

**C91H00**  
**Office of People’s Counsel**

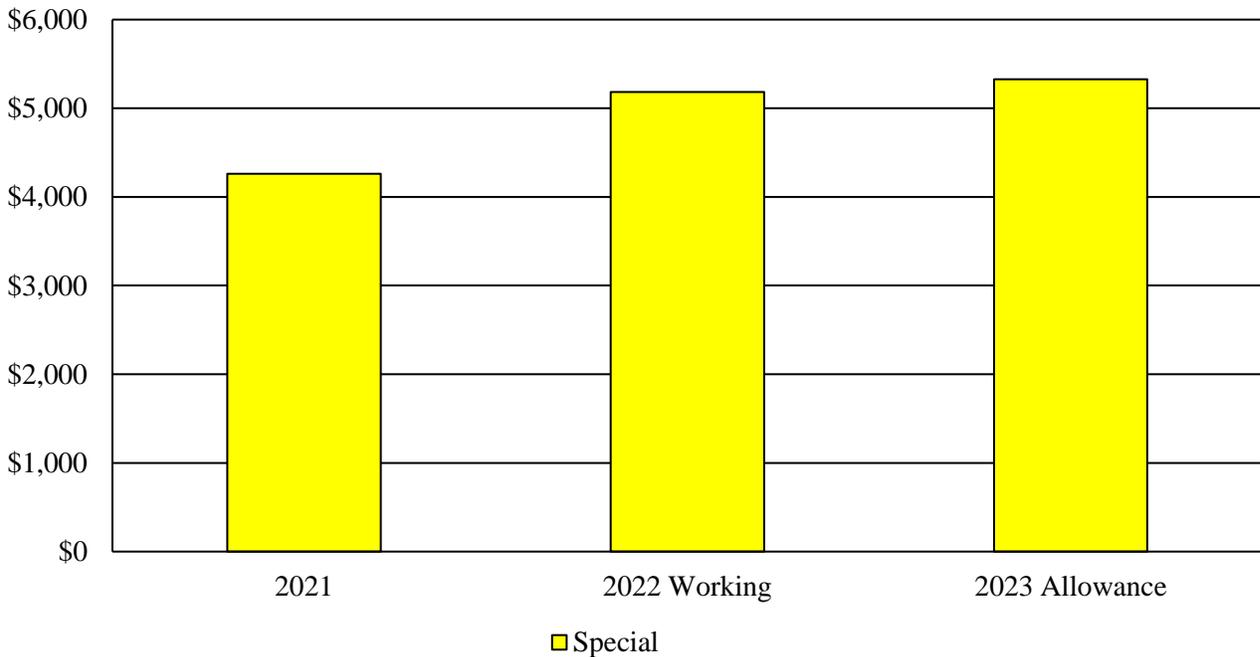
**Program Description**

The Office of People’s Counsel (OPC) represents the interests of residential users of natural gas, electricity, telephone, and private water service before the Public Service Commission (PSC), various federal regulatory commissions, and the courts. 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 is funded with special funds derived from an assessment on public service companies.

***Operating Budget Summary***

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**Fiscal 2023 Budget Increases \$141,845, or 2.7%, to \$5.3 Million**  
**(\$ in Thousands)**



Note: The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

## **Fiscal 2022**

### **Chapter 607 of 2021**

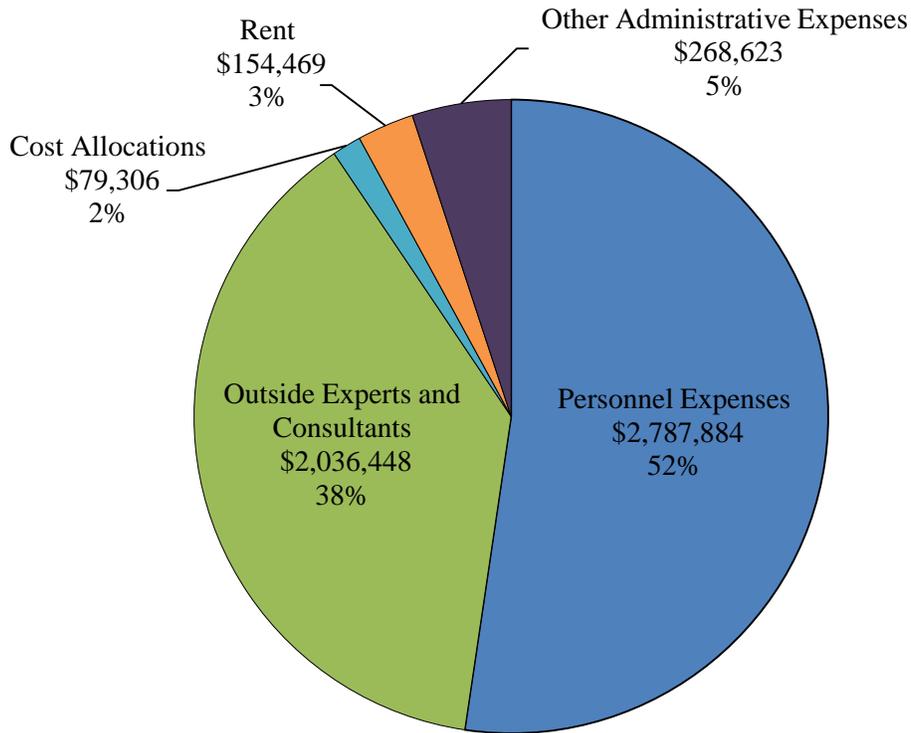
Chapter 607 of 2021, which took effect October 1, 2021, included several changes impacting the budget of OPC beginning in fiscal 2022. Among other provisions, Chapter 607 expanded OPC’s statutory responsibilities to include determinations of public safety, economic welfare, and environmental interests of the State and its residents, including the State’s progress in meeting its greenhouse gas emissions and reduction goals. To fund the increased responsibilities and provide additional funding flexibility, Chapter 607 included a provision increasing OPC’s statutory cap on the amount that it is allocated from an annual assessment on utilities that funds the office’s operations and operations of PSC. As a result, OPC’s statutory cap increases by approximately 50%, from 0.05% to 0.074% of a public service company’s gross operating revenues derived from intrastate utility and electricity supplier operations in the preceding calendar year. Special funds from this assessment are paid to the Public Utility Regulation Fund. This change increased the maximum annual amount available to fund OPC operations from \$5.3 million at the beginning of fiscal 2022 to approximately \$7.8 million.

As a result of increased statutory responsibilities, the fiscal 2022 working appropriation for OPC increased by \$919,825 through a budget amendment, which included funds to support an additional 3 contractual staff attorney positions and outside legal services support. Even with this increase, the fiscal 2022 working appropriation and fiscal 2023 allowance are substantially below the new maximum statutory cap. The fiscal 2023 allowance of \$5.3 million represents approximately 68% of the statutory maximum allowable under the new 0.074% cap.

### **Fiscal 2023 Overview of Agency Spending**

The fiscal 2023 allowance for OPC totals \$5.3 million. As shown in **Exhibit 1**, personnel expenses total \$2.8 million, or 52% of the budget. These funds support the office’s 19 regular and 3 contractual positions. Outside of personnel expenses, the largest share of OPC’s budget is directed to legal services support, which totals \$2.0 million, or 38% of the fiscal 2023 allowance. This funding is used for outside experts and consulting services to assist OPC with matters for which it does not have technical expertise in cases before various regulatory bodies and the courts. The need for these services may vary from year to year, depending on case activity, and is often unknown in advance. Prior to fiscal 2022, spending for these expenses was fairly consistent and averaged about \$1.5 million annually. The fiscal 2023 allowance for these expenses is reflective of increased personnel and additional statutory responsibilities required by Chapter 607.

**Exhibit 1**  
**Overview of Agency Spending**  
**Fiscal 2023 Allowance**



Note: The fiscal 2023 allowance does not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

Source: Governor’s Fiscal 2023 Budget Books; Department of Legislative Services

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**Proposed Budget Change**

As shown in **Exhibit 2**, OPC’s fiscal 2023 allowance increases by \$141,845, or 2.7%, compared to the fiscal 2022 working appropriation. The largest area of increase is for personnel expenses. Regular personnel expenses increase by \$58,608, primarily due to the reclassification of attorneys and other staff positions to reflect a new salary structure. Contractual personnel expenses, excluding legal services support, increase by \$63,074 to reflect the annualization of expenses related to the 3 additional contractual full-time equivalent positions added through budget amendment in fiscal 2022.

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

<b>How Much It Grows:</b>	<b>Special Fund</b>	<b>Total</b>
Fiscal 2021 Actual	\$4,261	\$4,261
Fiscal 2022 Working Appropriation	5,185	5,185
Fiscal 2023 Allowance	<u>5,327</u>	<u>5,327</u>
Fiscal 2022-2023 Amount Change	\$142	\$142
Fiscal 2022-2023 Percent Change	2.7%	2.7%

<b>Where It Goes:</b>	<b>Change</b>
<b>Personnel Expenses</b>	
Reclassification for attorney and other positions .....	\$80
Employee and retiree health insurance .....	-3
Regular earnings .....	-17
Other fringe benefit adjustments.....	-1
<b>Other Changes</b>	
Contractual personnel .....	63
Out-of-state travel .....	16
Cost allocations.....	16
Office equipment and other supplies and material purchases.....	14
Contractual information technology costs .....	-25
Other .....	-1
<b>Total</b>	<b>\$142</b>

Note: Numbers may not sum to total due to rounding. The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.

***Personnel Data***

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	<b><u>FY 21</u></b>	<b><u>FY 22</u></b>	<b><u>FY 23</u></b>	<b><u>FY 22-23</u></b>
	<b><u>Actual</u></b>	<b><u>Working</u></b>	<b><u>Allowance</u></b>	<b><u>Change</u></b>
Regular Positions	19.00	19.00	19.00	0.00
Contractual FTEs	<u>0.00</u>	<u>3.00</u>	<u>3.00</u>	<u>0.00</u>
<b>Total Personnel</b>	<b>19.00</b>	<b>22.00</b>	<b>22.00</b>	<b>0.00</b>

***Vacancy Data: Regular Positions***

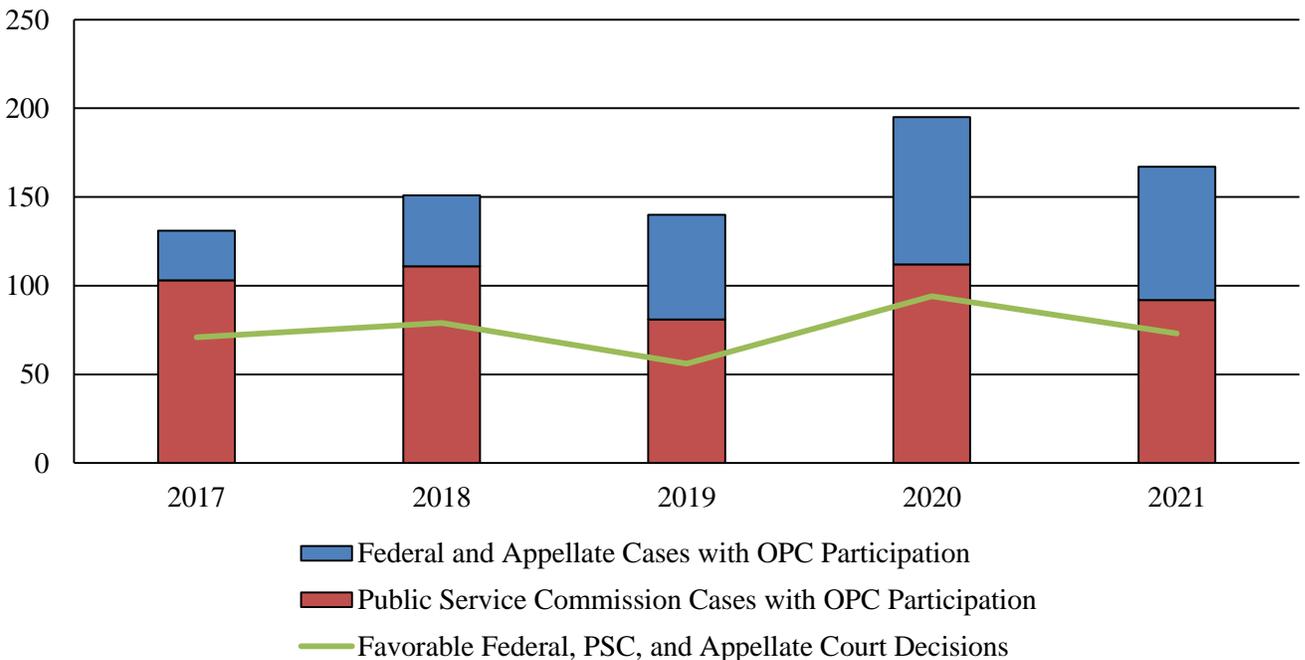
Turnover and Necessary Vacancies, Excluding New Positions	0.00	0.00%
Positions and Percentage Vacant as of 12/31/21	2.00	10.53%
Vacancies Above Turnover	2.00	

## Key Observations

### 1. OPC Case Participation and Favorable Decisions Decrease

Due to its statutory obligation to represent the interests of residential ratepayers, OPC’s annual operating activities are largely driven by utility filings or regulatory actions by other entities. As shown in **Exhibit 3**, OPC’s participation in PSC, federal, and appellate cases decreased by 14% in fiscal 2021, with a slightly larger decrease in the proportion of case participation before PSC. However, even with this decrease, fiscal 2021 case participation remained approximately 19% higher than fiscal 2019 levels. In recent fiscal years, the share of cases that OPC has participated in before federal regulatory bodies or the courts has increased. Approximately 55% of cases participated in by OPC in fiscal 2021 were before PSC, similar to the proportions in fiscal 2019 and 2020. Prior to fiscal 2019, the majority of cases in which OPC participated were before PSC, exceeding 75% of total cases in most years.

**Exhibit 3**  
**Case Participation and Favorable Decisions**  
**Fiscal 2017-2021**



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

Source: Office of People’s Counsel; Department of Budget and Management

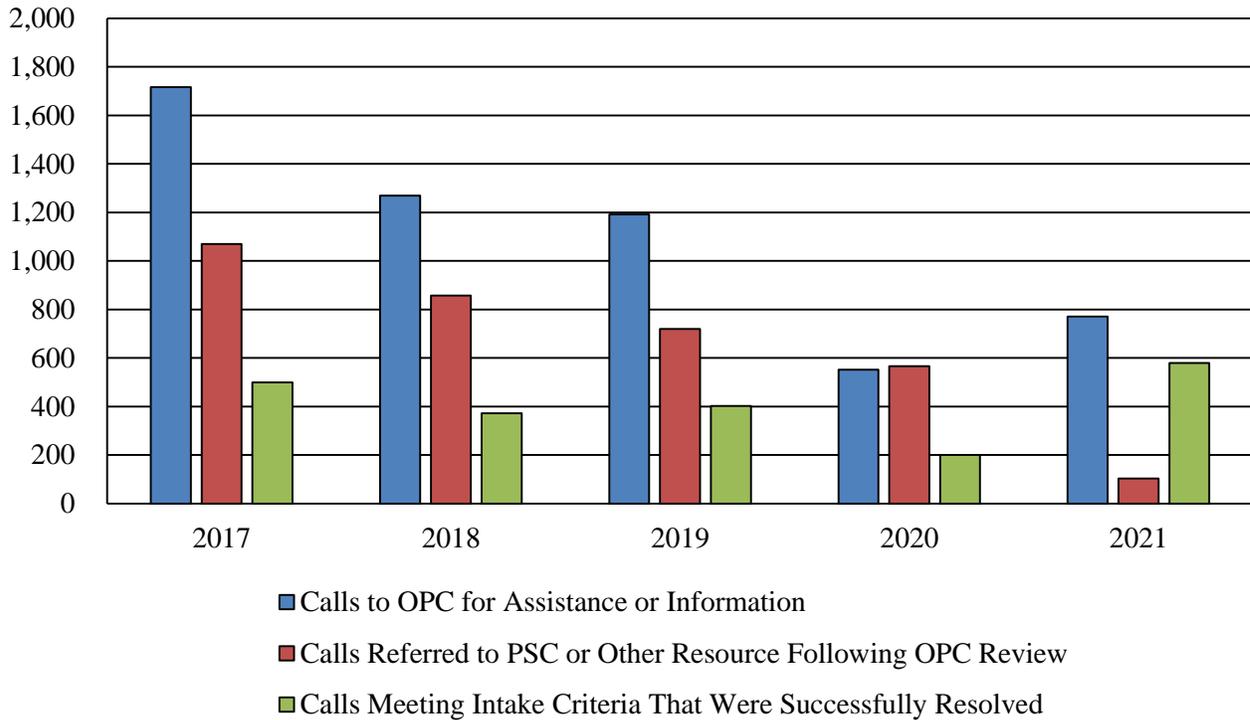
Increases in federal regulatory activity beginning in fiscal 2019 have been attributed to the end of a multi-year lull in activity at the Federal Energy Regulatory Commission (FERC) and activity related to the federal Tax Cuts and Jobs Act of 2017. Additional proceedings and activities have occurred since fiscal 2020 due to a number of controversial rulings issued by FERC.

The number of favorable decisions, as determined by OPC, decreased from 94 in fiscal 2020 to 73 in fiscal 2021, a reduction of 22%. This decrease can also be attributed to elevated overall case activity in fiscal 2020, as favorable decisions generally vary depending on overall case participation. Despite the decrease in fiscal 2021, favorable decisions remained about 30% higher than in fiscal 2019. OPC notes that favorable decisions in recent years have depended on the types of cases in which it has participated and are impacted by the range of stakeholders involved in each case. Additional stakeholders may advocate positions different than OPC in terms of residential rates.

## **2. Calls for Assistance or Information Increase but Remain Below 2019 Levels**

While the number of calls to OPC for assistance fluctuates from year to year, OPC tends to experience increases in calls in periods with extreme heat or cold weather or during periods of economic downturn. As shown in **Exhibit 4**, calls to OPC for assistance have seen wider fluctuations since fiscal 2019 and have been impacted by the moratorium on utility terminations that was in effect from March 2020 to November 2020. In fiscal 2020, calls for assistance declined by more than 50% and were at the lowest level in more than 10 years. Without termination notices, fewer households sought assistance for past due or unaffordable bills for most of this period. This impact was also seen in application rates for energy assistance and calls to PSC. Following the resumption of utilities sending termination notices, OPC reports that calls began to rebound. Calls to OPC for assistance increased by approximately 40% in fiscal 2021 but remained about 35% lower than in fiscal 2019.

**Exhibit 4**  
**Calls for Assistance or Information**  
**Fiscal 2017-2021**



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

Source: Office of People’s Counsel; Department of Budget and Management

The number of calls to OPC meeting intake criteria that were successfully resolved also increased in fiscal 2021 to nearly triple the number in fiscal 2020. This number is directly related to the total number of calls received by OPC, which, as previously mentioned, has fluctuated more than usual since fiscal 2019. The number of calls referred to PSC or another resource following OPC review declined by 82% in fiscal 2021 and has declined each year in recent fiscal years. OPC indicates that the primary cause of the decline relates to changes in how it accounts for such referrals.

## ***Operating Budget Recommended Actions***

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1. Concur with Governor’s allowance.

**Appendix 1  
Audit Findings**

Audit Period for Last Audit:	October 21, 2016 – February 21, 2021
Issue Date:	September 2021
Number of Findings:	2
Number of Repeat Findings:	0
% of Repeat Findings:	0%
Rating: (if applicable)	n/a

**Finding 1:** OPC did not obtain required approvals for five sole-source contracts for consulting services totaling approximately \$277,000.

**Finding 2:** OPC did not always comply with State procurement regulations for competitive procurements.

\*Bold denotes item repeated in full or part from preceding audit report.

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

<u>Object/Fund</u>	<u>FY 21 Actual</u>	<u>FY 22 Working Appropriation</u>	<u>FY 23 Allowance</u>	<u>FY 22 - FY 23 Amount Change</u>	<u>Percent Change</u>
<b>Positions</b>					
01 Regular	19.00	19.00	19.00	0.00	0%
02 Contractual	0.00	3.00	3.00	0.00	0%
<b>Total Positions</b>	<b>19.00</b>	<b>22.00</b>	<b>22.00</b>	<b>0.00</b>	<b>0%</b>
<b>Objects</b>					
01 Salaries and Wages	\$ 2,243,403	\$ 2,396,377	\$ 2,454,985	\$ 58,608	2.4%
02 Technical and Special Fees	1,641,079	2,313,329	2,369,347	56,018	2.4%
03 Communication	10,174	10,801	9,501	-1,300	-12.0%
04 Travel	138	15,000	31,000	16,000	106.7%
07 Motor Vehicles	11,065	11,500	12,540	1,040	9.0%
08 Contractual Services	140,080	151,683	141,606	-10,077	-6.6%
09 Supplies and Materials	67,915	71,000	81,000	10,000	14.1%
11 Equipment – Additional	0	15,000	19,000	4,000	26.7%
13 Fixed Charges	146,715	200,195	207,751	7,556	3.8%
<b>Total Objects</b>	<b>\$ 4,260,569</b>	<b>\$ 5,184,885</b>	<b>\$ 5,326,730</b>	<b>\$ 141,845</b>	<b>2.7%</b>
<b>Funds</b>					
03 Special Fund	\$ 4,260,569	\$ 5,184,885	\$ 5,326,730	\$ 141,845	2.7%
<b>Total Funds</b>	<b>\$ 4,260,569</b>	<b>\$ 5,184,885</b>	<b>\$ 5,326,730</b>	<b>\$ 141,845</b>	<b>2.7%</b>

Note: The fiscal 2022 working appropriation and fiscal 2023 allowance do not reflect funding for statewide personnel actions budgeted in the Department of Budget and Management, which include cost-of-living adjustments, increments, bonuses, and may include annual salary review adjustments.