Public Power Association which purports that public ownership of the utilities is a necessity, if the private profit system cannot work. One example that was particularly interesting was given on May 30, 1974, the Citizens of Massena, N.Y., voted by an almost two to one margin to approve a \$4.5 million bond issue to purchase the local power facilities from the Niagara Mohawk Corp. Prior to the referendum, Niagara Mohawk had imported a 45 man team from its headquarters in Syracuse, N.Y., and invested \$100,000 in a campaign to convince Massena's 5,100 voters to reject the proposition. Obviously, the utility was concerned about the ripple effect of the referendum. However, the voters were more impressed by the fact that residents of nearby Plattsburgh, N.Y., which had converted to public power in 1941, were paying less than half for electricity than what Niagara Mohawk customers paid.

COST REDUCTIONS

While we acknowledge that Pepco's legitimate costs are rising, we argue that many costs should and can be reduced. These include profit margins, executive salaries, advertising, charitable contributions and facilities expansion. We also contend that energy conservation, flatter rate structures and an end to promotional activities could lower the growth rates for power demand. A prominent utilities rate consultant, Theodore Maynard of National Utility Service, notes that waste and inefficiency are rampant in the industry. "Wastage of power generated may exceed 30 percent. Most countries do not have private electric systems like ours. If the present trend continues, it seems likely that the big private utilities will go down one after another with the Government stepping in much the same as it did to bail out Lockheed and the Penn Central Railroad."

FUEL COSTS

One of the most important ways, and this is something I think that has not been mentioned before with exact statistics, that the utilities can cut down costs is by buying the fuel to convert to electricity as inexpensively as possible. Mary Drob, a member of our committee, has been especially interested in the price that Pepco pays for coal. It appeared to her, and to me as well, that our Public Service Commission should be energetically looking into this. Ms. Drob did some research into how much Pepco pays for coal. She obtained copies of the Federal Power Commission's reports on powerplant fuel prices for May 1974 and May 1973, and I will enter these in the record after I have talked about them.

In checking the pertinent figures for the District of Columbia in comparison to other States, it was obvious how much more Pepco pays for coal in comparison with every other State except one. One reason that the D.C. price is so high is that they are buying a very low sulfur coal, but from these tables one can see what a tremendous variation there is in the price of coal in various parts of the country, which of course is due in part to transportation costs. But it is also influenced to a large extent by whether or not the utility has the benefit of solid long-term contract or ownership of their own mines, or are buying coal on the very volatile spot market.

The May 1973 Federal Power Commission report shows that the average price paid for all coal purchases by Pepco for the District of Columbia is the second highest of any in the rest of the country. They pay the second highest price. New Jersey is the only State paying more. But all other States pay less. For instance, the State of Washington paid, much less; the same for Michigan, Kansas and Kentucky. The average in the United States was 39.5 cents, a far cry from the District's price, which was 59.3 cents per 106 Btu.

Mr. ADAMS. What year is that, Ms. Brown? May 1973 or May 1974?

Ms. BROWN. That was May 1973.

It also (the 1974 Federal Power Commission report on fuel cost)—tells much the same story. Only the State of Connecticut paid a higher rate than the District of Columbia, which paid 146.4 cents while Michigan paid 77.5 cents, Washington State paid 35.6 cents, Colorado paid 34.4 cents, et cetera.

These rates of the District of Columbia, second highest in the Nation for 2 consecutive years, do not make it appear that Pepco is doing a very efficient buying of its coal.

We do not claim to have all of the answers about this matter of coal costs. We have taken the trouble to get these very interesting statistics and found that the District of Columbia is way up at the top. When Mr. Stratton of the Public Service Commission was asked at these hearings about the money that was spent by Pepco for coal, he pleaded ignorance.

QUESTIONS FOR PEPCO

Ignorance may be bliss for the Public Service Commission if they are going to play patsy to Pepco, but ignorance is agony for the District of Columbia residents who are paying higher electricity prices. We therefore propose that Mr. Stratton ask the following questions of Pepco and that both Pepco's officials and the Public Service Commission be responsible for accurate and prompt answers:

One. How does the price you pay for coal compare to that of other utilities? Please be specific.

Two. From which coal companies are your largest purchases made? Who owns these coal companies? Are any of them owned by oil companies?

Three. If your oil contract is so good, why are you buying so much coal?

Four. Is your coal buying by spot purchase or contract? Which is cheaper?

Five. Is there not a danger of future kickbacks in the carte blanche arrangement of fuel adjustment costs? How do you guard against this and pay competitive prices?

Six. Would a Federal oil and gas corporation help solve your problem?

In talking about the ways that costs could be reduced, recent evidence shows that the demand for electricity is beginning to stabilize while the industry, however, continues to project the need for ever greater production of electricity. So the utilities are embarking on what may be viewed by historians as the most costly and dangerous folly of all mankind, the construction of nuclear powerplants. Their construction requires vast amounts of capital, which is being increasingly raised through rate hikes as normal money markets remain tight. I do not propose right now to get into the very complex problems of nuclear generating stations today, but our committee study of the problem did bring up an interesting point about efficiency at Pepco.

NUCLEAR POWER

A summer intern for our committee did research into Pepco's Douglas Point nuclear generating station, which is in the process of being built. Our bright and ambitious student reported that Dr. Robert Mueller of NASA feels that Pepco may be overestimating the demand of the metropolitan area in the 1980's.

While our summer intern, Mark Wagenheim, was researching Pepco's Douglas Point nuclear generating station, he came upon a small example of inefficiency and waste of money at Pepco. I bring it to

your attention today not because it is such a gargantuan waste, because it certainly is a small waste, but because it may be only the tip of an iceberg.

Mark tried to get into an office at Pepco which was highly advertised in their myriad of elaborate booklets on nuclear power information. The office is called the Office of Public Responsibility. This office was supposed to provide, as Pepco suggests in a separate pamphlet about the office, a centrally located library for documents relating to the Douglas Point nuclear generation station and access by the public to documents not normally available without orders from judicial or regulatory bodies; facilities for locating, reviewing and duplicating selected documents; and a technical staff to aid interested parties in obtaining answers to questions and to facilitate company response to their suggestions. The hours of the office were advertised as 9 to 5 daily except Saturday and Sunday.

Our intern found that the office was never open any of the days in early July that he went there. On a Tuesday he called and was told it was open, Monday it was not, but he got the Pepco general number and was put in touch with a man at the nuclear information department of Pepco. He told Mark to stop by before lunch. The office was still closed. He told him what the office was supposed to do, and in fact, Mr. Strant took Mark out to an expense account lunch, and then he came back to go to the office again, which was still closed. So Mark was never able to get into that office that week.

At 4 p.m. Friday, of the same July week, I telephoned the number listed for the office. At first the operator could not place the office. She did not even know it existed. And then after some questions around, she, too, sent me to the Nuclear Information Department where the lady who answered the phone said to me, "You are going to have trouble reaching that office."

"How about if I come to the office on Monday?" I asked innocently. She said I should contact Mr. Earl Hill in a different office, and he might be able to let me into the Office of Public Responsibility. She told me that the Department of Nuclear Information does approximately the same thing as the Office of Public Responsibility. I then put it on my list and with some regularity in July I called the Office of Public Responsibility regularly and could never find anybody there. The calls were always referred to the Department of Nuclear Information.

At the same time a newspaper reporter who had stumbled on this Office of Public Responsibility and was himself wondering at the apparent waste of money, called me. We talked about the problem, and he told me that a Mr. Embley, an engineer, had been brought down from GE as Director of the office at quite a high salary. Mr. Embley lasted 5 months and then returned to GE despite the fact that his engineering background made him a perfect person for the well-paid job. It was reported to me that he found out that a lot of money was being spent on the office and yet the office was basically useless.

On Friday, September 27, in preparation for this testimony, I called back the Office of Public Responsibility. Obviously due to the fact that the newspaper reporter and community groups had been calling with some frequency in July, it had been newly staffed on the date of August 1. Two new employees had come into the office, one a file clerk

and one a new Director of the office. In speaking to the file clerk first, I ascertained that the office had just passed its 1 year anniversary, and the file clerk estimated that in that 1 year—and this was an estimation—the office had answered approximately 175 inquiries. Neither the clerk nor the director would tell me how much it cost to run the office. The director said that attendance figures were compiled monthly, but that this was to be the sole information of PEPCO. It would seem to me that if these were good figures, they would be anxious to say, look, we have x figures a month. Isn't this office wonderful?

She did sort of apology and said, "It takes people a little while to get used to using the office." It will take them a long while, I think, if nobody is there.

One hundred seventy five inquiries is literally a drop in the bucket. Our volunteers handled that amount and more for free, handling complaints, and that is just a miniscule amount for two people, and with a duplicating machine and a full office with a lot of reports. Mr. Embley was an engineer and technical assistance is promised by the office to interested persons. However, neither the new Director nor the file clerk have engineering backgrounds and simply go to other engineers within PEPCO for information. Basically this is just a duplication of effort because the consumer can be directed precisely to the engineers rather than going through a fully staffed office.

Now, here we have an example of a full office originally expensively staffed with expensive equipment and documents that lost its director within 5 months because reportedly he was dissatisfied with the inactivity of the office, and which was reorganized after a period of total nonstaffing and nonresponsiveness to any community inquiries. Yet, even now that it has been restaffed the office is not able to carry out its duties and becomes merely a redundant filtering place for other existing PEPCO information centers. Finally, although the office is extensively advertised and much is promised in various public relations booklets, the office has received a very small number of inquiries, and in fact, does not live up to the PR promises in the booklets.

If I were to estimate, since I could not get any prices, how much it would cost to run this office, and I probably am estimating low because I do not think in those enormous terms, I would say approximately \$40,000 or \$50,000. Now, \$40,000 or \$50,000 in a highly advertised office may not be an isolated incident. If \$40,000 or \$50,000 perhaps is wasted in this manner, is PEPCO practicing inefficiencies of other \$40,000 or \$50,000 or perhaps other millions of dollars? The problem of efficient management is an area that the Public Service Commission should delve into deeply. It is scandal that they have not done so at the present time.

I hope in this testimony that we have raised intelligent questions, questions that need to be answered. We do not claim to have all the answers. We do claim to know that the people of the District of Columbia are suffering sorely from soaring electric rates. The people of the District of Columbia deserve the answers to these questions and it is up to the Public Service Commission and to PEPCO itself to provide us with these answers.

Because Public Service Commission appears to play the patsy to PEPCO, it does not really listen to the cries of anguish of the District of Columbia citizens, it is absolutely imperative that a people's

counsel represent these interests and seek answers to these questions and solutions from the Public Service Commission and PEPSCO.

Mr. ADAMS. Thank you, Ms. Brown.

I want to thank each of the members of the panel for doing your homework and making an excellent presentation.

Mr. Diggs.

POWER CONSUMPTION

The CHAIRMAN. I was intrigued by Ms. Brown's comments about power consumption being stabilized.

Did I understand that correctly?

Ms. BROWN. Yes.

The CHAIRMAN. I was under the impression there was quite an explosion in the demand by consumers for power, not only here in the District, but in Timbuctu, and I have been in both places.

Ms. BROWN. No, what I have in my original reading, and I can go back to my source, which I just do not have here, because of the advice to consumers which they are thinking about how to use less electricity, how to cut down on the uses of energy, that they really are being responsive to this, and so the demands have stabilized. The prices have not stabilized, but the demand has been on an even keel for some time, and I even quoted that some experts have said that Pepco's estimates for future power, for instance, in the eighties, in the 1980's, are too high because the situation has somewhat stabilized. It is not going like this anymore.

I will get you my references for that.

Mr. ADAMS. Mr. Gude?

Mr. GUDE. Thank you, Mr. Chairman.

GAS RATES FOR SUBURBAN USERS

Mr. Wells, in the course of your presentation, you mentioned the matter of District of Columbia residents having to pay increased rates which were actually going for the benefit of the suburban users.

Would you clarify that point?

Mr. WELLS. Sure, I would be glad to clarify that.

In the *Washington Gas Light* case, what happens is that the cheap supplies of gas from the south are contracted. The demand in the District of Columbia has stabilized or may decline, in fact. The increase in use, even though there are no new customers being allowed at this time out in Maryland and Virginia, when new customers are allowed, or if they are allowed, what will happen is that the price of gas will be much, much higher. It will be 20 cents a therm as opposed to 7 cents a therm right now for southern gas.

Under the mechanism of averaging all rates together, even though that 20 cents a therm of gas is being purchased for Maryland and Virginia suburbanites, under the averaging mechanism, customers in the District will end up paying for that.

Mr. GUDE. Let us take someone who is using gas for home heating and appliances within the District and someone who is a resident in Montgomery County, Prince Georges or Virginia, 10 blocks outside of the District. He also uses gas in the same manner, and that also applies to electricity.

Should not the rates remain the same, if there has to be an increase in overall rates? Should it not apply equally?

Mr. WELLS. Well, perhaps between individual customers, yes, but what the problem is is that if you are just looking at the District as a whole, all of those customers, their usage is not going to grow, either in gas or in electricity, as fast as out in the suburbs.

Now, the problem comes if in fact you set up a separate company, a separate gas company just serving the District, or a separate electric company just serving the District. They would pretty soon have much lower rates than out in the suburbs because they do not require the new expensive plant for electricity, or the very high cost of synthetic gas or LNG.

Mr. GUDE. It seems to me you have to look at the whole market area. I do not know why someone within the inner part of the county should have to pay for the increased growth that is going on in the outer part of the county any more than anyone else in the whole system.

Mr. WELLS. I agree with that. My statement was just very general that if you take the jurisdictions as a whole, that you will find that under these averaging methods that are now used, that both in electricity and in gas, District customers are going to be taken.

Mr. GUDE. I just wanted to clarify the point as far as the individual user goes. And we are in agreement on that point.

Mr. WELLS. Yes.

Mr. GUDE. Thank you, Mr. Chairman.

Mr. ADAMS. Mr. Fauntroy?

Mr. FAUNTROY. Thank you, Mr. Chairman.

I want on behalf of the citizens of the District of Columbia to commend this panel for not only their excellent testimony, but for obviously the enormous amount of volunteer time and energy that has gone into the preparation for this hearing. Certainly I recognize that each of you has accepted a demanding assignment and handled that assignment with good judgment and understanding, and I want to thank you.

I have two questions for anyone on the panel, and then one for Mr. Shuck.

METER READING

First of all, in your judgment, are existing meters such that homeowners can determine their own monthly costs?

Ms. MAULTSBY. What was the question?

Mr. FAUNTROY. Are the existing meters such that a homeowner looking at them can determine what their own costs would be?

Ms. BROWN. I just have called PEPCO because that was a question that I had, and I was going to ask them to come out and show me how to read my meter myself because I would like to be able to tell people how to do that themselves.

So I cannot give you an answer, but I think it is something that I would be able to give you an answer to as soon as I get PEPCO out.

Ms. MAULTSBY. They are so structured that the meters can be read, and the consumers can determine the amount of their bills.

However, there is more consumer education needed throughout the general community, but there are several people in the Lamond-Riggs area who have requested from PEPCO a 6-month supply of cards. We read our own meters and send them in to the Potomac Electric

Power Company in watching the rates, but it can be done. It is not easy. But pamphlets also are available from the Potomac Electric Power Company that should be mailed to all consumers throughout the District that tells exactly how to figure your light bill. So they do have that available.

Mr. FAUNTROY. All right, thank you.

All right, Mr. Shuck.

PEOPLE'S COUNSEL POWERS

If I understand your recommendation to us that the people's counsel be authorized to involve the Commission's factfinding and subpoena powers in order to properly represent the people, that those powers run to and include the authority to bill the utility for the cost of the expertise that the people's counsel will have to hire in order to properly represent the people.

Mr. SHUCK. Yes, I think so. First of all, as far as factfinding, it is essential that the people's counsel have the capability of making a forceful and accurate case for the Commission, and that of course requires access to the records and to the documentary evidence that is needed.

As far as reimbursement of costs, I think the rate payers should bear those costs if the rate structure, particularly if the rate structure were equitable. That would—those costs would be more equitably distributed that if they were distributed among taxpayers, who frequently are burdened by an aggressive local tax structure, property tax particularly. So I think in both cases the answer would be yes.

Mr. FAUNTROY. Thank you.

Thank you, Mr. Chairman.

Mr. ADAMS. Mr. Smith.

Mr. SMITH. Mr. Chairman, I do not have any questions. I apologize for being late but I do commend this panel on obviously having done their homework, and I think you have made a very valuable contribution to this discussion.

I will yield to the gentleman.

Mr. GUDE. If the gentleman would yield, I would just like to thank the panel, too, Mr. Chairman. I would like to look at some amendments to follow up on the suggestions that have emerged to provide for communications and dialog between the three Public Service Commissions involved in this metropolitan area—Maryland, the District of Columbia, and Virginia. I would like to know whether we could appropriately provide intercommission communication without some type of interstate compact authority.

But it has been very helpful to have the comments of this panel.

I thank the gentleman for yielding.

Mr. ADAMS. Thank you, Mr. Gude.

Mr. Breckinridge.

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

I would like to apologize to the panel also for being late. I spent about 30 minutes listening to you all upstairs before I was able to get down this morning. I apologize also for bringing a little flu back with me, but I wanted to hear this panel particularly, and I am very sorry to have missed Mr. Alexander, whose notes I have been able

to review this morning, and I am impressed by his letterhead on the one hand, and his opening paragraph on the other. And Mr. Shuck and other members of the panel, Dr. Wells, I would like to explore one aspect of this bill with you.

INDEPENDENCE OF PEOPLE'S COUNSEL

I notice that the Maryland Public Service Commission's letterhead bears the name of Mr. Alexander as people's counsel, and also Mr. Donald Rogers as his assistant, which would imply a very close working relationship, but then I see that in his opening Mr. Alexander points out that his office, and I take it that means his authority and his duties and his responsibilities are separate and independent, although nonetheless within that Commission.

Now, I think my question then goes primarily to the question of that independence, without which one does not achieve in fact the true adversary, advocate's posture that I understand we are discussing here today.

I have followed, Mr. Shuck, your conclusions. I got here in time to hear you conclude and I think I am in accord generally with what I have understood you to say, and I have gone through your notes.

Let me, if I may, explore just a moment some of the experience that others have had in this area, and let me thank Dr. Wells for his volunteer posture which is very similar to my own experience.

The State of Kentucky got into its activity in this area by virtue of the fact that, Mr. Chairman, that various economists and engineers who had been retained by the Department of Finance of the Commonwealth of Kentucky to look into a rate case were fired and dismissed under political pressure. In my office there was no money to pick them up, and they volunteered their services on a gratuitous basis, and we had a very effective and a very successful first experience in intervention before a regulatory commission on the side of the public.

Now, one of the things that caught my attention in that initial experience was this, that instead of being all alone, as I had anticipated we would be with the Public Service Commission representing, as it did, "the people," but very seldom in practice differing significantly with the petitioners who appeared before them for a variety of reasons that it is not necessary to go into, I found that the Federal Establishment was there pleading its interests because of a direct impact on its purse strings. I found that certain major industries were there, and I found that all of them were there with competent counsel. All of them were there with competent rate experts. All of them were there to take care of that very narrow, limited segment that represented their own precise interests, and that no one was there representing the public interest except in this broad and amorphous phrase, the Public Service Commission.

I say that without any criticism of that Commission, which consists of personal friends of mine, acquaintances, and associates. I say it in this context, that if we are to have as the intervenors and the applicants do have on every significant rate increase application, a true representation of the public interest, then we must have that same representation in an adversary, advocacy posture that they assume, and when they appear and present their case.

I think I am asking a question now, Mr. Shuck, when they appear and present that case, although the posture of the—not the District of Columbia, but the average public service commission is one of representing the public interest, actually are they not more there in a quasi-judicial capacity from your experience and observation?

Mr. SHUCK. Absolutely. They are there in that capacity both out of a sense that that is their role—that is, that they are charged, in fact, as decision makers—and also, I think, and that they themselves do not have the kind of expertise and access to data that an advocate who is armed with subpoena power, and so forth, would exploit. So that I think for several reasons your observation is quite accurate.

NEED FOR PEOPLE'S COUNSEL

Mr. BRECKINRIDGE. Well, then, pursuing that a little further, if I might, and following up Dr. Wells's contributions to the proceedings not before this committee but before the Public Service Commission, the difficulty of mounting a public case arises out of (1) the absence of a people's counsel, as we are contemplating here; and (2) the supporting expertise that should be available to the counsel as it is available to the applicant; and (3) therefore, of course, the funds that would make that kind of presentation and prosecution of that representation possible.

Would that be a correct statement of the posture in which the public finds itself?

Mr. SHUCK. Yes.

INTERVENORS

Mr. BRECKINRIDGE. Now, turning if I may, Doctor Wells, to your area of experience and expertise, my own understanding is that there are available throughout the country a variety, a number, of well-known firms and experts and authorities who, in a capacity similar to yours, are available to intervenors and/or to attorneys general offices or to people's counsel with a vast experience and expertise and knowledge in these areas on a consultant fee basis; and that these people are available on either an hourly basis or for something more in the neighborhood of \$30 to \$40 or \$50,000 dollars, when you are involved in a matter involving \$15 or \$50 million, will really come in and make that case for you on sort of a turnkey basis.

Is that a correct statement of the possibilities?

Mr. WELLS. Yes, indeed; yes, it is a concrete statement.

Mr. BRECKINRIDGE. All right, now, Doctor, from your experience in this area—not limiting your answer to yourself, but based on your observation of others who are similarly situated and who have appeared before other commissions in representation of the public interest—what is your observation in connection with the value of the return on such an investment by those attorneys general and those public service commissions and those People's Counsels who have pursued such a course?

Mr. WELLS. Well, first of all, I should not present myself as being an expert. I appeared before the Illinois Commerce Commission and the D.C. Public Service Commission only. But I think the issues we bring up may not otherwise be brought up at all; so I think there is—I

think in terms of my own experience, in terms of the late payment charge that Consumers Union is involved with—and I was a witness on that—and in terms of Friendship House—I was also their witness concerning rate structures; I think that we did get a substantial return for that amount of effort. And in the Illinois Commerce case, again, I think we did get substantial return for the amount of effort that was put in.

EXPERTS

As to whether we need to involve—well, the thing that bothers me here is that rather than going to some of these established firms who charge very high rates, there are plenty of young economists now coming out of school who would probably be even better than many of these people who have been associated with these or in the utility practice field for many years; namely, for these reasons: First of all, you can hire them a lot cheaper; the second thing is, traditionally there has been very little attention to rate structure except to demand that my rates from some narrow point of view be lowered. And I think that economists coming out of school might be very well equipped to handle those problems that have by and large not been very satisfactorily handled to this point.

MR. BRECKINRIDGE. I want to thank you for making that, I think, very important observation.

Mr. Chairman, I did not in my remarks intend to exclude that area. That, as a matter of fact, is where we found our experts; we found them in the local economy there. I happened to live in a university town.

ACCOUNTING

Testimony that was given here the other day, if I understood it correctly, to the effect that accounting and bookkeeping methods were of secondary importance in these matters. That goes contrary to my understanding.

Would you address yourself to that particular point?

MR. WELLS. Are you asking whether accounting methods are important?

MR. BRECKINRIDGE. I understood a prior witness to indicate in his written testimony that bookkeeping methods and accounting methods are of perhaps secondary importance to proceedings of this kind.

If that is correct, you can confirm it; if it is incorrect, well—

MR. WELLS. If you are concerned about rate structures, existing accounting procedures are not very helpful. If you are concerned about the allocation of costs between jurisdictions, for example, it can be very important. Let me give you an example in the current Washington Gaslight case that I have found.

It turns out that the way they allocate accumulated depreciation assumes essentially that the average age of equipment is the same in the District as it is in Maryland, as it is in Virginia. We know that is not the case. It is older in the District. Therefore, it turns out that in my opinion the District was again getting the short end of the stick as traditionally happens, evidently.

So that accounting method was very important. They were not separately accounting depreciation for the District at all; they were just apportioning it.

Mr. BRECKINRIDGE. I understand that what you are saying illustratively is that this is one of the more important sensitive areas in the determining of a rate base test year.

Mr. WELLS. It can be quite important, yes.

If you accept the traditional way of proceeding, it can be very important indeed.

Mr. BRECKINRIDGE. One more question, and I direct it to anybody that wishes to respond.

INDEPENDENT PEOPLE'S COUNSEL

My own concern here is the independence of the People's Counsel, No. 1—the assuring of an adequate and broad grant of authority that allows him not only to participate, hear and be heard, appear and participate, but also during periods when there are no applications investigate and determine what the facts are in the interregnum.

Now, addressing yourselves to (1) that independence; and (2) that grant of parent authority, are you satisfied with the bill before us, or will you make available to us such other recommendations as may occur to you?

Ms. BROWN. I have a small problem with the independence. Certainly you want the People's Counsel to be independent and be an adversary for the public interest; but I think, if you are talking about setting him too far away, really, from the activities of the Public Service Commission, being a foreigner as it is in that group, I think the thing is that he should be on an everyday, daily basis as a part of the Commission, very much working for the public interest. But I think that when you talk about independence—it sounds to me, that that is that guy, oh, that is that crazy guy, shunted away, who is always, you know, screaming and carrying on. I think that the public interest guy or woman should be very much a part of the staff of the Commission, just as the rest of the staff is who are trying to look for one side or the other side.

Mr. BRECKINRIDGE. He should have full and complete routine access to any and all of the data available?

Ms. BROWN. Absolutely. All staff, all data; all that sort of stuff.

Ms. MAULTSBY. I recommended election of the Counsel, and I see no reason why there could not be adequate participation and cooperation and communication on the part of the Counsel with the existing Public Services Commission. I think that this would be necessary in order to effectively carry out the duties and responsibilities of the Counsel.

On the other hand, we have grave concern for the fact that the structure of the Counsel, as I stated in my testimony, lends itself to sort of not being responsive to the people. For an example, we were told in one meeting that—well, we are appointed by, let us say, the President; and saying in essence, you know, we really do not have to respond to what you are saying. This is the way the committee construed it. But we feel that if the Counsel is elected, that you cannot go to the people and say that, I am appointed by the President or I am appointed by the mayor. They will have been elected by the people to serve the people, and with the understanding that to get the job

done, that you must communicate and coordinate with the existing Commission.

Mr. SMITH. Would the gentleman yield?

Mr. ADAMS. Mr. Breckinridge, are you finished now?

Mr. BRECKINRIDGE. Yes, I am, Mr. Chairman.

Mr. ADAMS. Did you wish to be recognized, Mr. Smith?

Mr. SMITH. Could I be, for just a short question, Mr. Chairman?

Mr. ADAMS. Yes.

INTERVENORS

Mr. SMITH. On Thursday, the Chairman of the Public Service Commission of the District was here testifying. It was his idea, and I would like your comment, that rather than have a People's Counsel in rate cases, because of the great difference in variety of the interests of different groups of people and different kinds of people, that he thought it would be more efficient and work out better if the various interest groups that wanted to challenge any rate application were represented by counsel of their own choosing. The expense of that counsel would be paid by the company; actually by the consumers, just as the consumers would pay for a People's Counsel. He thought that you would then get a better representation of the varied interests of consumer groups.

I would like your comment.

Ms. MAULTSBY. The problem with that is that we have so many effective existing organizations in the District of Columbia that might feel that they should be the representatives of any particular activity that concerns the District. I could see confusion in that if one group is not allowed to represent the consumers, then the other group could perhaps feel that, well, we are not given adequate consideration

What we are trying to do in the District of Columbia now through the Federation is to get some kind of community coordination, and I think this would not be in the best interests of our efforts at this time. I think that the Counsel would be the mechanism through which the wishes and desires and complaints of the citizens, the total citizenry of the District of Columbia, could be channeled most effectively.

I would be opposed to opening this kind of a thing up to the total community. We have 51 citizen organizations already, plus numerous other organizations, all of whom feel they are important. So I do not think this would be effective.

Mr. SMITH. This was exactly my question to him, as to which ones would come in with the Counsel that would be reimbursed out of the proceedings. He said he thought that reasonable rules and regulations could be drawn.

But I would tend to agree with you. I think it would be a terrible decision to say, you can come in and be a representative and you cannot. And if you had everybody in, a rate case would last for 5 years.

Ms. MAULTSBY. Thank you very much.

Mr. SHUCK. I would like to respond to that because I would like to disagree.

The experience has been not that too many groups come in, but that no groups come in. I think the response to that is clearly that resources are very scarce. I also think that the problem of choosing

which groups to reimburse or the amount to reimburse is really not much an issue at all. The Federal courts do it routinely; the D.C. Public Service Commission does it routinely in trying to decide which cost of the regulated utilities are appropriate and should be included in the rate space. These are the kinds of decisions that decisionmakers make all the time.

I also think that there is nothing inconsistent between the notion of a People's Counsel and the notion of encouraging voluntary organizations to intervene where they can make a contribution. And presumably, if they did not make a contribution, they would not be reimbursed. But again, the notion that you are going to have too many groups in there and there is going to be confusion is sheer fantasy in view of the experience which has been that nobody comes in; it is just the utilities and the very, very large consumers like GSA and Safeway —

Ms. MAULTSBY. I do not think this precludes the participation of consumer groups. But I think what it does is streamline the method by which problems are presented.

Certainly we would want every idea to be presented from every citizens group, but I think that if there is a consolidated effort and a line of communication to a person who is there for that particular purpose, that the citizens groups could feel that they could go, too. And that particular—well, the counsel, for an example, could present this. This does not preclude participation on the part of the community. This is what we are about in the District of Columbia—community participation; but effective, organized community participation. And I can see utter chaos in having—I think we had—I think represented to the Advisory Council something like 300 different organizations in the District of Columbia—imagine—at a hearing.

Mr. ADAMS. Thank you.

I want to thank the members of the panels. I will reserve my questions because you have really summarized very well the issues that should be directed to Pepco, and I will reserve my questions for Pepco and will try to ask them on the subjects that you have raised. I want to thank you, as the other members have done, for doing your homework and presenting an excellent case for the consumers.

Mr. FAUNTROY, did you have a statement?

Mr. FAUNTROY. Mr. Chairman, would you yield for one question with respect to the bill.

Mr. ADAMS. Mr. Fauntroy.

PEOPLE'S COUNSEL JURISDICTION

Mr. FAUNTROY [to Mr. Shuck]. The bill has a requirement that the counsel represent the people at all hearings of the Commission and at all judicial proceedings. What is your judgment on that?

My concern has been that we are not burdening the People's Counsel with just paperwork, and I wonder the extent to which you think that might bear modification.

Mr. SHUCK. I think that that language would still permit the People's Counsel in any particular case to fail to participate actively if he or she believed that the issue were not worth raising or that there were more important priorities to be pursued.

What I am more concerned about is the language in the bill which says that the People's Counsel shall be the representative for petitioners, which seems to imply that other groups could not intervene; that the People's Counsel would be the exclusive representative.

Mr. FAUNTROY. Thank you.

Ms. MAULTSBY. Mr. Chairman, if I may make one apology.

Mr. Diggs has brought to my attention that I addressed the committee as the subcommittee. I wish to apologize; it was strictly an oversight.

Mr. ADAMS. We have a quorum call pending, but the committee wants to proceed and finish, because the representatives of Pepco are here. So the committee will adjourn for 10 minutes while the Pepco representatives are able to seat themselves, and we will proceed in 10 minutes with the testimony of Pepco.

And I want to again thank the panel.

The committee will stand in recess for 10 minutes.

[A brief recess was taken.]

Mr. ADAMS. The committee will come to order.

I want to state to the members of Pepco that I regret it has been this long before you have been able to be heard before the committee. I appreciate the fact that you have been here during the entire hearings, so you understand that the reason for the long period of time has simply been the time required for the testimony and the questions by the members.

It is certainly the intention of the chairman—and I have talked with other members of the committee—that because of your patience in waiting here, we are going to try and sit and complete the hearing today. If we cannot, we will be certain there is full opportunity, but that is our intention.

So at this point I would like to call Potomac Electric Power Co. It is my understanding that they will be represented here today by Mr. W. Reid Thompson who is president and chairman of the board, as their chief spokesman.

According to our witness list, Mr. Thompson is accompanied by Mr. H. Lowell Davis, senior vice president for finance; and Mr. Frank S. Walters, vice president for rates and regulatory practices.

Mr. Thompson, you are recognized, and if you would introduce the individuals who are with you, it would help the committee, because then we will know to whom we may be directing questions, because we do not have nameplates for you.

STATEMENT OF W. REID THOMPSON, PRESIDENT AND CHAIRMAN OF THE BOARD, POTOMAC ELECTRIC POWER CO., ACCOMPANIED BY H. LOWELL DAVIS, SENIOR VICE PRESIDENT, FINANCE; FRANK S. WALTERS, VICE PRESIDENT, RATES AND REGULATORY PRACTICES; AND EDWARD F. MITCHELL, VICE PRESIDENT, ENGINEERING

Mr. THOMPSON. Thank you, Mr. Chairman.

I am accompanied by Mr. Davis, who is on my right, who is senior vice president of finance; and to my far left, your right, is Frank Walters, our vice president of rates. Now, in addition, with the com-

mittee's indulgence, I have also brought with me Ed Mitchell, our vice President of engineering, because Mr. Mitchell is in charge among other things of all of our system plannings, and questions having arisen Friday for our forecasting, I thought it would be appropriate for Mr. Mitchell to accompany us.

Mr. ADAMS. We appreciate it, and we welcome you, Mr. Mitchell.

Mr. MITCHELL. Thank you, sir.

Mr. THOMPSON. Mr. Chairman, we appreciate the patience of the committee in remaining with this great problem, as you have stated, until we have had an opportunity to be fully heard on the issues that have been raised here.

Let me say at the outset, I have filed a written statement and I will not read that statement. I will simply hit some highlights with respect to it.

Mr. ADAMS. All right.

Without objection, Mr. Thompson, your entire statement will appear in the record at this point, and then we would be most happy to have you summarize it in any manner you wish.

[The prepared statement of Mr. Thompson follows:]

STATEMENT OF W. REID THOMPSON, CHAIRMAN OF THE BOARD AND PRESIDENT
POTOMAC ELECTRIC POWER CO.

My appearance before the Committee is in response to letter of September 19 from Chairman Diggs requesting me to testify on H.R. 16782 providing for the appointment of a People's Counsel in the District of Columbia Public Service Commission, and in response to the questions which concern the Committee regarding the escalating costs of electrical power in the Nation's Capital, as stated by the Chairman and Mr. Adams, Chairman of the Subcommittee on Government Operations at a press conference held on Monday, September 23.

The escalating costs of electric service to our customers is the overriding, all-consuming concern of all of us at PEPCO, and we are glad to have the opportunity to discuss this grave problem with the Committee.

This hearing comes at a time when the terrible inflation besetting us all has brought the electric utility industry into dire financial straits despite the fact that rates are rapidly rising to cover extraordinary and totally unprecedented increases in the cost of electricity. Electric rates must be set to cover these costs if the electric companies are to continue to furnish electricity to its customers. If the consumers of electric energy do not pay the cost of serving them, who else is there to pay? The answer is *no one*—consumers cannot buy electricity in a vacuum without reference to the cost of the elements absolutely necessary to provide them the service. As a result, America's homemakers today, along with all other users of electricity, are going to have to include electric bills as major cost items in their household budgets, along with food, clothing, mortgage or rent payments, and other necessities. And just as the prudent homemaker watches the refrigerator and the pantry, or checks on the children's clothing needs, she must watch her electric meter and calculate how much electricity she can afford in the month's budget. Then she must conserve—just as she conserves food—to be certain that not a penny is wasted or misused in her monthly consumption.

The cause of the extraordinary increase in electric bills to PEPCO's customers this year is the runaway increase in the cost of oil and coal to generate electricity and unless fuel costs go down, electric prices must remain high.

The crisis in the electric utility industry is a matter of central concern in the efforts to solve the serious economic problems facing the Nation. In fact, while we meet here today, other Committees of Congress and agencies of government are urgently exploring means to provide financial relief for the electric utilities. The questions raised here today must be explored against the background of this crisis.

PEOPLE'S COUNSEL

The Public Service Commission is charged under the law with the protection of the public interest and with assuring fair and reasonable rates to the customer. Under the present statute, the Office of the District Corporation Counsel provides legal assistance to the Commission and in addition the Commission engages the services of specialized outside legal counsel as Commission agents to appear in each major rate case on behalf of the Commission and the public. The agent and Corporation Counsel participate fully in the rate case, cross-examining all company witnesses and presenting evidence on all phases of the rate case.

From my own experience in the District over the last three and one-half years, the rate proceedings before the Commission are completely adversary, resulting in a comprehensive examination of all issues in the public interest. In Maryland, PEPCO's other principal service area, a People's Counsel comparable to that proposed in H.R. 16782 represents the public and the rate proceedings there are also completely adversary. I believe an examination of the records in the rate case in both jurisdictions will indicate that the public has been fully represented under either system and the impact of the decision of the Commission on the Company and the consumer has been virtually the same under either system.

We agree totally that the consumers should be thoroughly and competently represented in all rate proceedings. Current conditions demand that all rate matters be dealt with in a timely and expeditious manner. If this Committee and the Commission determines that it is appropriate to establish the office of People's Counsel either in substitution of, or supplementary to, the presently available legal assistance to protect the public, PEPCO would hope that the People's Counsel would contribute to expediting the conduct of rate proceedings without sacrificing a full hearing of the issues, by helping to consolidate consumer positions and bringing expertise to bear on them.

COSTS

With respect to the Committee's concern regarding the escalating costs of electrical power in the Nation's Capital, which is the constant absorbing concern of all of us at PEPCO, my comments will cover four areas:

1. The reasons why the cost of electric energy is rising rapidly.
2. The impact of rate design.
3. A statement of the nature of the financial crises in the electric utility industry.
4. What PEPCO is doing to keep costs as low as it can, and the prospects for the future.

1. *The reasons for the rapidly rising cost of electric energy*

The cause of the rapid cost increases experienced by our customers in recent months is inflation, principally in the cost of fuel. The 1960's was a period of stable and even declining electricity prices. In 1963, the average price per kilowatt hour of energy to PEPCO residential customers was 2.39¢. PEPCO had two rate decreases in the 1960's and the average unit price declined to 2.05¢ by 1969. With rate increases, it increased to 2.63¢ in 1973—an increase of only 10% during the entire 1963–1973 period. Prices were rising in the early 70's principally as a result of sharply increasing construction and financing costs. Even so, the price increases for electricity remained well below the increases in the Consumer Price Index.

Had construction and financing costs remained the principal cost pressures, bills would have continued to increase at a pace consistent with these increasing costs, but the cosmic escalation we have experienced in the last nine months would not have occurred. *The reason for the dramatic increases to our customers this year is the totally unprecedented and extraordinary increase in the cost of fuel.*

Last November, the energy crisis stemming from the Arab oil embargo marked the end of stable electricity prices. Since that time, the unit prices paid by PEPCO for each ton of coal and each barrel of oil we burn to provide power to our customers has almost tripled. One year ago, the average cost of coal was \$14.16 a ton, today it is \$37.87. One year ago, the average cost of residual oil was \$3.86 a barrel. Today it is \$10.28. This increase has occurred despite PEPCO's strenuous efforts to hold fuel prices to the minimum. The price for these fuels worldwide and in this country is beyond PEPCO's ability to control. Indeed the best minds in this nation, in and out of government, have failed to find a satisfactory solution to this problem.

However, we have done and are continuing to do everything we know how to do to keep fuel costs as low as we can, including the following:

A. *Personnel*

In November 1973 we reorganized our fuel purchasing group to provide additional expertise and the most efficient procedures to deal with the crisis conditions. We constantly monitor all aspects of this operation.

B. *System Design*

1. Extensive studies are performed to assure that the type of new facility planned and the type of fuel chosen produce the minimum revenue requirement from among alternative plans.

2. Capability of burning either oil or coal is designed into our plants. Without plant modification we can vary our fuel burn to as low as 40% coal or as high as 88% coal. This convertibility allows us to burn either coal or oil, whichever is cheaper, to the extent that environmentally acceptable fuels are available.

3. Fuel economy considerations are paramount in the scheduling of maintenance and plant availability.

We have developed a computerized production cost model which we believe to be as sophisticated as any production planning model in the utility industry today. With this model we can scientifically plan the use of units in conjunction with maintenance schedules thereby keeping system operating costs at a minimum.

4. Our units are operated according to economic dispatch which insures that any increase in load is met using the least expensive unit available.

C. *Procurement of Coal*

1. We make daily contact with each loading mine to determine rail car availability and to insure that a sufficient supply of cars is available.

2. We make frequent trips to the coal fields and the railroads to audit and review all aspects of the supply problem.

3. We are in constant contact with our suppliers to find any usable supplies beyond our regular commitments at a competitive price.

4. We are actively engaged in consideration of possible long-term contracts and the purchase of coal reserves in the ground. In this regard we have retained consultants, including the MITRE Corporation, to assist us in reviewing our fuel strategy in the context of environmental regulations and existing fuel supplies.

5. We are currently testing a \$7 million dollar pilot desulfurization project at our Dickerson Station. The scrubber system, if it works and proves economical, will allow us to use the less costly, higher sulfur coals within environmental regulations governing the sulfur content of stack gases.

6. We are actively pursuing the sale and economic disposal of the fly ash produced when coal is used as a fuel. The ability to deal with the problem of ash handling is a necessary element in the ability to use the lower cost, higher ash content coals.

7. We are actively pursuing the study of several pilot projects to utilize substitute fuel in place of coal or oil. We have had negotiations with District of Columbia and Montgomery County officials and are engaged in studies to investigate the burning of treated waste matter and trash in our boilers.

D. *Procurement of Oil*

1. We are constantly in contact with the Federal Energy Administration (FEA) to assure the availability of adequate supplies of these fuels.

2. Although the oil embargo in November and the resulting foreign government tax increases have sharply escalated existing contract prices because of tax pass-through clauses, we are obtaining oil under contract at less than the prevailing market price.

E. *Transportation*

1. We have provided for pipelines from our Benning Plant to Steuart Petroleum's Southeast Terminal and from our Buzzard Point Plant to Steuart's Terminal. These pipelines avoid costly and uncertain truck deliveries.

2. We also have a pipeline to supply our Morgantown and Chalk Point plants with oil delivered to Piney Point, Maryland.

3. We have negotiated the purchase of two unit coal trains consisting of eighty cars each. One train is scheduled for delivery next month; the other will be delivered in March 1975. We have also explored the advisability of purchasing locomotives and cabooses to go with the trains. This program will help alleviate the serious coal car availability problem and will provide a cost savings.

F. Efforts to effect governmental action to keep prices down

We participate in every effort that we know of for concerted or governmental action to keep down our prices to our customers. For example, yesterday our Vice President of Engineering testified before the FEA urging adoption of a formula with respect to crude oil that would cut down our fuel costs approximately 20% in 1975. This entire saving would be passed directly to our customers.

The Committee press conference raised a question about the fuel adjustment clause. This clause in rate schedules provides for recovery by the utility of fuel costs which are in excess of those established in the base rates and, likewise, for automatic reduction in the rate to the consumer so as to pass through to him any decrease in fuel costs below that established in the basic rate. Recently, however, with the rapidly escalating fuel costs the result of the operation of these clauses has been rapidly rising consumer bills.

Without the fuel adjustment clause or some other method to provide immediate rate adjustments to cover the costs of fuel increases, PEPCO and most other electric utilities would have been operating in the red this year. *There is no one to pay for the cost of the fuel that is burned to serve our customers with electricity except the customers for whom the fuel is burned.*

These points should be noted about the revenues from the fuel adjustment clause:

1. There is no element of profit in the operation of the clause. The return to the investors in the utility is included as part of the basic rate, and PEPCO does not now earn and has not in a great number of years earned the minimum return established by the Commissions as reasonable. The fuel adjustment clause provides only for recovery of money paid out by the utility in higher costs for fuel.

2. There is an additional burden upon the consumer resulting from the sale and gross receipts taxes assessed against revenues of utilities by local governments. As PEPCO recovers dollar for dollar the increase in fuel costs it must also collect from the consumer the tax associated with those dollars. Thus, the local governments in effect get an additional tax which may be considered a windfall since it is unrelated to any cost increase experienced by the local government. In the District of Columbia this amounts to 10% and means that for every dollar of fuel cost increase to PEPCO we must charge our customer \$1.10.

3. Many companies have had such clauses since the end of World War I and virtually all companies have these clauses today.

4. The fuel adjustment clause carries out fully the flat pricing concept applying to everyone equally based on his usage. There is no reduction for large users. This is exactly what energy-related charges, as distinguished from capital costs, should be.

2. Impact of rate design

Rate design for PEPCO and other electric utilities in the United States historically has been cost-related. As costs have changed, rates have responded to new patterns.

Rates generally have declined at increasing levels of consumption in recognition of the high proportion of fixed costs in the utility business. The electric utility business, as the most capital intensive industry in our economy, has some \$4 to \$5 in plant investment for each dollar of customer revenue. The cost of servicing the securities sold to investors to obtain the funds for construction, depreciation costs, ad valorem taxes, insurance and other similar costs do not vary with the level of plant usage. Certain operating costs, such as meter reading and billing also are not directly related to the level of individual customer use. As a customer increases his consumption level there is greater use of the plant investment with the result that the fixed costs are spread over more kilowatt hours of service; from an economic standpoint only fuel and other variable operating and maintenance costs are expended in providing increased output from the same investment in plant.

A very simple analogy might be drawn with the familiar automobile rental contract where a charge is made for daily rental as well as a charge for each mile that the car is driven. The average price paid per mile is a combination of the two. Under this arrangement the average price per mile will be lower if the car is driven a greater number of miles each day even though the total bill will be greater. In this analogy the capacity charge in utility rates is comparable to daily car rental and the energy charge is comparable to the mileage rate.

With the dramatic changes in conditions, we are examining our rates to insure that our rate schedules are consistent with current conditions and cost considerations. PEPCO became one of the first utilities in the nation to use summer-winter

pricing differentials to assign higher rates for consumption during the summer peak period which requires new capacity to meet increasing demand. A number of approaches to tailor utility rate design to current conditions are under consideration and PEPCO is studying all approaches.

Among the design methods currently under study is the time-of-day metering or so-called "peak pricing" concept which charges more for on-peak consumption and less for off-peak consumption. This is sound from the economic standpoint of assigning critical construction costs to the customers who contribute to the construction requirements. The District of Columbia Public Service Commission has reviewed this concept and PEPCO is participating through industry research organizations in the evaluation of this form of pricing.

PEPCO has no industrial customers and the federal government, our largest customer, accounts for about 90% of our high tension sales in the District of Columbia. It is probable that future refinements in rate design will result in assigning heavier portions of rate increases to the government. The role of government in the process is somewhat unique in that local governments benefit directly from rate increases through increased revenue-related gross receipts and sales taxes and both the District of Columbia and the U.S. Government benefit from rate increases directly through the increased income tax payments stemming from such increases.

Our rate proceedings are divided into two components. In the course of the proceeding it is necessary to first determine the level of rate increase required to provide a fair return to the utility. This increase must be assigned to individual rate schedules. The forum for both determinations is of course the proceeding before the Public Service Commission with the Commission fixing both the amount of the increase and its application to rate schedules in its order. In reaching its rate design conclusions the Commission necessarily must thoroughly consider the rate design matters referred to in the Committee's release of September 23. The District Commission in its order on PEPCO's 1973 rate increase determined that none of the increase should be applied to the first 400 kilowatt hours of residential consumption.

3. Financial crisis in the electric utility industry

The electric utility industry today is in the midst of an unprecedented financial crisis, imperiling its ability to attract the needed capital to maintain reliable service. The industry's capital requirements are enormous by any standard and will remain so even with construction budget cuts. It has been estimated that over the next decade the electric utilities must raise about \$300 billion—a sum equal to 60% of the federal debt.

So critical are the economic problems facing the electric industry that the Federal Energy Administration has convened two national emergency utility conferences in Washington this month devoted to the critical subjects of utility financing, rates, and conservation. At the September 11 conference, Treasury Secretary Simon emphasized that,

"I don't have to tell you that the financial plight of the utility industry is a matter of utmost importance to our nation and our economy. Without adequate utility service, business cannot expand its productive capacity and consumers cannot enjoy the standard of living we have accepted as the American right."

At the two day conference beginning on September 19 it was stressed that (1) fuel adjustment clauses are absolutely essential, (2) the rate process must be accelerated and higher rates of return must be allowed the utilities, and (3) tax policy and accounting practices must be adopted which provide financial relief for the hard pressed utilities.

Turning to PEPCO's position in this financial crisis, the investors who have put up the money to build our facilities have seen their investments erode out from under them. Two months ago we sold an additional four million shares of common stock at a price of \$11.125. On Tuesday the stock closed on the New York Stock Exchange at \$9.625. The people who bought this stock in this company to provide facilities for continued service to our customers have seen their investment decline by 13.5% in two-months time. The people who bought that stock were ordinary individuals, thousands of them living in our service area in the District of Columbia and Maryland. The great bulk of our stock is in individual registration with only some 5% registered in the name of institutional owners. We have nearly 112,000 common shareholders and the average share holding is only about 294 shares—an investment of less than \$3,000 at today's market price. Some 35% of our shareholders and 37% of the outstanding shares are registered to shareholders with addresses in the District of Columbia, Maryland and Virginia.

Of the 32,843,000 outstanding shares owned by investors in every state in the union, 4,274,000 or 13% are held by 9,469 holders in the District of Columbia alone. For PEPCO to continue the construction that must be done to maintain reliable service, we must earn a reasonable return on the investment in the business. We have consistently earned less than the return established by the Commission as reasonable in order to remain financially sound, and in the last two months the already inadequate earnings have declined even further.

4. *What Pepco is doing to keep costs as low as it can, and the prospects for the future*

We have set forth above in some detail our constant and continuing efforts to keep fuel costs as low as we can in the face of the impossibility of any actions on our part making a major impact on the worldwide and domestic prices for coal and oil. We are continually examining every facet of our operation to prevent incurring any cost not absolutely essential to assure adequate service.

The largest cost categories are as follows:

1. *Maintenance*

We have cut and deferred planned maintenance of our facilities to the bone, either eliminating or postponing all that is not absolutely essential to prevent the likelihood of major customer outages.

2. *Employment*

We have established a freeze on employment. Even though positions have been previously approved after careful consideration, no job is being filled, either new or replacement, unless specifically approved by me or by our Executive Vice President. The criteria is whether service to our customers will significantly deteriorate or the total cost to the Company actually increase without the addition of the employee.

3. *Construction*

Our forecasting of the future needs of our customers and the construction program based on those needs is under continual review. As a result we have reduced construction expenditures twice this year, eliminating some \$345 million dollars from the 1974-78 program. Having been through the summer peak period this year, we are now in the process of an intensive careful review of our peak forecast and our construction program. We will cut the construction program to the absolute minimum to provide essential service to our customers. We contemplate further major reductions in our construction expenditures planned for 1975 and beyond.

The reduction in construction expenditures at the terribly inflated cost of construction will mean less requirements to obtain funds in the unprecedentedly high capital funds market.

PEPCO'S RATES HAVE RISEN LESS THAN THE NATIONAL AVERAGE

Although rates have increased at an alarming rate for our customers during this year, many utilities have been forced to raise prices much more. An Associated Press release on Tuesday of this week, September 24 reports that rates charged by the nation's 50 largest utilities rose an average of 55.4% during the first six months of this year according to a survey and cited increases in some companies in excess of 85%.

PEPCO's rates increased by a lesser amount than the average 55.4% during this period. The average revenue per kilowatt hour sold for the first six months of 1974 was 3.02¢, an increase of 25% over the 2.42¢ revenue level for the month of December 1973 or 36% over the 2.22¢ average for the entire year 1973. Comparing the average revenue of 3.53¢ for the month of June 1974 with the 2.42¢ average revenue in December 1973 shows a 46% increase between the average price for the month of December and the average for the month of June.

PROSPECTS FOR THE FUTURE

Even after we make every cost cut that we know how to make including the paring of the construction budget to the bone, we must have additional rate relief in 1975 if we are to maintain a minimal level of earnings necessary to attract the capital that we will need to finance the minimum construction budget. The reason is the continual ravaging inflation which is our major domestic problem. We expect to file those rate cases within a few weeks. At the ensuing hearings before the Commissions all parties will have a full opportunity to be heard both on PEPCO's need for additional rate relief and on the question of the rate design to assess the cost among our customers.

We stress to this Committee that the rising cost of electricity to our customers is the overriding and obsessive concern of the management of this Company. We are doing and will continue to do everything we know to keep those costs to a minimum. We urge continuous effort by our customers to conserve in every way possible so that their use of electricity will be kept to a minimum. Unless the extraordinary inflation in the cost of producing electricity is dramatically reversed, the era of cheap electricity prices is ended and prices will remain substantially higher than they have ever been in the past.

Mr. THOMPSON. Thank you, Mr. Chairman.

What I would propose to do, with the committee's indulgence, is to make about five major points that summarize the principal matters I believe are of the gravest concern that have arisen in these hearings.

Let me say to you, Mr. Chairman, that in the course of my remarks—and I will try to keep them very brief—that if in discussing some specific issue or specific matter that has arisen, if I appear in that sort of discussion to minimize or to get away from the central grave problem and issue, it is unintentional because I want to state for the record that we recognize at the outset that we are in a crisis condition. A crisis condition that centers upon the matter before the committee here, which is the high increase in rates to our customers in the District of Columbia and in our other service areas, but which is a part of the overall financial crisis confronting the electric utility industry in this country.

Now, with that in mind let me make about five points, if I may:

I. PROFITS IN POWER INDUSTRY

The first one is this, that the profit picture in the electric power industry and in particular with regard to this company may have been misunderstood by the public after the hearings on Thursday, and it is necessary to put that in proper focus, I believe.

I say it may have been misunderstood, inadvertent on the part of the committee, of course; but because of some distortions in the press and particularly in the headlines—and I refer particularly to the Post headline which says Pepco Profits Double.

Let me take just a moment, Mr. Chairman, to discuss that, because it is important that that distorted impression be corrected.

You at the outset of the hearing correctly read into the record figures which indicated the net income of the company for selected years, after interest but before preferred dividends. You read those years that were available to you, 1970, 1971, 1972, and 1973.

Now, those figures do show in dollar amounts a substantial increase in net income, but that of course is meaningless as such if it is not related to investment.

Now, let me just briefly give these figures, Mr. Chairman. In 1968—I am going to take it one step further. The relationship is virtually the same.

You gave the figure of net income after interest charges. I want to take it one step further and deduct preferred dividends, which is a fixed requirement comparable to interest and get the net available for common, and the relationship will be the same.

In 1968, the net available for common dividends was \$26.5 million. In 1973 it was \$45 million, a 70-percent increase, to be sure, in dollar amounts.

PLANT INVESTMENT

Mr. Chairman, during that 5-year period, the investment in plant also increased about 70 percent, 69 percent, to be precise, from \$946 million to \$1½ billion. The amount put into this—

Mr. ADAMS. Now, just a minute, Mr. Thompson. That was too fast for me now.

Mr. THOMPSON. The net investment in plant, Mr. Chairman, increased from \$946 million in 1968—the gross investment in plant was \$946 million.

Mr. ADAMS. What year was that?

Mr. THOMPSON. 1968. I gave it a 5-year span here which is customary. \$946 million in 1968, to \$1,600 million in 1973, which is a 69-percent increase.

STOCKS

Now, to make that increase in plant investment to serve our customers, the common stockholders increased their investment in the company by 68½ percent.

Mr. ADAMS. What were the amounts of that, Mr. Thompson?

Mr. THOMPSON. From \$261 million in 1968 to \$440 million in 1973.

The earnings per share—before I give that I should give outstanding shares which increased from 19.6 million in 1968 to 26½ million in 1973.

Mr. FAUNTROY. Would you repeat that, please?

Mr. THOMPSON. Yes, sir.

From 19.6 million shares outstanding in 1968 to 26½, 26.5 million shares outstanding in 1973, because of additional shares sold in the interim to finance additional construction.

The earnings per share increased from \$1.35 in 1968 to \$1.71 in 1973, an increase of 26 percent. The dividend paid to the stockholders in 1968 was \$1.10. The dividend paid in 1973 was \$1.08.

The \$1.10 dividend in 1968 should be restated to \$1.06 to make it a comparable figure because a small amount of stock dividend was declared in the interim, so the \$1.08 dividend paid in 1973 equates to \$1.06 in 1968, a 2-percent increase.

Mr. Chairman, I say to you that while, as we will come to momentarily, the grave problem we confront is the rising cost to the consumer, the stockholder has not fared well in this same interim. The stockholder has seen his investment, if he invested 5 years ago, go down from \$20 a share to today's market of around \$10 a share.

Mr. ADAMS. You mean his stock price on the market, on the amount of construction and assets of the company?

Mr. THOMPSON. No, sir, just the reverse.

Mr. ADAMS. That is what I thought.

Mr. THOMPSON. The book value per share of the common stock, if I can locate that, I will have it here momentarily, has increased during that interim from about \$13 a share to \$15, yes, from \$13.18 a share to \$15.41 a share. I was speaking of the market price, Mr. Chairman, which is of course one of the major problems we confront in this country.

Mr. ADAMS. So the market price of the stock is not correlated with the actual value of the assets available.

Mr. THOMPSON. No, sir, it is not, and you have a situation today in the electric power industry whereas in this company most electric power stocks are selling on the market at about two-thirds or less of book value, in our case, two-thirds, in many companies less than 50 percent of book value.

Let me make this second point. No, it is a part of the first, to complete the point about the stockholders.

You see, the paper carried the impression that there was a large profit here, a doubling of profit, that inured, perhaps unjustifiably, to somebody's benefit. Let me call to the attention of this committee who these stockholders are. We have 110,000 stockholders in this company, 112,000; 40,000 of them live in the D.C., Maryland, Virginia area. Upward of 10,000 of them, 9,500 or so, owning 13 percent of the stock, live in the District of Columbia.

Mr. ADAMS. Mr. Thompson, I am sorry. We have to to—

Mr. THOMPSON. That is in my prepared statement.

Mr. ADAMS. We will be right back. This is the vote on the Bolling report. We will come right back as soon as Mr. Gude and I can go over and back.

If you could suspend for a few moments.

Mr. THOMPSON. All right.

I will try to be as brief as I can, Mr. Chairman.

Mr. ADAMS. No. You are doing fine. We do not want you to be brief. The committee will stand adjourned for 10 minutes.

[A brief recess was taken.]

Mr. ADAMS. The committee will come to order. We are continuing with the testimony of Mr. Thompson, and Mr. Thompson, I believe we had left off at the time of the recess, where you had described that the book value of the common stock in the 5-year period 1968 to 1973 had increased from \$13.08 to \$15.41

Mr. THOMPSON. Yes, sir.

Mr. ADAMS. But the market price had dropped and these were approximate figures from about \$20 to about \$10 per share.

Mr. THOMPSON. Yes, sir.

Mr. ADAMS. Do you want to proceed now, Mr. Thompson?

STOCKHOLDERS

Mr. THOMPSON. I just wanted a moment or two more, Mr. Chairman, on this point and then I will move on. We were talking about how the stockholder has fared and who the stockholder is and I was just describing that of the 112,000 stockholders in the company about 40,000 of them live in the Maryland-D.C.-Virginia area.

Ninety-five hundred live in the District of Columbia. Those 9,500 own 13 percent of the outstanding stock.

Mr. Chairman, the average holding of stock in our company is 294 shares per stockholder. Ninety percent of our stockholders own 500 shares or less and 96 percent of them own less than 1,000 shares, the average being 94 shares.

I do not think it is insignificant to call to the committee's attention that many of these stockholders living here in the surrounding area are retired people, elderly people who bought these stocks to have some means of living in their retirement.

That is so because utility stocks were looked upon as very stable. You might have noted, when the publicity came out, about ConEd skipping its dividends earlier this year, there was a great outpouring of stockholders who were retired and elderly because of the impact it was having on them.

Having said that, gentlemen, I will close my first point with this thought.

It was disturbing to me to realize that people did not understand that there was some distortion of the meaning of profit in this country. I was talking to a young reporter, a young lady from one of the papers who called me on the telephone last Thursday afternoon following this hearing, and was astonished that Pepco's profits had, in her words, almost doubled in a short period of time.

With the committee's indulgence, if the press is here, I tried to explain it to this young lady in this simple fashion.

I said to her, if you had \$100 that you deposited in a savings account in a bank at 5 percent interest, at the end of the year you would receive \$5 which would be your profit on the \$100. If you then added another \$100 to your savings account, at the end of the second year you would receive \$10, which would be your profit. Now the profit has gone up in one year from \$5 to \$10. Therefore, your profit has doubled in dollars, but you do not consider yourself much better off because your investment has likewise doubled.

That, Mr. Chairman, is somewhat the position in a very brief analysis of how the investor stands today except for one point. At no time did an investor make an investment in this company at a price as low as the stock is selling for today.

That is, at no time did this company sell a new issue of stock in recent years, during the last 10 or 15 years, at a price that was up higher than \$10.

So rather than still have this \$200 in the bank as the girl in my illustration does, his \$200 has immensely eroded. Dr. Olson referred to the confiscation of investors' dollars in his testimony before this committee on Thursday.

II. ELECTRICITY CONSUMER

Now as to my second point. How has the ratepayer fared? That is what this hearing is about.

In the 1960's the rates went down while inflation was afoot in the land, mildly, by today's standards, and most other things. The price of electricity was declining. There were two rate reductions in this company in the 1960's. So that even with the rate increases alluded to here, three of them within the last 3 or 4 years, in the 10-year period from 1963 to 1973, their rates, the average rate to our customer, went up 10 percent, in that entire 10-year period.

The consumer price index in the District of Columbia with 1967 as the base year, is up 52 percent to the end of 1973, is up immeasurably more today.

I have not seen the current figures. It must be 60 or more percent.

So, while the consumer price index was going up 52 percent, the price of electricity went up 10 percent to customers in the District of Columbia and the surrounding area.

My second point, Mr. Chairman, is that until January 1 of this year, the electric consumer was relatively much better off than the consumer of all other products, making up the consumer price index.

And he was relatively happy. There were no hearings like this, Mr. Chairman. You took no particular note of your electric bill, even though it had risen about 22 percent in the last 3 years because it was in line with general inflation.

And I say to you, sir, that even with the three rate cases referred to, here, totaling 34 or 35 percent, the impact of the last one being really felt only this year because it was granted in November or December of this last year, even with that rate increase there would be no outpouring of consumer complaint today because the rate of inflation would be only in line with this year, the double-digit inflation in all other commodities.

So I come to my third point which is the crux of this matter.

III. FUEL COSTS

And my third point is, that the problem we are addressing is the extraordinary unprecedented, exorbitant and wholly, virtually unbearable increases in the prices of fuel, which we burn to generate the product. And we must concentrate on that a little because that is the crux of the matter.

Let us don't get sidetracked by collateral issues, important though they are, because this is the heart of it.

The fuel costs to this company, as I indicated in my statement, have almost tripled in 1 year's time, from last September to this September.

The average cost of coal per ton going from \$14.16 to \$37.87, the average cost of oil per barrel from \$3.86, to \$10.28.

Now there is no one else to pay the cost of the fuel that is burned to serve our customers except the customers for whom it is burned.

We have no other source of revenue to cover those fuel costs.

This, Mr. Chairman, will undoubtedly elicit questions from the committee, and I will deal with one or two of the points that have been brought out here.

I delineated in my statement four or five pages of everything that we are doing that we know how to do at Pepco to keep those costs to a minimum. And in spite of that, I say to you everything we can possibly do will only have a minimal impact on those costs.

The principal problem is the worldwide and the national prices of these fuels that have increased as it has. And I say to you with all the force I know how to muster, Mr. Chairman, if the President of the United States and all of the forces of this administration and the Congress of the United States, exercising the sovereign power of the mightiest land on this Earth have not done anything about those prices, and today they are continuing to rise, and it was a major subject of the President's economic summits that have been held around the land, culminating this past weekend—now what have we done, or are doing at Pepco to try to minimize those costs?

Through the years, we have designed our systems to be as fuel conserving as possible.

We have designed flexibility into the system so we can burn either coal or oil depending upon the relative price advantage for our consumer.

We have carefully engineered and designed a system to have as good a heat rate as possible. The latest figures I have seen for 1973 show that of the 100 top utilities in the United States, Potomac Electric Power Co. was 13th in heat rate. Which means we were the 13th most efficient of those 100 systems. Most efficient meaning we burn less fuel per kilowatt-hour of output and therefore that much less cost to the consumer.

We have done such peripheral things, I say peripheral because it does not get to the heart of the pricing, as ordering 160 coal cars so we can save some money on transportation, and also have assurance of supplies being met at the coal fields. I have delineated three or four pages in my testimony of what we are doing and have done.

As to the prices that we are paying for fuel and whether we are doing the best we can, Ms. Brown quoted some statistics from the Federal Power Commission's May release which is the latest figure.

She quoted them, of course, accurately but it does require an explanation.

COAL USE

She mentioned correctly that in the District of Columbia that for coal purchased by Pepco we pay one of the highest, if not the highest, I know there are two or three higher, maybe New Jersey and New Hampshire, one of the highest rates of anyplace in the Nation.

That is true. But it is totally insignificant because we burn no coal in the District of Columbia to speak of. We burn 14,000 tons. That is on an annual basis as against 4 million tons in the system as a whole.

We have two ancient units that we burn only occasionally.

Mr. ADAMS. Is your system tied together into a single?

Mr. THOMPSON. Oh, yes, sir. Indeed it is. That is very significant.

Mr. ADAMS. So that wherever you burn it, your system being part of a grid, one leans on the other, so the total cost of your coal does directly affect the District, does it not?

Mr. THOMPSON. By all means it does. But the price referred to by Ms. Brown for coal to burn in the District is low sulfur coal which we are required to burn by the environmental regulations, 1 percent or less, and we only burn 14,000 tons.

I say it is of no consequence.

Mr. ADAMS. She quoted these figures and so I assume this is your next point, or the point that you are making now, of May 1973, of 59.3 cents per Btu as opposed to a nationwide average of 39.5 Btu.

And that now you are paying 146.4 cents per Btu. Is that just on your 4,000 tons of your 4 million?

Mr. THOMPSON. No, sir. Now, on the 4 million, on the coal that we buy in large quantities, that is higher sulphur coal, 2 to 3 percent sulfur coal.

Mr. ADAMS. I see.

Mr. THOMPSON. And now the latest figure I have for 1974 system-wide is a cost of 110.9 cents 1 million Btu, as against—

Mr. ADAMS. Now that is not as high as her figure. Her figure was 146.4. And she indicated the national average was less than half of that.

Mr. THOMPSON. I do not know where she got that figure. I understood her to say she was referring to coal burned in the District of Columbia.

The point I want to make sir, and as the figures will show, is that on the coal burnt in the District of Columbia which is a minimum, virtually no coal at all, because we burn oil here in the District of Columbia, the price is extraordinarily high. But it is because we cannot obtain less than 1 percent sulfur coal in this coal delivery area and we moved into oil instead.

The oil price for oil burned in the District of Columbia in May 1974, the latest figures, which is below 1 percent sulfur oil, is right at the national average. In our case it is 197.8 cents which is extraordinarily high, the national average being 187.3 cents.

We are slightly above it.

Mr. ADAMS. But I want to finish your point on the coal because you left me too quickly, which is that you are at 110.9 cents in your systemwide grid on coal.

Mr. THOMPSON. Two percent and above sulfur content, yes sir.

Mr. ADAMS. Exactly.

You also stated that your system was convertible between coal and oil so that you can take advantage of price. Now what is your comparative price on coal per Btu with the national average, figuring in the fact that you use a higher sulfur content coal as the basic component of your grid system?

COAL COSTS

Mr. THOMPSON. Yes, sir. The price of our coal is almost double the national average.

Now let me complete my statement.

Mr. ADAMS. So then her point was that you are paying a much higher fuel cost than others throughout the Nation, and of course we will get into the question. I am just trying to complete your point.

Mr. THOMPSON. I would like to complete it if I may, Mr. Chairman.

Mr. ADAMS. Right. Please do.

Mr. THOMPSON. The price I stated to you was 110.9 cents a million Btu which compares with the national average of the United States of 63.3 cents.

In the South Atlantic region where we are and as defined by the Federal Power Commission, we compare favorably.

There are eight companies in that region. Eight States. This is by States. Eight States in that region. Of those we are substantially lower than three of them and almost the same as one and substantially higher than three. Now let me tell you why that is.

The three that we are higher than are West Virginia, where the coal fields are, and Georgia. This is why we are higher, because of the location, Mr. Chairman, the transportation costs. The 110 that I quoted you.

Mr. ADAMS. No, no. Finish your third State.

Mr. THOMPSON. West Virginia is at 67.3. Georgia, another State where there are locations of coal, 68.6. Florida is at 65.4, although their usage is minimal. I do not understand the Florida, but now let me give you the States that are higher.

Mr. ADAMS. Please do.

Mr. THOMPSON. North Carolina, 140.6. Virginia, 152.0. South Carolina, 117.8. Delaware, comparable at 102.4, slightly under our price.

Mr. ADAMS. You see, we will be inquiring about this later so that your engineers may be prepared. West Virginia is very close and it is a long downhill row by railroad from that and from my experience in the Interstate and Foreign Commerce Committee, the largest movement of coal in the world is from the West Virginia fields to Hampton Roads and we are sort of on the way, so we are interested in your pricing problems and why they exist among States contiguous to one another.

Mr. THOMPSON. Yes, sir, I understand that interest, Mr. Chairman as we are, and we will explain it in as full detail as we can in response to your questions.

Let me say this to you, and to the committee, that we have done, as we point out, and are doing, everything we know to do to keep those prices down. If anybody can suggest to us, if there is anywhere we can improve on that, we will be most pleased to receive it.

Mr. ADAMS. Are those States where you have that lower price involved with utilities that have a significant financial connection with either the oil or coal companies supplying them?

Mr. THOMPSON. I know of no utility, Mr. Chairman, that has such a connection.

I do not personally know of one.

COAL COST DIFFERENTIALS

Mr. ADAMS. And can you finish your explanation in this area of indicating why there is a variance all the way from 68.6 cents in Georgia to 152 cents in Virginia and I believe you gave me 110.9 cents in the District for the same rather fungible product?

And I know something about rail rates and I cannot conceive that all of this is in the rail rates so can you give us some explanation as to why in your opinion there is such a variance?

Mr. THOMPSON. Yes, Mr. Chairman, I can. I will ask Mr. Mitchell who is our vice president of engineering who sits to my left and who keeps a closer watch on the coal than I do to elaborate on the answer further. (Also see appendix, p. 207.)

The rail rates constitute one aspect of it, the transportation rates which I do not have completely at hand here.

The quality of the coal, that is obtainable in the various regions with respect to the location to be served is another portion of it. The mix of coal that is required with respect to oil to be burned by some utilities—

Mr. ADAMS. The mix?

Mr. THOMPSON. The mix of the coal with respect to oil, so that some utilities, some few, do have captive mines which they own themselves which would keep the cost down to some extent. They are some of the factors that are appropriate to this and I asked Mr. Mitchell if he can comment about additional ones.

Mr. MITCHELL. I think perhaps a major one is the one Mr. Thompson has mentioned, is the captive mines and the plants that are located in the coal fields itself. There is a tremendous difference between the cents per million of coal that is used—for example, the Conemaugh plants and the Keystone plants up in Pennsylvania of which PEPCO owns about 9 percent I believe of the Conemaugh plant, 9.72 percent.

This plant is right on top of a mine and the owners of that plant are the joint owners in the operation of the coal mine itself.

And there is a substantial difference, a significant difference in the cost per million Btu for operating that plant and for what is imported here.

A major concern to us too is that we are able to acquire only something on the order of 60 percent of the coal that we have committed to us at the mines and oftentimes that percentage will run less than that, and that is the reason that we have gone into the purchase of unit trains, is to try to get the rail car facilities available that apparently are not available on the eastern seaboard. It is very difficult to determine exactly why, perhaps, some of the heavy shipments to Hampton Roads for exported coal could have some bearing on that, but it is very, very difficult to make that finite a comparison.

BIDDING PRACTICES

Mr. ADAMS. Do you issue competitive bids for your purchase, or do you buy through negotiation?

Mr. THOMPSON. We do everything we can, Mr. Chairman. We contact dozens of coal mines constantly to do best in the competitive markets. We have contacts with some. We buy spot markets with others. We try every conceivable way we know to get the most competitive price of coal. It is a very complex subject, but our records will substantiate that, I can assure you, Mr. Chairman.

FULL ADJUSTMENT CHARGE

Mr. ADAMS. Well, I know you want to go to your next point, and I do not want to dominate the questioning, but you have indicated a primary factor in increase in cost to the consumer is the fuel cost. When we have governmentally established a pass through, and I think incidentally, nationwide, as a matter of economics, this is one of the worst things that a free market system ever did, when you have a pass through, then the incentive to hold down the cost of a particular commodity is shifted from the pocketbook to the mine, and in a free enterprise system, the power of the pocketbook is of course always in a company, something that receives more attention than the theory, no matter how good it is, of the officers who say if we do not get that cost down, our profits will be lessened by that amount. So that is why we have been exploring with you that problem.

Mr. THOMPSON. I would like to comment briefly on that point, Mr. Chairman.

Mr. ADAMS. Please do.

Mr. THOMPSON. First of all, you alluded to what has been stated as a pass through or something akin to a cost-plus mentality.

Mr. ADAMS. A fuel adjustment charge.

Mr. THOMPSON. A fuel adjustment charge.

In the first place, as Dr. Olson testified and as you stated, it is universal all over the country, it is absolutely essential that we have such a charge in these times to stay viable as a company because there is no way any such dramatic increases in fuel costs could be absorbed, if such a word could be used, or paid by anyone else.

As to the effect on the mentality of the management of the company, Mr. Chairman, in the first place, it is not solely mental. It also affects

the pocketbook in this regard. Now, let me address the mental question first.

We are responsible businessmen in this company. If any member of this committee were running this company he would, as we are trying to do, keep those prices down as low as he can. There is no incentive to do otherwise, of course. Every incentive is to do that, to favor your customer. In 1972 our average cost of fuel was less than it was in 1971, slightly less, on a Btu basis, when we had the same pass-through clause. We kept it down.

Second, Mr. Chairman, from the purely financial standpoint, any such burdensome requirement as this on our customers makes it that much more difficult to obtain the necessary rate increases to cover all of the other rising costs in these inflationary times. So purely from the ability of the customer ultimately to pay for this service, it would be the height of extreme stupidity for us to be other than totally concerned about those bills, of course.

And lastly, a very peripheral point but not an inconsequential one is that no man, sir, in his right mind would want to be here where we are today with the customers throughout this system justifiably upset, terribly upset with our rising costs, if we could possibly prevent it.

I say to you that we may not be doing everything that can be done but if we are not, we want to find it out. We are doing everything we know how to do with the best advice and assistance that we can get. We have retained lately the Mitre Corp., a very respected corporation that is nonprofit, set up originally for the Air Force, to assist us with some further studies about the future planning for fuel use in our system to minimize the cost wherever we can.

CONSUMER PROTECTION

And let me make one additional comment, Mr. Chairman, because I think it is important. The question has arisen here also as to whether management is doing everything it can to protect the consumer. Now, we have not raised the question as to whether we made some mistakes. Undoubtedly everybody makes mistakes. The question is whether we are doing everything we possibly know how to do and whether we are exercising the best judgment we can obtain. There are other matters that pass directly through to the consumer. For instance, 3 years ago there was a question in Montgomery County of a fuel energy tax, a direct add-on to the consumers' bill. We organized a tremendous opposition to that. We wrote all of our customers. We appeared there to try to defeat that measure. It was enacted by a majority of one, as I recall.

The proposal is up again this year to raise that tax, a total pass-through. We again fought it, appeared before the Commission, wrote letters. That was not passed.

So I say to you in the nature of operating a business like this, the object of this business is to keep all the costs to a minimum, keep the costs down to the consumer, and to have a reasonable rate of return to our stockholders. That is all I know how to say about it, Mr. Chairman.

Mr. ADAMS. If we required you, through a regulatory agency or otherwise, to pay the fuel costs yourself and wrap that into your rate base, then it becomes more difficult for you to obtain the return and all I am saying, I am not telling you that this is going to happen —

Mr. THOMPSON. I understand.

Mr. ADAMS. But that it produces the usual private enterprise incentive, whereas in a regulated industry without that and a pass through, there is not as much incentive, and I think we probably can agree on that.

Mr. THOMPSON. Yes, sir; theoretically yes, sir; theoretically that is true. I do not think it has much practical meaning. Nobody I know in the electric power business is that callous about his customers' needs. But let me say to you, sir, that was even a feasible way to do it, and that was done in many jurisdictions until recent times.

FUEL ADJUSTMENT

For instance, before I came to this company I was in North Carolina and worked at Carolina Power and Light for a number of years, and there was no fuel adjustment clause for a great number of years. When prices increased in fuel, just as you say, it was part of the base rate consideration. They have since adopted fuel adjustment clauses in that jurisdiction for the simple reason that the acceleration of fuel prices in recent times is such that the normal regulatory process would not permit the costs to be recovered in time to save the utility from total financial collapse.

Now, if I may illustrate the point, if, by the same token, you were to say, sir, that no grocery price would be increased at a grocery store until a hearing ensues that takes from 6 months and often a year to determine whether the wholesale prices to the grocer had increased dramatically, if they were increasing dramatically, chances are the grocer would be out of business before the year arrived, in addition to which, Mr. Chairman, the way ratemaking goes is, you cannot recover the costs that you have incurred in the interim from the time you filed a rate case until it is decided because ratemaking is prospective and not retroactive. So that if this company as it has, incurs millions of dollars of additional fuel costs, and it files a rate case on that account, and it is heard 6-months later, it can in that rate case get a rate set to cover those same costs in the future, but not in the past.

In this company's case, in the case of Pepco, the figures are of such magnitude that I assure you, sir, that we would not be operating today if we had no rate increases and no fuel adjustment clause. It is of that magnitude. It is a very serious matter.

Mr. ADAMS. Mr. Thompson, I think you had five points, and we had done —

Mr. THOMPSON. Three. I am sorry to take so long.

Mr. ADAMS. No, no, because all I am trying to do is as this goes along, is be certain that you complete each of your points.

IV. RATE STRUCTURE

Mr. THOMPSON. I think the next point that I should address, Mr. Chairman, briefly, is a point that has concerned this committee, and

justifiably so. It is a question of the rate structure and how the rates are made and what customers are charged on what basis.

Again I cannot emphasize enough that after we discuss this subject, and whichever way we go, and whichever view prevails, it is of very secondary importance in the overall picture. In other words, all the problems that we have, all of the cost increases that the customer must pay, like 12 percent rates of interest on money that we borrow, and like cost of maintenance and cost of plant construction, all that is very significant and a terrible problem, but it pales to relative insignificance in light of this fuel picture. I cannot emphasize that enough.

But now in the rate structure, the question arises about rates that yield a higher kilowatt hour cost to the lower use user than a higher use user, and I think a couple of things should be mentioned about that.

Now, the panel referred to my example of the automobile renter. It is a very important thing and ought not to be lost sight of because the rate for electric service covers two basic kinds of costs. It covers fixed costs, which is plant account, which must be amortized over the life of the plant, and that is one thing. That is the demand cost. It makes no difference how many kilowatt hours a customer uses as far as the demand cost goes. If his peak demand is 4 kilowatts, say, then he must pay the charge for that 4 kilowatts of demand over whatever usage he makes of it in energy costs, if he pays his prorated part of the costs.

The automobile being a case in point, if you rent the car, the \$20 or \$15 daily rental fee is to cover the capital cost of the automobile. If you do not drive it a mile, the cost is \$15, or if you drive it 100, the cost is \$15 for that proportion of the cost. Now, the other cost is an energy cost, and it varies directly with the kilowatt-hour usage, the perfect example of it being the fuel cost, and the fuel adjustment is a perfect example of putting the exact cost on everybody proportionate to his use. The fuel adjustment cost, it hits everybody, cent for cent, depending on his usage of the product, which is as it should be. It is an energy related cost. You burn the fuel to produce the energy.

If, as an example, in the automobile case, you run it many more miles, then your average cost per mile, your cost per mile is exactly the same, now, for the energy cost, 13 cents a mile or whatever. But if you also spread the daily fee over a larger usage, then your average cost for the whole thing is less per mile than a small user. That is the basic reason, now. It is not that simple, of course. That is the basic ratemaking philosophy involved in electric utility rates all over the United States.

Let us start to apply that, of course. That is ratemaking based on the cost of serving the customers. If you add the other considerations that might be put into ratemaking such as sociological, that is another matter. I am talking about the cost of service.

RESIDENTIAL USAGE

Mr. Chairman, you quite rightly in our last rate case in the District observed that the residential usage as shown in that test year, 1972, was up 0.6 percent in the District of Columbia, whereas the general service usage was up 5.5 percent, and large power service, well, large

power service was actually down. Street lighting was up 3.9. But you made the point correctly that in that year the residential usage was practically flat. The increase was occasioned by the commercial and larger users.

Now, that was true for 1972, but interestingly enough, in 1973, with an overall increase in kilowatt-hour consumption in the District of Columbia of 7 percent, the residential consumption was up 10.6 percent, the highest group that was up in the whole District. The commercial general service, was up 10.2.

If you go back in history, 1968, 1969, 1970, 1971, the residential service is in every case except one higher—no, it trails right along with the commercial general service. I will give you the figures.

Mr. ADAMS. 29.9, 30.1, 29.7, 29.3 percent, flat, is it not?

Mr. THOMPSON. I do not have figures like that, Mr. Chairman.

Mr. ADAMS. Residential service filed Pepco, 5-year comparisons by class of service, revenue from residential service. It also gives numbers of thousands of people.

Mr. THOMPSON. Revenue certainly has been down. I was giving the consumption, now. I was giving the consumption, consumption figures.

Mr. ADAMS. All right, consumption, 23.4 percent, 23.9 percent, 23.9 percent, 24.3 percent. That is 1966 through 1970.

Mr. THOMPSON. Oh, that is the proportion of the total.

Mr. ADAMS. Flat, is it not?

Mr. THOMPSON. No, sir, it is not flat. Let me give you the figures. We will see if we can get together on it.

What year did you start, 1970?

Mr. ADAMS. Well, the ones that I have are 1966 through 1970.

Mr. THOMPSON. All right, let me start at 1968, the first one I have. In 1968 the residential use in the District of Columbia was 10.6 percent over, above 1967. Now, this is in the District of Columbia residential use.

Mr. ADAMS. You went from number of thousands of kilowatt hours sold from 2,090,000 to 2,408,000. Is that what you are stating to me?

Mr. THOMPSON. Kilowatt hours sold, we went—that is for the entire system. That is not the District of Columbia. That is the entire system.

Mr. ADAMS. All right, give it to me for the District of Columbia.

Mr. THOMPSON. Mr. Chairman, let me get the same sheet that you are looking at so I can illustrate the point.

Mr. ADAMS. All right.

Mr. THOMPSON. In 1968 we went from 7,154,000 kilowatt hours, or 7 billion, I guess it is, kilowatt hours. That is the same figure you have for the District of Columbia residential and commercial. The chairman does not have a sheet that has it by the District of Columbia only?

Mr. ADAMS. I have only the Pepco system. Mine is Pepco 5-year comparison.

Mr. THOMPSON. The system went up kilowatt-hour sales for residential customers, this is the District and Maryland went up from 1968, 7.154 million kilowatt hours to 7.923 million kilowatt hours. In the District it was a very similar increase, going up from 710 to 766, an increase of 10.6 percent.

The point I am making, Mr. Chairman, we have got the figures here. I do not know why the confusion between the system figures as a whole and the District figures. The point is that residential use in the District

of Columbia has risen every year in the last 5 or 6 substantially, and in accord with the general use rising, the rising of the use of all customers until that year 1972 when it was flat. The whole use was only up 2.7 percent in the District.

Mr. ADAMS. All right, in 1973 and 1974?

Mr. THOMPSON. In 1973 the residential use was up 10.6 percent in the District.

Mr. ADAMS. In 1974?

Mr. THOMPSON. In 1974 the use—now, I am coming to that point and I will make it now. In 1974 the residential use in the District of Columbia is down 1.5 percent, but the total use in the District is down 5.7 percent.

CONSERVATION OF POWER

Mr. Chairman, I was going to make the point later, but it ties in now. Conservation is working in this area. The customers of PEPCO have conserved better than any other electric utility in the United States. To date, in 1974, we are down $8\frac{1}{2}$ percent in kilowatt hour sales totally for our system, $8\frac{1}{2}$ percent.

Nationally, the national average is a slight increase over last year, like one-half of 1 percent, if I recall, almost flat, but a slight increase, which is said all over the Nation to indicate our real conservation, because without conservation it would have been a significant increase.

So we had an 8.4-percent system increase in our territory last year, notwithstanding the fact the Government had already started to conserve in the latter part of 1973, significantly. Even so, we had an 8.4-percent rise in electric usage over the previous year.

Now, to go from that to an $8\frac{1}{2}$ -percent decline means that there is a real conservation area on the other say of 15 percent. Without any conservation we would have expected a 7- or 8-percent increase instead of having an $8\frac{1}{2}$ -percent decrease.

Now, the peak load is down 5 percent over the previous year, and that has significant implications as I will get to in my last point about our planning for future capacity to serve our customers. But on the point about making rates, if the residential customer were not to contribute in any way to the need for additional equipment, then certainly he should not be charged for any portion of the rate increase that represents that need for additional equipment. I agree wholeheartedly.

But the premise is not that clear, sir, because it varies from year to year as to who uses what amount, and the residential customer is just not conserving this year anything like the Government and the commercial customers.

Mr. ADAMS. All right, but this was the basic question, and it involves utility rate structure throughout the United States. The President of the United States and through his spokesmen, have announced that we are limited in energy supplies. We have basically three energy sources, oil, coal, natural gas.

Mr. THOMPSON. Yes, sir.

Mr. ADAMS. The result, therefore, is that people are being told to change the pattern by which utilities operate, and people operate, to flatten out the load. The rate structure system that is used throughout the United States in utilities has been directed toward a growth situation or to encourage larger use of electricity.

RATE STRUCTURE

My questions to the earlier witnesses were directed toward the idea of the rate structure reflecting the change that is occurring. It can be done in one of two fashions.

The first is very simplistic and very rough, which is that you pick a date for example, July 1, 1973, and your pricing to the amount of electricity used by a customer at that date remains at a lower rate, and any amounts above that, a surcharge is added, thereby having the customer pay for excessive use. If he uses less than that amount, you probably cannot give him a reward, but at least he or she knows that they are not being punished for reduction of use.

The other more complex system which your engineers, I am sure, will address, is a metering system that indicates the use of loads during particular hours of the day, which is to encourage people to not use the air-conditioning and be hotter, or not use the dryer as much and not be quite as sparkling clean. What I am trying to indicate to you, and that is why I appreciate your having been here during these hearings, is that this is a nationwide problem and we cannot continue business as usual.

So if you could address your self to the rate structure system, you cannot continue rate structure where you give people benefits for using more and meet the problem of a limited supply of the commodity.

MR. THOMPSON. No, sir, you are absolutely correct in that conclusion, Mr. Chairman. When you use the phrase, this is not business as usual, we have used that in our company for a number of months now because of this crisis condition, and let me address the very point you are making about it in effect to encourage conservation and reward people for it.

We have done, in our system, we have done that in a crude manner, as it were, as far as ratemaking goes in that we were one of the early companies to charge more for the summer peak than in the winter peak. Our summer rates are higher than our winter rates, to discourage air-conditioning use, which is adding on the requirements for plants. So we do have a summer-winter differential which is a basic peak pricing concept, you see, without the refinements of the meter.

The fuel adjustment clause in itself is a complete flattening of rates. That does not encourage any additional use because that goes straight across the board, you see, as the large user uses more, he pays dollar for dollar like the small user with only 100 kilowatt-hours, for every kilowatt-hour he uses, and with these tremendous, I want to say exorbitant prices we have experienced lately, that has had a tendency to bring those rates closer and closer together because the large user has had a far larger percentage increase in his bill than the smaller user because he is using many more kilowatt-hours, and his additional amount per kilowatt-hour is the same.

So those two go in the right direction.

PEAKLOAD PRICING

Your significant point for the future, Mr. Chairman, is peakload pricing.

As I sit here today, we are studying that. That does not mean we set it aside. We are actively engaged in research on that concept to see if it can be adapted to our system. A preliminary survey indicates it

would cost us about \$66 million in capital outlay for the metering devices necessary to make that work appropriate. We are considering that in our next pricing.

DEMAND PRICING

We had in this company at one time a rate structure for our commercial accounts which we would have to look at again because we already have the demand meter there—you see, it is not a new meter—which charged them a higher rate for the usage of electricity from 4 to 6 in the afternoon, or some such thing on a peakload. So that is a concept that is viable. All of that is being dealt with and will be considered in the next filing that we make to the Public Service Commission, which will be before the year is out.

So, it is a long answer to a relatively short question, Mr. Chairman, but basically my answer to the question is that your proposal seems to us to be economically sound. The practical application of it we are now working on, and that would have the benefit of assessing against the user—we are talking about demand charge now, the demand portion of the charge, because the energy portion should be raised across the board in all theories of the cost. The demand portion ought to be assessed higher against the customer that is causing us to add more equipment on. He is demanding more equipment. He ought to pay a higher portion, and we are working on it.

And as I say, that is partially done in the summer-winter differential.

Mr. ADAMS. I think you had a fifth point.

Mr. THOMPSON. Yes, sir.

RESIDENTIAL USAGE

Let me finish that other point, though, to say that there were some steps made in the last rate case, which should be clear on the record here, to favor the residential customer in that case.

Mr. ADAMS. You mean the 400 kilowatt-hours?

Mr. THOMPSON. Yes, but in addition to that, the original filing that we made for 13 percent or whatever the percentage increase was, had less increase on the residential customer than the other customers. The final rate increase of 13 percent was 10½ percent on the residential customer, 15 percent on the commercial, and 16 on the large-use customer. Notwithstanding the fact, Mr. Chairman, that the rate of return by any known method is actually less to the company on the residential customer than the commercial and the large-use customer, that is traditional in the business.

V. CONSTRUCTION AND FUTURE PLANS

The final point that I wanted to address was the question of the construction program and planning for the future.

I mentioned the fact that conservation is the highest in the Nation here, and in the long run, I think that is good. It does have this short-run effect which I think we ought to face squarely because it has been referred to in this set of hearings, and that is the terribly and seemingly unjust situation where in response to appeals to conserve the con-

sumer who conserves is then faced with a higher charge because he has conserved.

I can best illustrate that, Mr. Chairman, in the case of the U.S. Government. The U.S. Government is our largest customer by far. It is about 20 percent of our business, and it is also a large conserver, 17 percent down this year over the previous year.

We built capacity in the past in this system to serve the expected demands of the U.S. Government, and if you recall back in 1965 or 1966 when the Northeast blackout occurred, there was a great clamor, hearings in the Congress to see why the electric utilities had not built enough capacity to meet the future needs. There was no conceivable way we could have known 3 years ago that the Federal Government would cut its usage down 17 percent 3 years in, and had we not built the capacity to serve that expected load, and had the Government not cut its capacity down, we would have been justifiably severely criticized, and I would suspect more than that. We could have been justifiably dealt with accordingly. In other words, it would have been a dereliction of the duty of the management of this company if we had not had the capacity to serve the expected load.

Having built it (the capacity), the Government is conserving. We have got a little more generating capacity today than what we need, and that is not much. You ought to have a 20 percent reserve generating capacity. Our actual reserve last summer was 28 percent. It would not have been but 23 if we had had a normally hot summer.

RESERVE

Mr. ADAMS. Twenty percent reserve you have?

Mr. THOMPSON. That is what you ought to have. All engineering and standards that are expressed by the Federal Power Commission, it is a generally agreed figure that you ought to have about 20 percent reserve to take care of emergencies and planned maintenance and the like.

We actually ended up this past summer with 28 percent reserves. It would have only been 23 percent had we had a normally hot summer. It was a milder summer than usual.

It is fortunate that we have that much reserve. We are not facing a shortage in the immediate future as is the case in some areas of the country, and that capacity is in at a cost of much less than the cost of future capacity which will have to be installed.

There is a much more complex reason, too, Mr. Chairman, that if you do not have—if you have a lot of capacity on your system, you need less transmission with the outside world in order to have a reliable system. If your capacity is down low, you need more transmission so that you can draw on your neighbors in an emergency and the like.

We have been stymied in building the needed transmission facilities to make this load completely sound and reliable in our areas because of significant considerations and the terrible protests by people about lines that have been located in their areas. So some of those hearings have dragged on for 2 or 3 years. We have been delayed in building those facilities, so that we need the 20 percent reserve, was not excessive this summer in light of our not completing the 500 KV line around our system. That is a rather complex point, but it is a significant one.

CONSTRUCTION DEFERRED

For the future: The fuel is the most significant rising cost. Apart from that, the thing that has occasioned the 35 percent rate increases in the last 3 years are the other rising costs, the cost of maintenance, the cost of construction, the cost of money. Now, what we have done in this company, we have cut our construction program twice already this year. We have cut out \$345 million over the planned 4-year construction for the next 4 years. We cut \$50 million or \$60 million out of the current year, which is exceedingly difficult to do when you are in the midst of big projects that are underway that will take years.

We started our final look at this year's program after we got the result of the summer peak situation in September, and we are now just at the point of announcing and since this hearing, it is most significant to say here, further significant cuts in our construction program, which will include—most likely we will finalize that within a few days—a further delay in building our Dickerson coal-fired plant up in the State of Maryland. We have already delayed that plant two times. We have already delayed our nuclear plant that was scheduled for 1972. We expect a further delay on construction of the Dickerson plant, and thereby I say, save those construction costs in these periods of extremely burdensome rates upon our customers, with the hope, Mr. Chairman, that the picture of conservation which has developed here will continue, and that our peak loads will not be as high in the future as we had thought them to be.

I ought to say this: We project peak loads, and we have to have the capacity there to meet them, but we are going to make every effort we can to make those projections come true, that is, to work with our customers, the major ones who can influence that peak, to keep their usage down in the peak so that we do not have to build excess capacity for that peak period.

For the future, and I want to make this one final comment about capacity because it has been slightly misunderstood, there has been a lot of conversation, and Mr. Fauntroy directly, quite justifiably, asked questions about the service to the District customers out of a plant here in the District that was built way back at a lower cost, and a plant that is now being built out in Maryland at a higher cost.

CUSTOMERS IN THE DISTRICT

Let me make this observation because it is so pertinent. Of course, first of all, we do not just serve the District customer out of the plant here in the District. There is not enough here to serve them in the first place. Even if there were, the two old plants we operate in the District of Columbia, the operating costs alone per kilowatt hour on those plants is higher than the total per kilowatt hour cost operation and amortization of plant on the new Maryland plants, the reason being that the history of the electric power industry up until the last 3 or 4 years was that every time you built a powerplant, it was larger and more efficient than the previous one, and so the kilowatt hour net cost to the consumer is less. That is the basic reason why rates went down in the 1960's instead of going up. So that if we were to serve the District customer out of those plants solely, if it were possible, he

would fare extremely poor compared to the system as a whole because the costs are much higher.

OPERATING COSTS

I have a statement of the exact amounts of those costs. For instance, the two plants in town in July, Benning and Buzzard, the old plant is Buzzard Point, and of course, we operate that as little as we can. We bring it on last, as it were. The cost is 32 mills, 3.2 cents a kilowatt hour in July to run that plant. The cost of Benning plant, the other plant in the District, is 24 mills, 2.4 cents. But our newest Morgantown plant, the operating cost in July is 13.1 mills, and the total cost—

Mr. ADAMS. 1.3?

Mr. THOMPSON. 1.3 cents compared to 3.2 cents, about a third, and if you add the amortization of the capital costs to that, it goes up to 17 mills, or 1.7 cents, which illustrates the point I am making.

The other plant, the Dickerson plant, not quite as efficient, but almost, was 13.6 instead of 13.1, 1.36 cents, operating in July, and the total capital cost on that one, if you add the capital cost in, is even a little less because there was a lower capital cost, 1.63, or 16 mills.

CONSUMER CONCERN

Mr. Chairman, let me just conclude—and I have taken too much of the time of the committee—let me conclude by coming back to the statement that you as chairman made at the opening of this hearing, was that the President had said in his summit meeting that all of us must become inflation fighters and energy savers. With that we thoroughly agree. The matter of the exorbitant increases in electric rates to our customers is a matter of grave concern to this committee, and rightly so, but you as a committee have many other matters of national concern that are grave to you. This is our sole concern at Pepco. We are dealing with it on an hourly, daily, nightly basis, and we say to you, sir, that we think it is an overriding problem that must be addressed in this Nation, and what must happen is that fuel prices must come down. If our fuel prices could come back to the level they were a year ago, we could cut our rates 25 or 30 percent instantly because they have risen in response to that situation. And Mr. Chairman, you proposed at the outset of these hearings that one way that you envision to answer the President's request would be to say that there would be no increases in electric rates.

I say to you, Mr. Chairman, I wish that could be the case. That will not be the case, whether we serve the people with electricity here or whether some other agency serves the people. If the cost is going to be paid by the consumer, there will be increases unless the increases in the costs that go in to make the electricity are halted and reversed.

RATE MORATORIUM

Chairman Diggs alluded to the possibility of a moratorium on electric rates. I mentioned—I likened that a moment ago to a moratorium on grocery prices. If you have a moratorium on grocery prices in the District of Columbia today, but you do not have a moratorium, on the wholesale prices to the grocer, every grocery store in town will be out

of business unless the inflation is brought under control and the prices to him are brought under control.

So we deplore these increases in prices. We wish to God, Mr. Chairman, we could have price reductions in electricity as we had in the 1960's. We pledge our help to you and this committee and all the committees of Congress who are trying to deal with the ravages of inflation because that is what it is all about and we hope that you, sir, and other Government leaders can get something done. We will do everything we know how to do within our limited framework on the firing line of one of the most drastic contributors to the whole inflation area cycle that we are in today.

I want to thank you personally for all of us at Pepco for conducting this series of hearings. I think it is important to the people to come here and express their grave concerns. I was particularly impressed with Ms. Maulsby to tell about the—they are talking about a problem there with people paying electric rates that is horrendous and we want to work with you.

PEOPLE'S COUNSEL

I should address the question that the committee called the hearings about in the first place, and that is the bill to create a People's Counsel. As I said in my prepared statement, we certainly want the consumer completely and thoroughly represented, and whatever way in the wisdom of this committee and other Government officials it could be best done, we support it. We said that our experience had been that the consumers represented it both ways in the District. Interestingly enough, Mr. Olson, who testified here at the committee's request, appeared as a consumer's witness in our rate case. He appeared for the Sierra Club as the consumer's witness. He said here in this committee on Thursday that he thought that the present system produced consumer oriented representations, as I recall, the present system being that the Commissioner appoints outside expert counsel to appear on its behalf along with Corporation Counsel. He said also twice that the District of Columbia Public Service Commission—and he has traveled around the country testifying before many Commissions—it was as protective as any Commission, as I recall, as did the witness this morning, Mr. Wells.

There is certainly nothing in our experience that would indicate that we have had anything but a tough, hard row at every step to prove the need for any rate increase, and that is the way it should be and that is the way we want it.

And so, if this committee concludes that a People's Counsel would assist in that effort, we applaud that move. The only question we would sound is that we trust that no further delays will be built into the system at the cost which must be, of course, supported by our customers.

With that, Mr. Chairman, we appreciate your giving us an opportunity to talk.

Mr. ADAMS. Mr. Thompson, I think your testimony has been excellent. You have been direct and to the point. I have questioned as we have gone along, so I do not want to take more time from my colleagues before turning to them, as I would ordinarily do.

I have, therefore, just one question. Then I will go immediately to Breckinridge and then to Mr. Gude.

As I stated at the beginning of this hearing, those of us who sit on the Budget Committee of the Congress, and therefore attended the Economic Summit, listened for 2 days to the various problems of the private enterprise system and how it is going to function under the impact of oil prices and other items, but we have to stop this system of everything rising in price at some place.

FUEL ADJUSTMENT

Now, the figures that I have previously put in the record, and that you and I both referred to, indicate you have a fuel passthrough. Now, the problem of the cost of fuel or energy is a national problem, and you have correctly stated that we must deal with both in the building of our domestic supplies and in our relationship with the OPEC countries. I do think that there is merit to requiring either through People's Counsel legislation or through changing the fuel adjustment in some manner that there be an incentive financially for you to bargain hard for your fuel costs. I do not question the fact that fuel costs are substantial, but now that is passed through. That is the consumer's problem with the consumer's Government controlling, so we have to set that aside as far as your problems are concerned on cost.

RATE INCREASES

What concerns me is that you have had three rate increases since 1970, to aggregate about 35 percent. I do not know, and I am certainly not suggesting to you what amount you are going to apply for, but you made it very clear to the committee that you intend to apply for an additional increase. During this period of time, your profits, in other words, the portion set aside into the profits sector, have almost doubled. Your investment has approximately doubled, a little less than that. But now you are in the position that if you go for an additional increase. I have checked through and find that your wage increase factor—your last one was in July 1974—was 7.2 percent, and your other costs that you have in your system are not being reflected in any type of information that indicate a substantial new rate increase.

So, my question to you is that if you raise your price you will raise the price of everything else in this area. It will go basically into your profit picture, and I do not think your stock is depressed or can be saved by the return because I do not think with the stock market and your indication that the book market value has been going up while your stock has been going down, that the ratemakers here can put enough money into your company to make your stock compete on the public exchange.

REASON FOR RATE INCREASE

So I would like to know what is the basic thing you want to tell me why you are going to get an increase presentation before the Public Service Commission very soon, which will be in addition to the fuel increase.

Is it for construction?

Mr. THOMPSON. Mr. Chairman, the reason will be, because you asked a much more fundamental question than this, that I want to progress to, embraced within your question, but the reason will be that the rate of return set by the Commission in its previous case is not being realized now.

Mr. ADAMS. You are getting 12.2 instead of 12.5 percent?

Mr. THOMPSON. The rate of return at the end of August for the 12 months ending was 11.66 instead of 12.5, but it is on the decline, so we would expect that by the yearend, the yearend figures we used would show that we are not earning the rate allowed by the Commission.

We will also attempt to show, Mr. Chairman, that that rate allowed by the Commission previously was inadequate in today's context and should be higher. The 12.5 percent allowed on equity was allowed at a time when interest rates and preferred stock rates were not what they are today, and yet the sellers of preferred stocks yield at 11 percent and common stockholders expect more.

But the reason why we are not earning that is because of various cost pressures. We will delineate them all. The maintenance cost of operating our system, and the cost of our wage rates—you alluded to a 7.2-percent wage increase, by the way, we keep a close track of the Federal Government. They are right on target for last year, our increase. The cost of the material, the equipment that goes into the maintenance is up, everything is up. The interest cost on the borrowed money to continue our construction program is up. All of those costs are up, now, and we will show that in great detail. It will be in hours and days and days of debate before the Public Service Commission.

But Mr. Chairman, you asked a much more fundamental question than that, and that is whether, if the Commission grants us the rate increase, or a portion of it, so that we earn a better rate of return and are able to attract additional stockholders and continue our construction program, whether it will be sufficient. You asked a fundamental question, whether it will be sufficient to bring the capital in that we will have to have to continue to provide service in this area. That is a very fundamental question that is being asked all over this country today, whether or not the electric utility industry can under these conditions attract the capital necessary to serve the public, and I do not know, sir. I certainly hope so.

It will not be done, I am afraid, sir, if inflation continues like it is. If you get inflation under control, restore confidence in the market, I come back—what is the alternative, in other words. If we do not do it, what is the alternative?

PUBLIC OWNERSHIP

Mr. ADAMS. Well, the alternative is your ratepayers will own your system.

Mr. THOMPSON. That is right, sir, and as Dr. Olson testified the other day, he does not see that they will cut any costs at all to the payer or to the people. It will not—it might cut a slight cost to the ratepayer but the taxpayer generally—it will not cut cost of providing electric service. And so he testified.

Mr. ADAMS. Well, it cuts the cost of your capital, but I will not argue that point with you because I do not want to get into the argu-

ment of public versus private utilities. We do not have the time and I do not think it would be an appropriate thing. That is not what the hearing was directed toward.

But I will just close my comments and go to Mr. Breckinridge by stating this, that so long as your interest rates in the New York market are maintained at a rate between 10 and 13 percent to prime lenders, the rate payers in this district cannot pay enough money into your system to make the sale of your stock attractive because your return would have to be, since you are not a risk industry, but at least an equity stock interest has to be substantially higher than what you can receive for payment of simple interest.

Those of us who hopefully are going to start dealing with macro-economics now rather than individual things, understand this, but I just wanted you to know that your new rate increase, which is to in effect protect the equity position in your company, is going to be a very difficult position to maintain.

Mr. THOMPSON. Yes, sir, and Mr. Chairman, you just touched a crucial point. When you say the question is whether our customers can pay rates that are partially required by constructing facilities with money borrowed in, as you say, the New York market at 10 to 13 percent, we borrowed some at 10.14 percent. Of course, the Government bill rate has been up right at 10, so if the Government were building similar facilities with 10 percent, 9½ percent money, you have got the same basic question.

So what you are saying, Mr. Chairman, I agree with you 100 percent that something must be done to bring these costs down. We cannot stand interest rates like this in this country. The people cannot stand it, and I agree with you, sir.

Mr. ADAMS. Mr. Breckinridge.

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

Mr. Thompson, thank you very much for a lucid and very thorough exposition. I do not believe I have any detailed questions. I just want to confirm my understanding that Pepco sees no obstacles or objections to the appointment and designation of adequately staffed people's counsel.

Mr. THOMPSON. No, sir, we do not.

CONSTRUCTION DEFERRED

Mr. BRECKINRIDGE. Let me ask one question that Mr. Adams' examination brings to mind. I did not total your figures, but it seems to me that you talked about cutting back capital construction and planning in the neighborhood of roughly half a billion dollars.

Is that what I heard you say, \$300 million plus?

Mr. THOMPSON. Yes, sir, \$345 million has already been cut back.

Mr. BRECKINRIDGE. Now, that is a cutback, what was the projected figure?

Mr. THOMPSON. Our original program calls for \$1½ billion in that 4-year period, which is, as the chairman said, a virtual impossibility to do.

Fortunately the peak load we hope will stay down because of conservation, so we will not need to spend that sum of money. We have already cut it \$345 million down to \$1.2 billion, \$1,185 million,

and we expect to cut substantial amounts out again, our goal being we are going to endeavor to get our construction program down so that will not have to borrow any additional money, long-term money, in the capital markets next year if we can possibly do it. I do not know whether it is possible. We are going to try to do it.

Mr. BRECKINRIDGE. This is \$1½ billion program that was extended or projected over a 3- or 4-year period?

Mr. THOMPSON. Yes, that is a 4-year construction program.

Mr. BRECKINRIDGE. And about \$1 billion of it has already been executed?

Mr. THOMPSON. Oh, no, no. Of that amount, about \$260 million has been executed.

Mr. BRECKINRIDGE. Now, have rate increases been sought and realized on the predicate of that \$260 million that has been disbursed?

Mr. THOMPSON. Yes, sir, for the cost associated with that.

Mr. BRECKINRIDGE. Those are the increases that have been referred to in these hearings in the last couple of days and extending the last 3 years, I think?

Mr. THOMPSON. Yes. They have. The rate increase has covered the rise in cost of the capital associated with that; yes, sir.

Mr. BRECKINRIDGE. Of course, that is going to cost you more in the future.

Mr. THOMPSON. Unless something is done about it.

Mr. BRECKINRIDGE. Now, if I get this picture correctly, you will hopefully conclude this construction program within this year, perhaps, or initiate it and undertake it and borrow the necessary money, and then seek an additional rate increase predicated on that additional maintenance cost, and every other facet.

Mr. THOMPSON. Yes, Mr. Breckinridge.

CONSTRUCTION PROGRAM

Perhaps I should take just a minute to tell you what that construction program is.

A great deal of it, we can give a detailed report to the committee, is for services to customers, new customers coming on. There are quite a few of them. You drive around seeing new buildings being built, the substations, the transformers, the lines that serve new customers is a part of that program, the rebuilding of facilities that are obsolete to maintain the present service to old customers is a significant part of the program. Then the new part of it, the significant new part is those generating and associated transmission facilities to meet the higher requirements of load in the future.

That is what has been significantly cut down. An interesting thing is that every study that anybody has made that I have ever seen of a reliable nature says that for the 1980, 1982, 1983, 1984 period, where we are planning our nuclear plant, that the customer will be immeasurably better off with that nuclear facility than he will with a fossil facility because the cost of the nuclear fuel per kilowatt hour is so tremendously less than fossil fuel. It has always been that in the last 10 years, when nuclear has come, even more so now, but the capital costs are much higher.

So the basic problem is—and again I come back to the chairman's remarks about the difficulty of raising this money—the basic problem is whether we can raise the funds to build that nuclear plant, which when it comes into service in 1982 will mean lower kilowatt hour costs to the customers. That is our basic construction problem.

But, sir, we do not have to make that final decision just now because we are proceeding on a slowed down basis with the nuclear plant for 1982 schedule rather than the original 1980 schedule, so that not as much money is being spent this year and next as we had originally anticipated, a minimal amount in these critical times.

Mr. BRECKINRIDGE. Now, in seeking those rate adjustments in recovering the capital outlays that were involved, did they treat your test year for the purpose, or were they incorporated in arriving at your test year for the purpose of setting a rate base?

Mr. THOMPSON. I am trying to be sure I understood the question. I spoke with my financial man, Mr. Breckinridge. The test year is always historical, the test year, and that is one of the problems with ratemaking, is a year in the past, so that you base your rate needs in the future on the year that just passed.

Now, it is perfectly obvious that in a period of continuing inflation, before you get the rate increase you need more than you got, by anybody's determination because it is based on a previous period that is past. So only that portion of a construction program which has already been executed and done is in that test year. But the future is not in it; no, sir.

Mr. BRECKINRIDGE. All right.

RATE INCREASES (1970-1973)

Going back over the last 3 years how many rate increases have you had to which you have incorporated such capitalization?

Mr. THOMPSON. We have had three rate increases, one in 1970, one in 1972, and one in 1973, and the rate base in each of those cases included a prior test year. For instance, the last rate case included a test year of June 30, 1973, 12 months ending June 30, 1973, and the rate increase was granted in November and December.

Mr. BRECKINRIDGE. Am I correct in understanding that PEPCO is maybe one of maybe two or three companies in the Nation that does not capitalize its AFC?

Mr. THOMPSON. That is correct, sir.

Mr. BRECKINRIDGE. Would you explain why?

Mr. THOMPSON. That is a very complex subject. In lieu of capitalizing interest, or AFC, you can put construction work in progress in a rate base, which is done in our case.

Mr. SMITH. Excuse me. Would the gentleman yield?

What is AFC?

Mr. BRECKINRIDGE. I was just going to say, I might not get a statement here that would explain what we are talking about. When you do not capitalize your AFC, the effect is that you place in 1 year the capitalization costs of your money, and instead of capitalizing it over the period of the life of the loan, you take it at that point in time.

Mr. THOMPSON. That is correct. You pay the interest expense currently.

Mr. BRECKINRIDGE. And then if I might go ahead, and answer the gentleman's question, or in expectation of the gentleman's question, if you build that into a test year, then you have reduced the earnings by the amount of that capitalization on which you based the rate. So I am trying to find out how many of these balloons have been built into the last 4 years as a reduced statement of earnings when in fact they have been capitalized out of 1 year only and not fully for the life of the future users, the end result being that present users are paying for future users' realization, and that you have a reduced earnings statement which otherwise would not result.

Is that correct?

Mr. THOMPSON. That is exactly right. I did not understand the nature of the question, Mr. Breckinridge, when I first started answering it.

Yes, allowance for funds during construction is an accounting convention or method whereby you add to the cost of building a plant. If you follow that method, interest charges is a bookkeeping entry. A credit to earnings is allowed and represents the cost of financing construction which is then capitalized as part of the cost of the plant rather than charging all financing costs currently, and then your total, the total cost of the plant is increased by that amount. The other method, the method followed by us, is whereas you expend interest expense currently you do not add the additional amounts [The credits to earnings] to capital cost.

You can demonstrate mathematically, Mr. Breckinridge, that in the long run the cost to the consumer is the same. You correctly state, sir, that the impact currently is higher than it would be if you capitalized it and put the impact out later.

Now, sir, let me make this observation, that very subject is one of the matters that is being discussed all over the country, right now, as one of the reasons why many electric utilities are in even worse shape than this company is today.

So it is a very complex subject.

Mr. BRECKINRIDGE. I would appreciate, Mr. Chairman, if the gentleman would submit for the record at this point the projections and the comparative analysis to which he referred in order that the committee might review that.

Mr. THOMPSON. I would be glad to do that. I will give you a record of the last rate case, how much construction work is in, and how much is anticipated in the current rate case.

Mr. ADAMS. Without objection, that will be entered into the record at this point.

Mr. BRECKINRIDGE. Thank you, Mr. Chairman.

[The information referred to and other exhibits from Pepco follow at the end of Mr. Thompson's testimony:]

Mr. ADAMS. Mr. Gude.

Mr. GUDE. Thank you, Mr. Chairman.

BILL TO CONSUMER

Just to continue the question which Mr. Breckinridge finished with, does that mean that an individual consumer's bill would go up more under the system you are following this year than it would say for the next 20 years?

Mr. THOMPSON. Well, as I said, Mr. Gude, the mathematical work-outs that I have seen indicate over 20 years, it comes out the same, but it does mean that the current rate to the consumer is higher than it would be if we did not capitalize interest, but his rate would be lower later on. But now there is one other point that you want to understand clearly. That is not cash money. It damages the cash flow immensely if you do not follow the convention which we follow, and as I said again, that if utility interest is going to remain viable, methods must be found to improve the cash flow. But to try to make a complex subject simple, you and Mr. Breckinridge have exactly correctly stated it. You increase the current need for funds, but you lessen the need later on. That is right.

Mr. GUDE. My thought was that at this time of crisis, a person who is on a fixed income, a senior citizen, for example, is hit at a time when everything is closing in on him.

Mr. THOMPSON. Mr. Gude, it is interesting you raise these points, because I think I ought to say this; we follow that convention. On the other side of it, we flow through all of the benefits of the Federal tax laws—accelerated depreciation, investment tax credit, and all of that, which is the other way around, Mr. Breckinridge. Most utilities, or a majority, normalized that, so that they do not give their present rate pay, or the immediate benefit.

INVESTMENT TAX CREDIT

Now, while we sit here on this committee, committees of this Congress—not at the moment, but I know the House Ways and Means subcommittees have dealt with this very question; and have talked in terms of raising investment tax credit from 4 to 7 percent, just like all other industries. And a part of that discussion is centered on the requirement that, if it is raised, to require commissions to normalize it, and not flow it through, just precisely the reverse of what we were talking about here, so as to improve the cash flow currently, that the utilities are in such a bind with now. If we went the other way, Mr. Gude, and started capitalizing interest, at the same time we are flowing through all of these others, we would have no conservative element whatever in our accounting. It would be just the opposite of what the House Ways and Means Committee is trying to inject into utilities, is some cash flow.

POWER RATES

Mr. GUDE. Regarding the small consumer, according to the figures from the Public Service Commission—these are the July 1974 rates, entitled Comparison of Sample Billings, Residential—the basic rate, at 400 kwh, comes out as I see it to 3.07 cents, while the basic rate at 2200 kwh user comes out to 2.8 cents. That would be kilowatt hours.

So it would appear there is a regressive rate on the small user.

Mr. THOMPSON. I am not sure, Mr. Gude, I followed you correctly.

Mr. GUDE. This is for July 1974. It states that the basic rate—maybe this is due to the surcharge; I am not sure of that. But the basic rate of 400 kilowatt-hour users is \$12.28.

Mr. THOMPSON. Yes, sir.

Mr. GUDE. And then, the basic rate for 2,200 kilowatt-hour users is \$62.14.

Mr. THOMPSON. Yes, sir, and what that comes out to on a per-kilowatt-hour basis, I do not know.

Mr. WALTERS. \$12.28 is 3.07 cents.

Mr. THOMPSON. \$12.28 comes out to 3.07 cents a kilowatt-hour.

Mr. GUDE. And the 2,200 kilowatt-hour user comes out 2.8?

Mr. THOMPSON. Yes, sir. Well, that is the basic thing we were talking about earlier, about the design of this rate schedule is such that the larger user, after you combine the element of demand and energy, would have a less per-kilowatt-hour cost. That is correct, and that is one of the matters, of course, we discussed her. That is sound on a cost basis, because he ought to have exactly the same cost per kilowatt-hour for the energy portion, but he ought to have less cost per kilowatt-hour for the demand portion, just like the user of that automobile in sound, ratemaking economic theory.

Mr. ADAMS. Will the gentleman yield?

Mr. GUDE. Yes.

Mr. ADAMS. Not if he has required a more expensive automobile.

Mr. THOMPSON. Well, it is the same automobile, basic in these rates. You have of a good question, Mr. Chairman; that is, if you could add an element to Mr. Gude's question, and assume that user is requiring the peak capacity, whereas the lower user is not. But you cannot make sure that is a correct assumption, because in our studies, with many people coming on the lower use, some of these lower use customers are requiring us to build. New customers are coming on, for instance. But your point is basically sound. It is a problem about rates, and that is if the higher user, if they are using the same automobile, my point is if the higher user is requiring us to put on a more expensive automobile, he ought to pay for that more expensive automobile, yes, sir. It is hard to come out and study to see exactly what customers are providing what demand, but we are making studies to that effect. As Dr. Wells testified, we are working with him on it, as a consumers' representative.

Mr. GUDE. I do not have the advantage of your study, but I would wager that these large users are peaking at the same time as the small users, and it does seem to me equity would ask them the same rate for the 400 kilowatt-hour user, as well as the 2,200 hour.

Mr. THOMPSON. Well, Mr. Gude, you have these—now, we have not talked about fixed costs that do not change. You know, you have other fixed costs. It is a question of the fixed cost of providing a specific service for that customer, now, that we have not dealt with, and that is an important part of these rates. In other words, it costs less to provide the service facilities to one apartment house than it does to 100 houses, with 100 transformers, wires all over the place, meters, and all of that. It costs less to read one meter and administrative costs associated with one bill than it does 100. So there are certain fixed costs that do not vary with the size of the customer, which means that the small man—it costs the same amount to read his meter, and that sort of thing, as it does the large customer, you see. So that element of fixed cost is a part of it.

Now, I do not mean to be arguing with you. I am simply explaining how the rates develop. That element is built into it.

Mr. GUDE. I would guess there are some fixed costs that are higher for the large user—service, a question of big air conditioners. Are these things taken care of?

Mr. THOMPSON. There again, you are talking about his usage requiring the facilities. I was talking a moment ago about the costs associated directly with serving, and the real large users provide many of their own facilities, such as government installations of their own substations. We are not required to furnish those costs.

D.C. STREET LIGHTING RATES

Mr. GUDE. Is it true that the street lighting rates in the District of Columbia are fixed by law at 2 cents a kilowatt hour?

Mr. THOMPSON. Yes, sir, and that is bad. We attempted to get that eliminated this summer, and we did not succeed. We talked to the man in the mayor's office with an idea of a supplemental appropriations bill taking care of that. But many years ago, that was inserted for some reason lost to me in antiquity, as a legislative provision of the appropriations from the Congress to the District government, a provision that no money would be appropriated to pay for street lights in excess of 2 cents a kilowatt hour. At that time, the time it was inserted, the cost was substantially under that. There was no problem. The cost is now about 3.1 cents. The District government owes us around \$400,000 for street lighting, which we have yet to collect, and will not collect unless we get that changed, and the Congress of the United States appropriates additional funds. Meanwhile, that burden will have to fall on the other customers.

Mr. GUDE. That burden does fall on the homeowner here.

Mr. THOMPSON. Well, it does not go on him now, because we have not collected, and we have not been through a rate case since it accumulated, but it will have to go on the homeowner here if it is not paid eventually. Whatever is allowed to us by the Commission, we will be short that much money, and it will have to go on the other customers if it is not straightened out, Mr. Gude.

Mr. GUDE. How much of that street lighting is involved with the Federal Establishment? For example, lighting in the areas which really are not for the benefit so much of the residents of the city, as for its visitors?

Mr. THOMPSON. We do not keep records, I believe, Mr. Gude, by which we can break up the areas, because the District of Columbia government is responsible for the entire streetlighting count in the District, you see; and so it is all kept—no, we do not have it broken down between areas. We could make some sort of a study. But the District government is responsible, of course, for the entire streetlighting.

Mr. GUDE. Just as an aside, this is what we often talk about in relation to a commuter tax. We all ought to share in the cost of some of these services, which are really for the people of the whole Nation, and not just for the residents of the area.

Mr. THOMPSON. For that reason, I would certainly hope that the Congress would eventually appropriate the funds, so that that can be paid. For all the taxpayers to pay that fund, along with—you see, the District, as you gentlemen know, you appropriated substantial funds for the District, and I must contend to you that is a part of it.

RESIDENTIAL USERS

Mr. GUDE. You spoke to Government rates. Is the taxpayer, or is the residential user, getting a fair break as far as the rates are concerned that the Government is paying?

Mr. THOMPSON. Yes. In the last rate case, when we got through with the allowance in the rate case was an 8.3 percent overall rate of return. That equated to a 5.63 percent return for the residential customers, a 9.78 percent return on general service or commercial customers, an 8.27 percent return on high tension customers, high-powered, mainly Government. So that on a rate of return basis, yes. Of course, there is a great deal of complaint from the commercial customers about this sort of thing. But now, it is our thinking that the Government, the large customer, probably ought to bear a little more of those costs in the future, because we believe that rate is coming down. And there again, the reason for it is tough, but it is a case.

I alluded a moment ago to the Government's 17-percent conservation effort. Well, we have got these facilities that were built to serve all of our customers, and their projected loads. Now, there again, we are back to the question of a person saving the most, they are being hit with a bill. But when it comes to the facilities built to serve him, if he does not use them, you see, who is going to pay for it? So, while we are in a period with relatively high reserves, the Federal Government perhaps is not quite paying as much as it should, but as compared to the residential customers, it is still paying substantially more, and that was increased last time 16 percent.

Mr. GUDE. I believe previously you referred to the question of selling this surplus capacity to the grid for other systems.

LOAD FACTOR

Mr. THOMPSON. I did not refer to it, but that is another subject that is of significant importance. That is very important, Mr. Gude. This company has one of the lowest load factors in the Nation, about 46 or 47 percent. Dr. Olson testified briefly, there are two basic reasons for that. Air conditioning was here; this is the first company in the United States to have a summer peak instead of a winter peak, because Washington was the first air-conditioned city. The second reason is we have no industrial customers that operate around the clock, 24 hours a day, to utilize the equipment, so that we have a winter peak which is only 60 percent of our summer peak.

The rates to the customers in this area, of course, have to be much higher than they were if that capacity had to all stand idle in the winter, when it was built to serve the summer load. So, by being interconnected, which is what are called the PJM—Pennsylvania-Jersey-Maryland interconnections—there are some companies that have a winter peak, like Pennsylvania Power & Light, rather than a summer peak. We can sell capacity and energy in the winter, which goes immediately to reduce the cost to our customers, an offset against fuel expense and a very significant amount. The current figure is about \$90 million a year, or something like that, which offsets the cost to the customers in our own area.

Mr. GUDE. Some of my constituents in Bethesda received some bills which were way out of line. They ran out and looked at their meters, and found out that errors had been made. They were told, "just go ahead and pay the bill, and we will adjust it later". Is there any reason that a citizen cannot adjust a bill himself, and send it in? Will he be penalized?

Mr. THOMPSON. I do not know who told them that, Mr. Gude. If it were I, and the company had admitted they were wrong, I would not pay the bill and get it adjusted later on. I am shocked to hear that anyone was told that. What they should have done was correct the bill.

Mr. GUDE. This is hearsay.

Mr. THOMPSON. What should have been done was to correct the bill properly; that is what should have been done; and I hope we make sure it is done in the future. We should correct it properly for him, and my advice to any citizen would be, if the company has admitted his bill is erroneous and overstated, not to pay it until we correct it. He should not have to pay an overcharge and expect to be refunded later, no, sir. That is not company policy.

METRO IMPACT

Mr. GUDE. Thank you, Mr. Chairman. Many of the questions I was going to ask you and Mr. Breckinridge and Mr. Fauntroy have addressed. This has been most helpful. I would just ask one final question about the impact of Metro on the power usage in the District.

Mr. THOMPSON. It will have a fairly large impact, Mr. Gude; a load of around 380 MW, compared to our total load now of about 3,500. So it is almost a 9-percent increase in our present load that will result from Metro when it comes into effect. We are presently engaged in extended negotiations with Metro with respect to a contract. It will not fix a final rate. It will set the parameters for a rate, which would have to be approved by the Commission. But that is a significant impact, and that is a type service that our trust or rate people will be able to price justly and clearly, so it carries its appropriate share of the load, because it is clearly definable what it requires and when it requires it, and it requires service on peak. Unfortunately, they do not run those trains up and down at midnight, which would help our overall load. They run them right on the peak hours.

Mr. GUDE. These electric cars you plug in at night, and I think you can get a mile for a cent and a half. That is not on the peak load. Do you all recommend electric cars?

Mr. THOMPSON. The answer to that is yes. What I am trying to say is, I am astonished that in a nation that can put a man on the Moon, that we cannot develop an electric battery or vehicle that makes those really practical, because that would solve a great deal of our problem. It would be charged offpeak, as you say, at night. It would improve our load and keep the rates down, and eliminate the use of gasoline. It is astonishing to me that something really has not been done for a breakthrough.

Now, there are experimental models. I saw one the other day that ran 50 or 60 miles, and I hope they will come along, really, for the future. Another point, though, about that, Mr. Gude. If it really takes off, if we have a crash program to develop those vehicles, like we did some of these other programs in this country, that means

another big load for this company in the late 1970's and 1980's. But that may be the way of the future, you know.

Mr. GUDE. Thank you, Mr. Chairman.

Mr. ADAMS. Mr. Smith?

Mr. SMITH. Thank you, Mr. Chairman.

RATES

Mr. Thompson, you may have testified on this before I came in, but did you talk any about Pepco's experience with rates per kilowatt hour generally? For instance, I read the other day some large group of electric companies set forth a very interesting table showing that during the decade between 1960 and 1970, when the prices of other things were increasing by an inflationary rate of about 5 percent a year, that the price per kilowatt-hour of electricity in their system went down in that same decade, until they were hit by the recent fantastic fuel cuts.

Mr. THOMPSON. I did talk about that.

Mr. SMITH. And has Pepco's experience been somewhat similar?

Mr. THOMPSON. Yes. We had two rate reductions in the 1960's, as I stated at the outset of my remarks. Up until the 10-year period from 1963 to 1973, even with these rate increases you are talking about, we had only 10 percent increase in electric prices, whereas the general cost of living index has gone up 52 percent. I did refer to that.

You mentioned earlier that you lived in New England, where it is a higher electric power rate.

Mr. SMITH. New York.

Mr. THOMPSON. I meant New York, where it is the highest electric power rates in the United States, in New York City, and it is going to get even higher.

Mr. SMITH. We have a political problem about that, because the New York State Power Authority generates electric power about 10 miles from my house, and the rates are the highest in the State.

Mr. ADAMS. Mr. Fauntroy, did you have any additional comments?

Mr. FAUNTROY. No, thank you, except to thank you for the very thorough and expert testimony you have given us.

CONSTRUCTION COSTS

Mr. ADAMS. Mr. Thompson, I have just one last question. I have already discussed your equity position. Your other area is the one which Mr. Breckinridge touched on, which was construction. You had in your order for last time, construction work in progress which went into your rate base, which—your total rate base was \$551,748,000. You had construction work in progress \$50,454,000.

Mr. THOMPSON. Yes, sir.

Mr. ADAMS. Now, that is in effect charging people for what will be future items. In other words, they will not benefit from the construction work that is in progress, and a later rate person will. Now, in most companies in fields, the construction is handled by borrowing and by amortizing at a later time. You have run this into your present rate base. How much was being built in that \$50 million? Did anything come online, or was that a portion of the plant you mentioned was going to come in 1982?

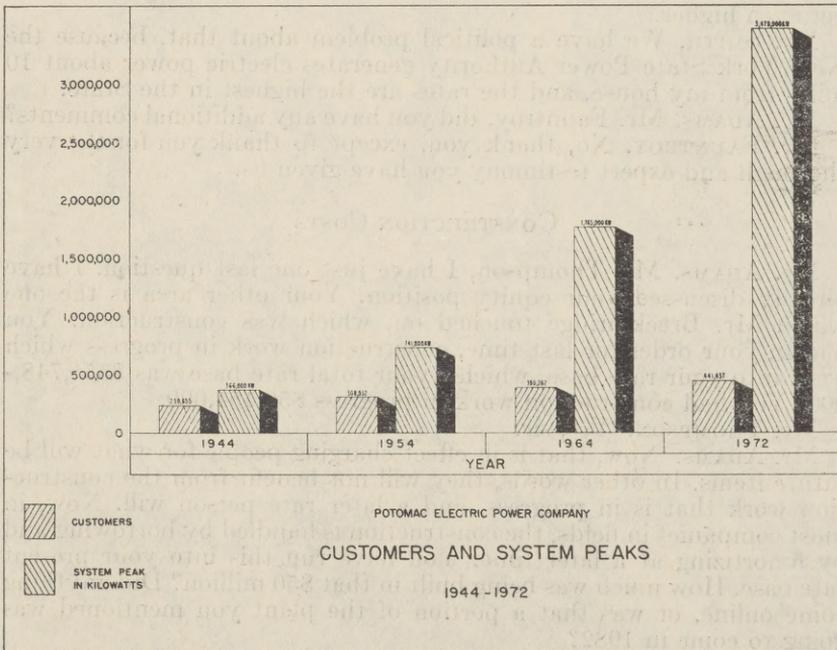
Mr. THOMPSON. Nothing in the \$50 million was online in that rate increase by definition, or it would have been inplant, inservice, rather than in construction work in progress. Some of it came online, undoubtedly, in the following year, but I can get a breakdown of it. But it basically is just what you stated, Mr. Chairman; it is construction that is not presently benefiting the consumer, because it is being constructed. He will benefit from it later. There is a point that—there was much testimony in our rate case on this point, as one expert pointed out—it is not built solely, however, for the consumer in the future, but is being built so that the present customers will have reliable service, as well as serving future customers. So there is a philosophical argument.

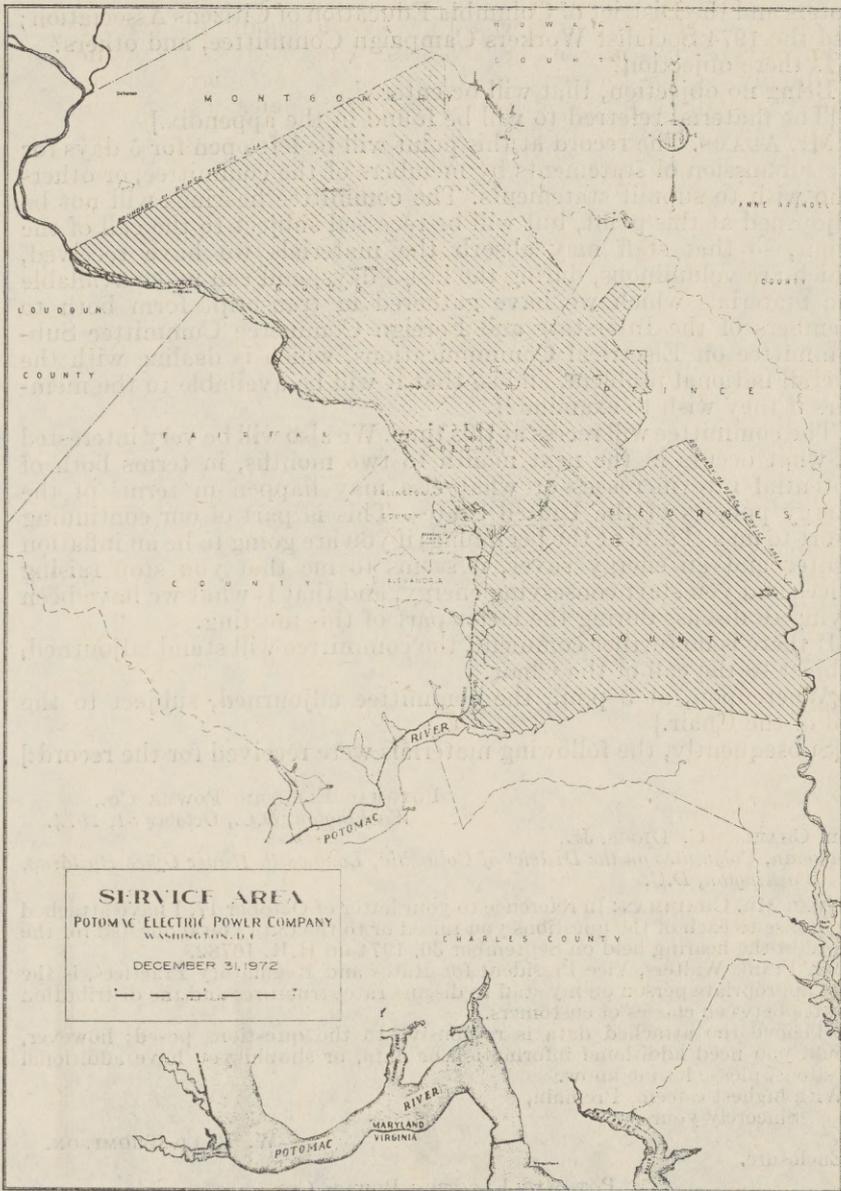
I do not mean to be picking nits with you, Mr. Chairman. You are basically correct, in that the present consumer is paying rates that cover the construction rather than add that cost in for later consumers to pay. That is the difference. Interestingly enough, you say other companies do it in other ways. In the electric industry, it is mostly done the other way, but no other industry that I know of—all other industry capitalizes just as we do. They deal with construction as we do, and in all other industry except—well, the electric industry, I believe, is the only industry, Mr. Breckinridge, where people do follow that convention of allowance for funds during construction.

Mr. ADAMS. Thank you very much, Mr. Thompson. We appreciated your testimony and that of your colleagues.

At this time, without objection, I would like to enter into the record the service area of Potomac Electric Power, and the customers and system peaks.

[The material referred to follows:]





Mr. ADAMS. And is there objection to placing in the appendix to the record the following statements which have been submitted: That of Mr. Robert Stein, Office of Public Counsel of the Interstate Commerce Commission; Mr. Robert Grahn, the Ad Hoc Association of All Electric Customers in the District of Columbia; the District of Columbia Community Action Agency; the letter from Mrs. Harriet Hubbard, a member of the District of Columbia League of Women

Voters and the District of Columbia Education of Citizens Association; and the 1974 Socialist Workers Campaign Committee, and others?

Is there objection?

Being no objection, that will be entered.

[The material referred to will be found in the appendix.]

Mr. ADAMS. The record at this point will be left open for 5 days for the submission of statements by members of the committee, or others who wish to submit statements. The committee hearings will not be adjourned at this point, but will be recessed subject to the call of the Chair, so that staff may absorb the materials we have received, which are voluminous, during the last 3 days, and can make available the materials which we have gathered in transcript form both to members of the Interstate and Foreign Commerce Committee Subcommittee on Electrical Communications, which is dealing with the overall national problem, and so that it will be available to the members if they wish to examine it.

The committee will recess at this time. We also will be very interested in what occurs in the next month to two months, in terms both of potential rate increases or what else may happen in terms of the energy policies of the United States. This is part of our continuing effort to do as I said at the beginning; if you are going to be an inflation fighter and an energy saver, it seems to me that you stop raising prices and you start conserving energy, and that is what we have been trying to discuss during the latter part of this meeting.

If there is no further comment, the committee will stand adjourned, subject to the call of the Chair.

[Whereupon, at 3 p.m., the committee adjourned, subject to the call of the Chair.]

[Subsequently, the following materials were received for the record:]

POTOMAC ELECTRIC POWER CO.,
Washington, D.C., October 31, 1974.

Hon. CHARLES C. DIGGS, Jr.,
Chairman, Committee on the District of Columbia, Longworth House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: In reference to your letter of October 17, I have attached a response to each of the questions you raised or to the data you requested for the record in the hearing held on September 30, 1974 on H.R. 16782.

Mr. Frank Walters, Vice President for Rates and Regulatory Practices, is the most appropriate person on my staff to discuss rate structures and the distribution of rates between classes of customers.

I believe the attached data is responsive to the questions posed; however, should you need additional information or data, or should you have additional questions, please let me know.

With highest esteem, I remain,
Sincerely yours,

W. REED THOMPSON.

Enclosure.

POTOMAC ELECTRIC POWER CO.

DATA PROVIDED TO HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA IN RESPONSE TO OCTOBER 17, 1974 REQUEST BY CHAIRMAN DIGGS IN CONNECTION WITH SEPTEMBER 30, 1974 HEARINGS ON H.R. 16782, TO PROVIDE FOR A PEOPLE'S COUNSEL IN THE PUBLIC SERVICE COMMISSION

Question 1A.—A breakdown of the capital costs included in PEPCO's last three rate applications, as well as how much is anticipated in the forthcoming rate case

Question 1B.—A verbal and mathematical analysis demonstrating that PEPCO's accounting procedures for capital costs are (in the long run) no more costly than the AFC approach

Question 1C.—Any industry-wide debate on these two accounting approaches which might shed further light on the advantages and disadvantages of each

REPLY 1A.—SYSTEM CAPITAL (PLANT) COSTS IN PEPCO'S LAST 3 DISTRICT OF COLUMBIA RATE CASES

[In millions of dollars]

	Case No. 541 test period year ending June 30, 1961 ¹	Case No. 568 test period year ending Oct. 31, 1971 ¹	Case No. 596 test period year ending June 30, 1973 ¹	Anticipated year ending Dec. 31, 1974 ¹
Electric plant in service.....	\$895.9	\$1,217.0	\$1,345.4	\$1,460.7
Construction work in progress.....	118.0	37.2	129.8	377.5

¹ Figures shown reflect end-of-period results. In case No. 568 the District of Columbia Public Service Commission ruled that a weighted average rate base was appropriate. Anticipated year-end 1974 construction work in progress investment includes cost of Chalk Point No. 3 generating unit scheduled for service in early 1975.

Reply 1B.—The Committee has requested a verbal and mathematical analysis demonstrating that PEPCO's accounting procedures for capital costs are, in the long run, no more costly than the AFC approach. The attached five page document entitled "Summary of Allowance For Funds During Construction (AFC)—Conventions and Practices" was submitted as part of PEPCO's 1973 General Rate Hearing in Maryland (Case No. 6658). It is precisely directed to this point. PEPCO follows the method identified as Method (1) in the document.

Reply 1C.—In the last twelve months the practice of capitalizing an Allowance for Funds Used During Construction (AFC) has come under intense criticism from the investment community. A wealth of information is available, and the material submitted is limited to selected current items.

The Second FEA Electricity Conference held in Washington, D.C. on September 19–20 highlighted many current issues facing the electric utility industry today, including treatment of AFC and Construction Work-In-Progress (CWIP). The transcript from that session has not been finally published; a copy of the proceedings is on file with the FEA. For the Committee's reference, enclosed are three items from that FEA conference.

One item is a copy of the transcript reflecting the statement presented by the Chairman of the Maryland Public Service Commission, Honorable Robert L. Sullivan. In his statement, Chairman Sullivan succinctly summarized the problem facing utilities, regulators, customers, and investors concerning the issue of AFC/CWIP.

The second item is the prepared statement of Dr. Irwin Steltzer, President of National Economic Research Associates (NERA), and an acknowledged expert on the utility industry. Particular attention is invited to pages 21–24 which also addresses the AFC/CWIP issue.

The third item is the statement by FEA Administrator Sawhill at that conference. This statement provides additional insight into the AFC/CWIP issue and also discusses, in part, the flow through versus normalization issue (discussed in more detail in Question 2).

Also enclosed is a May 8, 1974 research report by the firm of DeHaven & Townsend Crouter & Bodine dated May 8, 1974 which discusses AFC/CWIP practices as well as flow through versus normalization tax accounting practices in detail.

Question 2.—A more detailed explanation of the problem of coupling AFC treatment of capital costs with a direct flow through (rather than normalizing) of taxes and tax credits.

Reply 2. For financial reporting purposes PEPCO presently follows complete "flow through" accounting for all federal income tax benefits arising from the investment tax credit, accelerated methods of depreciation and shorter asset lives used for federal income tax depreciation. This means that all reductions in current income tax liability resulting from these statutory tax benefits are recognized currently rather than over the life of the project on which they are taken. The result is to create higher earnings, and a higher reported return, thereby lowering the current need for additional revenue. At some future point, however, these benefit relationships will reverse and the tax bill will be higher than it would have been had the benefits been "normalized" over the life of the project. Thus, it is said that the tax benefits are "flowed through" to the current customer at the expense of the future customer.

Both the "flow through" and "normalized" reporting practices are used by utilities and accepted by regulatory authorities for accounting and rate-making purposes. As in the case of the AFC accounting alternatives, the tax benefit reporting alternatives involve questions of timing, and the ultimate effect on customers should be the same over the life of an asset. "Normalizing" the tax benefits will produce a greater rate increase requirement and cash flow in the near term; flow through will require a greater cash flow at some time in the future. Adopting the AFC produces a greater cash flow at a future point at the expense of the near term.

Conservative accounting calls for a maximization of cash flow presently, and this has received great attention this year as the result of the electric utility Financial crisis. Greater cash flow is provided by full normalization of tax benefits and elimination of AFC with construction-work-in-progress in the rate base.

PEPCO presently is in the position of following what may be termed a relatively conservative method of financial reporting in not capitalizing AFC. However, PEPCO is also in the position of taking the *least* conservative approach possible in federal income tax reporting. Were PEPCO to adopt the practice of capitalizing AFC, cash flow would be slashed dramatically, because the need for rate relief would be replaced to a large extent by a single bookkeeping entry. For instance, in the 1973 Maryland General Rate Case (Case No. 6658), it was proposed by the chief accountant for the Maryland Public Service Commission that AFC be imputed to PEPCO. This proposal, which was not accepted by the Maryland Commission, would have had the effect of reducing annual cash flow by over \$8,200,000.

Any electrical utility which has a large construction program, capitalizes AFC and "flows through" tax benefits in a precarious cash position today. Paper earnings can't be used to pay creditors' bills and obligations on securities; only cash can be used for this. Cash comes from revenues and when revenues are maintained at artificially low levels, under inflationary conditions such as the country finds itself in today, it's only a short time before the utility finds itself facing a critical cash shortage. This is the reason there have been many recent calls by securities analysts and utility managements to cut back on AFC credits and to begin to normalize tax benefits.

The attached transcript by FEA Administrator Sawhill recommends on page 9 the elimination of flow-through accounting. This topic is also discussed beginning on page 22 of Dr. Steltzer's paper and on page 2 of the DeHaven and Townsend report.

Question 3.—A description of the "state of the art" of peak pricing or time of day metering, identified in your opening statement.

Reply 3. Attached is a paper entitled "A Look at Peak Load Pricing" by Mr. Frank S. Walters, Vice President of Rates and Regulatory Practices at PEPCO. This paper was presented at the Electric Industry Utility Conference called by the FEA on June 19, 1974.

There are a number of peak-pricing pilot programs being implemented in the country to examine this concept. Utilities in Vermont, Virginia, and Arizona, to name a few, have embarked on or are about to embark on such experimental programs. PEPCO is working on developing such a pilot program to examine whether such a program will produce results to make it worth the investment to implement it.

Question 4.—A comprehensive description of PEPCO's 5-year construction program, including capital needs to undertake its completion. A more detailed explanation of PEPCO's most recent bond and stock issuance (total amount of issuance, costs per share, interest rates pledged for bonds) and note of when the next issuance is anticipated would also prove helpful.

Reply 4. Taking the items in reverse order, PEPCO sold 4,000,000 shares of common stock on July 16, 1974 at a price to investors of \$11½ per share. Net proceeds to the Company after underwriters' commissions totalled \$41,580,000. This price represented a discount of nearly 30% below the June 30, 1974 book value of \$15.58. On October 25, 1974, the stock closed at \$10¼ per share which with a dividend of \$1.16 was priced to yield 11.3 percent.

On August 20, 1974 PEPCO sold 500,000 shares of serial preferred stock at a price to the public of \$50 per share. This stock was sold with a dividend yield of 11%, the highest in the history of the Company. Net proceeds to the Company were \$24,712,500 after underwriting commissions.

Also on August 20, 1974 PEPCO issued \$100,000,000 of First Mortgage Bonds. This was a two part issue which consisted of \$50,000,000 of 30-year bonds with a coupon rate of 10 $\frac{3}{4}$ %, and \$50,000,000 of 7-year bonds carrying a coupon of 10 $\frac{1}{4}$ %. Net proceeds to the Company were \$98,850,000 after underwriting commissions. The coupons were the highest interest rates ever paid by the Company on long-term debt.

Prospectuses for each of these securities' offerings are included for the Committee's information.

The detail of the Company's current construction budget is reflected on pages 3-4 of the attached prospectus for the August Mortgage Bond financing. This budget is under continual review by the Company's management and Board of Directors and, in fact, has already been reduced twice in 1974. These reductions have amounted to \$345 million for the period between 1974 and 1977. The Company is currently engaged in a further intensive review to re-examine construction requirements for the next five years in light of recent conservation efforts and the current abysmal state of the financial markets. Any revisions to that construction program with its consequent requirements for external financing will be a direct result of the current review. Therefore, until the budget review has been completed, anticipated financing for the next twelve months and periods beyond is necessarily uncertain as to both amount and timing. Based upon PEPCO's present capital structure, the sale of additional common stock will be an essential prerequisite to continuing the construction and financing program.

Question 1(B).—
Maryland Case No. 6658.
Schedule I.

SUMMARY OF ALLOWANCE FOR FUNDS DURING CONSTRUCTION (AFC) CONVENTIONS AND PRACTICES

Although many complexities have arisen in the application and analysis of the allowance for funds used during construction (AFC) in utility financial reporting and rate-making, the underlying principles and concepts are quite simple.

The principle that investors should be compensated for their investment during the construction period is not controversial. These financing costs are as real as the costs of labor, fuel and materials. However to provide this compensation for funds invested in construction projects within the rate-making framework it is necessary to develop a formula or method which accomplishes that result.

The concept of AFC (or "IDC"—interest during construction) was developed as one method of compensating investors for the use of their funds during the period plant is under construction. One commentator¹ defines AFC as follows:

"A growing utility always has a certain amount of plant which is in the process of construction. This Plant under Construction is not yet in service and thus is not yet revenue producing. However, even though such plant produces no revenue during the period of construction, nevertheless, such plant does involve a real cost to the utility during that period. For during the period of nonrevenue-producing construction, the utility must compensate the investors whose funds were used to finance the construction for the use of these funds. Thus, regulatory agencies must set rates such that the utility will be in a position to compensate investors for the use of their funds, while such funds are tied up in nonrevenue-producing plant under construction.

To accomplish this, the concept of "Interest Charged Construction" was devised. During the period plant is under construction, an imputed amount equal to the return requirement on plant under construction is developed. This imputed return requirement is then simultaneously credited to—i.e., used to increase—the utility's income¹ and debited to—i.e., used to increase—the utility's plant under construction. Thus, when the construction is completed and transferred to plant in service, it includes an amount which reflects the return on the plant during the period it was not revenue producing. In this way, the utility is in a position where it can recover both the investment and this return, over the service life of the plant, assuming reasonable regulatory treatment." [Footnote omitted]

There are two basic alternate methods for providing investors a return on their investment in construction work in progress (CWIP):

Method (1). Include CWIP in rate base and do not capitalize AFC.

¹ Dennis R. Bolster "Should Plant under Construction be Included in Rate Base?" Public Utilities Fortnightly May 27, 1971.

Method (2). Capitalize AFC as a part of the cost of plant to add to plant the estimated cost of construction financing. There are two approaches for doing this:

- (a) include CWIP in rate base and include AFC in operating income,
 (b) exclude CWIP from rate base and exclude AFC from operating income.

Under either "method 2" approach employing AFC, the AFC capitalized during the construction period is included in utility plant when the plant under construction is placed in service.

Properly applied, each method should adequately compensate investors for their investment in construction projects. They have been widely recognized as alternatives and it can be demonstrated that over the life of the plant constructed the rate-making revenue requirements are virtually identical.

The following illustration shows the application of each method:

Assumptions

Construction commenced	Jan. 1, 1973.
Construction completed	Dec. 31, 1973.
Total cost	\$12,000,000
Construction per month	\$1,000,000
Rate of return (percent)	8
Rate of ADC (percent)	8
Life of plant (years)	10

METHOD 1—CWIP IN RATE BASE—AFC NOT CAPITALIZED

	(1) Cost less depreciation at end of year	(2) Average investment	(3) Depreciation expense, 1/10 per year	(4) Return on in- vestment, col. 2×8 percent	(5) Total return requirement, cols. 3+4
1973	12,000,000	6,000,000		480,000	480,000
1974	10,800,000	11,400,000	1,200,000	912,000	2,112,000
1975	9,600,000	10,200,000	1,200,000	816,000	2,016,000
1976	8,400,000	9,000,000	1,200,000	720,000	1,920,000
1977	7,200,000	7,800,000	1,200,000	624,000	1,824,000
1978	6,000,000	6,600,000	1,200,000	528,000	1,728,000
1979	4,800,000	5,400,000	1,200,000	432,000	1,632,000
1980	3,600,000	4,200,000	1,200,000	336,000	1,536,000
1981	2,400,000	3,000,000	1,200,000	240,000	1,440,000
1982	1,200,000	1,800,000	1,200,000	144,000	1,344,000
1983		600,000	1,200,000	48,000	1,248,000
Total			12,000,000	5,280,000	17,280,000

METHOD 2(a)—INCLUDE CWIP IN RATE BASE AND INCLUDE AFC IN OPERATING INCOME

	(1) Cost less depreciation at end of year	(2) Average investment	(3) Depreciation expense, 1/10 per year	(4) Return on in- vestment, col. 2×8 percent	(5) Total return requirement, cols. 3+4
1973	12,000,000	6,000,000		480,000	480,000
AFC	480,000			(480,000)	(480,000)
Total	12,480,000			0	0
1974	11,232,000	11,856,000	1,248,000	948,480	2,196,480
1975	9,984,000	10,608,000	1,248,000	848,640	2,096,640
1976	8,736,000	9,360,000	1,248,000	748,800	1,996,800
1977	7,488,000	8,112,000	1,248,000	648,960	1,896,960
1978	6,240,000	6,864,000	1,248,000	549,120	1,797,120
1979	4,992,000	5,616,000	1,248,000	449,280	1,697,280
1980	3,744,000	4,368,000	1,248,000	349,440	1,597,440
1981	2,496,000	3,120,000	1,248,000	249,600	1,497,600
1982	1,248,000	1,872,000	1,248,000	149,760	1,397,760
1983	0	624,000	1,248,000	49,920	1,297,920
Total			12,480,000	4,992,000	17,472,000

Method 2(b)—Exclude CWIP from rate base and exclude AFC from operating income. This would produce the same result as Method 2(a) under our assumption that the rate of return and the rate at which AFC is capitalized are equal. If the rate at which AFC is capitalized is less than the rate of return, method 2(a) produces a higher return requirement than 2(b) during the construction period. The reverse would be true if the AFC capitalization rate were higher than the return rate.

These illustrations demonstrate that the return requirements over the life of the plant investment are comparable for both method 1 and method 2.

STATEMENT OF GIRARDEAU A. SPANN AND ALAN B. MORRISON FOR PUBLIC CITIZEN¹

PEPCO RATE STRUCTURE AND THE NEED FOR A PEOPLE'S COUNSEL

I. Introduction

The costs of using electricity in the District of Columbia are soaring. Rate-payers have been subjected to large and frequent rate increases even though they have been consuming less electricity. Because the rate structure employed in the District is highly inequitable, the increasing costs of providing electric service are imposed upon those who are least able to pay them. Nevertheless, utility profits continue to increase. In addition, the Potomac Electric Power Company ("PEPCO") engages in practices which perpetuate rising costs and frustrate realization of other important social goals.

Although monopoly industries such as the electric power industry are supposed to be regulated by the government, current regulation is inadequate. The District of Columbia Public Service Commission has given too little attention to the crucial issues inherent in utility regulation. In addition, the Commission seems to have abandoned its role as a protector of the public interest in favor of one in which it merely acquiesces in utility desires. A people's counsel is necessary to protect the unrepresented interests of consumers.

II. The Public Service Commission

On Thursday, September 26, 1974, Mr. William R. Stratton, chairman of the District of Columbia Public Service Commission and Mr. H. Mason Neely, a Commissioner, delivered to this Committee a statement disclosing the position of the Commission on several issues material to the Committee's investigation. The contents of this statement, and of responses made to inquiries by Committee members, reveal that the Commission currently lacks the expertise necessary to perform its function adequately. In addition, there are indications that the Commission's diligence and impartiality have been less than satisfactory. These deficiencies exist, in part, because the Commission is not sufficiently accountable for its actions.

Throughout these hearings, reference has been made to the high quality of work done by the Commission relative to other state public service commissions. The poor quality of other utility commissions cannot relieve the D.C. Commission from fully complying with its statutory mandate. For example, Section 43-403 of the D.C. Code requires the Commission to "keep itself informed as to the manner and method in which the business of all public utilities is conducted." Section 43-401 allows the Commission to grant rate increases only by conducting a hearing and investigation, after which the Commission finds that an increase is "reasonable, fair, and just." In order to comply with these statutory provisions, the Commission must possess the expertise necessary to spot, comprehend, and deal with relevant issues. It must diligently investigate these issues and impartially resolve disputes centering around them. From the testimony given by Mr. Stratton and Mr. Neely, it appears that one or more of the qualities of expertise, diligence and impartiality were absent when the Commission granted its most recent rate increase to PEPCO in November, 1973.

¹ PUBLIC CITIZEN is a non-profit taxpaying organization, sponsored by Ralph Nader and supported by public donations. It was founded for the purpose of advocating the interests of consumers and other members of the public. The activities of Public Citizen include efforts to insure that government officials carry out their duties according to law and that the laws, as written by the Congress, are enforced.

In granting that increase, the Commission allowed PEPCO to employ a declining-block rate structure under which lower rates are charged as consumption of electricity increases. Such a rate structure is designed to increase total consumption and thereby increase PEPCO's revenues which it says are needed to finance construction and expansion. In the situation which currently exists in the District of Columbia, however, where residential use has stabilized, a promotional rate structure is fundamentally inequitable. This is because PEPCO is charging rates which require residential users to finance expansion and construction which benefit only its high volume, commercial and industrial customers—those who pay less because of their high consumption. Because residential use is stable, residential customers do not require the expansion which they are forced to subsidize.

Several committee members asked Mr. Stratton to justify the declining-block rate structure, but he was unable to do so. At best, this evidences a lack of expertise on the part of the Commission; at worst it betrays a lack of diligence and impartiality.¹ The statutory provisions cited above require the Commission to comprehend the workings of the utility industry and to act fairly and justly. In allowing maintenance of promotional rate structures in the District of Columbia, the Commission has not complied with these mandates.

Other statements in Mr. Stratton's testimony suggest that the Commission lacks diligence in conducting investigations authorized by § 43-403 to keep itself informed of utility practices. At one point Mr. Stratton was asked what percentage of the steadily increasing cost of fuel is passed through to customers via the fuel cost adjustment. Although this pass-through device is quite controversial, Mr. Stratton was unable to answer the question. When asked about the propriety of allowing PEPCO to advertise and include advertising costs in the rate-making formula, Mr. Stratton admitted that, although he felt that PEPCO did not abuse its freedom to advertise, the Commission could have been more vigorous in regulating consumer-financed advertising.

In our view, these hearings have pointed out for the first time, the inadequate attention being paid by the Commission to protecting the interest of ratepayers, particularly residential users. While Commission decisions are subject to review by the courts, wide discretion is often allowed, and review is based on the written record rather than on an opportunity to examine the Commission in detail about the reasons for their determination. Commission decisions appear to be largely *ad hoc* in nature rather than derived from established principles which have been clearly and publicly articulated.

One way by which this situation can be improved is through the promulgation of guidelines which provide more specific limitations on the exercise of agency discretion than the general provisions of Title 43 of the District of Columbia Code. Although the Commission is charged with extensive regulation of electric utilities, it has promulgated no substantive rules governing the way in which its responsibilities are to be effected. Many of the controversial issues surrounding utility practices such as accounting procedures, procurement policies, and fuel cost adjustments are ultimately resolved by the judgment of the Commissioners. By promulgating regulations, the Commission would be forced to carefully consider and disclose the factors on which the exercise of such judgment would be based in particular cases.

The Federal Power Commission, which faces many of the same issues as does the D.C. Commission, has promulgated extensive regulations. For example, 18 CFR § 35.13 regulates filing changes in rate schedules, § 35.14 regulates fuel cost adjustments, § 35.22 regulates research and development cost adjustments, and § 50.1 governs procurement policies. All of Chapter 1, Subchapter C of the Federal Power Commission Regulations, deals with the extremely important topic of accounting procedures. In total, the Federal Power Commission has promulgated regulations comprising more than one and one-half volumes of the Code of Federal Regulations. The D.C. Public Service Commission has not a single substantive regulation concerning electric utilities.

Moreover, the absence of regulations has proved harmful. Currently, the Commission allows PEPCO to use accounting procedures under which its rate base is increased by inclusion of "Construction Work in Progress." The effect of this inclusion is that a current D.C. ratepayer must finance construction facilities

¹ In approving the 1973 rate increase, Order No. 5614, Formal Case 596, November 16, 1973, at pages 18 and 21 of the Order, the Commission exhibited some understanding of this problem by requiring that high use customers bear a higher proportion of the increase.

that will not be completed for several years. At the time of completion, that ratepayer may no longer live in the District, and therefore, not benefit from the construction which he or she financed. As a corollary, PEPCO does not capitalize the interest costs paid on money borrowed to finance construction, but deducts it as a current expense. As a result current customers pay for the costs of equipment not now in use and for which they receive no benefit.

In his testimony before this Committee, Mr. Gary Alexander, People's Counsel before the Maryland Public Service Commission, expressed his belief that the Uniform System of Accounts and Accounting Procedures should not favor the utilities. If the Public Service Commission were to promulgate regulations compelling the use of accounting procedures which are more realistic in light of the inquiries which the Commission is required to make, abuses such as those cited would be easier to curtail. In addition, the very act of promulgating accounting and other substantive regulations would compel the Commission to confront difficult issues directly rather than merely acquiesce in what PEPCO presents to it. Finally, once regulations were promulgated, the Public Service Commission would be forced to comply with the standards articulated in those regulations. The Commission is, of course, authorized to promulgate regulations; this Committee should, however, consider the advisability of legislation *requiring* promulgation of regulations concerning crucial issues.

III. Cost allocation

PEPCO presently allocates the costs of conducting its business in an inequitable manner. Almost all of the costs are imposed directly upon the ratepayers, whereas some should be borne by the stockholders. In addition, these costs are not allocated fairly among the various classes of customers.

The inequities of the promotional rate structure employed by PEPCO and tolerated by the Commission have been discussed above and have been well documented throughout these proceedings. It should be emphasized, however, that promotional rate structuring itself runs contrary to many of our current social policies. Declining-block rates contain a deliberate incentive to use more electricity. Encouraging use benefits PEPCO by increasing its revenues, but it seriously harms the rest of us. As use increases, expansion is needed, so that rates go up although the residential users who are forced to finance expansion are not the beneficiaries of this expansion. In addition, the environmental costs incident to the production of electricity increase with greater use, and more fossil fuels are consumed, thereby contributing to our energy shortage. More nuclear plants are constructed which greatly increase costs, as well as the danger of tragic accidents. Because electricity is such a basic necessity, increased costs of production are echoed throughout our national economy, and further inflation results.

Although the Commission is unable to justify its allowance of promotional rates, Mr. W. Reid Thompson, President and Chairman of the Board of PEPCO, offered an explanation in his testimony. Mr. Thompson stated that residential users pay higher unit-costs than commercial and industrial users because fixed costs remain constant regardless of how much each user consumes and rates should be based on a per customer rather than a per unit basis.² However, the fixed costs cited on page 8 of Mr. Thompson's testimony—taxes, etc.—are costs of producing electricity not of servicing an individual customer.³ Therefore, there is no reason to allocate them according to the number of users rather than according to the number of units consumed. In a time in which strenuous efforts are being made to conserve energy, costs should be prorated over the number of kilowatt-hours used by each customer. In this way each customer will be charged a rate commensurate with his or her contribution to load. Such a pricing policy would eliminate incentives to increase consumption. In fact, a rate structure which gave a discount for low kilowatt-hour consumption would be more consistent with our conservation policies.

Costs of advertising are passed-on to consumers by inclusion in the rate making formula. Advertising perpetuates the evils instituted by promotional rate structures with even less justification. There are two types of advertising in which PEPCO engages. Promotional advertising is designed to increase revenues by increasing consumption. Such advertising, of course, also increases all of the social costs cited above in connection with promotional rate structuring.

² Statement of W. Reid Thompson, Chairman of the Board and President, Potomac Electric Power Company, pages 8 and 9.

³ Cost of sending a bill or reading a meter are the same for large and small users, but these are not the kind of costs on which Mr. Thompson relies.

A second type of advertising is frequently referred to as institutional advertising. These advertisements are not intended directly to increase consumption, but rather to bolster the public image of PEPCO. Advertisements which prepare the public for upcoming rate increases and indicate that the increases are caused by forces beyond the control of the utility company are of this type. It is difficult to understand why customers should pay for advertising to tell them that their rates will increase; they will learn this when they open their bills. Institutional advertising is intended to do more, however. PEPCO hopes that through these advertisements it will improve its image and divert responsibility for rate increases, thereby reducing consumer opposition to rate increases. Asking the ratepayers to subsidize this practice is totally unjustified, highly inappropriate, and probably illegal. Because PEPCO is a monopoly it is subject to government regulation. The regulatory scheme in which it operates requires that rate increases be granted only after a hearing at which consumers have an opportunity to oppose increases. By using advertising techniques to reduce opposition to rate increases, PEPCO is attempting to dull the effect of any hearing or opposition to its rate increases and is passing on the costs of doing so to the ratepayers.

Like institutional advertising, the fuel cost adjustment allowed by the Commission, under which PEPCO passes along all fuel cost increases directly to its customers, raises certain questions. Given this automatic adjustment to one of PEPCO's most significant costs, it is difficult to justify the frequent and significant rate increases that PEPCO has been granted and is still seeking. Excluding fuel cost increases, the statement of Mr. Thompson fails to cite cost increases which justify such dramatic rate increases. Second, by passing fuel cost increases directly to customers, PEPCO is again undermining the regulatory scheme. Fuel adjustment clauses have the effect of allowing rate increases to be obtained without an investigation or hearing. In fact, such rate increases take effect without any action by the Commission at all. In addition, existence of the fuel adjustment clause contributes to a "cost-plus" mentality in which there is no incentive to buy fuel at the lowest possible cost, particularly for a monopoly.

Because the fuel adjustment clause is such a drastic remedy, its use should be closely monitored. This is an area in which, at the very least, regulations should be promulgated by the Commission which specify the emergency conditions that must exist in order to trigger applicability of the clause. Regulations should also determine how the increases should be distributed over usage, and establish maximum allowable increases that can be passed-through without a hearing.

In our view the Commission clearly has the authority to eliminate the abuses arising from PEPCO's practices of employing declining-block rates, passing on advertising costs to customers, and circumventing the regulatory process through indiscriminate use of fuel adjustment clauses. In the event that the Commission fails to act in these areas promptly, this Committee should report out legislation directing it to do so.

IV. People's counsel

A people's counsel such as the one proposed in HR 16782 is essential to protect the public interest in all phases of utility regulation. There are several ambiguities inherent in a term like "people's counsel," however. The legislation creating the position, therefore, as well as legislative history, should resolve such ambiguities. Among the points which will require clarification are the precise interest which a people's counsel should represent, the scope of authority and degree of independence a people's counsel will possess, and the extent to which and to whom the people's counsel is to be accountable. In addition, the effect which a people's counsel will have on the ability of others to intervene should be specified.

The people's counsel should primarily represent the interests of residential utility consumers. Commercial and industrial consumers have the funds and sophistication necessary to protect their own interests. It is more difficult for residential consumers to solicit the expert and legal assistance necessary to present a successful challenge to utility action. In addition, other classes of consumers have interests which are generally adverse to those of the residential consumers; they benefit only at the expense of the residential users' interests. It is these interests, therefore, that are most deserving of the people's counsel's representation.

To the extent that there are multiple interests which have legitimate claims to representation by the people's counsel, the role of people's counsel should be to promote cooperation and compromise. He or she will be in a unique position to orchestrate consumer cohesion and see that inter-consumer disputes are resolved

in the "people's" interest. This can be done by asserting those claims which are common to the various consumer interests. In addition he or she will be in a position to monitor the impact of the utilities' activities on the environment, encourage energy conservation, and ascertain the requisites of other common social interests.

A people's counsel is necessary because it is apparent that the Commission is unable to protect the public interest. In order to function adequately, therefore, the people's counsel must have substantial independence from the Commission while retaining access to Commission proceedings and documents. There should, of course, be an adequate budget for the people's counsel, distinct from the Commission budget. As Mr. Alexander pointed out in his testimony, an independent right of appeal from Public Service Commission rulings must be granted the people's counsel. In addition, the people's counsel should be authorized to conduct his or her own independent investigations and have the subpoena power necessary to compel disclosure of all information which the utilities are required to provide the Commission by Title 43 of the D.C. Code. Because the interests of consumers are affected by the actions of agencies of the federal government, such as the Federal Power Commission, the people's counsel should be granted, liberal authorization to intervene in the proceedings of these agencies. Finally since the public service commissions of Maryland and Virginia render decisions which affect the price of utilities of D.C. consumers, the people's counsel must be able to participate in those proceedings also.

Although independence is necessary for a people's counsel to function adequately, independence should not be confused with lack of accountability. It was suggested above that one cause of the laxity in some areas of the Commission's work is lack of accountability. Therefore, whether the people's counsel is elected or appointed, accountability should be directly to the people. Legislation creating the office should contain a statement of policy to this effect. A good way to effect such accountability is to include a legislative provision which grants standing to residential consumers and consumer groups to enforce the provisions of the people's counsel's enabling legislation through litigation. The ability of consumers to maintain such lawsuits will provide an incentive for people's counsel to render high quality representation, and will provide a remedy when such representation is absent.

The existence of a people's counsel should not affect the right of other ratepayers to participate in Commission proceedings, and the legislation creating the office should so specify precisely. Even a representative of residential customers may have to make judgments, such as whether new equipment is needed to meet new residential demand, with which others might disagree. The people's counsel can do no more than assert his or her perception of consumer interests. To the extent that these perceptions are inaccurate, or that compromise attenuates the presence of one or more interests before the Commission, intervention by others is necessary. The role of the people's counsel is qualitatively different from that of the individual consumers.

The people's counsel will possess legal knowledge, an understanding of the regulatory structure, and will have funds and access necessary to secure technical expertise. This is no substitute, however, for direct input by the consumers themselves. The consumers present a first hand account of how their interests are affected. If a regulatory scheme becomes so aloof that it no longer requires such input, it ceases to serve the function of protecting the public interest. In short, because the people's counsel will not have a monopoly on wisdom, the role of the individual ratepayer in Commission proceedings must be preserved.

Needed intervention can be encouraged by compensating intervenors for their costs and attorneys fees. Funds would have to be made available for such compensation, however. In addition some means would have to be found to discourage unnecessary intervention.

One method of compensating intervenors would be to have PEPCO provide reimbursement and include those costs in its rate making formula, thereby passing on those costs ratably to all consumers. A second method would be by legislative appropriation for these fees and costs, thereby substituting taxpayer for ratepayer funding. A third alternative is to allow consumers to create the fund directly. This can be done by requiring PEPCO and other utilities to include in each customer's bill, a check-off provision whereby consumers who wished to do so could check a box on the bill and then include an additional dollar or other amount in their bill payments. The utilities would then be required to use the additional funds to reimburse intervenors. This alternative has the advantage of taxing the costs of intervention to consumers who are both willing and able to pay the additional costs.

If intervenors are to be compensated, there is likely to be a major increase in the number of consumers who would like to intervene. Some means must be found, therefore, to discourage excessive intervention. Traditionally, the law has allowed one to intervene in proceedings of this type if he or she has an interest which will be affected by the proceedings and that interest is not already adequately represented in the proceedings. Since many consumers will have similar interests, application of this standard will help prevent excessive intervention. In addition, the Commission should be authorized to determine whether an intervenor has made a valuable contribution to the proceedings and then to award all or part of what it determines is a reasonable fee for that contribution. Use of these standards will prevent misuse of available funds and will discourage those who seek intervention primarily in order to provide work and public compensation for their attorneys.

V. Conclusion

The District of Columbia Public Service Commission is inadequately regulating the electric utility industry in the District. Testimony in these proceedings offered by the Chairman of the Commission suggests that the Commissioners lack the requisite expertise, diligence, and impartiality to do their jobs satisfactorily. The situation can be improved by requiring the Commission to promulgate substantive regulations which would force the Commission to rely on proper standards when making decisions and to disclose the considerations which are, in fact, relied upon.

Allocation of costs in the utility industry is inequitable. Residential consumers are forced to pay for electricity that they do not use, and promotional activities frustrate important social policies and further increase costs. Many practices, such as promotional advertising, are wholly unjustifiable and should be curtailed. Others, such as institutional advertising and the fuel cost passthrough, pose serious legal problems because they tend to undermine the regulatory scheme. These practices should be closely scrutinized and curtailed unless absolutely essential.

An independent, accountable people's counsel is necessary to protect the public interest and the interests of residential consumers before the Commission. At the same time consumers must be able to bring lawsuits to compel the people's counsel to adhere to its statutory mandate and continue to intervene in Commission proceedings. To encourage such intervention, funds should be made available to compensate intervenors for their costs and attorneys fees in proportion to the value of their contribution to the proceeding.

Utility practices and regulations are being reexamined throughout the country. Consequently, individual states will look to each other and to the District of Columbia for guidance and novel approaches to utility regulation. As a result of these hearings, this Committee is in a position to contribute to a trend toward greater corporate and government responsibility, not only here in the District of Columbia, but throughout the nation.

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APPENDIX

INTERSTATE COMMERCE COMMISSION,
OFFICE OF PUBLIC COUNSEL,
Washington, D.C., September 24, 1974.

Mr. DALE MACIVER,
Counsel, District of Columbia Committee, Longworth House Office Building, Wash-
ington, D.C.

DEAR MR. MACIVER: Pursuant to our phone conversation this morning, I have enclosed a copy of the article report from the ABA "Alternatives" journal. I think it aptly describes the workings of one, recent experiment with an Office of "Public" or "Peoples" Counsel.

I believe that a "peoples" counsel on the local level can serve very useful purposes. However, it is critical that it be structured in such a way as to maximize the potential for meaningful input while minimizing the risks of trying to be everything for everyone. The proper line of demarcation is quite blurred for many people.

I would be happy to provide the Committee with direct testimony on our experience and the proposed bill. I will call you Friday when I get back to town.

Sincerely,

ROBERT JAY STEIN, *Office of Public Counsel.*

Enclosures.

[From alternatives, August 1974]

PUBLIC COUNSEL AND THE FEDERAL RAILROAD REORGANIZATION

(By Robert Jay Stein)

Mr. Stein is in private practice in Washington, D.C. As a consultant to the Office of Public Counsel, he has been responsible for helping to plan, organize and implement the development of that office.

Kankakee, Illinois, population 31,000, might not seem the most likely place to find a federally employed lawyer representing the public in matters affecting a federally planned reorganization of the bankrupt railroads in the Northeast and Midwest. Nevertheless, when a Washington, D.C. attorney was asked by Illinois State Senator Edward McBroom and State Representative George Ryan to address a gathering of local farmers, grain elevator operators, lumber dealers, other small businessmen, representatives of the local Chamber of Commerce and various local and state government officials in Kankakee, he was on retainer with an agency of the federal government.

Besides familiarizing the 75 participants in the meeting with the Regional Rail Reorganization Act, itself, he was there to explain, in particular, a complex provision of the Act dealing with the development of technical economic standards to be applied in determining the amount of subsidy local interest would have to pay to retain rail service over their branch lines if federal planners decide to abandon any of those lines. The interest of the various participants was keen, because they readily understood that this railroad reorganization process had the potential for vastly affecting the socio-economic lives of their communities.

But the attorney was not in Kankakee that evening as a guest speaker merely to disseminate information about a federal statute and federally-dominated planning process. Nor did he pack his Act in his hip pocket when his talk was over and leave the community to its own devices in dealing with the myriad problems posed by the federal rail reorganization. Instead, this visit on April 18th was part of the task of providing continuing assistance to communities and users of rail service throughout most of Illinois to assure that their interests would be adequately protected in the course of the reorganization proceedings.

The work in Kankakee and other communities in Illinois is not an isolated phenomenon. Over the past four and a half months as many as thirty other lawyers, hired on a retainer basis by the Office of Public Counsel of the Rail Services Planning Office of the Interstate Commerce Commission, have been responding to a vast array of public inquiries from throughout the region on matters concerning the rail reorganization. While the idea of a "Public" or "Peoples" Counsel is not new, this recent implementation of the concept is by far the most innovative and energetic, and a brief analysis of the genesis and development of this Office of Public Counsel should suffice to explain why the concept is generating more broadly-based support than ever before and why it now has potential for being expanded to other agencies and decision-making processes.

The Statutory Framework: Regional Rail Reorganization Act of 1973

The Penn Central Railroad and six other rail companies serving the region have been in financial straits for years. By 1970 when the Penn Central finally went into bankruptcy amidst a flurry of publicity, responsible sources had been working towards creating legislation to remedy the rail problems in the area. The culmination of their efforts, spurred on by the bankruptcy of the dominant Penn Central and the resulting further erosion of rail services in the area, was enactment of the Regional Rail Reorganization Act on January 2, 1974.

The Act has established a complex, hyper-accelerated, federally-oriented planning process which will reorganize the 7 bankrupt railroads into a new, financially viable rail system designed to effectuate certain social, economic and environmental goals. To accomplish this task, the Act provides for the creation of two planning organizations: United States Railway Association (USRA) and the Rail Services Planning Office (RSPO). Each of these entities has its own separate powers and responsibilities, but they interrelate in planning the reorganization of the bankrupt railroads in the region.

USRA, a nonprofit, government corporation, is primarily responsible for researching and analyzing the multifarious economic, social and environmental factors to be considered in the reorganization, and for devising a financial structure for the new rail system. In the course of its analysis and after issuance of a preliminary system plan, USRA is required to consider and utilize the views of state and federal agencies, users of rail services, and the public-at-large in designing a final system plan designating which rail properties of the bankrupt lines will be operated by a newly created rail company known as the Consolidated Rail Corporation (Conrail), which will be sold to the existing profit making railroads or to the National Railroad Passengers Corporation (Amtrak), and which should be abandoned unless local subsidies are offered. Under the Act, USRA must complete the final system plan by March 1975.

RSPO is a new office within the Interstate Commerce Commission which operates under the direction of that agency's Chairman, or another Commissioner designated by him. Although technically under supervision of the ICC, RSPO maintains its own offices away from the ICC building, retains subpoena powers independent of ICC authority and has a \$5 million appropriation from Congress to carry out its functions. Nevertheless, it enjoys a close working relationship with the Commission.

RSPO's general responsibilities under the Act are to ensure that communities and users of rail services are assisted in participating in the reorganization process and that their views are given due consideration. Specifically, RSPO is authorized to determine certain definitions and establish criteria essential to the reorganization effort and to critique reorganization plans and recommendations prepared by the federal planners. A critical component of its mandate to carry out these functions consists of holding public hearings and otherwise soliciting, studying, and evaluating the views of the public on matters affecting them throughout the planning process.

RSPO has approximately 50 employees who are divided into three separate sections and are organized along functional lines. The section of Analysis and Review is the technical department primarily responsible for in-house economic, financial, social and environmental analysis. Government and Industry Liaison is essentially a public relations/affairs department responsible for press relations and governmental liaison. The Public Counsel section has the least well-defined, but most pervasive role with the public. The remainder of this article deals with the evolution and development of the Office of Public Counsel.

Organization of Office of Public Counsel

The Act provides that RSPO shall—

employ and utilize the services of attorneys and such other personnel as may be required in order to properly protect the interests of those communities and users of rail service which, for whatever reason, such as their size or location, might not otherwise be adequately represented in the course of the hearings and evaluations which the Office is required to conduct and perform under . . . this Act.

The Public Counsel was geared, at the outset, to plan, organize, and coordinate at least 17 public hearings throughout the region within 45 days after its creation and to develop means to maintain continuing assistance to its public constituency during the planning process. The Public Counsel had to provide maximum assistance in a relatively short time to as broad a cross section of the public as possible in order that it might participate meaningfully in hearings and proceedings involving the reorganization.

There were a number of factors to be considered in organizing the office: 1) inevitable scarcity of financial resources; 2) the need to provide as much assistance as possible to as many persons in 17 states as were desirous of our services; and 3) the necessity of retaining enough flexibility to assure expansion and contraction of our work force to adequately serve the public during critical times while conserving finances during slow periods.

Recognizing these factors, Public Counsel was organized with a small permanent core staff which is supplemented, where necessary, with a cadre of private attorneys hired on a retainer basis to provide a variety of outreach services. At the present time Public Counsel has a permanent legal staff of seven lawyers and is currently retaining sixteen outreach attorneys to provide direct contact between Public Counsel in Washington and communities and users of rail service throughout the region.

The permanent staff is primarily responsible for providing the outreach attorneys with information concerning all aspects of the planning process, for evaluating and analyzing legal problems with respect to the Act, and for formulating legal strategies and methods of assuring adequate public representation. The outreach attorneys are responsible for direct dissemination of reorganization news emerging from Washington, for alerting various interest groups of developments of special interest to them, and for rendering a wide variety of legal and technical assistance to members of the public regarding all aspects of the reorganization. Description of the types of tasks performed by Public Counsel in its first four and a half months of operation places its emerging role in clearer perspective.

1. Public Hearings on Rail Needs and Problems

Section 205(d)(1) of the Act requires that RSPO conduct public hearings to solicit, study and evaluate the views of a diverse cross section of the public with respect to present and future rail service needs of the region. The Office of Public Counsel was charged with planning, organizing and coordinating these proceedings. To date, hearings have been held in thirty-two cities in the region. Nearly 3500 witnesses have testified and thousands of others have submitted written comments. Participants in these proceedings have included a variety of large and small retail, wholesale and manufacturing firms; individual farmers, farm co-ops and associations, grain elevator operators and feed companies; local, state and regional government officials; consumer, environmental, conservation and general public interest groups; and other individuals and organizations representing diverse views and interests.

The primary purpose of the hearings was to elicit public sentiment generally on rail service needs, and more specifically on a preliminary report of the Secretary of Transportation suggesting certain means and methodologies for reorganizing the railroads. In furtherance of this task, Public Counsel established uniform standards for all proceedings and sent its outreach attorneys into the field a week or two prior to the hearing to assist persons interested in participating. In the field, the outreach attorneys explained the Act and other relevant information, responded to inquiries, assisted in preparation of testimony, and acted as legal officer for, and coordinated procedural aspects of, the hearing.

Testimony from these proceedings has been exceedingly detailed, for the most part. On the basis of specific facts and data the public has overwhelmingly rejected the Report of the Secretary of Transportation and has placed federal planners on notice that they want, and will demand, a final rail plan responsive to local, regional and statewide interests. All testimony and written submissions from these proceedings is being analyzed and digested by the Analysis and Review section RSPO and reports on their findings are being sent to USRA.

2. *Subsidy Rulemaking*

On February 25, 1974, in accordance with Section 205(d)(3) of the Act, RSPO published a *Notice of Proposed Rulemaking and Order in the Matter of "Standards for Determining Rail Service Continuation Subsidies."* The rulemaking proposed the definitions of terms (e.g., revenues, costs, rate of return, etc.) to be applied in determining the cost of rail subsidies in the event that a particular branch line is discontinued and abandoned pursuant to the final rail system plan.

Public Counsel concentrated a great deal of effort in informing the public of these proposed rules and retained an economic consulting firm to prepare a simplified explanation of the complicated technical terms in the rulemaking. Armed with this critique, the outreach attorneys then conducted meetings in the region concerning the definitions, informed interested persons of the importance of these provisions, explained some of the technical concepts, and urged the submission of comments to RSPO prior to May 1, 1974.

The Public response to the rulemaking was overwhelming. RSPO received some 348 substantive comments on the rules, about half of which contained suggested alterations and counter-proposals. In order to assure a diversity of counter-proposals, Public Counsel retained three separate technical consulting firms—Technical Associates of Richmond, Va.; Public Interest Economics Center of Washington, D.C.; and the Council on Environment of New York City—to prepare alternate proposals. These documents were filed by Public Counsel in the proceedings.

As a result of the magnitude of the public's response and its strong criticism of the proposed standards, RSPO issued a *Supplemental Notice of Proposed Rulemaking and Order* on May 29, 1974. The language and direction of the Supplemental indicated that the original proposals were likely to be altered. On July 1, 1974, RSPO published its final *Standards for Determining Rail Service Continuation Subsidies*. These guidelines more closely conform to the public's suggestions than to the original proposal.

3. *Continuing Oversight, Outreach and Information Dissemination and Retrieval*

Public Counsel has developed a continuing program to ensure public participation in the planning process. During the summer months Public Counsel will be monitoring the rail planning activities, evaluating USRA's research and analysis, disseminating information to interested people throughout the region and taking whatever actions are necessary to adequately protect the public interest. In November, Public Counsel will organize and conduct another set of public hearings concentrating on USRA's preliminary system plan.

In order for the public to participate meaningfully in all phases of the reorganization, it is imperative that affected persons remain adequately informed of developments and impending events. Keeping the public informed and advised of legal issues and political processes will be an important and continuing function of Public Counsel. The outreach attorneys will play the primary role in this operation, to be supplemented by selective mailings of memos, position papers, and periodic reports to individuals and groups. The permanent staff is also prepared to answer technical and legal questions and will act as a general clearinghouse for information concerning the reorganization.

Finally, the planning process requires that USRA and others conduct a complex array of technical studies in a very short period of time. In order to aid Public Counsel in its analysis of these technical problems, a group of consultants has been retained to provide Public Counsel with its own, independent, inhouse expertise in the areas of economics, accounting, railroad engineering and the environment. Besides assisting Public Counsel in evaluating the work of others, the consultants will be conducting independent research to help the public evaluate the preliminary system plan devised by USRA.

It is difficult, after so short a time and from this particular experiment, to determine the general applicability of the model of Public Counsel we have developed. There are a number of special factors at play which suggest the uniqueness of our experience. First, Public Counsel has been granted wide latitude to develop its role in as effective a way as possible. Although the Act ensures vigorous protection of the public interest, political and practical pressures could easily have limited the Public Counsel's effectiveness. However, Geroge Chandler, director of RSPO, has encouraged maximum independence for Public Counsel, and in so doing, has assured an excellent vehicle for developing the concept.

Secondly, operating in the context of the Act, Public Counsel's role is naturally limited to only one (albeit, large one) planning process. Throughout the reorganization, the concentrated effort of a relatively small core staff has produced

significant and proliferating effects. If, for example, Public Counsel's mandate were as broad as the jurisdiction of the I.C.C., its effectiveness could be diluted substantially.

Third, although money is by no means unlimited, Public Counsel has not as yet been unduly curtailed by fiscal restraints. The depth and breadth of personnel is the result of a level of funding not normally available to endeavors directed at the representation of diverse public interests. In spite of its rather unique characteristics, the experience of this Office of Public Counsel does indicate a potential for future development of the concept in other agencies and as part of other planning processes. The activities of Public Counsel thus far have contributed greatly to the public's knowledge of the reorganization, have resulted in substantive public input into the planning, and have developed some credibility for this federally-controlled, decision-making process.

Senator Vance Hartke, Chairman of the Senate Surface Transportation Subcommittee and a major backer of the Regional Rail Reorganization Act, has stated that:

The concept of the public counsel . . . appears to be a key to the success of this special office, and an important ingredient in assuring public input into the restructuring process. It is refreshing to see as many favorable comments about the Commission from my constituents. . . The independent office and particularly the Public Counsel has made a contribution not only to the restructuring of rail service in the region but, also to the confidence of the public in government itself.

THE BIRTH OF A PUBLIC INTEREST LAW FIRM

(By David A. Marcello, Director, Louisiana Center for the Public Interest)

The Louisiana Center for the Public Interest (LCPI) is a New Orleans public interest law firm which uses law and social work students from Loyola Law School and Tulane School of Social Work to provide services to the elderly. Until funding for the Center was finally secured, the concept for a public interest firm altered its direction several times, finally evolving into the existing law and social work clinical program for the elderly.

Hopefully, communicating the three-year funding process of LCPI will be instructive for those now planning to form a public interest type firm. In the initial planning stage of LCPI, a task force consisting of lawyers, financial backers and community organizers was created. A basic principle in organizing such a firm is to broaden the base by involving sympathetic individuals in a planning task force. In the case of LCPI, I was fortunate to be working with someone experienced in the art of securing foundation funding—the director of the Institute of Politics, a foundation-funded training program for students of politics. It is extremely helpful to have at least one member of the task force who has previously forged the foundation route and has been successful.

It is also important to capitalize on a foundation's particular interest or orientation. The Stern Fund had communicated its interest in seeing a public interest law firm established in New Orleans and we benefited greatly from their expertise and encouragement. One of the most helpful aspects of our relationship with the Stern Fund was the opportunity to learn what was already being done in the field of public interest law. From the Fund's director, we received a steady stream of proposals by other groups, as well as newspaper and magazine articles on accomplishments of public interest litigation. The Stern Fund also sponsored visits by myself and another member of the task force to public interest firms already in operation.

Proper timing and content of a firm's proposal is crucial to receiving foundation funding, and it is at this point that the advice of all the people involved in the project should be given close consideration. It may be difficult and frustrating to incorporate all of the group's suggestions into the proposal, but because of those suggestions the final version of LCPI's proposal was obviously more convincing than the versions which preceded it. Unsuccessful attempts at funding can destroy the credibility of the project, and the principal project organizer may be too emotionally involved with the project to be the best judge of funding strategy.

The dormant period of the funding process can be productively used by studying public interest law. *The Clearinghouse Review*, the former *Pro Bono Report* and its successor, *alternatives*.

STATEMENT BY MR. ROBERT V. GRAHN FOR THE AC/DC COMMITTEE¹1. *Scope*

This statement provides some tentative findings and recommendations concerning the fuel cost adjustment—by far the most important factor in our rising electric bills. It also provides some comments, pro and con, regarding the proposal to create a “peoples’ counsel” on the D.C. Public Service Commission to represent consumer interests. It does not address the subject of primary interest to the AC/DC Committee (alleged inequity of rate treatment for all-electric homeowners) since this is considered to be a relatively minor technical detail in Pepco’s overall rate structure which would be more appropriately discussed at forthcoming rate hearings before the Public Service Commission.

2. *Fuel cost adjustment*

Exhibits 1 and 2 provide some basic background information on the subject of Pepco’s fuel cost adjustments during the past two years.

Exhibit 1 simply illustrates how the fuel cost adjustment (FCA), expressed in cents per kilowatt hour (ϵ /KWH) added to the customer’s bill, has increased over the months from its zero point in December 1972. Its modest fluctuations above the zero point throughout calendar year 1973 show us why its impact on most customers’ bills during that period was so small as to pass unnoticed. Its sharp upward climb beginning in January 1974 explains why its impact was felt at that point by many all-electric customers, who consume large quantities of electricity during the winter heating season. Finally, it indicates why its impact wasn’t really felt until this summer by the great majority of Pepco customers who consume rather small amounts of electricity during the fall, winter and spring seasons but suddenly begin to use it in substantial quantities when they turn their air conditioners on in June or July.

Exhibit 2 illustrates how Pepco’s unit fuel costs (ϵ /KWH generated) have increased in relation to the price of oil and coal paid by Pepco. The most significant points to note in this exhibit are: (1) Pepco’s costs for imported fuel oil have remained comparatively stable since the beginning of 1974, (2) Pepco’s costs for domestic coal have continued to climb sharply since the first of the year, and (3) Pepco’s unit fuel costs (ϵ /KWH) have also climbed sharply since the first of the year—apparently primarily in response to the rising cost of coal.

a. *Tentative findings*

Numerical findings are based on information which Pepco has furnished the D.C. Public Service Commission, the press, prospective stockholders (in a common stock offering prospectus dated July 16, 1974) and to its customers (fuel cost adjustment data on monthly bills). Since these findings have not been verified by examination of Pepco’s books, it is conceded that there may be reasonable explanations for the apparent advantages which Pepco seems to hold over its customers in the fuel cost adjustment area. Pending such explanations, however, we feel sure that this Committee will understand that many of Pepco’s customers have acquired a certain degree of distrust in their fuel cost adjustment charges.

(1) *Unit fuel cost vs. price of fuel*

Unit fuel cost per kilowatt hour appears to be rising more rapidly than the price Pepco pays for its fuel: From January to September 1974, increases in the fuel cost adjustment (FCA) indicate a unit fuel cost increase of 113%; during the same period the price of oil rose 4%, the price of coal 75%.

(2) *Booked fuel expenses vs. the FCA*

During the 12-month period ending April 30, 1974, the cost of fuel (as indicated by the FCA) rose 43.3%; Pepco’s booked fuel expenses during the same period rose only 37.5%. This would appear to indicate a 15.5% overcharge in the FCA for that period.

(3) *Fuel cost charged to regular customers vs. fuel cost charged to interchange “customers”*

It appears that regular customers are paying a larger share of Pepco’s increased fuel costs than interchange “customers” on the P-J-M Interconnection: During the 12-month period ending April 30, 1974, the fuel cost per KWH for regular

¹ An ad hoc group representing All-electric Customers in the District of Columbia. Although the primary purpose of the group is stated by them to be to obtain more equitable basic rate schedules for all-electric homeowners, it is also concerned with the impact which ever-increasing fuel cost adjustment charges have on all customers as well as on all-electric customers.

customers increased 43.3%; the fuel cost per KWH for P-J-M "customers" increased only 18.3%.

(4) *The FCA in relation to oil and coal price increases*

Oil prices to Pepco have slightly more than tripled (225%) from January 1973 to August 1974. It is well-known that this did not result from any significant increase in the cost of producing crude oil but from arbitrary and concerted actions on the part of OPEC governments.

During the same period, however, coal prices to Pepco almost tripled (195%) and appear to be the principal cause for the steady climb of the FCA during the last few months.

Pepco buys most of its coal from domestic—Pennsylvania and West Virginia—companies.

Although it is certainly beyond the immediate scope of this hearing, we suggest that it is well within the purview of the Congress to ask why coal-producing fellow Americans have found it necessary to increase the cost of their product almost as much as the oil-producing OPEC governments have found it "necessary" to increase the cost of their product.

(5) *Lack of incentive to purchase lower-priced fuels*

The fuel cost adjustment provision in the rate schedule virtually eliminates any hard incentive for Pepco to negotiate for—or to search for—fuel at the lowest possible price. No matter how much more Pepco has to pay, the company can simply pass the increased costs directly to its customers.

(6) *The FCA in relation to possible unethical practices*

The lack of cost incentive for Pepco and the absence of Public Service Commission supervision over the element of electricity prices represented by fuel costs leaves the door open for utility or fuel supply company employees to engage in unethical business practices such as pricefixing, kickbacks, etc. *Item:* Consolidated Edison and Long Island Lighting have recently filed suits against their fuel suppliers alleging that the suppliers have raised prices through a conspiracy that violates antitrust law.

(7) *FCT bias in favor of Pepco*

As the fuel adjustment clause in Pepco's rate schedule is now written, if Pepco could increase its turbine generating efficiency, its fuel cost per KWH generated would decrease but the savings would not be passed on to the customer. If, on the other hand, boiler operating efficiency should decline, Pepco would break even by virtue of the FCA and the customer would pay more as a result of Pepco's decreased efficiency.

b. *Recommendations in regard to the fuel cost adjustment*

We do not suggest, as some do, that fuel cost adjustment clauses be removed from rate schedules. In these times of uncontrollable foreign oil prices and uncontrolled domestic coal prices, it is clearly necessary that electric utilities (at least those which depend wholly or primarily on fossil fuels, as Pepco does) possess the mechanism to recover significant fuel cost increases in a reasonably timely manner rather than through the cumbersome and time-consuming formal rate revision process. On the other hand, it is equally clear that the automatic fuel cost adjustment mechanism—unless it is adequately supervised—can lead to inefficient or even irresponsible practices on the part of utility managers, with the ultimate costs of such mismanagement borne, of course, by the customer. A few of many possible measures which might be taken to insure adequate control of fuel cost adjustments are:

(1) *Elimination of bias in favor of company*

Fuel cost adjustment clauses in electric rate schedules should be carefully drawn to eliminate bias in favor of the company. They should provide that the customer benefits from improved operating efficiency which the company might achieve, and they should insure that the company—not the customer—bears any increased costs resulting from decreased operating efficiency.

(2) *Supervision of FCA administration*

Regulatory agencies should be specifically charged with the responsibility for continuous supervision of the administration of the FCA by the utility company to insure that it is carried out legally, precisely and equitably.

(3) *Streamlined hearing procedure for FCA rate increases*

As an alternative to (2) above, regulatory agencies might be authorized to establish and conduct a streamlined hearing procedure for consideration of FCA rate increases only. In effect, this would (contrary to our earlier statement) eliminate the fuel cost adjustment clause from rate schedules. The special speeded-up hearing process, however, would retain most of the advantages of the automatic FCA mechanism for both the company and the agency.

(4) *Quarterly vice monthly FCA increases*

In conjunction with either (2) or (3) above, the regulatory agency could rule that FCA increases would be effected on a quarterly basis rather than a monthly basis. (The longer delay imposed on the company before it could pass its increased fuel costs on to the customer might restore some of the now-missing incentive to keep fuel costs down.)

(5) *Coal prices*

Initiate a Congressional investigation of domestic coal prices. (Admittedly, as indicated earlier, this proposal is not within the scope of this hearing, *but* the most significant action the Federal government could take to slow the rise in electric rates would be to get domestic coal prices out of their current triple-digit inflationary spiral and back to the low-two-digit level which somehow suffices for most other commodities.)

3. *Comments on establishment of a "peoples' counsel"*

We suggest that this proposal be considered with due recognition of the fact that something like 80% of the recent increases in electric bills, and perhaps 99% of the complaints arising therefrom, result solely from increased fuel costs. The absence of any sustained public outcry over electric bills up until the past year or so might well imply that the regulatory agencies (including the D.C. Public Service Commission) were doing a pretty fair job of looking out for the consumer's interest as long as fuel costs remained relatively stable. And since regulatory agencies can do little about fuel costs (except in the rather restricted context of the recommendations offered above), is it reasonable to assume that a "peoples' counsel" (who would be equally limited in what he might do about rising fuel costs) would really be able to offer the consumer much more than a sympathetic ear?

In any case, we offer a "pro" and a "con" on the subject:

a. *Pro-peoples' counsel*

Establishing the post of "peoples' counsel" on the Commission itself or on its staff would at least provide visible evidence of the Commission's concern for consumer interests. If established, our recommendation would be that one of his specific duties—perhaps his primary duty—would be overall supervision of FCA administration as in recommendations (2) and (3) above.

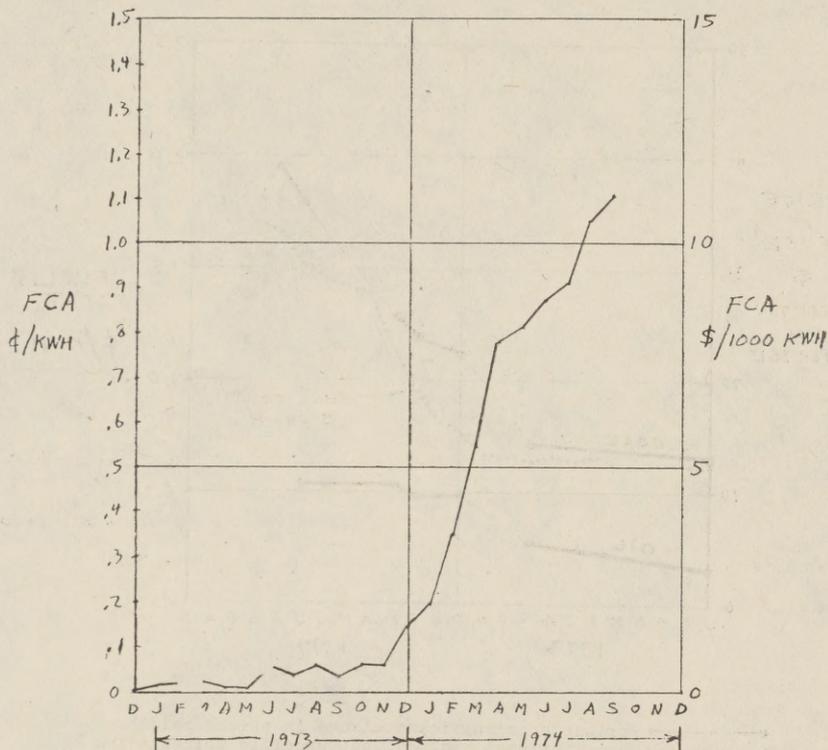
b. *Con-peoples' counsel*

It is difficult to envision how a "peoples' counsel" could adequately serve all Pepco customers, since there will undoubtedly always be some conflicts of interest between customers in different rate classes and even between customers in different sub-classes of the same rate category. Certain customers who are fully capable of representing themselves at rate hearings (the U.S. government, Metro, the apartment house owners' association, for example) would certainly want to continue speaking for themselves and their own special interests. We suspect that the "peoples' counsel" would end up representing—*really* representing—only one or two segments of Pepco's entire customer spectrum. And if this were to happen, other segments of the customer spectrum would justifiably ask why *they* aren't represented by a full-time member of the Commission or its staff.

Exhibit 1

Fuel Cost Adjustment (FCA)

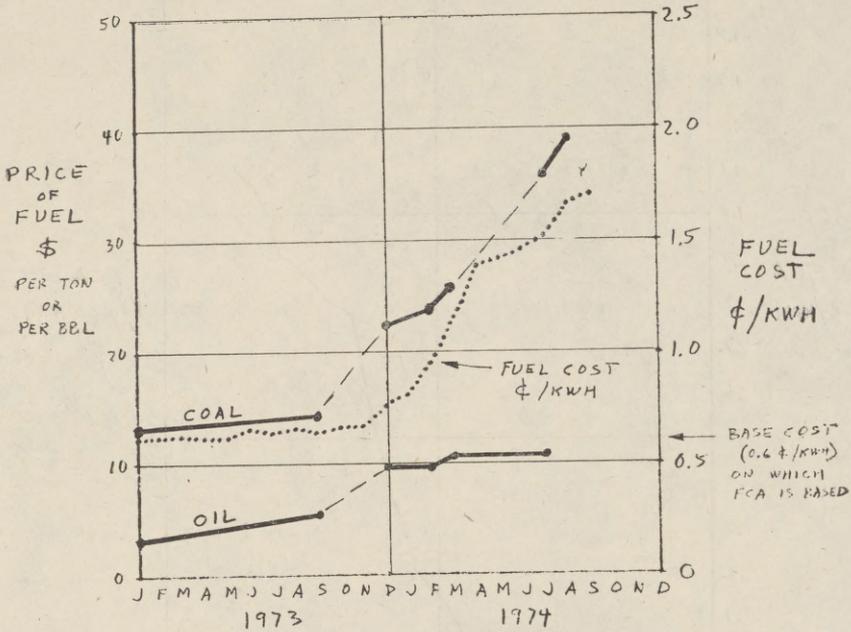
December 1972 - December 1974



FCA: "The energy charge will be increased or decreased .00109 cents per kWh for each .1 cent increase or decrease above or below 55.0 cents per million BTU in average cost of fossil fuels as burned in the Company's power plants... based on the average cost of fuel during the month preceding the billing month."

Exhibit 2

Price of Coal and Oil
 compared with
Fuel Cost per KWH Generated (¢/KWH)



- Periods of significant change in prices paid by Pepco for coal and oil, but specific prices not available
- Periods of moderate change in prices paid by Pepco for coal and oil and/or specific prices for the month announced by Pepco
- Fuel cost (¢/KWH) = 0.6 + 100 x FCA (¢/KWH)

WASHINGTON, D.C., September 30, 1974.

Mr. CHARLES DIGGS,
District Committee, U.S. Congress,
Washington, D.C.

GENTLEMEN: The question of utility rates and how to levy them has been widely discussed in the various citizen groups of Washington over the last five years or so. The following views have wide support in the public, and I hope they will be considered by the Committee in making its recommendations.

1. The cost of expansion of public utilities plant, including those of PEPCO, should be borne on a cost-benefit basis: in other words, he who gets the benefit should pay the cost.

For example, when land is rezoned from a low power use to a high one, the owner of the property who is selling at a high price, as a result of the rezoning, and the developer, should pay the costs of the added facilities necessary to generate the electricity required for the new use.

We have many examples here in Washington of property which was formerly covered with single family housing, not more than 40 feet in height, which is now used for high-rise office buildings and apartments, which use enormously greater amounts of electrical power than the previous use. It is not fair to consumers generally that they should be burdened with the costs of the facilities for generating the additional power required for such new buildings.

Similarly, in the suburbs, there are many tracts of farm land which have been turned into residential developments or shopping centers which require enormously increased generating facilities to support their electrical needs. Those people who profited from the change in use should bear the burden of the cost of the increased facilities.

Incidentally, it is the feeling in the same citizen groups mentioned above that this same principle should apply to sewer and water as well. It is not fair to charge the old users for the facilities which are required by the new users.

In the District, it would be possible to require the Public Service Commission and PEPCO to state at Zoning Hearings what the requirements in electrical power a new use would have, and assess there and then the cost of construction of the new facilities on those who own the property, and will profit from the new use, at the time of the new construction. It would be possible to assess the costs at the time a building permit is granted for those who are building as a matter of right.

2. There should not be any bonus in the form of lower rates for the users of large quantities of electric power. The large users should pay exactly the same rates as the small user.

In addition, the public has a great interest in the type of power generation facilities needed, the type of fuel to be used, the location of power generation sites and substations, and public hearings should be held on all those matters. At this time, a substation is under consideration for S.E. Washington, which will really serve Maryland users. As I recollect, no facts were ascertained at the hearing, as to the exact purposes of this substation, or how it was to be paid for.

Great reductions in the need for power can be gained by altering the building, housing and zoning regulations so as to require insulation, lowering building heights, eliminating wasteful land uses such as parking lots, requiring orientation of buildings to take advantage of prevailing winds and sunlight, better interior layouts that will take advantage of cross-ventilation, providing stair-cases that are truly usable in addition to elevators, and improving the regulations as to the size and location and treatment of windows.

At this hearing I have not heard that the representatives of Metro will testify. If you have not heard from them, I hope you will seek their opinions as to power needs and costs. They will certainly be one of the great power users of the future.

It might be possible to extend this hearing to all the citizens groups and governments in the entire area served by PEPCO, as the problem of rates is a regional one, with the result that a really comprehensive piece of legislation, long overdue, would be achieved.

With gratitude for your consideration, I am,
Sincerely,

HARRIET B. HUBBARD.

1974 SOCIALIST WORKERS
MUNICIPAL CAMPAIGN COMMITTEE,
Washington, D.C., September 25, 1974.

CHARLES DIGGS,
House District Committee,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. DIGGS: I am requesting time to testify before the House District Committee at the hearings regarding public utilities.

I do not think that amending the Home Rule Charter to allow for People's Councils is a solution to the soaring utility rates that working people are experiencing in the District.

I would like to present some proposals which I think would be more reasonable and effective.

Sincerely,

NAN BAILEY,
Socialist Workers Party candidate for Mayor.

WASHINGTON, D.C., September 24, 1974.

HON. CHARLES C. DIGGS, JR.,
House of Representatives,
Rayburn Building, Washington, D.C.

DEAR MR. DIGGS: The House District Committee's investigation of both Pepco and Public Service Commission are well overdue.

Long before the energy crisis, there appeared to be an insidious collusion between Pepco and the Public Service Commission.

First, the minimum charge rate increases of about 12 percent in 1970, 1972 and 1973 were criminal, especially since these increases actually amounted to more like 40 percent at 400 kwh which would be minimal average usage and perhaps 60 percent over 800 kwh which might be average for a residential family using electric equipment so strongly promoted by Pepco.

Second, a summary of my long standing controversy with Pepco and PSC accompanies in my letter of 9/18/73 to the PSC.

Everyone in the District, I believe, hopes that some action will result in which people who get paid salaries over \$50,000 and even over \$100,000 per year start to do their jobs. It doesn't take any brains or deserve such high salary to pass on all charges and responsibilities to the poor people.

Sincerely,

STEPHEN D. SMOKE.

WASHINGTON, D.C., September 18, 1973.

MR. DONALD E. CROTSLEY,
Executive Secretary, Public Service Commission,
Washington, D.C.

DEAR MR. CROTSLEY: Your September 14 response to my request of August 28 for a full scale public investigation of the rates, meter readings and other matters related to the customer billings of Potomac Electric Power Company is both empty and irresponsible.

Your response also avoids specific complaints in my August request, and it is based on hearsay instead of the facts you would have found if you had personally conducted the investigation I asked for.

1. *Fictitious growth in consumption*

Accompanying again, as a point of reference, is a monthly chart of my electrical power consumption for 1973 to date, as compared with all of 1972. This alone should raise your concern since my electrical facilities and usage through August 1973 were identical with 1972.

2. *Irresponsible rate regulation*

The approved rate structure of PEPCO, dated November 1972, which you sent me, reveals unconscionable conduct on the part of the Commission for permitting a 20 percent increase for five months (June through October) for usage over 200 Kwh, and a 60 percent increase for consumption over 800 Kwh. That rate schedule is shocking, especially when combined with fictitious meter readings.

Moreover, I received no notice of any such rate increases from PEPCO until I received that card with my July billing, and that card did not reveal either the rates or the rates of increases.

Even though you claim these rates were approved pursuant to a public hearing, the public is not responsible for fair and equitable rates. The Commission is.

3. "cdh"; A devious statistical device

PEPCO is promoting a devious "cooling degree hours" concept as an explanation for the 4-fold increase Kwh usage in June. Your office blindly picks up a direct quote in support of this concept from Mr. Nicolson's letter of August 8 to me in response to my initial complaint to PEPCO. You could have at least been original in covering this matter.

Please be advised that I consider "cooling degree hours" as an evasive statistical device to explain away fictitious meter readings. I want this matter, particularly, investigated.

It is odd that, as you see from the attachment, PEPCO does not claim "cdh" beyond June, but my meter readings continued to climb in July and August, as well.

4. Investigation by hearsay

When the PEPCO man came to check my meter near the end of July, he refused to enter my house to verify the electrical facilities I have. Mrs. Smoke said: "Don't you want to come in and see what we have?" He replied: "No, I don't have to," and left.

My case rests on objective and responsible investigation. Your accusation of refusal to permit entry is, therefore, based on an untruth and hearsay, and is irresponsible.

This irresponsibility is compounded by your statement that the PEPCO man saw an air conditioner in the first floor window. That air conditioner has been sitting there for two years, disconnected and unused. The window was cut when it was originally installed. It would cost me \$100 to replace the window if I take the unit out. This additional reliance on untruth and hearsay is absolutely shocking.

5. Possibility of meter manipulation still exists

Since you based so much of your "investigation" on unfounded hearsay, I contend that you have not satisfactorily answered this question, and hereby request a Public Service Commission referee test of the electric meter at 4749 MacArthur Blvd.

Please call me at 554-6100 to arrange a date convenient to you. All of us concerned have had trouble getting answers on the phone.

I do, however, want this test to be considered merely as one part of the full scale investigation I have asked because all of the issues raised, I believe, deserve a full hearing.

6. Regulation in the Public Interest

I may be a fly on an elephant's back, but my case is not isolated and many people are awaiting the Commission's response to my complaints and request for a full-scale public investigation.

It is the Commission's responsibility to assure that PEPCO's actions serve the public interest. In this respect, I find it hard to see how the following developments do so:

1. Special rates for five full months of the year.
2. Special rates for this prolonged period that represent increases of 20 percent and 60 percent respectively.
3. Meter readings so far out of historical pattern as to suggest manipulation on the face of it.
4. Devious statistical schemes to justify meter readings, even before a meter is checked, as in my case.
5. Unconscionable profit levels, over \$16 on each \$100 of revenues, thus raising a question about the rate of return on investment you are permitting PEPCO.

I hope, therefore, that you will initiate a full scale investigation into such practices in a responsible and objective attempt to assure that you are truly regulating in the public interest.

Sincerely,

STEPHEN D. SMOKE.

EXHIBIT A

SAME SERVICES FOR 1973 AS FOR 1972.
 4749 MACARTHUR BLVD D.C. 20007

KWH

1400

1200

1000

900

800

700

600

500

400

300

200

100

0

^ J F M A M J J A S O N D

1973

1972

4x

2x

POTOMAC ELECTRIC POWER CO.,
Washington, D.C., November 13, 1974.

HON. CHARLES C. DIGGS, JR.,
Chairman, Committee on the District of Columbia, Longworth House Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: When I testified before the Committee on H.R. 16782 on September 30, 1974, a number of questions were raised concerning the prices PEPCO pays for its fuel in comparison to the average costs for fuel paid in other states. These questions were based primarily on some comparisons Miss Ann Brown had drawn out of the monthly FPC Report on Fuel Cost, Quality, which at the time of the hearing was only current through May. (It has not been updated through June 1974.) In my answers to those questions, I indicated that such comparisons are meaningful only when the major factors which influence the price of fuel to each location were considered. It occurs to me that the transcript discussion regarding this matter may not be complete and may have produced some confusion as to just how PEPCO's fuel costs do compare with other areas.

In order to clarify and supplement the information in the hearing record, I have attached a document entitled "PEPCO's Generating Facilities and Fuel Use". I would request that this information be admitted to the record as a supplemental addition to my prepared statement and to the material which we previously furnished the Committee pursuant to your request. The document compares the prices we paid for the primary fuels used during the six-month period, January through June, 1974, with the prices paid in surrounding areas as taken from the June 1974 FPC Report on Fuel Cost, Quality. I believe these data provide a more complete and representative comparison of the fuel costs incurred by PEPCO.

With highest esteem, I remain,

Sincerely yours,

W. REID THOMPSON.

Enclosure.

PEPCO'S GENERATING FACILITIES AND FUEL USE

PEPCO's net generating capacity totals 4,498 megawatts and is provided from six generating stations on its own system and partial ownership in a mine-mouth plant in Pennsylvania known as Conemaugh.

The generating units on the system are categorized either as "base load" units which burn either coal or coal and #6 residual oil in combination, "cycling" units which burn residual oil, and "peaking" units which burn #2 middle-distillate oil. The mix between base load, cycling and peaking units is designed for the systems through an evaluation process which assures the most economic source for the generation of electricity.

The company is also a member of the Pennsylvania-New Jersey-Maryland (PJM) Interconnection. This interconnection agreement maximizes the reliability of service while minimizing capital investment which must be supported by our customers. PEPCO's participation in PJM also assures that our customers are supplied by the most economic generating units available. Furthermore, PJM participation affords the company the opportunity to maximize the utilization of its generating investment through energy deliveries to other members during its own low load periods. These transactions benefit our customers through a reduction of PEPCO's cost of service resulting from the credit for such energy delivered to PJM.

PEPCO's Maryland base load and cycling steam plants burn 2.25% sulfur coal and/or 2% sulfur residual oil. The combustion turbine peaking units burn 0.2% sulfur middle-distillate oil. The in-town plant at Potomac River in Alexandria, Virginia burns 1% sulfur coal. The Benning and Buzzard Point plants in the District burn 1% sulfur oil and a very small amount of 1% sulfur coal.

In November 1973 the energy crisis stemming from the Arab oil embargo marked the end of relatively stable fuel prices. Since that time, the unit prices, paid by PEPCO for each ton of coal and each barrel of oil burned to provide power to its customers, has almost tripled. In September 1973 the average cost of coal was \$14.16 a ton; in September 1974 it was \$37.87. In September 1973 the average cost of residual oil was \$3.86 a barrel; in September 1974 it was \$10.28.

In any comparison of fuel costs between jurisdictional boundaries, a number of major factors must be considered. When comparing PEPCO fuel costs to costs incurred in other states, as Miss Brown did in her testimony, some of these major factors which must be considered include:

1. The volume of fuel purchased; the volume of fuel burned; and inventory objectives and requirements
2. Methods and cost of delivery
3. Distance from source of supply and specific freight rates
4. Quality and type of fuel to be burned
5. Environmental constraints.

Although full analysis of these factors would require exhaustive study beyond the scope of this paper, it must be recognized that failure to consider the major differences in these factors can result in a grossly unrealistic comparison between areas and utilities.

From January 1974 through June 1974, PEPCO burned the following quantity and type of fuel:

	<i>Percent of energy supplied</i>
1.56 million barrels of 1 percent residual oil.....	12
3.76 million barrels of 2 percent residual oil.....	26
0.76 million barrels of 0.2 percent middle-distillate oil.....	4
0.64 million tons to 1 percent coal.....	16
1.55 million tons of 2.25 percent coal.....	42

The following cost comparisons, based on the latest F.P.C. Report on Fuel Cost, Quality (June 1974) are submitted to show PEPCO's fuel cost in relation to adjacent and near-by areas.

Approximately 42% of PEPCO's fuel burn for the first six months of 1974 was 2.25% sulfur content coal, and the following cost per ton comparison is made for this coal for June 1974 (information from F.P.C., June 1974 Report on Fuel

Cost, Quality):	<i>Cost per ton</i>
West Virginia.....	\$15.53
Pennsylvania.....	18.40
New York.....	25.33
Delaware.....	26.37
PEPCO.....	27.59
Maryland.....	27.63
North Carolina.....	30.78
New Jersey.....	36.81
Virginia.....	37.46

For 2.25% sulfur coal PEPCO compares favorably with all areas except West Virginia and Pennsylvania. In these two areas the lower cost per ton is produced by proximity to the coal fields. And since transportation expense can be a major factor influencing the cost of fuel, it is reasonable to expect the coal price in West Virginia and Pennsylvania to be less than in the District of Columbia.

For the same six month period, approximately 38% of PEPCO's fuel burn was #6 residual oil (1% and 2%). The following cost comparison per barrel results:

	<i>Cost per ton</i>
North Carolina.....	
West Virginia.....	
PEPCO.....	\$9.97
Maryland.....	10.20
Virginia.....	11.15
New Jersey.....	12.53
New York.....	12.54
Pennsylvania.....	13.10
Delaware.....	13.29

The comparison indicates that PEPCO is acquiring No. 6 oil at prices which compare favorably with neighboring jurisdictions and supports Mr. Thompson's statement that "we are obtaining oil under contract at less than the prevailing market price." Note that even at PEPCO's September 1974 price of \$10.28 a barrel, the favorable relationship still exists even though data for the other states reflect average prices only through June 1974.

Approximately 16% of PEPCO's fuel burn for the same six month period was 1% sulfur coal. A similar comparison of areas produces the following comparison:

	<i>Cost per ton</i>
Pennsylvania.....	\$14. 44
North Carolina.....	23. 11
Maryland.....	24. 76
Virginia.....	24. 80
West Virginia.....	24. 91
Delaware.....	29. 30
New York.....	35. 10
PEPCO.....	36. 79
New Jersey.....	40. 34

This tabulation indicates that with the exception of New Jersey, PEPCO's cost per ton is higher for this low sulfur coal. This higher cost is due primarily to the plant design requirement to burn soft (high grind) coal with a low ash, low sulfur content at the plants in the District of Columbia and Virginia instead of cheaper, hard (low grind) coal. These in-town plants were built over 25 years ago with coal grinders and precipitators for the abundant, low ash, high quality soft coal. Today's environmental regulations coupled with these plant design limitations have significantly reduced the quantity of coal which is available to burn at these plants. This has resulted in direct competition for the coal that is available to meet these requirements with foreign markets and the steel industry.

This is the reason the price of this coal is comparatively high. Studies are being made to examine the economies and trade-offs of modifying these old plants to allow them to burn the lower grind coal and still meet existing air pollution standards. Under today's market conditions, the price of the hard (low grind) coal is approximately \$6-8 per ton less than the soft (high grind) coal PEPCO now must use; in addition, much of this hard coal has ash content which would preclude its being burned on our system. Furthermore, transportation cost contributes roughly \$7-11 per ton to the price of this coal.

Some 85% of PEPCO's 1% sulfur coal burn is at its Potomac River Station in Alexandria, Virginia. Until the Arab oil embargo in November 1973, PEPCO was preceeding with firm plans for the conversion of this station from coal burning to oil burning for reasons of economy and environmental control. Until that date the price of this low sulfur coal was cheaper on the spot market than it would have been under contract, and with the plans for conversion of this unit to oil, PEPCO had no incentives to enter into long term contracts for this low sulfur coal. With the oil embargo, we were required by the FEA to shelve the plans for oil conversion, and PEPCO has continued to buy low sulfur coal required to meet environmental standards.

