

**C91H00**  
**Office of People's Counsel**

***Operating Budget Data***

(\$ in Thousands)

	<u>FY 10</u> <u>Actual</u>	<u>FY 11</u> <u>Working</u>	<u>FY 12</u> <u>Allowance</u>	<u>FY 11-12</u> <u>Change</u>	<u>% Change</u> <u>Prior Year</u>
Special Fund	\$3,083	\$3,139	\$3,182	\$43	1.4%
Contingent & Back of Bill Reductions	0	0	-19	-19	
<b>Adjusted Special Fund</b>	<b>\$3,083</b>	<b>\$3,139</b>	<b>\$3,162</b>	<b>\$23</b>	<b>0.7%</b>
<b>Adjusted Grand Total</b>	<b>\$3,083</b>	<b>\$3,139</b>	<b>\$3,162</b>	<b>\$23</b>	<b>0.7%</b>

- The fiscal 2012 allowance for the Office of People's Counsel (OPC) increases by \$23,255, or 0.7%, compared to the fiscal 2011 working appropriation after accounting for across-the-board and contingent reductions.
- Major changes in the fiscal 2012 allowance occur in the areas of personnel and consulting services.

***Personnel Data***

	<u>FY 10</u> <u>Actual</u>	<u>FY 11</u> <u>Working</u>	<u>FY 12</u> <u>Allowance</u>	<u>FY 11-12</u> <u>Change</u>
Regular Positions	19.00	19.00	19.00	0.00
Contractual FTEs	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>19.00</b>	<b>19.00</b>	<b>19.00</b>	<b>0.00</b>

***Vacancy Data: Regular Positions***

Turnover and Necessary Vacancies, Excluding New Positions	0.76	4.00%
Positions and Percentage Vacant as of 12/31/10	0.00	0.00%

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

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- There were no changes to the number of regular positions in OPC in the fiscal 2012 allowance.
- The turnover expectancy in OPC increases from 2.06% in fiscal 2011 to 4.0% in the fiscal 2012 allowance.
- As of December 31, 2010, OPC had no vacant positions. To meet its turnover expectancy of 4.0%, OPC would need to have 0.76 positions vacant. At its current level of vacancy, OPC may have difficulty meeting its turnover expectancy.

## ***Analysis in Brief***

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### **Major Trends**

***OPC Participation in Energy, Water, and Other Cases Before the Public Service Commission Increased in Fiscal 2010:*** The number of energy, water, and other cases before the Public Service Commission (PSC) in which OPC participated increased in each fiscal 2008 to 2010, reflective of the activity at PSC. Despite these recent increases, OPC anticipates it will participate in fewer of these cases in fiscal 2011 consistent with OPC’s overall expectation of case participation.

***Percent of Complaints and Terminations Successfully Resolved Increased in Fiscal 2010:*** OPC altered the reporting of its consumer assistance beginning with the Managing for Results (MFR) submission in the 2010 session, to reflect the relatively few calls handled directly by OPC compared to the total number of calls received. In fiscal 2010, OPC successfully resolved 88.7% of the calls related to complaints and terminations handled by OPC, an increase of approximately 4.3 percentage points compared to fiscal 2009.

### **Recommended Actions**

1. Concur with Governor’s allowance.

### **Updates**

***Terminations and Arrearages:*** Language in the fiscal 2010 budget bill withheld a portion of the special fund appropriation for OPC until OPC submitted a report on performance related to (1) the resolution of complaints regarding terminations; and (2) OPC’s activities in the area of terminations and arrearages and the two transactions of Constellation Energy Group. In the report, OPC noted that staffing pattern changes had reduced the number of staff working on complaint resolution. As a result, OPC has referred more complaints to other organizations for resolution. OPC has altered the MFR submission to reflect its performance on cases actually handled by the agency.

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***Operating Budget Analysis***

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**Program Description**

The Office of People's Counsel (OPC) represents the interests of residential users of natural gas, electricity, telephones, water, and sewer before the Public Service Commission (PSC), various federal agencies, and the courts. OPC monitors the development of competitive markets in gas, electric, and telephone service. In addition, OPC acts as a resource by providing education, referrals, and training. OPC also helps residential users to resolve problems with utility service and locate financial assistance for ratepayers having difficulty paying utility bills.

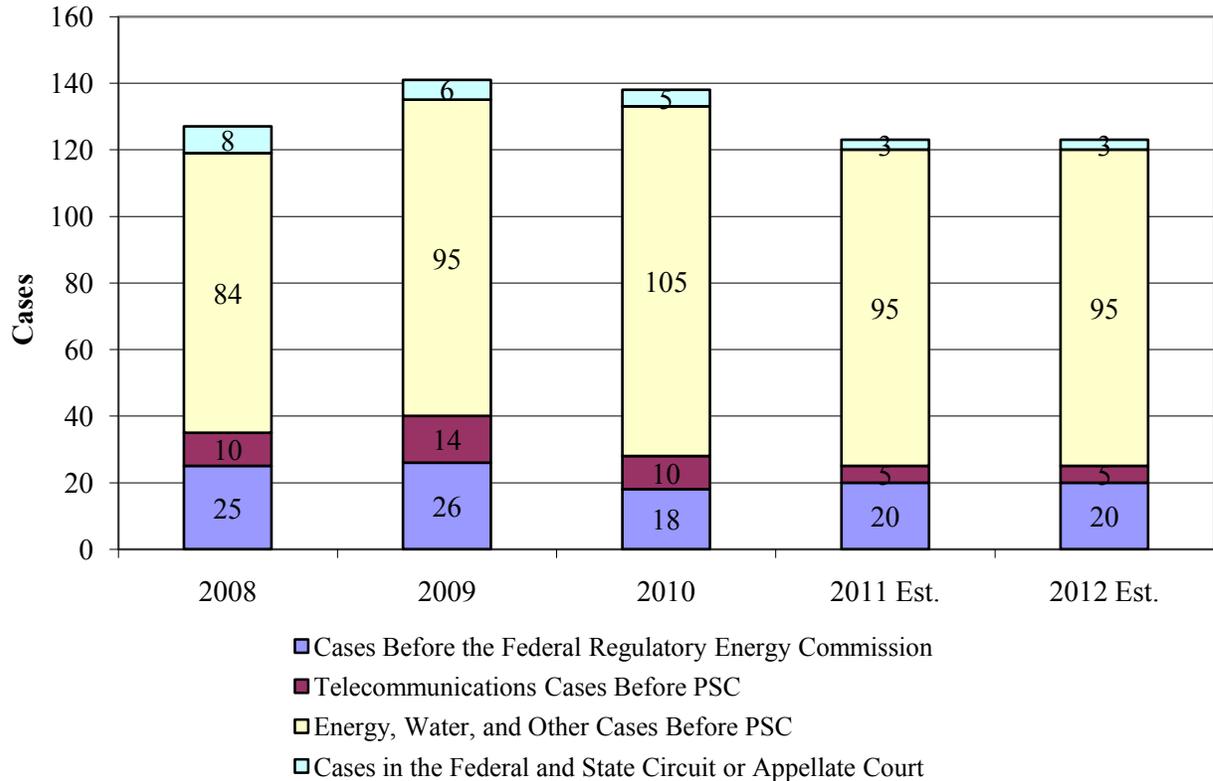
OPC has two key goals. First, OPC seeks to advocate for safe, reliable, and fairly priced utility services in the areas of energy, telecommunications, and other regulated utility services for residential customers. The second key goal is to educate residential ratepayers about the issues impacting their utility service.

**Performance Analysis: Managing for Results**

As shown in **Exhibit 1**, the number of cases before various regulatory bodies in which OPC participates fluctuates from year to year. The number of cases before the Federal Energy Regulatory Commission and number of telecommunications cases before PSC in which OPC has participated reflects this yearly fluctuation. OPC anticipates telecommunications cases will decline in fiscal 2011, partly due to the resolution of several cases related to Verizon. The number of energy, water, and other cases before PSC in which OPC participated increased in fiscal 2009 and 2010, reaching 105 cases. Despite the recent increases, OPC anticipates the number of these cases in which it will participate will return to the fiscal 2009 level in fiscal 2011.

As shown in this exhibit, most of the activity of OPC involves cases before PSC. OPC has been a party to each of the cases and proceedings discussed in the analysis of PSC (reliability of the Potomac Electric Company distribution system, net energy metering, power purchasing agreements, and the transaction of FirstEnergy Corp. and Allegheny Energy, Inc.).

**Exhibit 1  
Office of People’s Counsel Case Participation  
Fiscal 2008-2012**



PSC: Public Service Commission

Source: Office of People’s Counsel; Governor’s Budget Books

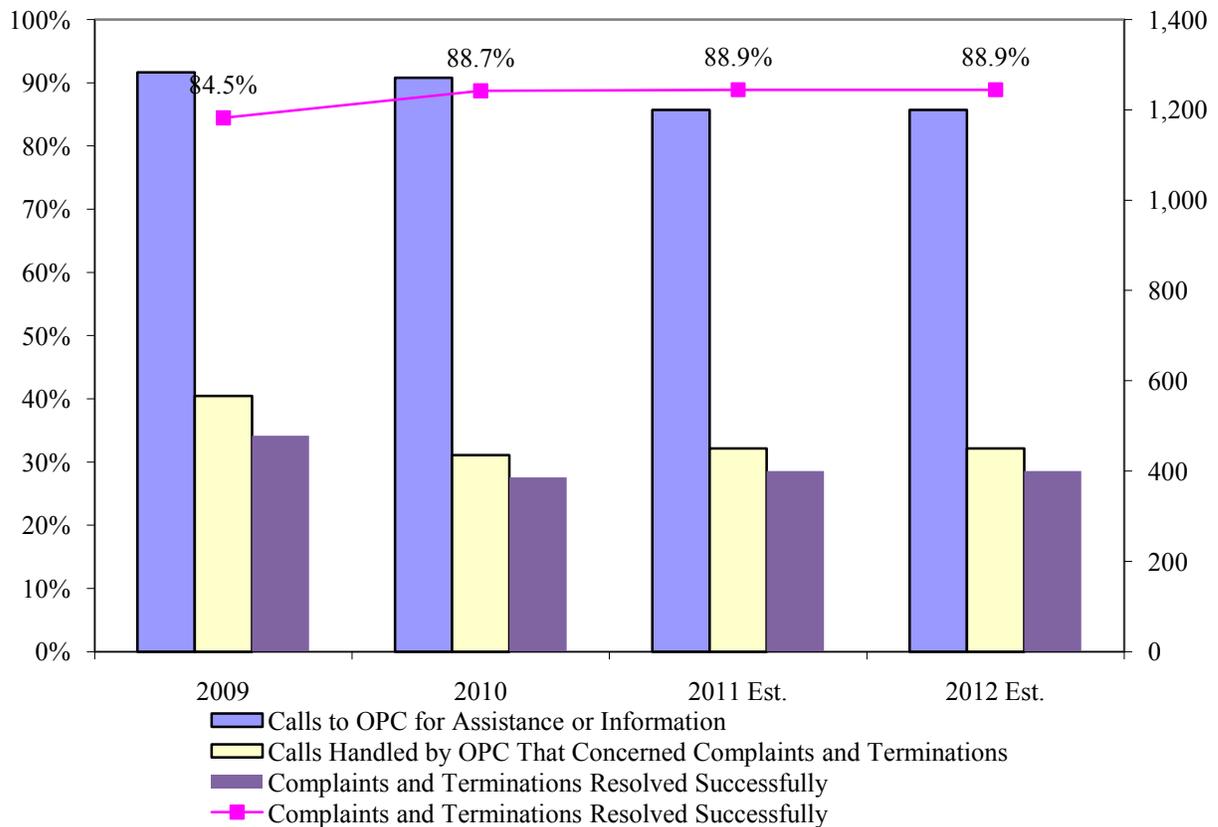
Beginning with the Managing for Results (MFR) submission in the 2010 session, OPC changed the way in which it reports the successful resolution of consumer inquiries. As a result of the MFR change, OPC now identifies calls that concerned complaints and terminations which are handled by OPC directly, in addition to the number of calls for information and assistance, some of which are ultimately referred to others. OPC also identifies separately those cases in which OPC refers consumers to alternative resources after review and the calls referred to PSC or other regulatory agencies.

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As shown in **Exhibit 2**, in fiscal 2009 and 2010, OPC received more than 1,200 calls for assistance or information; however, OPC handled less than 50% of those cases. The number of cases that OPC handled directly decreased from fiscal 2009 to 2010, as the number of complaints referred to PSC or other regulatory agencies increased. OPC attributes the increases in the number of calls referred to PSC to three factors:

- an ongoing review of Verizon service quality issues;
- the requirements of Case No. 9175 related to arrearages; and
- a vacant position in OPC reducing the number of individuals working in consumer assistance.

**Exhibit 2  
Consumer Assistance  
Fiscal 2009-2012**



OPC: Office of the People’s Counsel

Source: Office of People’s Counsel; Governor’s Budget Books

Of those cases that OPC directly handled, the percent of complaints and terminations successfully resolved was greater than 80.0% in each year. The percent successfully resolved increased from 84.5% in fiscal 2009 to 88.7% in fiscal 2010. OPC anticipates its success rate will remain at approximately the same level through fiscal 2012.

## **Proposed Budget**

As shown in **Exhibit 3**, the fiscal 2012 allowance of OPC increases by \$23,255, or 0.7%, compared to the fiscal 2011 working appropriation, after accounting for across-the-board and contingent reductions. Increases in the area of personnel are partially offset by a net decrease throughout the remainder of the budget in OPC.

Personnel expenses increase by \$39,987. Regular earnings increase by slightly more than \$50,000, as a result of the restoration of salaries from furlough reductions. Other increases occur for employee retirement and unemployment insurance. These increases are partially offset by an increase in the turnover expectancy from 2 to 4%, reducing anticipated personnel expenditures by approximately \$35,000. After accounting for the across-the-board and contingent reductions, employee and retiree health insurance also decrease.

In fiscal 2012, OPC reduces planned expenditures in legal services support, which are used for expert witnesses and technical assistance in cases in which OPC participates, by \$34,318. Despite this decrease, OPC’s fiscal 2012 allowance for legal services support (\$943,994) is at nearly the same level as the three-year average of actual expenditures in this area (\$949,904).

## **Impact of Cost Containment**

The fiscal 2012 budget reflects several across-the-board actions. In fiscal 2012, OPC’s share of the reduction is \$7,326 in special funds for changes in employee health insurance. A reduction contingent upon statutory changes reduces \$12,125 in special funds for retiree prescription drug benefits.

**Exhibit 3**  
**Proposed Budget**  
**Office of People’s Counsel**  
**(\$ in Thousands)**

<b>How Much It Grows:</b>	<b><u>Special</u> <u>Fund</u></b>	<b><u>Total</u></b>
2011 Working Appropriation	\$3,139	\$3,139
2012 Allowance	<u>3,182</u>	<u>3,182</u>
Amount Change	\$43	\$43
Percent Change	1.4%	1.4%
Contingent Reductions	-\$19	-\$19
Adjusted Change	\$23	\$23
Adjusted Percent Change	0.7%	0.7%

**Where It Goes:**

**Personnel Expenses**

Regular earnings including the restoration of salaries from the furlough reductions .....	\$50
Employee retirement .....	24
Employee and retiree health insurance (net of across-the-board and contingent reductions) .....	-4
Increase in turnover expectancy from 2.06 to 4.0%.....	-35
Other fringe benefit adjustments .....	4

**Other Changes**

Garage rent inadvertently not included in fiscal 2011 budget .....	12
Rent paid to the Department of General Services partially offset by insurance .....	2
Increase in computer maintenance contracts to reflect recent experience .....	2
Communications .....	2
Statewide personnel system allocation.....	1
Out-of-state travel partially offset by in-state travel to reflect anticipated expenditures ...	1
Consultant services and equipment repairs and maintenance to contain costs .....	-36

**Total** **\$23**

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

***Recommended Actions***

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1. Concur with Governor’s allowance.

## ***Updates***

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### **1. Terminations and Arrearages**

Language in the fiscal 2010 budget bill withheld \$200,000 of the special fund appropriation for OPC until a report was submitted on:

- the cause of the decreased performance for OPC in the area of complaints and terminations resolved successfully between fiscal 2007 and 2008;
- the reason for the relatively low estimates of OPC for the complaints and terminations resolved successfully for fiscal 2009 and 2010;
- the role of OPC in examining the transactions of Constellation Energy Group (CEG) with MidAmerican Energy Holdings Company and EDF Development Inc. (EDF); and
- the actions OPC has taken, or intends to take, regarding issues of termination and arrearages for residential customers in fiscal 2009 and 2010 with a plan to provide relief to these customers.

In September 2009, OPC submitted a report to the budget committees responding to these questions, and the funds were subsequently released.

### **Complaints and Terminations Resolved Successfully**

OPC’s report described several reasons for the cause of the decreased performance of the agency in the area of complaints and terminations resolved successfully between fiscal 2007 and 2008, which decreased from 72.2% to 23.5%, related to staffing, procedures, and reporting of data.

OPC explained that for several years, from approximately fiscal 2004 through 2006, the agency dedicated substantial personnel resources to consumer inquiries, referrals, and resolution of consumer issues. During fiscal 2007, the agency rebalanced the resources dedicated to handling consumer contacts and regulatory proceedings. As a result, fewer staff resources were available to resolve consumer issues. The reduction in staff resources in this area was exacerbated by a position vacancy for nearly all of fiscal 2008. OPC indicated that filling the vacant position has improved the ability to resolve complaints.

The agency also altered its procedures related to customer contacts during fiscal 2007. OPC sought to provide more intensive assistance to those consumers that were the most vulnerable whose needs were not being addressed by other agencies and referring customers who can be helped by other agencies.

OPC indicated in the report its intention to alter its MFR submission to more accurately reflect the cases the agency resolved successfully. As discussed earlier, OPC’s MFR submission during the 2010 session reflected the change.

### **Terminations and Arrearages**

OPC explained its actions in the area of terminations and arrearages primarily through participation in PSC Case No. 9175 and in legislative hearings and related rulemaking sessions. Case No. 9175 was instituted by PSC to review arrearages, policies and procedures regarding assistance to customers, and later expanded to include the extent and cause of high bill complaints. OPC was also involved in the hearings and workgroups that developed out of this proceeding. The activities of the workgroup continued after submission of the report.

OPC participated in hearings in both the House Economic Matters Committee and Senate Finance Committee on a bill that extended the extreme weather restriction for utility termination to summer as well as winter, and a bill that would have clarified PSC authority regarding alternative payment plans. OPC subsequently participated in the rulemaking proceeding to promulgate regulations related to the extreme weather restriction.

Finally, OPC described ongoing activities related to energy assistance, the handling of consumer issues related to terminations, and energy efficiency and demand response programs.

### **Role of OPC in Transactions of Constellation Energy Group**

OPC also described the agency’s participation in Case No. 9160 (related to the CEG and MidAmerican Energy Holdings Company transaction) and Case No. 9173 (CEG and EDF transaction) related to the requirements of Section 6-105 of the Public Utilities Article for PSC review of transactions in which a company acquires the ability to exercise substantial influence over a regulated utility company. Limited activity had been undertaken in Case No. 9160 prior to the closing of the case, when the agreement between the two companies was terminated. OPC explained its involvement in the transaction between CEG and EDF primarily in terms of Phase I of Case No. 9173, which determined whether PSC had authority to review the transaction under the Section 6-105 authority. OPC also explained that it participated in legislative hearings and as a party in court proceedings that were designed to clarify PSC’s authority to review the transaction of CEG and EDF and other transactions. OPC also noted its intention to file testimony and participate in the Phase II proceeding related to the approval of the transaction, which was only in the early stages at the time the report was submitted. The Department of Legislative Services notes that although the Phase II proceeding of Case No. 9173 was in the early stages at the time the report was submitted, OPC continued to participate throughout the duration of the case in various procedural matters and the submission of testimony and briefs. On October 30, 2009, PSC issued Order No. 82986 granting the application for the proposed transaction with several conditions, including a one-time per customer distribution rate credit of approximately \$100. The transaction between CEG and EDF closed on November 6, 2009.

## ***Current and Prior Year Budgets***

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

	<b><u>General Fund</u></b>	<b><u>Special Fund</u></b>	<b><u>Federal Fund</u></b>	<b><u>Reimb. Fund</u></b>	<b><u>Total</u></b>
<b>Fiscal 2010</b>					
Legislative Appropriation	\$0	\$2,783	\$0	\$0	\$2,783
Deficiency Appropriation	0	0	0	0	0
Budget Amendments	0	400	0	0	400
Cost Containment	0	-53	0	0	-53
Reversions and Cancellations	0	-47	0	0	-47
<b>Actual Expenditures</b>	<b>\$0</b>	<b>\$3,083</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,083</b>
<b>Fiscal 2011</b>					
Legislative Appropriation	\$0	\$3,139	\$0	\$0	\$3,139
Budget Amendments	0	0	0	0	0
<b>Working Appropriation</b>	<b>\$0</b>	<b>\$3,139</b>	<b>\$0</b>	<b>\$0</b>	<b>\$3,139</b>

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

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**Fiscal 2010**

During fiscal 2010, the special fund expenditures of OPC were \$300,394 higher than the legislative appropriation. An increase of \$400,000 in legal service support was partially offset by a decrease of \$52,504 in cost containment actions to reflect furlough savings. OPC also cancelled \$47,102, primarily as a result of lower than anticipated expenditures for consultant services. Other decreases were due to lower than anticipated expenditures in nonpersonnel areas including subscriptions, postage, and garage rent and in personnel costs due to higher than anticipated vacancies.

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

<u>Object/Fund</u>	<u>FY 10 Actual</u>	<u>FY 11 Working Appropriation</u>	<u>FY 12 Allowance</u>	<u>FY 11 - FY 12 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	19.00	19.00	19.00	0.00	0%
<b>Total Positions</b>	<b>19.00</b>	<b>19.00</b>	<b>19.00</b>	<b>0.00</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 1,867,802	\$ 1,909,203	\$ 1,968,641	\$ 59,438	3.1%
02 Technical and Spec. Fees	951,488	978,312	943,994	-34,318	-3.5%
03 Communication	30,409	27,861	29,468	1,607	5.8%
04 Travel	13,525	11,500	12,000	500	4.3%
07 Motor Vehicles	10,500	0	12,000	12,000	N/A
08 Contractual Services	31,364	29,808	30,935	1,127	3.8%
09 Supplies and Materials	52,114	48,000	48,000	0	0%
12 Grants, Subsidies, and Contributions	0	5,000	5,000	0	0%
13 Fixed Charges	126,174	129,310	131,662	2,352	1.8%
<b>Total Objects</b>	<b>\$ 3,083,376</b>	<b>\$ 3,138,994</b>	<b>\$ 3,181,700</b>	<b>\$ 42,706</b>	<b>1.4%</b>
<b>Funds</b>					
03 Special Fund	\$ 3,083,376	\$ 3,138,994	\$ 3,181,700	\$ 42,706	1.4%
<b>Total Funds</b>	<b>\$ 3,083,376</b>	<b>\$ 3,138,994</b>	<b>\$ 3,181,700</b>	<b>\$ 42,706</b>	<b>1.4%</b>

Note: The fiscal 2011 appropriation does not include deficiencies. The fiscal 2012 allowance does not include contingent reductions.