

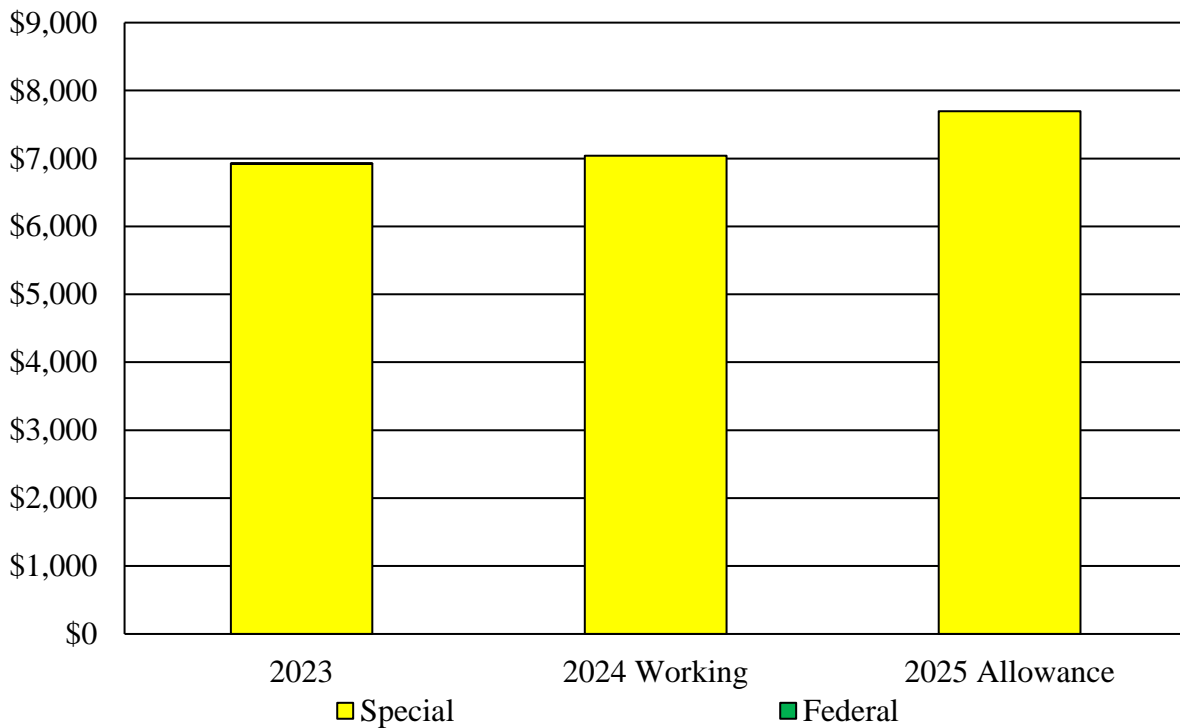
C91H00
Office of People’s Counsel

Program Description

The Office of People’s Counsel (OPC) represents the interests of residential utility consumers before the Public Service Commission (PSC), federal regulatory agencies, and the courts in matters related to electricity, natural gas, telecommunications, and private water service. Additionally, OPC engages in consumer education and outreach initiatives and assists consumers in resolving issues related to their utility service. The People’s Counsel is appointed by the Attorney General of Maryland. OPC is funded through special funds derived from an assessment on public service company revenues.

Operating Budget Summary

Fiscal 2025 Budget Increases \$655,540, or 9.3%, to \$7.7 Million
(\$ in Thousands)



Note: The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

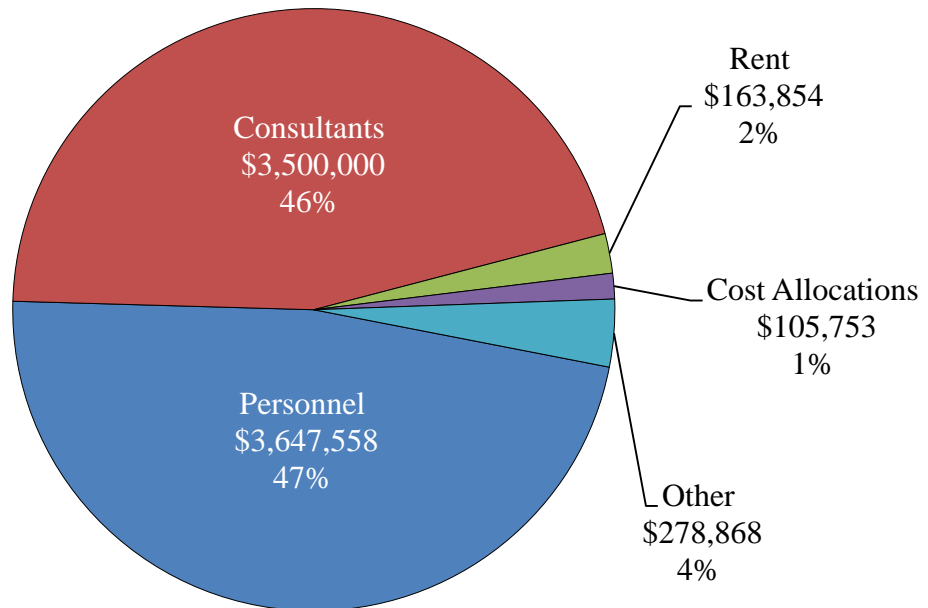
For further information contact: Samuel M. Quist

Samuel.Quist@mlis.state.md.us

Fiscal 2025 Overview of Agency Spending

The fiscal 2025 allowance for OPC totals \$7.7 million. As shown in **Exhibit 1**, personnel expenses total \$3.6 million, or 47% of the budget. These funds support the office’s 22 regular positions. Outside of personnel, the majority of OPC’s budget is directed to outside legal services support, which totals \$3.5 million, or 46% of the fiscal 2025 allowance. This funding is used for outside subject matter experts and consultants who assist OPC with analyzing and presenting evidence in proceedings before various regulatory bodies and the courts. The need for these services may vary from year to year depending on actual workload and case participation in matters pending before regulatory bodies at both the State and federal level.

Exhibit 1
Overview of Agency Spending
Fiscal 2025 Allowance



Note: The fiscal 2025 statewide salary adjustments are centrally budgeted in the Department of Budget and Management and are not included in this agency’s budget.

Source: Governor’s Fiscal 2025 Budget Books

Proposed Budget Change

As shown in **Exhibit 2**, OPC’s fiscal 2025 allowance increases by approximately \$655,540, or 9.3%, compared to the fiscal 2024 working appropriation. The largest area of change is for outside legal services support, which increases by \$526,055. Due to a decrease in the amount budgeted in the fiscal 2024 working appropriation for these services, the fiscal 2025 allowance is only slightly larger than the fiscal 2023 actual spending, an increase of \$78,485, or 2.2%, from fiscal 2023. Although the need for these services may vary from year to year, expenses for these services have generally been growing in recent years, reflective of OPC’s growing workload and need for these services. Regular personnel expenses increase by \$117,602 overall, accounting for salary increases and associated fringe benefits, and changes in costs associated with the reclassification of certain positions in fiscal 2024 and 2025.

**Exhibit 2
Proposed Budget
Office of People’s Counsel
(\$ in Thousands)**

How Much It Grows:	Special <u>Fund</u>	Federal <u>Fund</u>	<u>Total</u>
Fiscal 2023 Actual	\$6,922	\$1	\$6,924
Fiscal 2024 Working Appropriation	7,040	0	7,040
Fiscal 2025 Allowance	<u>7,696</u>	<u>0</u>	<u>7,696</u>
Fiscal 2024-2025 Amount Change	\$656	\$0	\$656
Fiscal 2024-2025 Percent Change	9.3%		9.3%

Where It Goes:	<u>Change</u>
Personnel Expenses	
Salary increases and associated fringe benefits including fiscal 2024 cost-of-living adjustment and increments	\$116
Overtime earnings	2
Other Changes	
Outside legal support services consultants and subject matter experts	526
Cost allocations	20
Travel	-14
Other	6
Total	\$656

Note: Numbers may not sum to total due to rounding. The fiscal 2024 impacts of statewide salary adjustments appear in the Statewide Account in the Department of Budget and Management (DBM), and adjustments are not reflected in this agency’s budget. The fiscal 2025 impacts of the fiscal 2024 statewide salary adjustments appear in this agency’s budget. The fiscal 2025 statewide salary adjustments are centrally budgeted in DBM and are not included in this agency’s budget.

Personnel Data

	<u>FY 23</u> <u>Actual</u>	<u>FY 24</u> <u>Working</u>	<u>FY 25</u> <u>Allowance</u>	<u>FY 24-25</u> <u>Change</u>
Regular Positions	19.00	22.00	22.00	0.00
Contractual FTEs	<u>2.55</u>	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>
Total Personnel	21.55	22.00	22.00	0.00

Vacancy Data: Regular Positions

Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/23	1.00	4.55%
Vacancies Above Turnover	1.00	

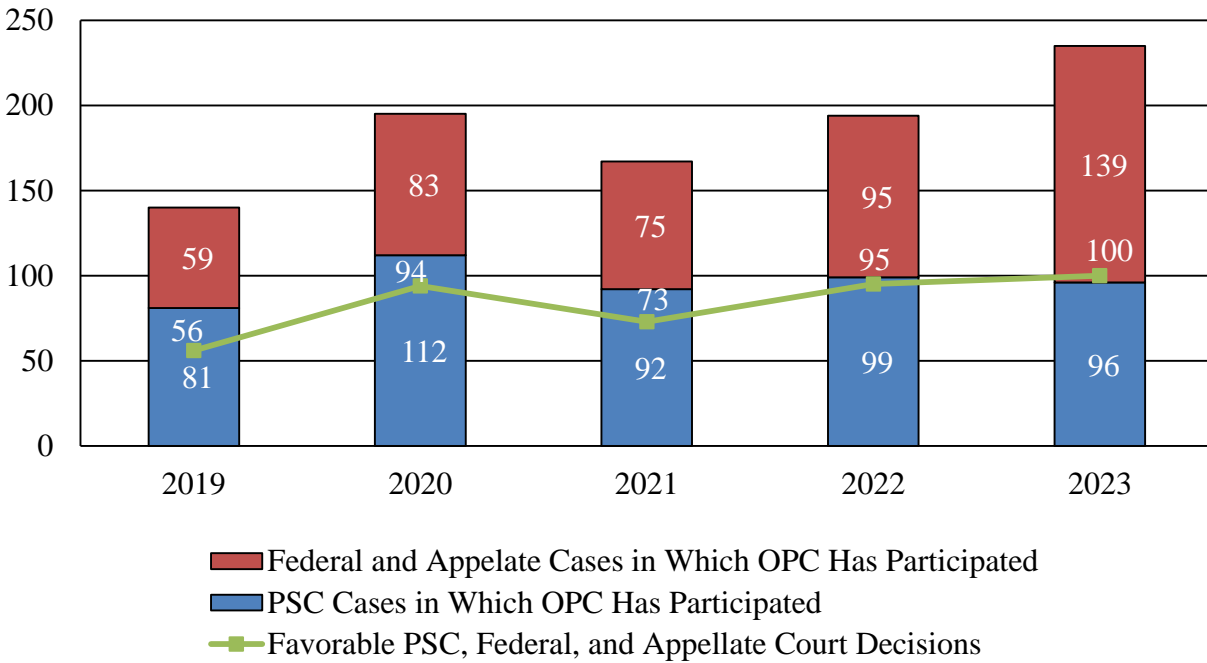
Key Observations

1. Growth in OPC Workload Compared to Agency Staffing Levels

OPC’s primary statutory responsibility is to advocate on behalf of the interests of Maryland residential utility customers. Section 2-204 of the Public Utilities Article requires OPC to evaluate each matter pending before PSC to determine if the interests of residential and noncommercial users are affected, taking into consideration the public safety, economic welfare, and environmental interests of the State and its residents, including the State’s progress toward meeting its greenhouse gas emissions reductions goals. OPC is required to appear before PSC and the courts on behalf of residential and noncommercial users in each proceeding in which PSC has original jurisdiction if OPC considers that their interests are affected. Additionally, OPC may appear before federal regulatory agencies and other State entities to advocate on behalf of the interests of residential and commercial users.

As shown in **Exhibit 3**, OPC case participation at the State, federal, and appellate court levels reached its highest point in recent years in fiscal 2023, at 235 cases, including participation in 96 cases before PSC. Overall, OPC case participation increased by 41 cases, or 21.1%, in fiscal 2023. OPC participation in PSC cases declined slightly in fiscal 2023, from 99 in fiscal 2022, while participation in federal and appellate court proceedings increased. Federal proceedings in which OPC participates include matters pending before the Federal Energy Regulatory Commission and other federal regulatory bodies and recently have included matters relating to wholesale electricity markets, transmission rates and services, natural gas transmission, and other interstate matters. Of the total PSC, federal, and appellate cases in which OPC participated in fiscal 2023, there were 100 favorable decisions issued. The number of favorable decisions issued generally varies depending on overall case participation and the type of case and is impacted by the range of stakeholders involved in a given case. Additional stakeholders involved in a case may advocate for a range of positions different from OPC and impact the likelihood of a favorable outcome.

**Exhibit 3
OPC Case Participation and Favorable Decisions
Fiscal 2019-2023**



OPC: Office of People’s Counsel
PSC: Public Service Commission

Source: Office of People’s Counsel

Overall, the workload of OPC has generally increased in recent years reflective of its growing case participation rate and also due to increases in the complexities of proceedings in which it is involved. For example, multiyear utility rate cases were introduced in 2020 and 2021 by Baltimore Gas and Electric and Potomac Electric Power Company, which are comparatively more complex and time consuming to evaluate and litigate compared to traditional utility rate cases. The number of utility filings in general before PSC that OPC must evaluate have also generally been increasing in recent years due in part to the growth in electrification-related and other climate change mitigation related proceedings.

In addition to increased case participation, OPC’s workload has increased since the enactment of Chapter 607 of 2021, which expanded the scope of OPC’s statutory responsibilities to include the consideration of the environmental interests of the State and its residents and the State’s progress toward meeting its greenhouse gas emission reduction goals. Chapter 607 resulted in an increase in both the number of proceedings and the scope of existing proceedings in which

OPC is involved. For example, utility rate cases and other proceedings now include a review by OPC of the impacts of potential programs or investments on the State’s ability to meet its climate change and greenhouse gas reduction goals. As such, the number of witnesses that testify in proceedings and the scope of evidence presented have expanded in scope.

Supplementing OPC’s primary ongoing statutory responsibilities, the People’s Counsel or a designee has been appointed to and served on a variety of State workgroups and task forces created through legislation in recent years, including:

- the Maryland Commission on Climate Change;
- the Zero Emission Electric Vehicle Infrastructure Council;
- the Building Energy Transition Implementation Task Force;
- the Task Force to Study Solar Incentives; and
- the Green and Healthy Homes Task Force.

In total, OPC reports that its staff participated in at least 37 different State and federal task forces and workgroups in calendar 2023 to shape a variety of policies and regulations, including working groups related to electric vehicle charging infrastructure, battery storage, electric distribution system planning, retail supply, community aggregation, solar siting, electric reliability standards, and other topics with important implications for residential customers.

Impact of Workload on Staffing Needs

The number of authorized OPC positions increased from 19 in fiscal 2023 to 22 in fiscal 2024 due to conversions of 3 contractual full-time equivalents into regular positions, but no other positions have been authorized since the enactment of Chapter 607. Due to concerns raised during the 2023 session that the current number of authorized positions in OPC has not increased in proportion to the recent increases in agency workload, committee narrative in the 2023 *Joint Chairmen’s Report* (JCR) requested that OPC submit a report on its current staffing levels and discuss the adequacy of current staffing levels to meet the requirements of the agency’s mission and growing workload. OPC was also asked to conduct an analysis of staffing levels of similar utility consumer advocate offices in other states.

In its response submitted in December 2023, OPC reported that the current staffing size of the agency is inadequate to support its current workload and to ensure a minimum standard is met in relation to its statutory duties, and that the workload demands currently placed on existing staff are unsustainable. OPC cites several examples, including the reliance on outside consultants to attend meetings in place of OPC staff and the hiring of outside legal counsel to lead a gas utility rate case due to insufficient staffing. Additionally, OPC reported that between January and mid-November 2023, 8 attorneys earned 1,200 hours of compensatory time, of which 3 attorneys

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earned over 200 hours of compensatory time each. OPC estimates that this amount of compensatory time earned by staff is equivalent to the hours that would be worked by at least 1 full-time position during the year.

OPC estimates that an additional 5 positions would be necessary to sustain the current workload, and a further 5 new positions (for a total of 10 new positions) are needed to enhance the ability of OPC to meet its statutory responsibilities at both State and federal levels. The initial set of 5 new positions needed to sustain the current workload would include:

- 3 assistant People’s Counsel;
- 1 legislative/communications director; and
- 1 administrative specialist.

The 5 additional positions needed to further enhance staffing levels include:

- 3 assistant People’s Counsel to focus on federal matters;
- 1 assistant People’s Counsel to focus on State workgroups and task forces; and
- 1 management associate to focus on additional administrative tasks.

OPC’s total estimate for the cost of these 10 positions and related agency operating costs is \$1.5 million. However, OPC estimates that a portion of funds currently budgeted for outside legal support services could be transitioned to support personnel costs instead as additional personnel would reduce the reliance on outside support services in certain cases.

Previously, Chapter 607 increased the statutory cap for OPC from 0.05% of utility operating revenue to 0.074%, effective fiscal 2022. OPC estimates that the agency’s fiscal 2024 operating budget of \$7.0 million falls approximately \$2.0 million below the amount of revenues that could be assessed for the fiscal year under the statutory cap (over \$9.0 million). Therefore, the estimated additional cost of \$1.5 million identified by OPC for the proposed 10 new positions would fall within the current statutory cap amount.

To support future projected cost increases associated with the 10 new positions and increases in other areas of OPC’s operating budget, OPC proposes that the statutory cap on the assessment on utility revenues which funds its ongoing operating expenses could be raised from its current cap level of 0.074% to 0.09%, which would raise approximately \$2 million in additional special fund revenues deposited in the Public Utility Regulation Fund. In addition to serving as the primary source of OPC operating revenues, special funds from this source also support the majority of operating expenses for PSC. OPC estimates that the cost to Maryland ratepayers of such an increase would be approximately 1.7 cents per month, or 20 cents per year.

Comparative Analysis of Other State Utility Consumer Advocate Functions

As part of its analysis of the adequacy of its current workload, OPC was asked to conduct an analysis of the staff size and functional responsibilities of utility consumer advocate offices in other states. OPC found that this function varies significantly from state to state. For example, the state entity serving this function in California has a staff of 165 employees, while nine states do not have any state agency or personnel serving in this function. Additionally, not all states have an independent state agency or office serving this function. For example, in Virginia and some other states, the function is included under the Office of the Attorney General. The scope of utility consumer advocacy also varies by state, with some states requiring a limited focus only on matters directly relating to utilities and their rates, while others have a much broader consumer advocacy focus. OPC notes that Maryland is unique in that few states require this function to include consideration of environment and climate change related issues in their work under their statutory responsibilities.

Exhibit 4 shows data compiled by OPC on the fiscal 2023 budgets and staff sizes of state utility consumer advocacy agencies in Delaware, Pennsylvania, and the District of Columbia. It also includes New Jersey and Ohio, which OPC included for comparison due to having robust consumer advocacy functions. Of note within OPC’s findings is that OPC for the District of Columbia had a comparatively larger staff size (56 positions) and budget (\$12.3 million) compared to Maryland’s OPC despite only one regulated electric utility and one regulated gas utility serving the District of Columbia. However, in Delaware, which is served by two regulated utilities (one providing both electricity and natural gas service and one providing only natural gas service), the state’s Division of the Public Advocate has a comparably smaller budget and staff size than OPC. Comparable offices in Pennsylvania, New Jersey, and Ohio were found to have 12 to 13 more positions compared to OPC, although the sizes of the fiscal 2023 operating budgets of offices in those states were roughly similar in size to that of OPC.

Exhibit 4
Comparison of Budget and Personnel of
State Utility Consumer Advocate Agencies
Fiscal 2023
(\$ in Millions)

<u>State</u>	<u>2023 Budget</u>	<u>Full Time Positions</u>
Washington, DC	\$12.3	56
Pennsylvania	6.8	35
Ohio	5.6	35
New Jersey	7.2	34
Maryland	6.9	22
Delaware	1.1	6

DC: District of Columbia

Source: Office of People’s Counsel

Operating Budget Recommended Actions

1. Concur with Governor’s allowance.

Appendix 1
2023 Joint Chairmen’s Report Responses from Agency

The 2023 JCR requested that OPC prepare one report. Electronic copies of the full JCR responses can be found on the Department of Legislative Services Library website.

- ***Report on Agency Staffing Levels:*** OPC submitted a report comparing the current size of the agency’s personnel to the level that the agency views as necessary to adequately fulfill its statutory mission and workload, which has grown in recent years. The report also includes an analysis of personnel size and funding levels of utility consumer advocate offices in other states. Further discussion of this data can be found in Key Observation 1 of this analysis.

**Appendix 2
Object/Fund Difference Report
Office of People's Counsel**

<u>Object/Fund</u>	<u>FY 23 Actual</u>	<u>FY 24 Working Appropriation</u>	<u>FY 25 Allowance</u>	<u>FY 24 - FY 25 Amount Change</u>	<u>Percent Change</u>
Positions					
01 Regular	19.00	22.00	22.00	0.00	0%
02 Contractual	2.55	0.00	0.00	0.00	0.0%
Total Positions	21.55	22.00	22.00	0.00	0%
Objects					
01 Salaries and Wages	\$2,646,797	\$3,529,956	\$3,647,558	\$117,602	3.3%
02 Technical and Special Fees	3,713,637	2,989,930	3,500,000	510,070	17.1%
03 Communication	7,662	9,501	8,754	-747	-7.9%
04 Travel	8,342	31,000	17,000	-14,000	-45.2%
07 Motor Vehicles	12,480	12,540	13,100	560	4.5%
08 Contractual Services	227,278	178,192	233,953	55,761	31.3%
09 Supplies and Materials	65,162	81,000	67,200	-13,800	-17.0%
10 Equipment – Replacement	60,849	0	21,500	21,500	N/A
11 Equipment – Additional	5,597	19,000	0	-19,000	-100.0%
13 Fixed Charges	176,125	189,374	186,968	-2,406	-1.3%
Total Objects	\$6,923,929	\$7,040,493	\$7,696,033	\$655,540	9.3%
Funds					
03 Special Fund	\$6,922,447	\$7,040,493	\$7,696,033	\$655,540	9.3%
05 Federal Fund	1,482	0	0	0	0.0%
Total Funds	\$6,923,929	\$7,040,493	\$7,696,033	\$655,540	9.3%

Note: The fiscal 2025 allowance does not include statewide salary adjustments budgeted within the Department of Budget and Management.