

COUNCIL OF THE DISTRICT OF COLUMBIA

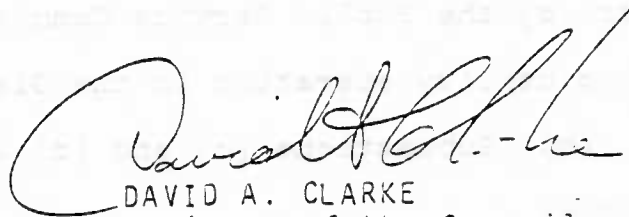
NOTICE

D.C. LAW 5-153

"Utility Regulatory Assessment Clarification Act of 1984".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 5-225 on first and second readings, October 23, 1984 and November 7, 1984, respectively. Subsequent to the Mayor's disapproval on November 30, 1984, the Council re-enacted Bill 5-225 on December 4, 1984 and this legislation was assigned Act No. 5-217. The act was published in the December 21, 1984 edition of the D.C. Register, (Vol. 31 page 6440) and transmitted to Congress January 8, 1985 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 5-153, effective March 14, 1985.


DAVID A. CLARKE
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January	22,23,24,25,28,29,30,31
February	1,4,5,6,7,19,20,21,22,25,26,27,28
March	1,4,5,6,7,8,11,12,13

LAW 5 - 1 5.3

EFFECTIVE DATE MAR 14 1985

AN ACT

D.C. ACT 5 - 217

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DEC 04 1984

To clarify the assessment authority of the Office of the People's Counsel; and for other purposes.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Utility Regulatory Assessment Clarification Act of 1984".

Sec. 2. Section 1 of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, approved January 2, 1975 (88 Stat. 1975; D.C. Code, sec. 43-406), is amended as follows:

(a) Subsection (a) is amended by adding a new sentence at the end thereof to read as follows:

"The Office shall be a party, as of right, in any investigation, valuation, revaluation, or proceeding of any nature by the Public Service Commission of or concerning any public utility operating in the District of Columbia."

(b) Subsections (c) and (d) are amended to read as follows:

"(c) The People's Counsel is authorized to employ or to retain and fix the compensation of employees or independent contractors, including attorneys, necessary to perform the functions vested in the People's Counsel by this

D.C. Cod
sec. 43-
Note,
D.C. Cod
sec. 43-
(1985 su

section, and paragraph 42 of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 984; D.C. Code, sec. 43-612), as amended by the Utility Regulatory Assessment Clarification Act of 1984, and prescribe their authority and duties.

"(d) The People's Counsel:

"(1) shall represent and appeal for the people of the District of Columbia at hearings of the Commission and in judicial proceedings in the District of Columbia courts when these proceedings and hearings involve the interests of users of the products of or services furnished by public utilities under the jurisdiction of the Commission;

"(2) may represent and appeal for the people of the District of Columbia at proceedings before related federal regulatory agencies and commissions and federal courts when those proceedings involve the interests of users of the products of or services furnished by public utilities under the jurisdiction of the Commission;

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

"(4) may investigate independently, or within the context of formal proceedings before the Commission, the services given by, the rates charged by, and the valuation of the properties of the public utilities under the

jurisdiction of the Commission; and

"(5) may develop means to otherwise assure that the interests of the users of the products of or services furnished by public utilities under the jurisdiction of the Commission are adequately represented in the course of proceedings before the Commission, federal or District of Columbia courts, or Federal regulatory agencies and commissions involving those interests, including public information dissemination, consultative services, and technical assistance."

Sec. 3. Section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C. Code, sec. 43-.01 et seq.), is amended as follows:

(a) Paragraph 5 (D.C. Code, sec. 43-504) is repealed.

D.C. Cod
43-504
repealed
(1985 su

(b) Paragraph 19 (D.C. Code, sec. 43-518) is amended by designating the current paragraph as subparagraph (a) and by adding new subparagraphs (b) and (c) to read as follows:

D.C. Cod
sec. 43-
Note,
D.C. Cod
43-406
(1985 su

"(b) A notice of filing of all reports, applications, petitions, tariffs, and all other documents that affect the interests of users of the products of or services furnished by public utilities under the jurisdiction of the Commission that are filed by any public utility with the Commission or with federal and District of Columbia agencies, courts, and commissions shall be concurrently served on the Office of the People's Counsel at the time of filing and shall include

the subject and purpose of the filing.

"(c) In connection with any investigation or proceeding under section 1(d)(1), (3), or (4) of An Act To provide a People's Counsel for the Public Service Commission in the District of Columbia, and for other purposes, effective January 2, 1975 (88 Stat. 1975; D.C. Code, sec. 43-406(d)(1), (3), or (4)), as amended by the Utility Regulatory Assessment Clarification Act of 1984, the Office shall have the right to obtain from the public utility investigated all information and documents reasonably relevant and material to the investigation or proceeding. Should any public utility refuse or fail to produce the reasonably relevant information or documents in a timely manner, the office may, by motion, petition the Commission to issue an order compelling its production. When necessary to protect the disclosure of trade secrets and other confidential research, development, or commercial information, the Commission may, where appropriate, issue a protective order placing conditions on the release of the information."

(c) Paragraph 29 (D.C. Code, sec. 43-528) is amended by designating the existing text as subparagraph (a) and adding a new subparagraph (b) to read as follows:

D.C. Code
sec. 43-5
(1985 sup

"(b) Summaries of all rate schedules, including all rates, explanations, and conditions of service, applicable as to the type of service received by a ratepayer shall be provided as of right by the public utility to any ratepayer upon request and without expense to the ratepayer."

(d) Paragraph 39 (D.C. Code, sec. 43-609) is amended to read as follows:

D.C. Code
sec. 43
(1985 s

"Par. 39. Notice shall be given to the public by the utility in each rate payer's billing envelope of every rate application or change in condition of service proposed and filed with the Public Service Commission. The notice shall be sent in the same billing period as the filing; no filing may be approved by the Commission without adequate time for ratepayer response. Each notice shall be sufficiently accurate and detailed for the rate payer to understand the filing, including the rate payer's specified affected interest. The notice shall provide the specific rate or service change affecting the rate payer, including the proposed percentage and dollar increase for the rate and rider category of the customer. For every proceeding in which the Commission has a public hearing, the public shall be given a timely opportunity to present its views, as evidence of record, with at least 45 days notice, with notice widely and publicly distributed in a form sufficiently detailed and complete to permit the public to realize its specific and affected interest."

(e) Paragraph 42(a) (D.C. Code, sec. 43-612(a)) is amended to read as follows:

D.C. Code
sec. 43-
Note,
D.C. Code
secs. 43-
47-373,
47-1813.
(1985 su

"Par. 42. (a)(1) There are established within the District of Columbia Treasury two fiduciary funds to be known as the 'Public Service Commission Agency Fund' and the 'Office of the People's Counsel Agency Fund'. These funds shall be accounted for under procedures established pursuant

to the District of Columbia Fund Accounting Act of 1980, effective June 14, 1980 (D.C. Law 3-70; D.C. Code, sec. 47-371 et seq.), or any other applicable law. The Public Service Commission Agency Fund shall be used exclusively by the Commission for the payment of its expenses and the Office of the People's Counsel Agency Fund shall be used exclusively by the Office for the payment of its expenses arising from any investigation, valuation, revaluation, or proceeding of any nature by the Commission of or concerning any public utility operating in the District of Columbia, and all expenses of any litigation, including appeals, arising from any such investigation, valuation, revaluation, or proceeding or from any other order or action of the Commission. Expenses shall be deemed to include, but not be limited to, the cost of independent contractors, such as attorneys. Funding for both funds shall be provided through a special franchise tax which shall be paid by each public utility being investigated, valued, revalued, or otherwise affected through a proceeding of the Commission, subject to the limitations enumerated in sub-subparagraph (3). Any deposits made through this special franchise tax to each agency fund by any public utility may be amortized over whatever period the Commission shall deem proper and shall be allowed for in the rates to be charged by each utility.

"(2) When any such investigation, valuation, revaluation, or other proceeding of any nature is begun by the Commission or the Office of the People's Counsel, either the Commission or the Office of the People's Counsel shall,

according to rules issued pursuant to sub-subparagraph (5) of this paragraph, determine from time to time the reasonable and necessary expenditures required to fully carry out their respective statutory responsibilities with regard to such investigation, valuation, revaluation, or other proceeding. Once the Commission has determined its requirements, the Commission may call upon the utility in question from time to time for the prompt deposit of the special franchise tax deposit to the Public Service Commission Agency Fund determined by the Commission to be reasonable and necessary, subject to the limitations provided in sub-subparagraph (3). Once the Office of the People's Counsel has determined its requirements, the Office shall submit its determination for review by the Commission. Based on the record established by the Office's determination of its requirement for special franchise tax funds, the Commission shall review the Office's determination solely to determine whether it is consistent with the statutory authority of and rules issued by the Office, whether it is supported by findings, whether those findings are sustained by substantial evidence in the record submitted to the Commission, and whether it is within the limitations enumerated in sub-subparagraph (3). The Commission shall complete its review within 10 days (excluding Saturdays, Sundays, and holidays) of receipt of the Office's determination. After completing its review, the Commission shall either call upon the utilities for the prompt deposit of the special franchise tax deposit to the

Office of the People's Counsel Agency Fund or inform the Office in writing of any specific failures of the Office to meet the Commission's enumerated standard of review. Within 10 days (excluding Saturdays, Sundays, and holidays) of any resubmission by the Office, the Commission shall similarly act. If the Commission still notes a failure to meet its standard of review, the Office may appeal to the District of Columbia Court of Appeals under procedures enumerated in paragraph 65. If the Commission fails to take action on any submission or resubmission by the Office within the required time frame, the submission or resubmission shall be deemed approved, and the Commission shall carry out its duty to obtain the requested deposit. All such sums shall be deposited in the District of Columbia Treasury. Those sums which are to be used by the Commission for its expenses shall be deposited in the Public Service Commission Agency Fund and those sums which are requested by the Commission on behalf of the Office shall be deposited in the Office of the People's Counsel Agency Fund, to be disbursed in the manner provided for by law for other expenditures of the government of the District of Columbia. The balance of any sums deposited in each fund remaining after the final disposition of the proceeding or any litigation arising therefrom shall be returned to the utility which made the deposit and shall be credited to the account of the utility from which the deposit was made.

"(3) In any valuation or rate case, neither the Commission nor the Office may individually seek special

franchise tax deposits of more than one quarter of one percent of the jurisdictional valuation of the company which is the subject of the proceeding. In all other investigations docketed as formal proceedings by the Commission, neither the Commission nor the Office shall individually seek special franchise tax deposits in any one year of more than one-twentieth of one percent of the jurisdictional valuation of each public utility which is the subject of one or more investigations during that year. For the purposes of this sub-subparagraph, the Commission may determine the jurisdictional valuation of the public utility which is the subject of the formal proceeding whenever it deems necessary, in accordance with paragraph 7 of this section (D.C. Code, sec. 43-506), based on the operations of the utility over whatever 12-month period it deems appropriate.

"(4) Should any public utility fail to make any special franchise tax deposit ordered by the Commission pursuant to this section, the Commission shall certify this failure to the Mayor for collection pursuant to the provisions of title XIII of the District of Columbia Income and Franchise Tax Act of 1947, approved July 16, 1947 (61 Stat. 356; D.C. Code, sec. 47-1813.1 et seq.).

"(5) The Commission and the Office shall issue rules reasonable and necessary to provide procedures for the determination of their needs for funds from their respective agency funds. These rules shall include provisions for full disclosure of all special franchise tax deposits prior to

the issuance of the deposit orders by the Commission on its own behalf and on behalf of the Office. Full disclosure shall include, but not be limited to, the name of each contractor to be hired, the qualifications of each contractor, a brief description of the work to be done by each contractor, the number of persons employed by each contractor and the hourly rate to be charged by each person thus employed, and the estimated value of each contract.

"(6) The District of Columbia Auditor shall review the amounts deposited and disbursed by the Commission and the Office under this section for the previous fiscal year and shall issue a report to the Mayor and the Council on each agency fund by January 1 of the succeeding fiscal year.

"(7) The Commission and the Office shall issue reports to the Mayor and the Council by January 1 of the succeeding fiscal year on deposits to and disbursements from their respective agency funds during each fiscal year. The reports shall include, but not be limited to, the following information:

"(A) the dollar amount of each deposit;

"(B) the total amount disbursed for each proceeding;

"(C) the name of each contractor hired, the expertise of each contractor, the type of work performed by each contractor, the hourly rate of each contractor, and the total amount received by each contractor, by proceeding;

"(D) the amount reimbursed to the utility companies, by proceeding; and

"(E) the dollar amount of contracts awarded to minority and District-based firms.

"(8) Neither the staff of the Commission nor any consultant hired by the Commission shall appear as a party to, advocate, or intervenor in any Commission proceeding. Individual staff members and consultants may appear on behalf of the Commission as expert witnesses at the direction of the Commission to present testimony on selected issues after the Commission makes a finding of the issues to be decided in the proceeding and a determination that testimony in addition to that to be presented by the parties or intervenors is required by the Commission to develop a complete record. The staff members and consultants shall not advocate a position on the merits. Expert witnesses may be represented by counsel appointed by the Commission for this purpose. The General Counsel or the General Counsel's designee may, at the direction of the Commission and on behalf of the Commission, cross-examine any witness in any proceeding before the Commission.

"(9)(A) Each public utility shall furnish to the Commission a statement of all costs incurred due to participation in all Commission and related court proceedings or in complying with the provisions of title 43. This statement shall be compiled and filed with the Commission, with a copy to the Office of People's Counsel, when filing a request in a rate case. The public utility shall also file with the Public Service Commission an annual statement of costs for the previous calendar year no later

than February 1.

"(B) The records to be kept and the information presented in the quarterly and annual statements shall be by case, matter, investigation, or proceeding and shall describe all costs and expenses, external and internal, retained and employed, direct and indirect, including an allocation of all internal overhead, expenses, and employee salaries to each proceeding or matter. If an allocation of costs is made, the report shall fully explain the allocation method used. If any services were provided to the public utility by consultants or contractors, copies of the relevant contracts shall be provided with the quarterly and annual statements. The Office of the People's Counsel may submit to the public utility a request for further information concerning the statements."

(f) Paragraph 85 (D.C. Code, sec. 43-306(a)) is amended by striking the amount "\$200" and inserting the amount "\$300" in its place.

D.C. Code
sec. 43-3
(1985 sup

Sec. 4. An Act To provide alternative methods of enforcement of orders, rules, and regulations of the Joint Board and of the Public Utilities Commission of the District of Columbia, approved April 5, 1939 (53 Stat. 569; D.C. Code, sec. 43-307 et seq.) is amended as follows:

(a) Section 1 (D.C. Code, sec. 43-307) is amended to read as follows:

D.C. Code
sec. 43-3
Note,
D.C. Code
secs. 40-
43-103, &
47-2844
(1985 sup

"Prosecution for violation of any rule, order, or regulation issued, adopted, or approved by the Public Service Commission pursuant to section 6(e) of the District

of Columbia Traffic Act of 1925, approved February 27, 1931 (46 Stat. 1426; D.C. Code, sec. 40-703); section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C. Code, sec. 43-101 et seq.); or section 7 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, approved July 1, 1902 (32 Stat. 622; D.C. Code, sec. 47-2801 et seq.), shall be on information in the Superior Court of the District of Columbia, in the name of the District of Columbia, by the Corporation Counsel or any of his or her assistants. Any person, corporation, or public utility violating any rule, order, or regulation shall, upon conviction, be fined not more than \$300. With respect to orders, rules, or regulations made or adopted by the Public Service Commission under authority of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C. Code, sec. 43-101 et seq.), this section shall be construed to apply only to the orders, rules, or regulations subject to the penalties specifically provided in paragraph 85 of that Act."

(b) Section 2 (D.C. Code, sec. 43-308) is amended to

D.C. Code
sec. 43-3
(1985 sup

read as follows:

"Sec. 2. The provisions of section 1 and of paragraph 85 of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 992; D.C. Code, sec.43-306), relating to the orders, rules, and regulations of the Public Service Commission may be enforced either as provided in section 1, or as provided in paragraph 85 of section 8 of An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 992; D.C. Code, sec. 43-306)."

Sec. 5. Section 1 of chapter 31 of the Acts of the Legislative Assembly, adopted January 19, 1872 (D.C. Code, sec. 47-1317), is amended by adding the following sentence to the end thereof to read as follows:

D.C. Co
sec. 47
(1985 s

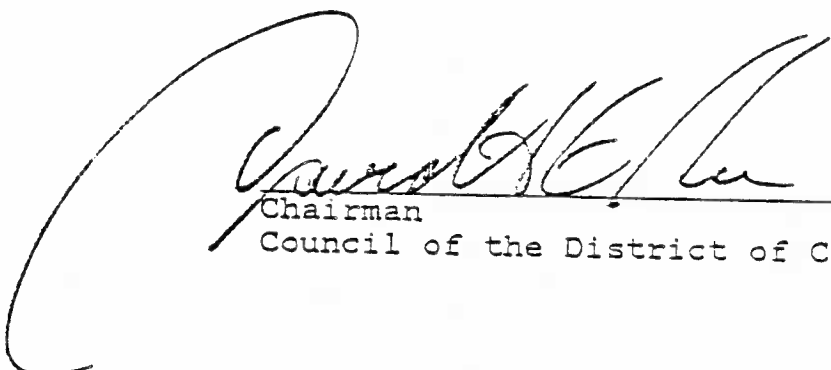
"'Taxes' as discussed herein do not include the 'special franchise tax' as provided for in paragraph 42 of section 8 of An Act Making Appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 974; D.C. Code, sec. 43-612)."

Sec. 6. The provisions of section 3(e) amending paragraph 42(a) of section 8 of An Act Making appropriations

Note,
D.C. Co
sec. 43
(1985 s

to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 984; D.C. Code, sec. 43-612(a)), with regard to the percentage limitation on special franchise tax deposits shall apply only to special franchise tax deposits for formal proceedings docketed by the Commission after the effective date of this act.

Sec. 7. This act shall take effect after a 30-day period of Congressional review following approval by the Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1975 (87 Stat. 813; D.C. Code, sec 1-233(c)(1)).


 Chairman
 Council of the District of Columbia

DISAPPROVED

 Mayor
 District of Columbia



COUNCIL OF THE DISTRICT OF COLUMBIA
Council Period Five — Second Session

RECORD OF OFFICIAL COUNCIL VOTE

DOCKET NO: B 5-225

Item on Consent Calendar

ACTION & DATE: Adopted First Reading, 10-23-84

VOICE VOTE: Unanimous

Recorded vote on request

Absent: Moore

ROLL CALL VOTE: — RESULT () () () () ()

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell A. Smith

Secretary to the Council

11/14/84

Date

Item on Consent Calendar

ACTION & DATE: Adopted Final Reading, 11-7-84

VOICE VOTE: By Majority, Member Crawford voted no

Recorded vote on request

Absent: all present

ROLL CALL VOTE: — RESULT () () () () ()

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE					MOORE, JR.					SPAULDING				
CRAWFORD					RAY					WILSON				
JARVIS					ROLARK					WINTER				
KANE					SHACKLETON									
MASON					SMITH, JR.									

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell A. Smith

Secretary to the Council

11/14/84

Date

Item on Consent Calendar

ACTION & DATE: Override, 12-4-84

VOICE VOTE: _____

Recorded vote on request

Absent: _____

ROLL CALL VOTE: — RESULT (11) (1) (0) (1)

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.
CHMN. CLARKE	X				MOORE, JR.		X			SPAULDING	X			
CRAWFORD	X				RAY	X				WILSON	X			
JARVIS	X				ROLARK	X				WINTER	X			
KANE	X				SHACKLETON	X								
MASON	X				SMITH, JR.				X					

X — Indicates Vote A.B. — Absent N.V. — Present, not voting

CERTIFICATION RECORD

Russell A. Smith

12/4/84