

DAVID S. LAPP
PEOPLE'S COUNSEL

WILLIAM F. FIELDS
DEPUTY PEOPLE'S COUNSEL

JOSEPH G. CLEAVER
DEPUTY PEOPLE'S COUNSEL

— **OPC** —

OFFICE OF PEOPLE'S COUNSEL
State of Maryland

6 ST. PAUL STREET, SUITE 2102
BALTIMORE, MARYLAND 21202
WWW.OPC.MARYLAND.GOV

BRANDI NIELAND
DIRECTOR, CONSUMER
ASSISTANCE UNIT

GAIL V. TUCKER
ADMINISTRATIVE
PROGRAM MANAGER

FOR IMMEDIATE RELEASE:

July 13, 2021

Contact:
David S. Lapp
davids.lapp@maryland.gov
410-767-8162

OPC Wins Partial Victory in Federal Appeals Court, Potentially Saving Utility Customers Millions of Dollars

BALTIMORE – The Office of People's Counsel achieved a partial victory last week before the U.S. Court of Appeals for the D.C. Circuit, in a decision affecting millions of dollars for utility customers in the region.

At issue in the court case was OPC's protest before the Federal Energy Regulatory Commission of a filing by the operator of the regional transmission organization, called PJM. PJM runs the regional market that sets the price of electric generation provided to Maryland customers. The PJM filing that OPC protested set the formula for determining certain future generation costs ultimately paid by Maryland utility customers.

OPC—joined by the Sierra Club and consumer advocate agencies from Delaware and D.C.—challenged two aspects of the PJM filing, and the D.C. Circuit ruled in its favor on one of them. Specifically, PJM proposed and FERC approved an assumed 10% addition to the price bid into the PJM market by a hypothetical new electric generation company. OPC argued that this assumption would lead to higher prices and customer rates that were not “just and reasonable,” and therefore unlawful, because the evidence showed that most generation owners at issue would not actually include the 10% addition in their market bids.

The court agreed with OPC, finding that FERC's response to the evidence OPC had pointed out “can be described as little more than a hand wave.” It found

FERC's decision arbitrary and capricious and sent the case back to the agency for reassessment.

"We are thrilled that the federal court agreed with us that FERC should not have accepted PJM's proposed bid adder," said People's Counsel David S. Lapp. "Although it is difficult to get FERC decisions overturned in the courts, the decisions have a huge impact on utility customers. In this case the court's decision should lead to millions of dollars in customer savings."

The Maryland Office of People's Counsel is an independent state agency that represents Maryland's residential consumers of electric, natural gas, telecommunications, private water and certain transportation matters before the Public Service Commission, federal regulatory agencies and the courts.

* * *