ANNUAL REPORT

OF THE

PENNSYLVANIA
OFFICE OF SMALL BUSINESS ADVOCATE

2005

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I. INTRODUCTION

Business and residential customers generally have a similar interest in keeping a proposed utility rate increase as small as possible. However, their interests often conflict on the issue of rate structure (*i.e.*, the share of a rate increase to be borne by each particular category of customer).

Historically, the Attorney General's Office of Consumer Advocate has represented residential ratepayers in rate structure disputes. Furthermore, large commercial and industrial customers frequently have had their own attorneys and expert witnesses. In contrast, because they did not have—and could not afford—their own representation, small business customers often received a disproportionate share of the rate increase. The legislature sought to level the playing field by creating the Office of Small Business Advocate ("OSBA").

The OSBA operates under the act of December 21, 1988 (P. L. 1871, No. 181), known as the Small Business Advocate Act, 73 P.S. §§399.41 *et seq*. (the "Act").

The Act directs the OSBA to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission (the "PUC" or "Commission"), in the courts, and before comparable federal agencies. For purposes of the Act, a small business consumer is defined as "a person, sole proprietorship, partnership, corporation, association or other business entity which employs fewer than 250 employees and which receives public utility service under a small commercial, small industrial or small business rate classification."

Under the Act, the Small Business Advocate is granted broad discretion concerning whether or not to participate in particular proceedings before the PUC. In exercising that discretion, the Small Business Advocate is to consider the public interest, the resources available, and the substantiality of the effect of the particular proceeding on the interests of small business consumers.

The OSBA is administratively included within the Department of Community and Economic Development ("DCED"). However, the Act specifically provides that the Secretary of DCED is not in any way responsible for the policies, procedures, or other substantive matters developed by the OSBA to carry out its duties under the Act.

Because of the office's success in utility litigation, additional duties were assigned to the OSBA as part of the 1993 reforms to Pennsylvania's Workers' Compensation Act. Specifically, Article XIII of that revised statute, 77 P.S. §§1041.1 *et seq*., authorizes the Small Business Advocate to represent the interest of employers in proceedings before the Insurance Department that involve filings made by insurance companies and rating organizations with respect to the premiums charged for workers' compensation insurance policies. Those duties require the Small Business Advocate to review the "loss cost" adjustment filings that are made each year by the

Pennsylvania Compensation Rating Bureau and the Coal Mine Compensation Rating Bureau of Pennsylvania.

The OSBA's budget for fiscal year 2005-2006 is $1,159,000. That budget is funded by assessments on utilities and on workers' compensation insurers, in proportion to the office's expenses in relation to each group. At the present time, utility company assessments account for about 85% of the budget and insurance company assessments for about 15%. None of the OSBA's budget is financed by General Fund tax revenue.

The OSBA's authorized employee complement consists of seven persons, including four attorneys (the Small Business Advocate and three Assistant Small Business Advocates) and three support staff personnel.

After being nominated by Governor Edward G. Rendell and confirmed by the state Senate, William R. Lloyd, Jr., began serving as Small Business Advocate on November 24, 2003.

II. PUC ACTIVITIES

The OSBA participates before the PUC in major base rate cases, purchased gas cost cases, telephone rate rebalancing cases, merger cases, and other non-rate proceedings that have a significant impact on small business consumers. The following is a summary of some of the most significant cases which were active in 2005:

A. Electric Highlights

POLR (or Default Service)
Proposed Rulemaking
Docket No. L-00040169

Historically, the local electric utility company was responsible for generating or purchasing electricity for its customers and delivering that electricity to the customers' premises. However, Act 138 of 1996 (the Electricity Generation Customer Choice and Competition Act), 66 Pa.C.S. Ch. 28, allowed customers to purchase electricity either from their local utility or from other entities known as "electric generation suppliers" or "EGSs." The local utility (now known as the "electric distribution company" or "EDC") is responsible for delivering the electricity to those customers who choose to buy from an EGS. In addition, the EDC is responsible for both acquiring and delivering electricity for those customers who do not shop or whose EGS fails to provide the promised electricity.

When an EDC acquires electricity for customers not served by an EGS, the EDC is functioning as the provider of last resort ("POLR") (also known as the "default service provider"). At present, the rates most EDCs charge for that electricity are capped. However, once an EDC's cap has expired, 66 Pa.C.S. § 2807(e)(3) requires that EDC to acquire electricity for POLR (or default service) customers at "prevailing market prices."

Under Section 2807(e)(2), the PUC is required to promulgate regulations defining the obligation to acquire electricity after each EDC's rate cap has expired. During 2005, the OSBA and other interested parties submitted comments and reply comments on the PUC's proposed regulations. Thereafter, the PUC decided to solicit additional comments, especially with regard to how the Commonwealth's new alternative energy requirements should be coordinated with, or integrated into, the POLR (or default service) procurement process.

The following are the key points raised by the OSBA regarding the proposed POLR (or default service) regulations:

- Contrary to the urging of the EGSs, the EDC should continue to serve as the POLR or default service provider in its service territory.

- The POLR or default service provider should acquire electricity through a competitive procurement process that separately determines the market price for each class of customer.

- POLR or default service should be offered to small business customers at a fixed price for at least one year.

- The PUC should be cautious about forcing small business customers to pay seasonal rates, in that many small business customers are unable to shift their usage from high-price periods to low-price periods.

As a general proposition, the PUC's proposed regulations embrace the aforementioned key points advocated by the OSBA.

Alternative Energy Portfolio Standards Act
Proposed Rulemaking
Docket No. M-00051865

The act of November 30, 2004 (P.L. 1672, No. 213), known as the Alternative Energy Portfolio Standards Act, requires that increasing percentages of the electricity sold in the Commonwealth be generated from designated alternative energy sources.

By Notice dated January 7, 2005, the PUC announced a technical conference to facilitate the implementation of the Act. The OSBA submitted written comments prior to the conference, made an oral presentation at the conference, and subsequently filed written reply comments.

By Notice dated February 14, 2005, the Commission convened the Alternative Energy Portfolio Standards Working Group ("Working Group"). The OSBA has submitted written comments and has participated in numerous meetings as a member of the Working Group.

By Proposed Rulemaking Orders entered November 16, 2005, the Commission initiated the formal process for promulgating regulations on interconnection standards and net metering. The Commission will be initiating other proposed rulemakings in 2006 in order to implement other aspects of the Act. The OSBA will be filing comments on the proposed regulations.

Pike County Light & Power Co.
POLR Proceeding
Docket No. P-00052168

On May 31, 2005, Pike County Light & Power Company filed a petition for approval of its plan to establish POLR (or "default service") rates for the period beginning January 1, 2006,

and ending December 31, 2008. The OSBA intervened in the proceeding in an attempt to convince the Commission to make changes in Pike's plan.

Because the Commission has not yet finalized its POLR regulations, Pike filed what it characterized as an "interim" plan. The OSBA's principal objection to the plan was that Pike did not propose a way to eliminate interclass subsidies embedded in Pike's then-existing generation rates. Instead, Pike proposed to acquire electricity for its entire system and then to impose an-across-the-board adjustment to raise existing rates to the level of current market prices. As a way to eliminate, or at least mitigate, interclass subsidies, the OSBA proposed that the Commission require Pike to develop an explicit process (similar to what is used in New Jersey) to translate a system-wide wholesale price into retail rates on a rate class by rate class basis. In support of that alternative, the OSBA argued that an across-the-board increase based on Pike's current rates would be inconsistent with the requirement of 66 Pa. C.S. §2807(e)(3) that Pike acquire electricity "at prevailing market prices."

By Order entered September 23, 2005, the Commission approved Pike's plan. Although the PUC shortened the plan from three years to two years, the Commission rejected the OSBA's proposal that Pike be required to adjust the wholesale bids to eliminate interclass subsidies.

Pennsylvania Power Co.
POLR Proceeding
Docket No. P-00052188

On October 11, 2005, Pennsylvania Power Company ("Penn Power") filed a petition for approval of its plan to establish POLR (or "default service") rates for the period beginning January 1, 2007, and ending May 31, 2008. The OSBA intervened in the proceeding in an attempt to convince the Commission to make changes in Penn Power's plan.

Because the Commission has not yet finalized its POLR regulations, Penn Power filed what it characterized as an "interim" plan. The OSBA's principal objection to the plan is that Penn Power's proposed method of setting retail rates will not reflect prevailing market prices, as required by 66 Pa. C.S. §2807(e). Specifically, Penn Power proposes to put its entire load out for bid through 52 MW tranches that represent equal slices of the entire system. In order to translate the winning wholesale bids into retail rates, the company proposes to increase its 2006 rates by a uniform percentage, equal to the difference between the system-average rate for 2006 and the system-average bid price. Because the 2006 rates are based neither on market prices nor on cost of service, small business customers will be forced to pay substantially more for electricity than customers in any other rate class.

The case is currently pending before an ALJ.

Non-Utility Generators
Alternative Energy Credits
Docket No. P-00052149

On February 22, 2005, Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric ("Penelec") (jointly, the "Companies") filed a Petition for Declaratory Order ("Petition") with the Commission seeking a declaration that the Companies are entitled to ownership of the Alternative Energy Credits ("AECs") associated with the electricity purchased from the York County Solid Waste and Refuse Authority ("York Authority"). York Authority is a non-utility generation ("NUG") facility. The Petition also requested that the Commission notify all jurisdictional EGSs and EDCs of the pendency of this proceeding, as well as advising any NUG owners/operators that they will be at risk if they attempt to sell their AECs in the marketplace.

Various parties intervened in the proceeding, including the OSBA, PPL Electric Utilities Corporation ("PPL"), and NUGs other than York Authority. The case is currently pending before an Administrative Law Judge ("ALJ").

The Alternative Energy Portfolio Standards Act, 72 P.S. §§ 1648.1-1648.8 (the "Act"), requires that a percentage of the electricity sold to retail customers by EDCs and EGSs be derived from certain alternative energy sources. The Act also establishes thresholds for the EDCs and the EGSs for energy purchses from two broadly grouped types of sources. To comply with the Act, EDCs and EGSs may purchase the required proportion of their total energy requirements from the alternative energy source, or they may purchase an equivalent number of AECs in the marketplace.

This dispute arose after the Act was signed into law in late 2004. Over the last two decades, Met-Ed, Penelec, and PPL had entered into long-term power purchase agreements ("PPAs") with various NUGs like York Authority. Now that the AECs have been statutorily created, the NUGs claim that they own the AECs and are free to sell them to third parties even though the NUGs are contractually obligated to sell the electricity itself to Met-Ed, Penelec, or PPL. In contrast, Met-Ed, Penelec, and PPL argue that the EDCs own the AECs and can use them to meet the requirements of the Act. The OSBA has argued that the AECs belong to the EDCs and must be used for the benefit of ratepayers.

The prices paid by Met-Ed, Penelec, and PPL to the NUGs have been in excess of the market price of electricity. Consequently, retail customers have been paying higher rates than they would have paid if the EDCs had not been required to enter the PPAs. If ownership of the AECs is awarded to the NUGs, Pennsylvania retail customers will see an increase in their electric bills because the EDCs will continue to be obligated to purchase the electricity generated by the NUGs but will also be required to purchase replacement AECs from other entities in order to comply with the Act.

West Penn Power Company
QRO Proceeding
Docket No. R-00039022

On November 25, 2003, West Penn Power Company filed a petition seeking to securitize its remaining unsecuritized, unrecovered stranded costs allowed in its 1998 Restructuring settlement. The OSBA objected to the petition because it would have allowed the recovery of stranded costs in 2009 and 2010 despite the fact that West Penn's generation rate cap would have expired at the end of 2008.

After lengthy settlement discussions, the OSBA came to an agreement with West Penn and several other parties that would extend the generation rate cap period through 2010 to coincide with the period during which West Penn would be recovering the remaining stranded costs. The settlement provides for periodic increases in generation rates in order to move customers to market prices on a gradual, rather than a precipitous, basis. Measured increases are especially valuable to West Penn's customers because that company's rates have been the lowest in the Commonwealth and are estimated to be well below prevailing market prices.

The Commission approved the settlement by Order entered May 11, 2005.

Metropolitan Edison Company/Pennsylvania Electric Company
GRA Proceeding
Docket Nos. R-00016219 and R-00016220

A Generation Rate Adjustment ("GRA") is a mechanism that is used to calculate the amount of money that a shopping customer is to pay an EDC to reimburse for extra costs the EDC may incur in the event that the shopping customer returns to the utility's POLR service prematurely.

Both Metropolitan Edison Company and Pennsylvania Electric Company filed GRA tariffs with the Commission in 2001. The OSBA and other parties protested these GRA tariffs. The OSBA opposed the imposition of an administrative fee (in addition to the GRA) on small customers who shop and then return early to POLR service. In the OSBA's view, this fee would exceed the EDC's costs and would eliminate any financial incentive for small business customers to shop in the first place.

After lengthy negotiations, the OSBA agreed to a settlement with the utilities and most other interested parties. Although the ALJ approved the settlement, the Commission tentatively modified the terms of the agreement. The Commission is now evaluating comments from the parties regarding those tentative modifications.

PPL Electric Utilities Corporation
Base Rates Proceeding
Docket No. R-00049255

On March 29, 2004, PPL Electric Utilities Corporation ("PPL") filed a rate case to produce $164.4 million in additional annual distribution revenue. Furthermore, the PPL filing also included a notice that transmission service charges were expected to increase by $57.3 million.

The PPL filing presented a large number of complex issues for litigation. The OSBA made significant progress on some issues in the case. However, the OSBA believes that the Commission committed serious errors in its final order. Specifically, the Commission ordered GS-1 commercial customers to pay a larger than system average rate increase despite the fact that GS-1 customers were already paying more than necessary to cover their share of PPL's cost of providing distribution service. Therefore, the OSBA appealed the issue of the proper allocation of the revenue increase among the customer classes to the Commonwealth Court. In addition, several other parties appealed different parts of the PUC's decision.

Briefs have been filed in the Commonwealth Court. Oral argument is tentatively scheduled for April 2006.

Wellsboro Electric Co.
Base Rates Proceeding
Docket No. R-00049313

On July 30, 2004, the Wellsboro Electric Company filed a request for an increase in distribution rates of $689,340. Wellsboro proposed to allocate that rate increase across-the-board to all customer classes.

The OSBA actively participated in the case, primarily because a cost-of-service study submitted by the company indicated that small business customers were paying more than their fair share of Wellsboro's costs to provide distribution service while residential customers were paying less than their fair share.

Subsequent to the filing of testimony, the OSBA entered a settlement with Wellsboro and the other parties. That settlement reduced the overall rate increase to $458,671 (including a $367,709 increase in distribution rates and a $90,962 increase in the Generation Supply Service Rate). Of particular significance, the rate increase was allocated in a way which helped mitigate the subsidies small business customers have been paying. Specifically, rates for commercial customers increased by less than the system average while rates for residential customers increased by more than the system average.

The Commission approved the settlement by Order entered March 23, 2005.

PECO Electric Company and Public Service Electric & Gas Company
Merger Proceeding
Docket No. A-110550F0160

On February 4, 2005, PECO Energy Company ("PECO") and Public Service Electric and Gas Company ("PSE&G") (collectively "Joint Applicants") applied for approval of the merger of Public Service Enterprise Group (PSE&G's parent) with and into Exelon Corporation (PECO's parent). The OSBA protested the merger because PECO did not propose to flow any of the anticipated savings through to customers as lower rates. The OSBA was also concerned that the merged entity might manipulate the market price of electricity.

After extensive negotiations and the filing of testimony, the Joint Applicants, the OSBA, and many other parties joined in a non-unanimous Settlement.

Under the Settlement, PECO's customers will receive $120 million in rate relief. Because of the efforts of the OSBA, about one-fourth ($30 million) of the $120 million will go to PECO's small business customers rather than the one-sixth ($20 million) proposed by the Office of Consumer Advocate and the Commission's Office of Trial Staff. According to the cost of service study submitted by PECO in its restructuring proceeding, small business customers (Rate GS-General Service) were subsidizing other rate classes by providing PECO a rate of return of 11.18% in comparison to a system average rate of return of only 9.44%. Giving GS customers a disproportionate share of the $120 million in distribution rate reductions will mitigate these subsidies.

The settlement will also make it easier for the Commission, and parties such as the OSBA, to determine whether the new merged entity is using its market power to increase electric rates for the customers of PECO and the customers of other Pennsylvania electric utilities. Specifically, the Settlement requires PECO to file an annual report addressing wholesale market prices and price trends in the Pennsylvania-New Jersey-Maryland Interconnection ("PJM") markets, including information regarding price differentials between PJM East and other PJM regions. The Settlement also explicitly recognizes the right of any party (including the OSBA) to request a Commission investigation when the party "reasonably believes that PECO's affiliated generation company (or any other affiliated entity) has unlawfully exercised market power in any PJM market."

The Commission approved the Joint Settlement by Order entered February 1, 2006. However, at least one party that did not join in the Settlement has announced its intention to appeal to Commonwealth Court.

First Energy Companies
Merger Savings Proceeding
Docket Nos. A-110300F0095, A-1100400F0040, P-00001860, and P-00001861

On November 9, 2000, GPU, Inc., and its Pennsylvania subsidiaries, Metropolitan Edison Company and Pennsylvania Electric Company filed a Joint Application for approval of a merger with and into First Energy Corporation.

After the Commission approved the merger, certain issues were appealed to the Commonwealth Court. The Commonwealth Court affirmed the Order of the Commission approving the merger, but remanded to the Commission the determination of the amount and allocation of the merger savings. On January 16, 2003, the Supreme Court of Pennsylvania denied or quashed all further appeals. Therefore, the only issue before the Commission at this time is the amount and allocation of merger savings.

The OSBA has been active throughout the case, and on remand is focusing its efforts on ascertaining the specific amount of merger savings realized by the merged companies to date in Pennsylvania; the amounts anticipated to be realized in future years until the next general rate increase in Pennsylvania; and the mechanism by which these amounts may be allocated to the various ratepayers, including small business customers, of the merged companies.

The case is currently pending before an ALJ.

Duquesne Light Company
Seams Charge Surcharge
Docket No. R-00050662

On June 17, 2005, the Duquesne Light Company ("Duquesne") filed a tariff that proposed to charge ratepayers the Seams Elimination Charge Adjustment ("SECA") billed to Duquesne by PJM Interconnection, Inc., the entity that manages the transmission of electricity throughout most of Pennsylvania. The proposed SECA charge was calculated to collect $0.001557 per kWh from all customers that purchase Duquesne's transmission services. Duquesne estimated that $7 million would be collected from its customers, including the company's small business customers.

Duquesne's SECA tariff filing is before an ALJ at this time, but the proceeding is stayed pending litigation of the SECA mechanism before the Federal Energy Regulatory Commission ("FERC"). It is unclear what, if any, jurisdiction the PUC retains over the SECA charge, given that FERC retains jurisdiction over the transmission of electricity. Consequently, all parties believed that it would be prudent to obtain a final ruling on the SECA mechanism before the FERC before proceeding with litigation before the PUC.

B. Gas Highlights

Investigation into Competition in the Natural Gas Supply Market
Docket No. I-00040103

Since the 1980s, large commercial and industrial customers have been able to buy natural gas from entities (known as "natural gas suppliers" or "NGSs") other than the local gas utility. The local gas utility (known as the "natural gas distribution company" or "NGDC") remains responsible for delivering that gas from the interstate pipeline to the shopping customer's place of business.

By Act 21 of 1999, the General Assembly enacted 66 Pa.C.S. Ch. 22 (the Natural Gas Choice and Competition Act), to give small business and residential customers the same right to shop as was already enjoyed by large commercial and industrial customers. Under Chapter 22, the NGDC is responsible for acquiring natural gas for all customers who do not shop or whose NGS fails to provide the promised gas.

Section 2204(g) of 66 Pa.C.S. requires the PUC to conduct an investigation five years after the effective date of Act 21 to determine if there is "effective competition." Pursuant to Section 2204(g), the PUC convened the required investigation in 2004. In order to protect the interests of small business customers, the OSBA presented written and oral testimony.

The following are the key points made by the OSBA:

- Because the NGDC buys gas in bulk and at rates subject to PUC review and approval, it would be surprising if NGSs were able to beat the NGDC's rates for most small business and residential customers. Therefore, whether there is "effective competition" should be determined by evaluating whether there are unreasonable barriers to competition rather than by counting the number of customers served, or the percentage of gas provided, by NGSs.

- The NGDC's rates should not be increased for the purpose of helping NGSs gain a bigger percentage of the retail market.

- To avoid an unreasonable barrier to competition and to assure uniformity, the penalties owed by NGSs for failing to deliver should be lower when that failure does not result from "gaming." One possible solution is to impose the penalty multiplier on the actual cost incurred by the NGDC to acquire replacement gas rather than on some calculated cost.

- Requiring NGSs to provide their own transportation and storage capacity or accept capacity assignment from the NGDC has avoided the creation of stranded

costs and does not appear to have impeded competition. Therefore, that system should be continued.

- NGDCs and NGSs should be required to report data regarding the percentage of customers who are shopping and the percentage of gas provided by NGSs. This data could assist the PUC and the General Assembly in tracking changes in the level of competition and in determining the effect of events and policy changes on competition.

After evaluating the comments from the interested parties, the Commission issued its report on October 6, 2005. At the same time, the Commission announced its intention to convene the parties to consider possible regulatory and statutory changes aimed at increasing competition.

National Fuel Gas Distribution Corporation
Base Rates Proceeding
Docket No. R-00049656

On September 15, 2004, National Fuel Gas Distribution Corporation ("NFG") filed for a general increase in base rates, *i.e.*, rates for the recovery of costs of service other than purchased gas costs. NFG requested a rate increase of $22.78 million (an increase to overall revenues of approximately 6.69% and an increase in distribution revenues of approximately 23.8%). Of that $22.78 million, NFG proposed to recover approximately $2.4 million from the Company's small commercial and industrial customers. In addition, NFG proposed to implement a Distribution System Improvement Charge ("DSIC") and an Uncollectibles Expense Tracker ("UET").

The OSBA filed a complaint against the proposed increase. Through that complaint and subsequently filed written testimony, the OSBA raised the following concerns regarding NFG's filing: (1) NFG's requested cost of equity and rate of return were excessive; (2) NFG's claim for uncollectibles expense was excessive; (3) NFG's proposed rate allocation was inconsistent with the Company's cost analysis and was unduly discriminatory against small commercial and industrial customers; (4) NFG's proposed rate design for small commercial and industrial customers was unreasonable; (5) NFG's proposed DSIC was illegal; and (6) NFG's proposed UET was illegal.

After the filing of testimony, the OSBA and the other intervenors reached a settlement with NFG. Under the settlement, NFG received a rate increase of only $12 million. Because of the OSBA's intervention, the share of the rate increase assigned to small commercial and industrial customers was only about 10.8% rather than the 17.9% originally proposed by NFG; that change alone will save small business customers about $850,000 per year. As part of the settlement, NFG also agreed to drop its request for a DSIC and the UET and to accept all of the rate design changes recommended by the OSBA.

The Commission approved the settlement by Order entered March 30, 2005.

Pike County Light & Power Company
Base Rates Proceeding
Docket No. R-00049884

On October 4, 2004, Pike County Light & Power ("Pike") proposed changes in the company's rates that would have resulted in an overall revenue increase of $166,700.

On October 21, 2004, the OSBA filed a formal complaint against the proposed rate increase. The OSBA was concerned that not only was the overall rate increase unjust and unreasonable, but that the allocation of the revenue increase among Pike's customer classes was discriminatory. Furthermore, the OSBA questioned whether Pike's rate design for its business customers was proper, just and reasonable.

The OSBA filed testimony in this proceeding. The parties also engaged in extensive settlement discussions concerning the overall rate increase, the interclass allocation of that rate increase, and the proper rate design for Pike's various customer classes.

Ultimately, the parties reached a settlement of all issues in the proceeding. The settlement reduced the overall rate increase to $124,000. The OSBA was able to prevail on the allocation of the revenue increase between the residential and commercial classes. As a result, the settlement assigned a greater than system average increase to the residential ("SC1") class and a smaller than system average increase to the commercial ("SC2") class. Specifically, on a total bill basis, the system average revenue increase was 8.7%, whereas the commercial class revenue increase was only 6.4%. Finally, the settlement redesigned the rates paid by Pike's small business customers in such a manner to comport better with how those small business's actually use electricity. In addition to making the tariff simpler, the combination of the rate design changes better aligns the customer charge with customer costs, and thereby reduces intra-class cross-subsidies.

On May 23, 2005, the Commission approved the settlement.

Valley Energy, Inc.
Base Rates Proceeding
Docket No. R-0004935

On June 30, 2004, Valley Energy filed for a rate increase of approximately $538,000, to be imposed across-the-board rate on all customer classes. In its analysis, the OSBA determined that, contrary to Commission precedent, business customers had been paying for the costs of Valley's low-income energy programs ("Customer Assistance Program" or "CAP") even though

residential customers are the only customers that can benefit from those programs. Therefore, the OSBA argued that CAP-related costs should be allocated for payment entirely by residential customers before any rate increase was imposed across-the-board on all customer classes. The Office of Consumer Advocate opposed the OSBA's position on the grounds that the separate allocation of CAP costs was not appropriate in a case where there was no cost of service study. Although the parties reached a Partial Settlement on all other issues in the case, the CAP allocation issue was fully litigated by the OSBA and the OCA.

After examining Commission precedent, the ALJ agreed with the OSBA's position. In its Order, the Commission accepted the ALJ's recommendation and pointed out that the assignment of CAP costs entirely to residential customers is consistent with policy and that the record in this case did not support a change in that policy.

Equitable Gas Company
Low-Income Energy Funding
Docket No. P-00052192

On November 23, 2005, Equitable Gas Company filed a petition with the Commission for permission to allocate to low-income residential customers a portion of an anticipated refund in a pipeline rate case pending before the Federal Energy Regulatory Commission. The OSBA intervened to assure that Equitable's small business customers received their fair share of the refund.

Under Equitable's proposal, about $7 million of the anticipated refund would go to low-income energy assistance propgrams while about $2 million would be allocated to business ratepayers. After an investigation of Equitable's calculations, the OSBA agreed to support the proposal with the understanding that the proper amount will be flowed through to small business customers in Equitable's 2006 Section 1307(f) proceeding.

In its Order entered December 15, 2005, the Commission approved Equitable's request relative to the portion of the refund properly allocable to residential customers. In approving the proposal, the Commission reiterated its policy that only residential customers should bear the cost of low-income energy assistance programs because business customers are not eligible to receive benefits from the.

UGI-Gas Division
Low-Income Energy Funding
Docket No. 00052190

On November 22, 2005, UGI Utilities, Inc.-Gas Division ("UGI") filed a petition with the Commission for permission to increase the caps on Low Income Self-Help Program ("LISHP") discounts and implement a funding mechanism to recover certain associated costs. Through its

Petition, UGI sought: (1) to double the authorized participation in LISHP from 4,000 to 8,000 customers; (2) to increase the maximum discount available to LISHP participants from $840 to $1,146 for heating accounts, and from $560 to $614 for non-heating accounts; and (3) to implement a new funding mechanism, the LISHP Rider. The OSBA, the Office of Trail Staff ("OTS"), and the Office of Consumer Advocate ("OCA") reached a settlement with UGI. Under the settlement, the entire cost of expanding the low-income program would be borne by residential customers.

The Commission approved the settlement by Order entered December 1, 2005.

Dominion Peoples
Low-Income Energy Funding
Docket No.R-00051093

On November 2, 2005, the Peoples Natural Gas Company ("Peoples") filed a tariff supplement to expand enrollment in the company's customer assistance program ("CAP") and allow the company to fund incremental costs through a CAP Adjustment Charge. Under Peoples' proposal, small business customers would pay 4% of the cost of the CAP liberalization through the CAP Adjustment Charge even though small business customers are not eligible for CAP benefits. The OSBA and the OCA filed complaints against the filing. The OTS entered its appearance.

The Company has voluntarily suspended its proposed tariff filing.

Columbia Gas of Pennsylvania, Inc.
Competitive Option Proceeding
Docket No. R-00049783

On September 1, 2004, Columbia Gas of Pennsylvania, Inc. ("Columbia"), filed a proposed tariff supplement seeking authorization to offer two new fixed price sales services, Price Protection Service ("PPS") and Optional Sales Service ("OSS").

In a formal complaint, the OSBA asserted the following: (1) Columbia's proposed PPS and OSS offerings may be harmful to natural gas competition and, therefore, contrary to the intent and purpose of the Natural Gas Choice and Competition Act; (2) the credits Columbia proposes to provide Purchased Gas Cost ("PGC") customers may be insufficient to compensate those PGC customers for the full costs that may result from implementation of the proposed PPS and OSS; (3) Columbia's failure to propose that PPS and OSS rates be regulated rates that are filed with the Commission and subject to review for justness and reasonableness is contrary to the Public Utility Code; and (4) Columbia has not demonstrated that it is necessary for the

Company to offer the proposed PPS and OSS in order to provide its customers with adequate, efficient, safe, and reasonable service.

On November 4, 2005, the Commission entered an Order on Columbia's proposed PPS and OSS tariff supplements. The Commission allowed PPS to go into effect, with certain modifications. The changes included offering PPS as a two-year pilot program, limiting PPS offerings to one year in length, adding certain reporting requirements, and requiring that PPS conform to the Standards of Conduct.

The Commission, in its November 4, 2005, Order, denied Columbia the right to implement OSS, finding that the proposed tariff was not just and reasonable. The Commission cited, and was apparently influenced by, the observation by OSBA's witness that OSS may "change the competitive landscape."

On November 18, 2005, the Natural Gas Supplier Group filed a Petition for Clarification with the Commission. On November 21, 2005, Columbia filed a Petition for Reconsideration with the Commission. On December 1, 2005, the OSBA answered Columbia's Petition for Reconsideration. The OSBA was particularly concerned with Columbia's Petition because it proposed a new OSS offering, one that was not developed on the record whatsoever. Therefore, the OSBA requested that the Commission remand the new OSS offering back to the ALJ for further hearings if the PUC does not deny Columbia's Petition outright.

On December 1, 2005, the Commission granted the Petitions, pending a review of their respective merits. The Commission has taken no further formal action in this proceeding.

Dominion Peoples
2005 GCR
Docket No. R-00050267

Each year, the major gas utilities ("Natural Gas Distribution Companies" or "NGDCs") make gas cost rate ("GCR") filings under 66 Pa. C.S. §1307(f), wherein the Commission examines the gas purchasing practices of these utilities and approves a gas cost recovery rate for each of them. The NGDCs are obligated to procure gas supplies at the least cost while maintaining system reliability. A major issue for the OSBA in the 2005 GCR proceedings was the impact of a reporting error by Dominion Transmission Inc. ("DTI"), on the gas costs incurred by most Pennsylvania NGDCs.

Specifically, DTI, a pipeline affiliate of Dominion Peoples, was responsible for a reporting error to a federal agency on November 24, 2004, that caused the market price of natural gas to spike until the error was discovered and corrected. Dominion Peoples—and other gas utilities across the country—paid an estimated $500 million to $2 billion more for natural gas because they bought at the inflated prices.

In the course of the OSBA's review of Dominion Peoples' gas cost filing, the OSBA determined that the utility's purchasing practices caused its customers to experience higher gas costs in the month of December because of DTI's error than would have been the case if Dominion Peoples had relied less on first-of-the-month pricing contracts. Consequently, the OSBA recommended that the PUC deny Dominion Peoples' request to recover costs for that portion of its claim. The OSBA reasoned that a gas utility has a legal obligation to seek changes in its purchasing contracts if those contracts are not in the customers' best interest. Moreover, the OSBA argued that Dominion Peoples was obligated to try to recover damages from the responsible party (DTI), when the negligent actions/practices of the party caused higher gas costs.

The ALJ and the Commission allowed Dominion Peoples to recover its gas costs that were inflated due to the price spike. However, both the ALJ and the Commission agreed with the OSBA that Dominion Peoples has an obligation to use reasonable efforts to seek recovery of the excessive gas costs and to refund to customers any amount Dominion Peoples is able to recover. Dominion Peoples is to file a report with its next gas cost filing detailing its efforts to recover the excess portion of its gas costs.

Assessment Challenges
Commonwealth Court
Docket Nos. 680, 683, 690, 695, 698, 699, and 706 MD 2004

The activities of the OSBA before the Commission are funded by assessments on public utilities authorized by the Small Business Advocate Act. The allocations are made by the OSBA and transmitted to the Commission for collection. Public utilities have the right to challenge any assessment they believe to be excessive, erroneous, unlawful or invalid.

Several gas utilities ("natural gas distribution companies" or "NGDCs") protested the assessments of the Commission, the OCA, and the OSBA. The dispute arose following a Commonwealth Court decision that natural gas suppliers ("NGSs") are not public utilities and, therefore, are not subject to assessments. To make up for the lost revenue, the Commission assessed the NGDCs for the cost of regulating the NGSs. In response, the NGDCs argued that the portion of their assessment related to the regulation of NGSs should not be allocated solely to the gas utility group but, instead, should be collected on an across-the-board basis from all public utility groups. The OSBA participated in the assessment proceedings before the Commission to oppose the NGDCs. The OSBA subsequently participated in opposition to the actions brought by the NGDCs before the Commonwealth Court.

Following briefing and oral argument, the Court denied the NGDCs' objections on July 13, 2005.

C. Telephone Highlights

SBC/AT&T
Merger Proceeding
Docket Nos. A-311163F0006, A-310213F0008, A-310258F0005

On February 28, 2005, SBC Communications, Inc., and AT&T Corporation filed an application with the Commission seeking approval of a merger of the two companies. SBC and AT&T estimated that the synergies from the merger would reach an annual rate of $2 billion by 2008. They estimated the net present value of the synergies due to the merger, net of costs to achieve, to be $15 billion. Nevertheless, despite the level of estimated synergies nationwide, SBC and AT&T did not commit to spend any of those savings in Pennsylvania. Instead, the companies proposed to retain full discretion to invest the savings in any manner and in any state they determined would be best for the merged entity.

The OSBA contended that the merger would not be in the public interest because it would eliminate AT&T as a competitor of Verizon and the other providers of local and long distance service. The OSBA also argued that an effort by the merged entity would offer the best hope of assuring meaningful competition for Verizon in the future. As an incentive for the merged entity to compete in Pennsylvania, the OSBA argued that the PUC should require the merged entity to spend in the Commonwealth a specified share of the $2 billion in additional capital expenditure expected nationwide.

The ALJ approved the merger but conditioned that approval on a commitment by SBC and AT&T to flow through a portion of the merger savings to Pennsylvania customers by investing about $100 million in the Commonwealth over five years. The Commission approved the merger but declined to require the merged entity to invest a specific amount in Pennsylvania. The Commission concluded that quantification of merger benefits in Pennsylvania is not required and that the proposed merger will provide affirmative benefits without a specific investment requirement. The Commission agreed with SBC and AT&T that the $2 billion in anticipated investment nationwide will benefit Pennsylvania consumers even in those instances where such investment takes place outside of the Commonwealth.

Verizon/MCI
Merger Proceeding
Docket Nos. A-310580F0009, A-310752F0006, A-310364F0003, A-310025F0005, A-310407F0003, A-310401F0006

On March 7, 2005, Verizon Communications and MCI, Inc. (“MCI”) filed a joint application for approval of a merger which would result in MCI’s becoming a wholly-owned subsidiary of Verizon.

Numerous parties intervened, including the OSBA. The OSBA opposed the merger on the grounds that Verizon's takeover of MCI would eliminate a competitive alternative for small business customers and would make it easier for Verizon to raise its rates. The OSBA argued that the Commission should not approve the merger without imposing a cap on Verizon's rates for services classified as "non-competitive" and for services previously declared to be "competitive." Under the OSBA's proposal, Verizon would have been able to raise its rates for a particular service only if Verizon could show there actually was workable competition in the market for that service of if Verizon could show that a rate increase was necessitated because of rising costs.

On January 11, 2006, the Commission issued its final order. In that order, the Commission rejected the arguments of the OSBA and other merger opponents and approved the merger without conditions. An appeal of that decision was filed in Commonwealth Court on February 9, 2006, by the Office of Consumer Advocate.

United PA/LTD Long Distance
Change of Control
Docket No. A-313200F0007

On August 26, 2005, The United Telephone Company of Pennsylvania d/b/a Sprint ("United PA" or "Company"), and Sprint Long Distance, Inc. (the "Joint Applicants"), requested Commission approval to change control of the Joint Applicants from the Sprint Nextel Corporation ("Sprint Nextel") to a new parent, LTD Holding Company ("LTD"). The Application would cause the local, Pennsylvania wireline operations of the Joint Applicants to be separated from Sprint Nextel, a corporation that plans to focus exclusively on wireless operations.

On November 30, 2005, a Joint Petition For Settlement ("Settlement Petition") was submitted in the Application proceeding. The Joint Applicants, the OSBA, and other parties signed the Settlement Petition. One active party, the Communications Workers of America ("CWA"), did not sign the Settlement Petition.

The Settlement Petition includes a number of provisions that will materially help the small business customers of the Joint Applicants. For example, the Settlement Petition prevents United PA from raising the business or residential local exchange rates above the rates set forth in United PA's revised 2005 Annual Price Cap filing.

Furthermore, the Settlement Petition accelerates United PA's broadband deployment commitments. The Settlement Petition requires that by December 31, 2007, United PA will make broadband available (within ten business days of a request) for 80% of United PA's retail customers. The Settlement Petition also requires that by December 31, 2010, United PA will

make broadband available (within ten business days of a request) for 85% of United PA's retail customers.

In addition, the Settlement Petition requires United PA and LTD to provide the OSBA with twenty days advance notice of the execution of any future contract between Sprint Long Distance, Inc. ("LTD Long Distance") and Sprint Communications Company L.P. for long distance services. The Settlement Petition allows the OSBA to request that any such future contract be made available for review.

On January 23, 2006, CWA submitted a letter to the Commission stating that it was both withdrawing its opposition to the Application and fully supporting the Settlement Petition.

Verizon Pennsylvania Inc.
Four-Line Carve-Out and Enterprise Switching
Docket Nos. R-00049524 and R-00049525

On June 8, 2004, Verizon Pennsylvania Inc. ("Verizon") filed two tariff revisions regarding the leasing of Verizon's facilities for service to customers by Verizon's competitors. In the first filing, which was docketed at R-00049524, Verizon proposed to cease providing unbundled local switching to Competitive Local Exchange Carriers ("CLECs") to serve business customers with four or more DS0 lines that are located in the Philadelphia and Pittsburgh Metropolitan Statistical Areas. In the second filing, which was docketed at R-00049525, Verizon proposed to cease providing unbundled local switching to CLECs to serve business customers with DS1 or higher lines anywhere in Pennsylvania. Verizon alleged that its tariff revisions were necessary in order to comply with federal law.

The OSBA opposed Verizon's tariff revisions because: (1) the PUC had asserted independent authority under its Global Order to require Verizon to provide unbundled local switching; and (2) Verizon had failed to satisfy the Global Order test to be relieved of its obligation to provide unbundled local switching because Verizon did not demonstrate: (a) that collocation space (for the CLECs' own switches) is available in Verizon's central offices; (b) that collocation space can be provisioned in a timely manner; and (c) that collocation represents a valid reasonable economic alternative to Verizon's provision of unbundled local switching. An ALJ agreed with the OSBA and several CLECs in a Recommended Decision issued on December 1, 2004.

Subsequent to the Recommended Decision, the Federal Communications Commission ("FCC") issued an order phasing out Verizon's obligation to provide unbundled local switching at the incremental rates which had been favorable to CLECs. Thereafter, the PUC changed its policy in order to be consistent with the policy articulated by the FCC. Although the result of the Commission's decision will make unbundled local switching less available to CLECs at favorable prices, the OSBA successfully opposed Verizon's attempt to discontinue immediately

those favorable rates for CLECs which are serving customers with DS0 lines; as a result, the PUC agreed that the one-year phase-out ordered by the FCC would be applicable in Pennsylvania.

Verizon Pennsylvania Inc.
Access Charge Proceeding
Docket No. R-00016785

This proceeding is the latest in a series of cases beginning with the 1999 *Global Order* at Docket Nos. P-00991648 and P-00991649, the 1999 Verizon North and Verizon Pennsylvania ("Verizon" or the "Company") *Merger Order* at Docket No. A-310200, and the 2002 *Generic Access Charge Investigation* at Docket No. M-00021596.

On March 21, 2002, AT&T filed a complaint against Verizon North seeking to have that company's access charges reduced to the levels of Verizon Pennsylvania, as required by the *Merger Order*. AT&T's Complaint was docketed at C-20027195.

During litigation, Verizon and the Office of Consumer Advocate ("OCA") submitted a settlement that limited the *total* local rate increase that could be recovered from the company's residential customers on a combined Verizon North and Verizon Pennsylvania basis. In addition, *specific* residential rate increases would be held to $1.00 or less. The settlement provided for Verizon's business customers to pay the balance of the remaining local rate increase, on a combined Verizon North and Verizon Pennsylvania basis.

The OSBA opposed the Verizon-OCA settlement. The OSBA argued that Verizon did not meet its burden of proof because the company failed to detail how business rates would be affected by the Verizon-OCA settlement. However, in the October 31, 2003, Recommended Decision ("RD"), the ALJ recommended that the Verizon-OCA settlement be approved because six of the seven parties that presented witnesses agreed with portions of the settlement.

On December 8, 2003, the OSBA filed exceptions to the RD. On December 18, 2003, the OSBA filed Reply Exceptions.

On February 26, 2004, Verizon, the OCA, and the OSBA reached an agreement on the issues litigated by the OSBA. Specifically, the Verizon-OCA-OSBA settlement limits the *specific* business rate increase to less than $1 per business line, and the average increase for business local exchange lines cannot be greater than the average increase for residential local exchange lines.

On July 28, 2004, the Commission entered an order that adopted the Verizon-OCA-OSBA settlement. In addition, the Commission remanded the case to the Office of Administrative Law Judge for the further development of a record, and issuance of a

recommended decision, on issues that were not decided in the July 28, 2004, Opinion and Order. The issues on remand include (but are not limited to) the consideration of specific access charge reduction proposals, the removal of implicit subsidies from access charges, and the reduction or elimination of the carrier charge.

On December 7, 2005, the ALJ issued an RD in the remand proceeding. On January 9, 2006, the OSBA submitted exceptions in response to the RD. On January 25, 2006, the OSBA submitted reply exceptions in response to the exceptions of other parties.

The OSBA and several other parties have consistently argued that the Verizon Access Charge Remand case should be stayed pending the outcome of the *In re Developing a Unified Intercarrier Compensation Regime*, (FCC Rel.: March 3, 2005), CC Docket No.01-02, *Further Notice of Proposed Rulemaking*, FCC 05-33 ("Unified Intercarrier Compensation") proceeding. The ALJ recommended against waiting for the Unified Intercarrier Compensation proceeding to conclude.

The ALJ recommended that Verizon's carrier charge be eliminated. The OSBA argued against this recommendation, observing that the contribution of the interexchange carriers ("IXCs") to the cost of the local loop is already far below their appropriate share of those costs. Eliminating the carrier charge will simply exacerbate that problem. The ALJ also recommended reducing Verizon's other access charges to their interstate levels, which the OSBA opposed for the same reasons it opposed elimination of the carrier charge. In addition, the OSBA opposed the ALJ's recommendation that all access charge reductions occur over a very short time period.

If access charges are eliminated or reduced, Verizon will suffer a loss of revenues. Under Chapter 30, Verizon may seek to replace those lost revenues by requesting an increase in its local exchange rates. The ALJ recommended that Verizon's non-contract customers pay for the entire offsetting local exchange rate increases caused by Verizon's loss of access charge revenue and that none of the increased rates be borne by Verizon's contract customers. The OSBA opposed this recommendation as a violation of the express language of 66 Pa. C.S. § 3016(f)(1), which forbids requiring non-competitive services to subsidize competitive services.

In addition, the ALJ recommended that rate caps be placed upon Verizon's residential customers, so that any local exchange rate increase will be capped for residential customers, but not for business customers. There is no record evidence to support the ALJ's recommendation. The OSBA has opposed this recommendation and has argued that the matter of the proper allocation of any rate increase should be addressed in a further proceeding.

The matter is awaiting a Commission decision.

Rural Local Exchange Carriers
Access Charge Proceeding
Docket No. I-00040105

On December 20, 2004, the Commission entered an Order instituting an investigation into whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers. The investigation was instituted as a result of the Commission's prior Order entered July 15, 2003, at Docket No. M-00021596, which discussed implementing continuing access charge reform in Pennsylvania. The July 15, 2003, Order also provided that a rulemaking proceeding would be initiated no later than December 31, 2004, to address possible modifications to the Pennsylvania Universal Service Fund regulations.

The December 20, 2004, Order directed that the Office of Administrative Law Judge conduct a proceeding to develop a record and present a recommended decision on a variety of questions related to access charge reform.

The ALJ conducted two prehearing conferences in February and April 2005.

On May 23, 2005, the OSBA and other parties filed a Motion to Defer this proceeding. Specifically, the parties requested a stay of the investigation because it would be unreasonable for the Commission to take action prior to the conclusion of the FCC's Unified Intercarrier Compensation proceeding. The FCC proceeding has the potential to impact directly, if not render moot, the universal service and access charge issues in this proceeding.

On August 30, 2005, the Commission granted the Motion to Defer. This proceeding will resume after the stay has been in place for twelve months or the FCC has issued a ruling in the Unified Intercarrier Compensation proceeding, whichever comes first.

United PA
Price Stability Index
Docket No. R-00050960

On September 1, 2005, The United Telephone Company of Pennsylvania d/b/a Sprint ("Sprint") filed proposed tariffs that would have made rate changes based upon the company's Price Stability Mechanism. The company's proposal would have resulted in increased local exchange rates for the company's residential and business customers and increases in the rates for other services currently classified as noncompetitive.

On September 28, 2005, the OSBA filed a formal complaint against Sprint's proposed tariffs. The OSBA was particularly concerned that Sprint's proposed tariffs would have raised the weighted business local exchange rates by more than the increase in the weighted residential

local exchange rates. This would violate the settlement reached in a previous case involving Sprint at Docket No. M-00021596.

Settlement discussion were held between Sprint and the OSBA. Ultimately, Sprint agreed that the OSBA's analysis of the proposed tariffs was correct, and the company resubmitted modified tariffs to the Commission.

On December 28, 2005, the Commission approved Sprint's modified tariffs.

Verizon PA
Price Change Opportunity
Docket No. R-00051228

On December 29, 2005, Verizon Pennsylvania ("Verizon PA") submitted its annual Price Change Opportunity ("PCO") filing. Such filings are authorized by Chapter 30, and allow incumbent local exchange telephone companies (like Verizon PA) to increase their non-competitive service rates by the rate of inflation, minus a small productivity offset. Verizon PA's 2006 PCO filing proposes to increase the companies' annual revenue by $16,765,000.

On December 30, 2005, the OSBA filed a complaint against Verizon PA's 2006 PCO filing.

The OSBA is particularly concerned with whether the $16,765,000 number is just and reasonable and whether the proposed distribution of that overall revenue increase across Verizon PA's non-competitive services is just and reasonable.

Verizon North
Price Change Opportunity
Docket No. R-00051227

On December 29, 2005, Verizon North Inc. ("Verizon North") submitted its annual Price Change Opportunity ("PCO") filing. Such filings are authorized by Chapter 30, and allow incumbent local exchange telephone companies (like Verizon North) to increase their non-competitive service rates by the rate of inflation, minus a small productivity offset. Verizon North's 2006 PCO filing proposes to increase the companies' annual revenue by $3,257,000.

On December 30, 2005, the OSBA filed a complaint against Verizon North's 2006 PCO filing.

The OSBA is particularly concerned with whether the $3,257,000 number is just and reasonable and whether the proposed distribution of that overall revenue increase across Verizon North's non-competitive services is just and reasonable.

D. Water and Wastewater Highlights

Pa-American Water Company
Collection System Improvement Charge
Commonwealth Court
Docket No. 2497 CD 2003

In 2003, the Commission approved a petition of the Pennsylvania-American Water Company to surcharge customers for the cost of certain wastewater system improvements implemented between base rate cases. The OSBA contested the legality of the surcharge and intervened in the appeal to Commonwealth Court taken by the Office of Consumer Advocate. Thereafter, the OSBA submitted briefs and participated in the oral argument and re-argument in Commonwealth Court.

On March 14, 2005, the Commonwealth Court issued its decision in this case. The Court found that the Commission exceeded its statutory authority when it permitted Pennsylvania-American to collect the cost of wastewater system improvements through a surcharge. The Court said that the surcharge was illegal and that such costs must be collected in a base rates case.

The Commission has filed a petition asking the Supreme Court to hear an appeal of the Commonwealth Court's order. The OSBA has asked the Supreme Court to deny the petition. The Supreme Court has not yet acted on the matter.

Newtown-Artesian Water Company
Base Rates Proceeding
Docket No. R-00050529

On or about June 30, 2005, the Newtown Artesian Water Company ("NAWC") filed a tariff supplement to increase NAWC's annual water revenue by $662,318. The OSBA filed a formal complaint, as did the Office of Consumer Advocate ("OCA"). The Commission's Office of Trial Staff ("OTS") entered an appearance in the case.

Subsequently, NAWC, the OSBA, the OCA, and the OTS entered a settlement that reduced the size of the rate increase. As part of the settlement, NAWC agreed not to file for another general rate increase for 18 months following the entry date of the Commission's final

order approving the settlement. The Joint Petition for Settlement was approved by the Commission by Order entered January 13, 2006.

City of Bethlehem
Base Rate Proceeding
Docket No. R-00050680

On or about June 29, 2005, the City of Bethlehem ("City") filed with the Commission a tariff to raise water rates in order to produce $884,633 in additional annual revenues for jurisdictional customers living outside the City.

The OSBA and the OCA filed formal complaints against the proposed rate increase. The OTS and Upper Saucon Township also participated in the proceeding.

The parties subsequently participated in numerous mediation sessions and settlement conferences. Ultimately, the parties were able to reach a settlement of the issues. The settlement provided for an increase in annual operating revenues of $598,773, rather than the $884,633 originally requested by the City. The City also agreed to a stay out until June 29, 2007, unless an earlier request for a rate increase was necessitated by legislative or administrative changes.

The Commission approved the Joint Petition for Settlement by its Order entered December 15, 2005.

Aqua-PA Water Company
Base Rates Proceeding
Docket No. R-00051030

On November 18, 2005, Aqua Pennsylvania, Inc. ("Aqua-PA") filed Supplement No. 61 to Tariff Water-Pa. P.U.C. No. 1 ("Supplement No. 61"), seeking approval of rates and rate changes which would increase total operating revenues by $38,800,000, an increase of 14.4%. The OSBA has filed a complaint alleging that the requested rate of return on common equity of 11.75% is excessive, unreasonable and contrary to law and that the proposed allocation of the rate increase may be discriminatory.

On December 15, 2005, the Commission suspended the proposed rate increase for investigation.

City of DuBois
Base Rates Proceeding
Docket No. R-00050671

On October 28, 2005, the City of DuBois, Bureau of Water ("City") filed Supplement No. 14 to Tariff Water – Pa. P.U.C. No. 4 ("Supplement No. 14").

The proposed Supplement No. 14, if approved by the Commission, would increase the overall rates by $463,576, an increase of 36.4%. The OSBA has filed a complaint alleging that the requested rate of return of 11.0% on common equity will provide an excessive return on the City's investment and is therefore unjust, unreasonable and contrary to law.

On December 15, 2005, the Commission suspended the proposed rate increase for investigation.

City of Lancaster
Base Rates Proceeding
Docket No. R-00051167

On December 9, 2005, the City of Lancaster-Water Fund ("the City") filed Supplement No. 37 to Tariff Water – Pa. P.U.C. No. 6 ("Supplement No. 37").

The proposed Supplement No. 37, if approved by the Commission, would increase the overall rates by $999,995, an increase of 13.7%. The OSBA has filed a complaint alleging that the City's proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable and unlawfully discriminatory.

The case is pending before the Commission.

E. Legislation

Section 399.49 of the Small Business Advocate Act, 73 P.S. § 399.41-399.50, requires the OSBA to make reports to the Governor and the General Assembly regarding matters within the OSBA's jurisdiction. Except for budget hearings before the House and Senate Appropriations Committees, the OSBA did not testify at any legislative hearings in 2005. However, the OSBA did respond to inquiries from individual legislators and legislative staff members.

F. Rulemaking Proceedings

The OSBA participates in rulemaking proceedings before the Commission. In many instances, the OSBA files comments that advocate positions of particular importance to small business customers. In addition to the POLR (or default service) and alternative energy proceedings discussed under Electric Activities, the OSBA filed comments in 2005 in the following proceedings:

Rulemaking for the Revision of Chapters 1, 3, and 5 of Title 52 of the Pennsylvania Code Pertaining to Practice and Procedure Before the Commission
Docket No. L-00020156

Advance Notice of Proposed Rulemaking for Revision of 52 Pa. Code Chapter 57 Pertaining to Adding Inspection and Maintenance Standards for the Electric Distribution Companies
Docket No. L-00040167

G. 2005 PUC Cases

As previously noted, the OSBA participates in major rate increase cases before the Commission, the annual Gas Cost Rate cases for Pennsylvania's 10 largest gas companies, and a number of other formal proceedings involving disputes over the kinds of services made available to, or the prices charged to, the small business customers of electric, gas, telephone, water, and wastewater utilities. In addition to continuing to participate in cases carried over from preceding years, the OSBA entered its appearance in the following new proceedings in 2005:

Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code, Chapter 57; Application of PPL Electric Utilities Corporation for Protective Order,
Docket No. L-00030161

Duquesne Light Company, Petition for a Protective Order
Docket No. L-00030161

Investigation Regarding Intrastate Access Charges and IntraLATA
Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund
Docket No. I-00040105

Joint Application of PECO Energy Company and Public Service Electric and Gas Company for Approval of the Merger of Public Service Enterprise Group Incorporated with and into Exelon Corporation
Docket No. A-110550F0160

Joint Application of SBC Communications, Inc. and AT&T Corporation
and its Certificated Pennsylvania Subsidiaries for Approval of Merger
Docket Nos. A-311163F0006, A-310213F0008, and A-310258F0005

Joint Application of The United Telephone Company of Pennsylvania
d/b/a Sprint, and of Sprint Long Distance, Inc.
Docket Nos. A-313200F0007 and A-311379F0002

Joint Application of Verizon Communications, Inc. and MCI, Inc., for
Approval of Agreement and Plan of Merger
Docket No. A-310580F0009

Notice and/or Application of Duquesne Light Company to Assist Low-Income
Customers through the Stay Warm Program
Docket No. P-00052193

Objection of National Fuel Gas Distribution Corporation Pursuant to
Section 510(c) of the Public Utility Code to the General Assessment
Invoice for the July 1, 2005-June 30, 2006 Fiscal Year
Docket No. M-00051897

Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc.
Docket No. R-00051030

Pennsylvania Public Utility Commission v. City of Bethlehem
Docket No. R-00050680

Pennsylvania Public Utility Commission v. City of DuBois Bureau of Water
Docket No. R-00050671

Pennsylvania Public Utility Commission v. City of Lancaster-Water Fund
Docket No. R-00051167

Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-00050340

Pennsylvania Public Utility Commission v. Duquesne Light Company
Docket No. R-00050662

Pennsylvania Public Utility Commission v. Equitable Gas Company
Docket No. R-00050272

Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corporation
Docket No. R-00050216

Pennsylvania Public Utility Commission v. The Newtown Artesian Water Company
Docket No. R-00050529

Pennsylvania Public Utility Commission v. PECO Energy Company-Gas Division
Docket No. R-00050537

Pennsylvania Public Utility Commission v. The Peoples Natural Gas Company t/a Dominion Peoples
Docket No. R-00050267

Pennsylvania Public Utility Commission v. The Peoples Natural Gas Company d/b/a Dominion Peoples
Docket No. R-00051093

Pennsylvania Public Utility Commission v. PG Energy, A Division of Southern Union Company
Docket No. R-00050538

Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-00050264

Pennsylvania Public Utility Commission v. PPL Gas Utilities Corporation
Docket No. R-00050540

Pennsylvania Public Utility Commission v. T. W. Phillips Gas & Oil Co.
Docket No. R-00040059

Pennsylvania Public Utility Commission v. UGI Utilities, Inc. – Gas Division
Docket No. R-00050539

Pennsylvania Public Utility Commission v. The United Telephone Company d/b/a Sprint
Docket No. P-00981410

Pennsylvania Public Utility Commission v. Verizon North, Inc.
Docket No. R-00051227

Pennsylvania Public Utility Commission v. Verizon Pennsylvania
Docket No. R-00051228

Pennsylvania Public Utility Commission Order, entered December 7, 2005,
Pertaining to PG Energy's proposal in response to the Tentative Order
Docket No. M-00001326

Petition for A Declaratory Order Regarding the Ownership of Alternative
Energy Credits and any Environmental Attributes Associated with
Non-Utility Generation Facilities Under Contract to Pennsylvania
Electric Company and Metropolitan Edison Company
Docket No. P-00052149

Petition of The Energy Association of Pennsylvania *Nunc Pro Tunc* for an
Expedited Order Granting a Temporary Waiver of Natural Gas Distribution
Company and Electric Distribution Company Tariff Charges for
Reconnection of Service
Docket No. P-00052194

Petition of Equitable Gas Company, a Division of Equitable Resources, Inc., for
Authorization to Use a Portion of an Equitrans, L.P. Refund to Benefit
Low-Income Customers
Docket No. P-00052192

Petition of Metropolitan Edison Company and Pennsylvania Electric Company
For Authority to Modify Certain Accounting Procedures
Docket No. P-0002143

Petition of the Office of Trial Staff for the Commencement of an Investigation
Of Competitive Practices Between Natural Gas Distribution Companies
Docket No. P-00052160

Petition of Pennsylvania Power Company
Docket No. P-00052188

Petition of Philadelphia Gas Works for Declaratory Judgment or
Alternatively Waiver of PUC Regulations to Permit Continued Consolidated
Billing of Inappropriate Request for Service Charge
Docket No. P-00052152

Petition of Philadelphia Gas Works for Temporary Waiver of PUC
Regulations Regarding Billing Requirements for Low Income Home
Heater Repair Service
Docket No. P-00052141

Petition of Pike County Light & Power Company
Docket No. P-00011872

Petition of UGI Utilities, Inc.-Gas Division to Expand Participation in
UGI's Low Income Self-Help Program (LISHP), increase the caps on LISHP Discounts
And Implement a Funding Mechanism to Recover Certain Associated Costs
Docket No. P-00052190

Verizon Pennsylvania Inc. Tariff No. 216
Docket Nos. R-00050319 and R-00050319C0001

H. 2005 Commonwealth Court Cases

Under the Small Business Advocate Act, the OSBA is authorized to appear before the appellate courts regarding matters under the PUC's jurisdiction. In addition to participating in cases begun in prior years, the OSBA appeared in the following new Commonwealth Court cases in 2005:

William R. Lloyd, Jr., Small Business Advocate, Petitioner v.
Pennsylvania Public Utility Commission, Respondent
No. 137 CD 2005

Irwin A. Popowsky, Consumer Advocate, Petitioner v. Pennsylvania
Public Utility Commission, Respondent
No. 144 CD 2005

Commission on Economic Opportunity, Petitioner v. Pennsylvania
Public Utility Commission, Respondent
No. 275 CD 2005

PP&L Industrial Customer Alliance, Petitioner v. Pennsylvania
Public Utility Commission, Respondent
No. 884 CD 2005

Philadelphia Gas Works on its own behalf and by the Philadelphia Facilities Management Corporation, Petitioner v. Pennsylvania Public Utility Commission, Respondent
No. 1673 CD 2005

I. Small Business Consumer Outreach

In addition to its litigation caseload, the OSBA also handles individual small business consumer problems.

III. WORKERS' COMPENSATION ACTIVITIES

The OSBA's workers' compensation duties involve a review and evaluation of, and the submission of comments on, the "loss cost" filings that are submitted to the Insurance Department each year by the Pennsylvania Compensation Rating Bureau ("PCRB") and the Coal Mine Compensation Rating Bureau of Pennsylvania ("CMCRB"). The "loss cost" portion of a workers' compensation premium reflects the cost of paying wages for employees whose injuries prevent them from working. The "loss cost" portion of the premium also reflects the cost of medical care for injured workers. Individual workers' compensation insurers are not permitted to begin using the filed "loss costs" until the Department has approved the respective bureau's filing.

PCRB Filing

After an independent analysis of the PCRB's filing for the year beginning April 1, 2005, the OSBA recommended an overall 4.50% to 5.89% decrease in statewide industrial loss costs in lieu of the 2.89% decrease requested by the PCRB. However, the Insurance Department approved the PCRB's proposal.

CMCRB Filing

After an independent analysis of the CMCRB's filing for the year beginning April 1, 2005, the OSBA recommended an overall reduction of 4.4% in traumatic loss costs in lieu of the 8.9% increase requested by the CMCRB. The Insurance Department approved an increase of 5.3% rather than the 8.9% the CMCRB had requested.

OSBA STAFF

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Small Business Advocate

Steven C. Gray (10/11/94 to present)
Assistant Small Business Advocate

Sharon E. Webb (6/20/05 to present)
Assistant Small Business Advocate

Daniel G. Asmus (11/21/05 to present)
Assistant Small Business Advocate

Carol F. Pennington (1/12/98 to 10/21/05)
Assistant Small Business Advocate

Karen Miller (8/30/04 to 5/18/05)
Assistant Small Business Advocate

Carolyn A. Shuman (4/7/90 to 7/21/05)
Administrative Officer

Terry Sneed (7/5/05 to present)
Administrative Officer

Regenia Wright (10/17/05 to 11/23/05)
Legal Assistant