



Advocating the lowest reasonable rates consistent with the maintenance of adequate utility service, and an equitable distribution of rates among all classes of consumers.

2020 Annual Report

Division of the Public Advocate

Andrew Slater
Public Advocate





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Annual Report

December 10, 2021

VIA ELECTRONIC MAIL

The Honorable John C. Carney, Jr.
Governor
State of Delaware
Tatnall Building
150 Martin Luther King, Jr. Boulevard South
Dover, DE 19901

Re: Annual Report of the Division of the Public Advocate

Dear Governor Carney:

Thank you for the opportunity to serve as the Public Advocate for our state and to provide the Division of the Public Advocate's ("DPA") 2020 Annual Report. This year has certainly been unprecedented. We want to thank you for your leadership in keeping Delawareans safe and healthy.

We began the year with rate cases from Delmarva Power electric and natural gas, and Suez Water, establishing the Empowerment Grant through the Exelon merger funds for low-income energy efficiency projects, and ensuring continuing services during the pandemic. We ended the year settling the Suez Water rate case, awaiting a settlement decision on the Delmarva Power natural gas rate case, and sending letters to all third party electric suppliers who operate within Delaware to end the practice of spoofing Delawareans.

On the federal side, we appealed the Federal Energy Regulatory Commission (FERC) ruling on PJM's capacity market to the Circuit Court of Appeals, submitted comments on FERC's Carbon Pricing policy statement, and are involved in the recent Columbia Gas rate case at FERC.

Though we have been busy with these important issues, we continue to prioritize regulated utility consumers. As we experienced an increase in customer interactions over the past year, I'm proud of our staff working through the increase as we adjusted to the pandemic.

Thank you again for the tremendous opportunity to serve as the Public Advocate for our State. We look forward to working with you to ensure that consumers voices are heard in state and federal proceedings, that the costs to consumers are considered, and that valuable consumer protections are in place.

Sincerely,

/s/ Andrew Slater

Public Advocate

AGENCY HISTORY

The Division of the Public Advocate (“DPA”) was created in 1978 in response to public outcry over steadily and sharply increasing utility rates. In establishing the DPA, the General Assembly charged the Public Advocate with representing consumer interests whenever utility companies regulated by the Public Service Commission (“PSC”) seek changes in the delivery of services or changes in rates for electric distribution, natural gas supply, water, or wastewater services.

In 2013, the General Assembly amended 29 Del. C. § 8716 to clarify its intent that the DPA is to advocate primarily on behalf of residential and small commercial customers, and that the DPA need not advocate on behalf of large commercial and industrial customers where the Public Advocate determines that these entities have the means to advocate on their own behalf. The DPA’s advisory role was also expanded to permit the Public Advocate to provide guidance to the Governor, General Assembly, or the Secretary of State on matters of energy policy and utility consumers, or other matters.

In 2019, the General Assembly amended 29 Del. C. § 8716 to allow the DPA to retain outside counsel to assist it, primarily in cases at the Federal Energy Regulatory Commission (“FERC”).

AGENCY MISSION

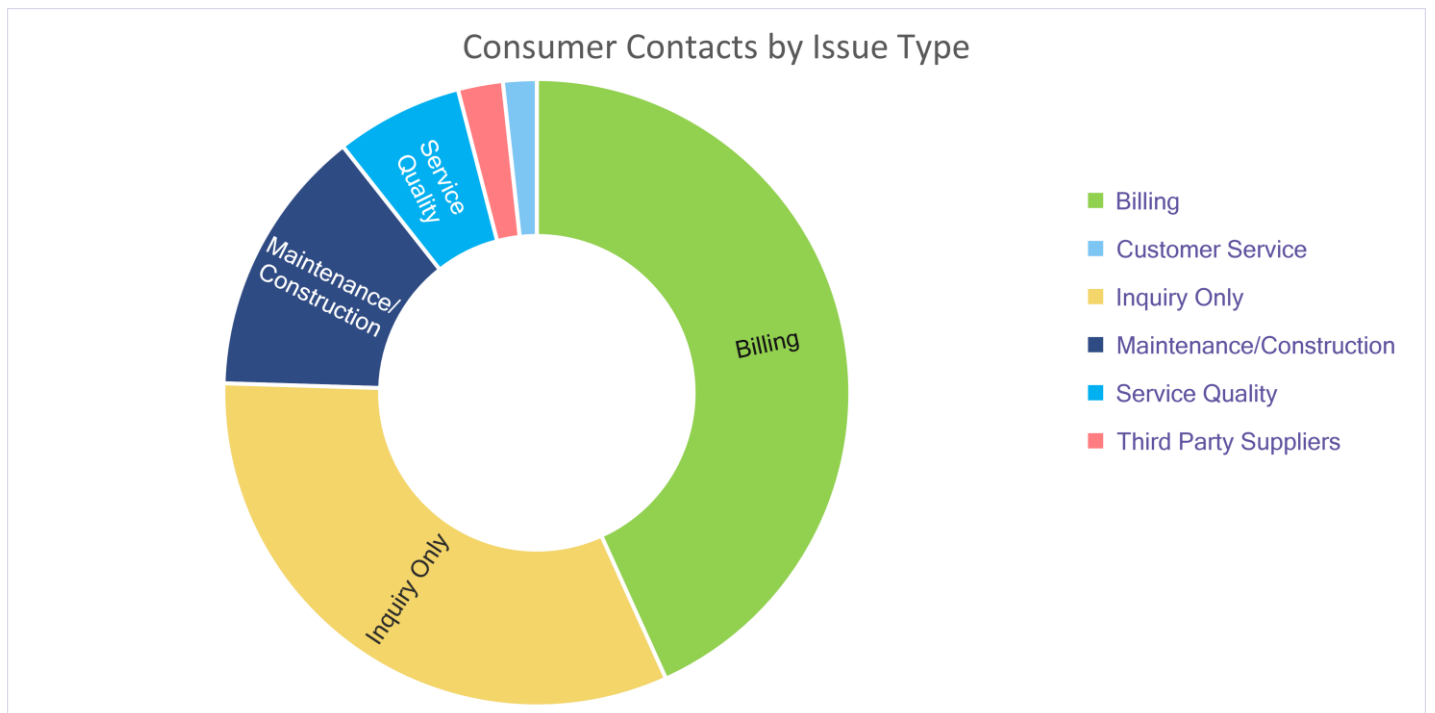
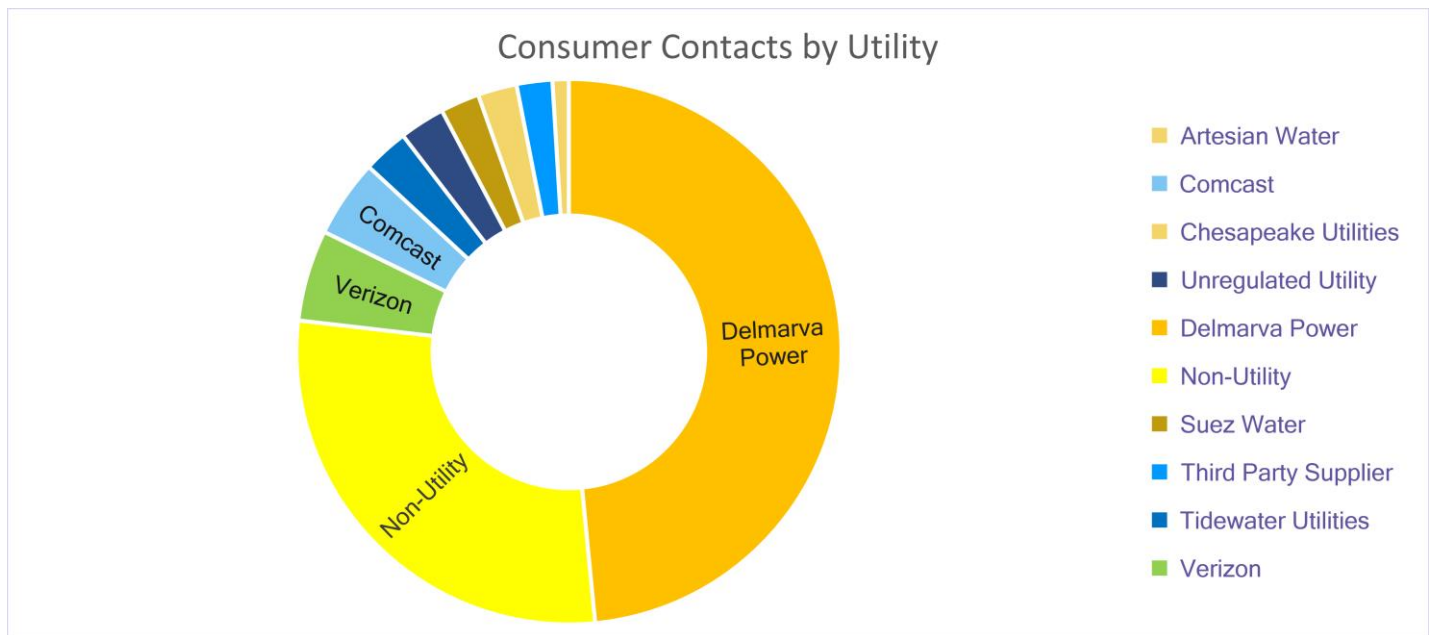
The fundamental mission of the DPA is to advocate for the lowest reasonable rates for consumers, consistent with the maintenance of adequate utility service and consistent with an equitable distribution of rates among all classes of consumers.

The DPA appears before the PSC on behalf of the interest of consumers in any matter or proceeding over which the PSC has jurisdiction and in which the Public Advocate deems the interest of consumers requires such participation. The DPA also appears on behalf of the interest of consumers in the courts of Delaware, the federal courts, and federal administrative and regulatory agencies and commissions in matters involving rates, service, and practices of public utilities.

Recognizing the unique role of the DPA, the General Assembly has statutorily appointed the Public Advocate, or his/her designee, to a number of important working groups, councils, and/or committees such as the Sustainable Energy Utility (“SEU”) and Renewable Energy Task Force.

CONSUMER ENGAGEMENT

The DPA receives informal utility complaints from customers, which it investigates with the proper utility representatives. In 2020, our office saw an increase in consumer interactions. In addition, there were many calls that were not logged in the system because the answer was more immediately available. As you can see from the charts below, many consumers had questions and concerns about billing and maintenance/construction.



Consumer Formal Complaints to the Public Service Commission

The DPA frequently participates in formal complaints before the Public Service Commission which are filed after a customer contacts our office to commence the informal complaint process. In 2020, we participated in several such cases.

One of these cases led to significant changes to Delmarva Power's tariff. That case, which was widely publicized, addressed the meaning of the term "usage" for a solar net metering customer as well as the customer's appropriate rate classification. Through the formal complaint process, we determined that one-third of all Medium General Service customers qualified for the Small General Service rate classification, which would save those customers money each month. In addition, half of all Large General Service customers qualified for the lower rate classification of Medium General Service.

Before it was revised, Delmarva's tariff stated that once a commercial customer uses a certain amount of energy, they are automatically moved to a higher rate classification and they will remain on such classification for at least the following twelve months. This by itself was not an issue. The issue was that the opposite was not automatic; that is, when a customer's usage dropped that would qualify it for the lower rate classification, the customer was not automatically transferred back to the lower rate classification. Instead, the customer was expected to contact Delmarva and ask to be returned to the lower rate classification. The DPA learned of this through a single customer phone call, after which we worked on behalf of all similarly situated customers to change the tariff.

Third-Party Supplier Spoofing¹

After receiving several complaints about third party electric suppliers spoofing Delmarva Power's emergency phone number and other numbers, the DPA and the PSC Staff petitioned the Commission to open a docket to review this serious problem. Staff and the DPA sent letters to all suppliers operating in the state. During this docket, we learned that some of the spoofing calls originated in Pakistan. We discussed our findings with the third party supplier that engaged the contractor, and were successful in ending this supplier's spoofing. We also had robust discussions with suppliers about their solicitation practices, which we hope will discourage those suppliers from engaging in spoofing and similar illegal practices.

Utility Distribution Planning

Planning for the future is vitally important and even more so when considering the cost impact to ratepayers who have no say in a utility's planned spending. That's one reason we pushed so hard for distribution system planning for our electric and natural gas utilities and Suez Water.

Customers deserve a proactive look at utility spending, accompanied by a cost benefit analysis for more expensive projects. Some utilities have told their shareholders that their goal is to spend more to increase rate base and therefore increase customer rates (and increase revenue). Having relatively small staffs, it is important for Staff and the DPA that utilities' planning processes be transparent and be accompanied by cost benefit analysis and consideration of alternative proposals.

The DPA is proud of the work that has been done this year to complete the natural gas regulations, receive the first electric distribution system plan, and incorporate Suez Water into the planning process. The next plans for electric, natural gas, and Suez Water are due in March 2021.

¹ Spoofing is the act by which an unscrupulous company uses a phone number other than its own to call and make solicitations to customers who may not otherwise answer the phone.

RATE CASES

Suez Water

<u>Requested Increase</u>	<u>Approved Increase</u>
<u>\$7,440,988</u>	<u>\$5,240,000 (70.4 percent)</u>

In addition, “[t]he Company will: (i) file with the Commission on or before December 31, 2020 a plan similar to the Long-Term Infrastructure Improvement Plans (“LTIP”) filed by utilities in Pennsylvania...”

The DPA has long been a proponent of distribution planning to enable consumers to see the utility’s planned infrastructure improvements, and the associated cost and benefits of such projects, as well as alternatives that were considered.

Delmarva Power Gas

<u>Requested Increase</u>	<u>Approved Increase</u>
<u>\$14,635,650</u>	<u>\$6,700,000 (45.8 percent)</u>

The Company agreed to substantial tariff changes that the DPA believes will benefit consumers. For instance, it can only go back three months to collect for estimated meter readings. This prevents issues where consumers could receive a bill for years of estimations and potentially hundreds or thousands of dollars once the utility has reconciled the account to actual usage.

The DPA also successfully changed Delmarva Power’s bill format to use larger font to inform customers that their bills are estimated, and to place that notification on the first page of the bill. At the DPA’s urging, Delmarva Power will publish a “customer handbook” (available online and at Delmarva Power’s walk-in centers) to provide customers with information in a jargon-free, easy to read format.

Finally, the DPA has long expressed concern regarding exceptionally high residential customer arrearages, due in large part to utility collection practices. Large arrearages result in large write-offs, which are then spread over a utility’s entire customer base for collection.

While the DPA does not want any customer to lose essential service, new policies approved by the Commission should limit the potential of a residential customer accruing thousands of dollars in utility debt that is beyond the ability of social service agencies to provide assistance and beyond the customer's ability to pay.

Delmarva Power Electric

<u>Requested Increase</u>	<u>Approved Increase</u>
<u>\$24,300,000</u>	Rate case ongoing

Sussex Shores Water Company

<u>Requested Increase</u>	<u>Approved Increase</u>
<u>\$223,332</u>	Rate case ongoing

EXELON MERGER COMMITMENTS UPDATE

<u>Closed Commitments</u>	152
<u>Open Commitments</u>	19
<u>Transferred</u>	8
<u>Grand Total</u>	179 (10.6 percent remain open)

Arrearage Management Program Third Quarter Report

As part of the Exelon merger, \$3.1 million was made available to create a pilot Arrearage Management Program. The program allows low-income Delmarva Power customers who owe at least \$500 and up to \$6,000 in past due charges to have those charges forgiven by making full and timely payments of their current bills in 12 out of 15 months. This program was approved to run through the end of December 2019 with results reported thereafter.

At the end of the third quarter of 2020, there were 2,595 participants with total forgiveness to date of nearly \$1.8 million and total possible forgiveness of nearly \$2.9 million. To date, 653 participants have completed the program.

Empowerment Grant

Exelon made available \$4 million for low-income energy efficiency programs with the SEU selected as the grant manager.



This year, the grant review committee (which is chaired by the DPA) awarded nearly \$1 million in grants to low-income energy efficiency project. Some of those projects are: A statewide Habitat for Humanity Refrigerator Replacement Program, Sussex County Habitat for Humanity to fund the installation of insulated skirting along manufactured housing, and a grant to the Wilmington Senior Center for



energy-efficiency installations.

Energy Efficiency and Renewable Energy

The Commission approved a total of \$16 million for energy efficiency and renewable energy programs. \$8 million was set aside for grants or loans to promote energy efficiency for Delmarva Power's large commercial and industrial customers. The remaining \$8 million was allocated to the existing Energy-Efficiency Investment Fund; for at least the first three years, 30 percent of the funding was reserved for businesses owned or operated by minorities, women, veterans, service-disabled veterans and individuals with disabilities.

Exelon has also set aside \$3 million of capital to creditworthy governmental entities at market rates for the development of renewable energy project in the State. This capital remains available to eligible customers.

Lastly, Exelon developed 5MW of renewable solar power generation in Delaware along with its commitment to purchase multiple tranches of wind generation. In 2020, the Commission approved the purchase of 40MW of wind Renewable Energy Credits at a favorable price that should keep downward pressure on renewable energy costs for Delmarva customers.

FERC AND PJM UPDATES

As the only Delaware state agency that is a voting member of PJM, the DPA participates in hundreds of meetings with PJM, and other stakeholders, regarding a host of regional and federal issues.

The DPA intervenes and actively participates in cases brought before the Federal Energy Regulatory Commission (FERC) that affect the rates to be paid by Delaware's electric and natural gas consumers. This includes rate cases filed by interstate pipelines and annual transmission rate filings made by Delmarva Power.

Thanks to legislation passed in 2019, the DPA is able to hire attorneys to represent it in matters brought before FERC and FERC decisions that are appealed. Of note, the DPA, along with several other consumer advocate parties, appealed FERC's ruling on PJM's capacity market to the Circuit Court of Appeals. The parties seek to maintain state's rights in choosing which resources to promote, and protecting renewable energy from exorbitant prices through a Minimum Offer Price Rule (MOPR) mechanism.

In addition, this year FERC released its own Carbon Pricing Policy Statement. This was a big step for FERC. The DPA subsequently submitted comments, joining with many other stakeholders, on this policy statement.