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# OFFICE OF SMALL BUSINESS ADVOCATE

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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 ("OCA") 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"

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 2006-2007 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 five attorneys (the Small Business Advocate and four Assistant Small Business Advocates) and two 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. THE UTILITY RATEMAKING PROCESS

Historically, utility companies have been viewed as natural monopolies which, in the absence of regulation, could charge excessive rates to their customers. Under the Public Utility Code, the PUC is responsible for setting rates which are "just and reasonable," *i.e.*, rates which cover the utility's costs and provide an opportunity for the utility to earn a fair profit.

Under the traditional ratemaking process, the PUC first measures the dollar amount of the utility's investment, *e.g.*, the utility's physical plant. Then, the PUC determines the return on that investment which will enable the company to service its debt and offer a stock price and dividends which are sufficient to attract equity investors. Next, the Commission awards the utility a rate increase in an amount which yields the required return on investment (after the utility has paid its operating expenses). Finally, the PUC decides how much of the rate increase is to be paid by each class of customers, *e.g.*, residential, small commercial and industrial, and large commercial and industrial.

Although the Commission continues to regulate water and wastewater utilities largely through the traditional ratemaking process, Pennsylvania has departed significantly from that process with regard to telephone, electric, and gas service. This departure is in response to changing federal requirements and to three statutes enacted by the General Assembly in the 1990s.

First, a 1993 state law (commonly referred to as "Chapter 30") ended rate regulation of those telecommunications services for which there was deemed to be competition. Furthermore, Chapter 30 provided for the similar deregulation of additional services if competitive markets develop. In addition to deregulating certain services, Chapter 30 required the local telephone company to deploy high-speed broadband throughout its service area. To help pay for the broadband deployment, the utility was allowed to increase its rates each year in an amount roughly equivalent to the rate of inflation less a productivity adjustment. These annual price increases are commonly referred to as "Price Change Opportunities," or "PCOs."

Second, a 1996 state law ended traditional regulation of the portion of the electric rate which covers the cost of generating electricity. After a transition period, the generation rates charged by the utility are to reflect "prevailing market prices." Customers who are not satisfied with the utility's generation rates also have the opportunity to buy their electricity from power plants other than those selected by the utility. However, the charge for transporting the electricity from the power plant to the utility's service territory (the "transmission rate") and the charge for delivering that electricity from the transmission line to the customer's premises (the "distribution rate") remain subject to traditional ratemaking.

Third, a 1999 state law gave all customers the right to buy natural gas from either the local utility or a competitor of the local utility. If a customer chooses to buy from the local utility, the rate for that service is set by the PUC after a review to assure that the utility is paying the "least cost" for the gas and for the transportation of the gas from the well to the utility's service territory. However, regardless of whether the customer buys gas from the utility or from a competitor, the utility remains responsible for delivering the gas from the interstate pipeline or the local gas well to the customer's premises. The PUC sets that delivery (or "distribution") rate through the traditional process.

## III. UTILITY ACQUISITIONS AND MERGERS

Largely because of changes in federal statutes and in federal regulatory policies, there has been a significant increase in the number of utility mergers and acquisitions. Approval from the PUC is required before a Pennsylvania utility may be sold, acquired, or merged with another utility. In general, Commission approval is contingent upon a finding that the proposed transaction would result in "affirmative benefits" to the public.

Specifically, Section 1102(a) of the Public Utility Code, 66 Pa. C.S. § 1102(a), requires that the Commission issue a certificate of public convenience as a legal prerequisite for the transfer or acquisition of certain property. The statute provides, in pertinent part:

> (a) Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:
>
> * * *
>
> (3) For any public utility or an affiliated interest of a public utility as defined in section 2101 … to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service….

66 Pa. C.S. § 1102(a)(3).

Section 1103(a) of the Public Utility Code provides, in pertinent part:

> A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.

66 Pa. C.S. § 1103(a).

In *City of York*, 449 Pa. 136, 295 A.2d 825 (Pa. 1972),the Pennsylvania Supreme Court provided the legal standard for granting a certificate under Section 1103(a) in public utility merger and acquisition cases. Specifically, the Supreme Court stated:

> [A] certificate of public convenience approving a merger is not to be granted unless the Commission is able to find affirmatively that public benefit will result from the merger …. [T]hose seeking approval of a utility merger [are required to] demonstrate more than the mere absence of any adverse effect upon the public …. [T]he proponents of a merger [are required to] demonstrate that the merger will affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial way.

*City of York*, 449 Pa. at 141, 295 A.2d at 828.[1]

Under Section 1103(a), "[t]he commission, in granting such certificate [of public convenience], may impose such conditions as it may deem to be just and reasonable." Consistent with Section 1103(a), the Commission has held that "[i]n order to ensure that a proposed merger is in the 'public interest,' the Commission may impose conditions on its granting of the certificate of public convenience." *Joint Application for Approval of the Merger of GPU, Inc. with FirstEnergy Corp.*, Docket No. A-110300F0095, 2001 Pa. PUC Lexis 23 (Order entered June 20, 2001). Consequently, by imposing conditions pursuant to Section 1103(a), the Commission may approve a transaction which would not meet the *City of York* standard without those conditions.

[1] Although *City of York* involved a merger, its holding is equally applicable to an acquisition. Section 1102(a)(3), which imposes the certificate of public convenience requirement, makes no distinction based on whether property is acquired by the "sale or transfer of stock," a "consolidation," a "merger," a "sale," or a "lease."

## IV. THE OSBA'S PUC-RELATED ACTIVITIES

The OSBA participates before the PUC in major rate 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 2006:

### A. Electric Highlights

#### 1. Transmission and Distribution Rates

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

In *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeal denied __ A.2d __* (Pa. 2007), the Commonwealth Court reversed the PUC regarding how a rate increase should be allocated among the utility's various rate classes.

*Lloyd* arose out of the 2004 distribution and transmission rate case filed by PPL Electric Utilities Corporation ("PPL"). *See Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation*, Docket No. R-00049255 (Order entered December 22, 2004). In the proceeding before the Commission, PPL proposed that a requested $164 million increase in distribution rates and the flow-through of a $57 million FERC-approved transmission rate increase be divided among the rate classes in a way which would prevent any one class from receiving an increase of 10% or more on a "total-bill basis." The "total bill" includes the POLR (or default service) generation rate, stranded cost recovery, distribution costs, and transmission costs.

PPL performed a cost of service study ("COSS") for its distribution costs, but the company did not allocate its distribution rate increase on the basis of the COSS. Instead, the company relied on the 10% total-bill constraint, which (in conjunction with the transmission rate increase) limited its ability to correct interclass distribution revenue allocation inequities identified by the COSS.

The Commission upheld PPL's interclass *distribution* revenue allocation by evaluating the rate increase on a *total-bill* basis. In so acting, the Commission concluded that it is not necessary to adhere strictly to a COSS. The Commission also concluded that sufficient progress was being made toward cost-based distribution rates even though residential customers would continue to receive significant subsidies from business customers.

Under Section 1304 of the Public Utility Code, 66 Pa.C.S. §1304, "No public utility shall, as to rates, make or grant any *unreasonable preference or advantage* to any

person, corporation or municipal corporation . . . .” (emphasis added) Section 1304 also provides that “[n]o public utility shall establish or maintain any *unreasonable* difference as to rates . . . between classes of service.” (emphasis added) Although the Commission has discretion in revenue allocation matters, the Commission must exercise that discretion within limits. In *Philadelphia Suburban Water Company v. Pennsylvania Public Utility Commission*, 808 A.2d 1044, 1059-1060 (Pa. Cmwlth. 2002), the Commonwealth Court summarized the principles governing the exercise of that discretion, as follows:

> • “Mere variation in rates among classes of customers does not *per se* create an intolerable preference.”
>
> • “Different rates may be charged to customers that receive a different type, grade or class of service.”
>
> • “[I]f the total sum demanded of one customer is illegally high and illegally low for another, there is rate discrimination.”
>
> • “Rate classification systems must be designed to furnish the most efficient and satisfactory service at the lowest reasonable price for the greatest number of customers.”

After articulating the aforementioned principles, the Court concluded in *Philadelphia Suburban*, 808 A.2d at 1060, that “in order for a rate differential to survive a challenge brought under Section 1304 . . ., the utility must show that the differential can be justified by the difference in costs required to deliver service to each class. The rate cannot be illegally high for one class and illegally low for another. [citation omitted] Overall, the rate differentials must advance efficient and satisfactory service to the greatest number at the lowest overall charge.”

Furthermore, the Commonwealth Court held in *Allegheny Ludlum Corporation v. Pennsylvania Public Utility Commission*, 149 Pa. Cmwlth. 106, 111, 612 A.2d 604, 606 (Pa. Cmwlth. 1992), that “[t]he primary consideration in establishing rate structure is the cost of service.”

The approval of PPL’s proposed revenue allocation raised numerous questions regarding whether or not the Commission had deviated from the principles and standards articulated by the appellate courts in cases such as *Allegheny Ludlum* and *Philadelphia Suburban*. Therefore, both the OSBA and the PP&L Industrial Customer Alliance (“PPLICA”) appealed to the Commonwealth Court.

In its appeal, the OSBA pointed to the commercial GS-1 customer class, which received a higher-than-system average distribution rate increase despite paying more than its share of PPL’s distribution costs prior to the rate increase.

In reversing the Commission's distribution and transmission revenue allocation decisions, the Commonwealth Court held "that rates and rate structures [must] be set for each service *primarily* on a cost-of-service study." (emphasis added) *Lloyd*, 904 A.2d at 1020. Although the Court indicated that the Commission may consider other factors, such as gradualism, the Court characterized cost of service as the "polestar" of ratemaking concerns.[2] *Lloyd*, 904 A.2d at 1020.

In addition, the Court rejected the Commission's decision to limit the distribution and transmission rate increase for each customer class to less than 10% on a total-bill basis. Although the Commission had attempted to justify the 10% rule on the grounds of gradualism, the Court stated that gradualism may not be permitted to trump cost of service. The Court also pointed out that the Commission had articulated no rationale for selecting 10% rather than some other percentage. Finally, the Court held that evaluating distribution and transmission rate increases on a total-bill basis violated the mandate of Section 2804(3) of the Public Utility Code, 66 Pa. C.S. §2804(3), that generation, transmission, and distribution rates be unbundled.[3] *Lloyd*, 904 A.2d at 1020-1021.

Rather than approving any party's proposed revenue allocation, the Court remanded to the Commission for further proceedings.

Both the Commission and PPL filed petitions for allowance of appeal in the Supreme Court, seeking review of several issues decided by the Commonwealth Court. The OSBA and PPLICA filed briefs in opposition to the two petitions. On January 31, 2007, the Supreme Court denied the petitions. Therefore, the matter now returns to the Commission to fashion a remedy which complies with the Commonwealth Court's decision.

The Commonwealth Court's decision in *Lloyd* should make it much easier in future cases for the OSBA to convince the Commission to eliminate or reduce the subsidies historically paid by small business customers to residential customers.

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[2] Specifically, the Court stated that "while permitted, gradualism is but one of many factors to be considered and weighed by the Commission in determining rate designs, and principles of gradualism cannot be allowed to trump all other valid ratemaking concerns." *Lloyd*, 904 A.2d at 1020. The Court further concluded that principles of gradualism "do not justify allowing one class of customers to subsidize the cost of service for another class of customers over an extended period of time." *Lloyd*, 904 A.2d at 1020. The Court also pointed out that the Commission had provided "no explanation how discrimination in distribution and transmission rate structures are eventually going to be gradually alleviated." *Lloyd*, 904 A.2d at 1020.

[3] Although *Lloyd* involved the statutory construction of the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. Ch. 28, the Court's logic is also applicable to a gas distribution rate case.

**Duquesne Light Company**
**Base Rates Proceeding**
**Docket No. R-00061346**

On April 7, 2006, Duquesne Light Company ("Duquesne") filed proposed Tariff Electric-Pa. P.U.C. No. 24 with the Commission which requested an additional $143.7 million in annual distribution rate revenue. Duquesne's proposed Tariff No. 24 also notified the Commission that Duquesne's transmission rates would be increased by approximately $19.2 million.

The OSBA filed a complaint alleging that Duquesne's proposed Tariff created rates that were unjust, unreasonable, unduly discriminatory, and otherwise contrary to law. The OSBA also filed direct, rebuttal, and surrebuttal testimony.

Ultimately, the OSBA and the other parties reached a settlement that allowed Duquesne an additional $117 million in annual distribution rate revenue.

Under the settlement, Duquesne's small business GS/GM customer class, which was overpaying its distribution cost of service under previous rates, received a less than system average distribution increase. This causes the GS/GM customer class to move closer to its distribution cost of service, thereby reducing the amount that the Company's small business customers will be overpaying for their distribution service.

The settlement also allows Duquesne to seek recovery of additional customer assistance program ("CAP") costs if participation levels exceed 27,000. The settlement specifically permits the OSBA to oppose any change in Duquesne's CAP funding, if, for example, an attempt is made to require small businesses to pay for Duquesne's residential-only CAP.

The settlement requires Duquesne to present an analysis of separating the small business GS/GM customer class into two classes in the Company's next general rate proceeding. The GS/GM customer class is so varied that it can include the smallest "Mom and Pop" grocery store as well as a medium-sized snowplow manufacturer. This mixture of customers in the GS/GM class, with their different usage patterns and demand characteristics, makes it difficult to fashion an appropriate rate design for the class as a whole.

The settlement removed Duquesne's proposed Distribution System Improvement Charge ("DSIC"). The proposed DSIC mechanism would have allowed Duquesne to recover the costs associated with certain "eligible investments" without the need for a base rate case.

The settlement implemented the Transmission Service Charge ("TSC") as proposed by Duquesne. Significantly, the TSC will be designed so that the rates charged

to Duquesne's customers will closely mirror the rates charged to Duquesne by PJM Interconnection, LLC under its Open Access Transmission Tariff ("OATT"). By allocating the PJM charges among the customer classes on the basis of how those charges are billed, the TSC will effectively eliminate any inter-class subsidies that may be created if a different TSC rate design methodology were to be employed by Duquesne.

The Commission approved the settlement by Order entered December 1, 2006.

## 2. POLR Service

**POLR (or Default) Service**
**Proposed Rulemaking**
**Docket Nos. 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. The OSBA and other interested parties have submitted a series of comments on the PUC's proposed regulations. In 2006, the OSBA and other parties submitted additional comments on the proposed regulations, 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.

- To mitigate any historical interclass subsidies, 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.

- To get the lowest possible price, the POLR (or default service provider) should seek bids on POLR electricity which includes the mandated amount of electricity generated from alternative energy sources.

- To assist in budgeting, POLR (or default service) should be offered to small business customers at a fixed price for at least one year.

- To mitigate intraclass subsidies and facilitate shopping, the POLR (or default service provider) should move to flat rates for small business customers, i.e., eliminate the demand charge and declining block rates.

- 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.

Although the Commission has not finalized the POLR (or default service) regulations, the cases decided thusfar for individual EDCs have embraced many of the aforementioned positions advocated by the OSBA.

**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 was that Penn Power's proposed method of setting retail rates would not reflect prevailing market prices, as required by 66 Pa. C.S. §2807(e). Specifically, Penn Power proposed 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 proposed 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 were not based on either market prices or on cost of

service, small business customers would have been forced to pay substantially more for electricity than customers in any other rate class.

The OSBA actively participated in all aspects of this case before the Commission through the filing of testimony, briefs, and exceptions in support of its arguments pertaining to small business consumers. On April 28, 2006, the Commission issued its Opinion and Order in which it agreed, in part, with the OSBA's arguments and required Penn Power to modify its proposed allocation by obtaining supplier bids for rate groups. This change saved small business ratepayers about $15 million.

The OSBA subsequently objected to Penn Power's compliance filing. After negotiations, the company and the OSBA agreed to adjustments which saved small business ratepayers an additional amount of almost $15 million. The negotiations also resulted in the elimination of declining block rates and demand charges for small business customers.

**UGI Electric**
**POLR Proceeding**
**Docket No. P-00062212**

On April 17, 2006, UGI Utilities, Inc. – Electric Division (UGI or petitioner) filed with the Pennsylvania Public Utility Commission (Commission) a Petition for Approval to Implement 2007 – 2009 Default Service Tariff Provisions on One Day's Advance Notice ("Petition") relating to its Provider of Last Resort ("POLR") service. A Notice of Intervention, Public Statement and Answer to the Petition were filed by the OSBA.

In its Petition, UGI proposed to establish maximum default service rates for the years 2007, 2008 and 2009, and to continue its practice of acquiring a portfolio of bilateral supply contracts in the wholesale market to meet its default service requirements. UGI's proposal also provided that any changes in rates would be applied uniformly across all applicable rate schedules.

In its Answer to UGI's Petition and in its Prehearing Memorandum, the OSBA set forth numerous objections to the Petition, including the failure to comply with the requirement that UGI's default service rates be based on "prevailing market prices" pursuant to Section 2807(e)(3) of the Public Utility Code, 66 Pa. C.S. §2807(e)(3).

Among other things, UGI's Petition proposed rates for the GS-1 and GS-4 (small business) classes which were substantially higher than UGI's proposed system-average rate and substantially higher than the rates for the comparable classes in neighboring jurisdictions. Under UGI's Petition, small business customers would also have subsidized the rates of customers in the LP class (which is an industrial class).

The OSBA and other parties were able to reach a settlement.

The principal reason the OSBA concluded that the Settlement was in the best interests of small business customers was because, unlike UGI's Petition, the Settlement established default service rates for the GS-1 and GS-4 classes which reflected "prevailing market prices" when compared with the most recent competitive procurement results in the neighboring jurisdiction of Maryland and, therefore, satisfied the requirement of Section 2807(e)(3). Additionally, UGI's Petition proposed to set default service rates for the LP class which were substantially below the default service rates for GS-1 and GS-4. However, under the Settlement, the class average default service rates for LP would be the same as the class average default service rates for GS-1 and GS-4.

Finally, UGI's Petition did not propose any changes in the GS-4 rate design, the larger of small commercial customers under UGI's tariff. Also under UGI's tariff, GS-4 had both a demand charge and declining block rates. In its Answer, the OSBA proposed the elimination of the demand charge in 2007. Under the Settlement, both the demand charge and the declining blocks will be phased out for GS-4 over three years.

The Commission entered an Opinion and Order adopting the recommended decision of the Administrative Law Judge and approving the Settlement on June 23, 2006. As a result of the OSBA's intervention, GS-1 and GS-4 customers will save an estimated $2.9 million over three years.

**PPL Electric Utilities Corporation**
**POLR Proceeding**
**Docket No. P-00062227**

On August 2, 2006, PPL Electric Utilities Corporation ("PPL") filed a Petition "to establish the terms and conditions under which PPL will supply Provider of Last Resort ('POLR') service during 2010, as a transition to a fully competitive statewide market beginning January 1, 2011." PPL, in its Petition, requested approval of its Competitive Bridge Plan ("CBP") under Chapter 28 of the Public Utility Code, 66 Pa. C.S. §§ 2801-2812.

The Electricity Generation Customer Choice and Competition Act (the "Act"), 66 Pa. C.S. Chapter 28, requires that at the end of the transition period, each Electric Distribution Company ("EDC") (or Commission-approved alternative default service provider) must acquire electric energy at "prevailing market prices" to serve those customers who do not choose an Electric Generation Supplier ("EGS") or whose EGS fails to deliver.

Because the Commission has not yet finalized its POLR regulations, PPL filed what it described as a temporary "bridge" that will be in operation during the last year

before arrival of a statewide competitive marketplace on January 1, 2011, when all remaining generation rate caps will have expired.

The OSBA generally supports the proposals contained in the PPL Petition. The Petition proposes to conduct a request for proposal ("RFP") process to obtain POLR supply for three separate rate classes: residential; small commercial and industrial; and large commercial and industrial. The OSBA observes that the Act's requirement for "prevailing market prices" can best be accomplished by bidding by rate class. By definition, bidding by rate class will produce rates for each class that are consistent with prevailing market prices for that class at the time of the bid.

The Petition also proposes to eliminate the demand charges and the declining block energy charges that currently exist as part of a customer's generation charge. In their place, the Petition proposes a generation supply charge that will be a flat "cents per kilowatt hour" charge. The OSBA supports this proposed change in rate design.

The Petition proposes to conduct PPL's RFP process through six separate bids spread out over three years for all customer classes except for the Large C&I class. The OSBA observes that this is a reasonable methodology by which the CBP can mitigate the price volatility associated with purchasing electrical energy in the current marketplace.

The Petition proposes that POLR suppliers will be responsible for all ancillary transmission services charges, will be responsible for all transmission congestion charges, and will be required to deliver their electricity to the PPL zone within the PJM service territory. The OSBA supports these proposals as the best way to assign responsibility for transmission service charges.

The OSBA filed direct, rebuttal, and surrebuttal testimony in this proceeding.

Evidentiary hearings were held before the Administrative Law Judge ("ALJ") on December 19 and 20, 2006.

The OSBA also filed main and reply briefs.

At the time of this writing, the case is before the ALJ, and the parties are awaiting her recommended decision.

**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.

On October 25, 2005, Pike filed with the Commission the results of its auction process which had been authorized by the Commission in approving Pike's plan. The auction results were approved by the Commission on October 28, 2005. By Order entered December 21, 2005, the Commission permitted the new tariffs to go into effect on January 1, 2006.

The new tariffs reflected more than a 70% increase in Pike's retail rates, and were met with protests by Pike's ratepayers. By Order entered February 14, 2006, the Commission initiated an investigation into the competitive market in Pike's service territory. On February 27, 2006, the Commission held a public input hearing in Milford, PA, in Pike's service territory.

On March 10, 2006, Direct Energy Services, LLC ("Direct") filed a Petition for an Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company at Docket P-00062205. By Order entered April 20, 2006, the Commission approved a retail aggregation bidding program for customers of Pike. Direct was ultimately the successful bidder for this program, and currently supplies power to a significant majority of Pike customers at a somewhat reduced rate. Under Direct's plan, residential and business customers pay the same rate per kilowatt hour, thereby addressing the interclass subsidies about which the OSBA had complained.

On or about March 21, 2006, the County of Pike ("County") filed a Complaint against Pike, opposing Pike's rate increase. That proceeding is ongoing at this time.

### 3. Alternative Energy

**Alternative Energy Portfolio Standards Act**
**Proposed Rulemaking**
**Docket Nos. M-00051865 and L-00060180**

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

The OSBA submitted comments in response to the PUC's rulemakings on net metering and interconnection. The OSBA also submitted comments in response to Commission orders regarding Demand Side Management ("DSM") and Energy Efficiency ("EE"); designation of a registry for Alternative Energy Credits ("AECs"); types of alternative energy projects which fall outside the definition of "public utility"; voluntary alternative energy purchases; solar thermal energy; and compliance deadlines and determinations; *force majeure*; and cost recovery.

**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 electric generation suppliers ("EGSs") and electric distribution companies ("EDCs") of the pendency of this proceeding, and advise 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 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.

On July 5, 2006, the ALJ issued her recommended decision ("RD"). The ALJ recommended that the Petition be granted and that ownership of the AECs be awarded to the Companies. On December 21, 2006, the Commission voted 3-1 to adopt the ALJ's recommendation.

### 4. Low-Income Programs

There has been an ongoing controversy between advocates for low-income residential customers and advocates for business customers over whether all customer classes should be required to contribute toward the cost of universal service programs.

Advocates for spreading universal service costs over all rate classes argue that there is a "societal good" or an "economic self-interest" justification for making business ratepayers contribute to the cost of universal service programs.

On the other hand, the OSBA argues that funding universal service programs through utility rates (rather than through taxes) is similar to the concept of insurance: ratepayers pay "premiums" when they can afford to do so in exchange for "benefits" to help them pay their utility bills when their individual economic circumstances require. Because all residential ratepayers theoretically could need such assistance, it is logical to

make all residential ratepayers contribute toward the program's costs. However, because commercial and industrial customers are ineligible for assistance through universal service programs, it would be unfair to divert business ratepayer dollars to cover the cost of universal service programs.

Except for the Philadelphia Gas Works ("PGW"), the PUC has generally not required business ratepayers to pay for universal service programs.[4] However, the issue was again joined in PPL's 2004 distribution case. In response to OCA's effort to spread the costs to all rate classes, the Commission expressly held that universal service program costs should be funded only by the residential class. In reaching that conclusion, the Commission noted that the advocates of spreading the costs more broadly had failed to support their position with "concrete evidence in the form of cost studies."

In addition to ruling in specific cases, the Commission is also conducting a generic proceeding on cost recovery and other issues related to universal service and energy conservation programs.[5] In that generic proceeding, the Commission voted to continue the policy of allocating CAP costs to the only customer class whose members are eligible to participate in the program, *i.e.*, residential customers.

In reaffirming its prior policy, the Commission specifically disagreed with the OCA's interpretation of legislative intent regarding recovery of CAP costs from business customers. While acknowledging that there are a few exceptions in which CAP costs are recovered from customers other than the residential class, the Commission recognized that none of the exceptions constitutes legal precedent because each involves a settlement or, in the case of PGW, a mechanism that was constructed prior to the Commission's having jurisdiction over the utility. Finally, the Commission referred to its PPL ruling that "[u]niversal service programs [such as CAP], by their nature, are narrowly tailored to the residential customers and therefore, should be funded only by the residential class."

[4] In the case of PGW, the universal service funding model was *inherited* by the Commission, *i.e.*, the funding program was approved by the Philadelphia Gas Commission. The Commission has deferred consideration of whether non-residential customers should be relieved of paying for PGW's universal service programs.

[5] *See Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Order entered December 18, 2006).

## 5. Miscellaneous

**First Energy Companies**
**Base Rates, Merger Savings, and Rate Cap Exception Proceeding**
**Docket Nos. R-00061366, R-00061367, A-110300F0095, A-1100400F0040, P-00062213, and P-00062214**

On November 9, 2000, GPU, Inc., and its Pennsylvania subsidiaries, Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") 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.

The merger savings case was consolidated with rate cases filed on April 10, 2006, by Met-Ed and Penelec. Met-Ed and Penelec jointly sought rate increases of approximately $2.25 billion in those cases. Among the important issues raised in the consolidated cases was whether Met-Ed and Penelec should be permitted to break the generation rate caps agreed to in their Restructuring Settlement in order to recover additional generation revenues.

The OSBA filed testimony, cross-examined witnesses, and submitted briefs before the administrative law judges. A Recommended Decision was issued by the ALJs on October 31, 2006, which denied much of the relief sought by Met-Ed and Penelec. Although the OSBA filed exceptions to some of the ALJs' recommendations, the OSBA generally supported the recommendations by filing reply exceptions. On January 11, 2007, the Commission adopted most of the ALJs' recommendations. As a result, the Companies will receive an overall increase in rates of about 5.1% (Met Ed)/ 4.6% (Penelec) in comparison to the 19% (Met-Ed)/ 15% (Penelec) they had requested.

The OSBA joined with numerous other parties in successfully holding the Companies to commitments made in the Restructuring Settlement. The OSBA and the other customer groups were unsuccessful in requiring the Companies to flow through previously accrued merger savings. However, the OSBA and the industrial customer group successfully resisted the Companies' proposal to make business customers share in paying for the residential-only universal service program. Restricting the universal service funding obligation to residential customers only will save small business rate payers about $9.3 million per year.

**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 electric distribution company ("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, after evaluating comments from the parties regarding the tentative modifications, approved an amended settlement stipulation by Order entered September 19, 2006.

**PECO Energy Company**
**Merger Proceeding**
**Docket No. A-110550F0160**

On February 4, 2005, PECO Energy Company and Public Service Electric and Gas Company ("PSE&G") (collectively "Joint Applicants") applied for approval of the merger of the 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 would have received $120 million in rate relief. Because of the efforts of the OSBA, about one-fourth ($30 million) of the $120 million would have gone 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 the

restructuring proceeding, small business customers (Rate GS-General Service) were subsidizing other rate classes by providing PECO a rate of return of 11.8% 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 would have mitigated these subsidies.

The Commission approved the Joint Settlement by Order entered February 1, 2006. However, on September 14, 2006, the Joint Applicants announced that Exelon had given PSE&G formal notice of termination of the merger agreement based on the inability to elicit a favorable decision on the transaction from the New Jersey Board of Public Utilities. The Joint Applicants subsequently notified the Commission of the termination and withdrew the Application and corresponding settlement. On October 19, 2006, the Commission entered a tentative Order rescinding its prior Opinion and Order approving the settlement. That Order became final by operation of law on October 29, 2006.

**Duquesne Light Company**
**Merger Proceeding**
**Docket Nos. A-110150F0035 and A-311233F0002**

On September 6, 2006, an Application was filed by Duquesne Light Company ("DLC") and DQE Communications Network Services LLC seeking approval of the acquisition of their parent company—Duquesne Light Holdings, Inc. ("DLH")—by the Macquarie Consortium. The Macquarie Consortium is comprised of numerous investment funds, most of which are managed by Macquarie Bank Limited. Macquarie Bank Limited is headquartered in Australia.

The OSBA has intervened in this matter and has filed a protest against the Application. The OSBA's principal issues of concern include (a) whether transferring ownership of a Pennsylvania electric distribution company to an overseas entity would be consistent with Commission policy; (b) whether ratepayers would benefit from the predicted enhanced access to capital; and (c) whether ownership by an equity fund would result in the excessive diversion of DLC revenues to Macquarie Consortium investors.

This case is pending before the administrative law judge.

**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 has 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. In the interim, the Commission permitted Duquesne to collect the surcharge from its customers, subject to possible refund or reallocation at the conclusion of the case.

At the time of this writing, the ALJ has scheduled a prehearing conference on this matter for March 22, 2007.

**Strategic Energy, Select Energy, and Dominion Retail Assessment Challenges**
**Docket Nos. M-00061940, M-00061941, and M-00061948**

On February 7, 2006, and February 17, 2006, respectively, Dominion Retail, Inc. ("Dominion") and Select Energy, Inc. ("Select") filed Petitions for Refund of Assessments Paid to the Public Utility Commission, seeking recovery of all assessments paid to the Commission as electric generation suppliers ("EGS") for fiscal years 2001-2002 (Dominion only), 2002-2003, 2003-2004 and 2004-2005. The challenges covered the assessments paid for the operation of the Commission, the OSBA, and the OCA. The OSBA intervened in these matters, which were subsequently consolidated before the Commission.

Dominion and Select contend that they are entitled to refunds on the basis of a Supreme Court decision that EGSs are exempt from assessments. The Commission, OSBA and OCA previously agreed to make refunds to EGSs which had challenged the assessments in the appellate courts. However, in the view of OSBA, Dominion and Select are not entitled to refunds because they neither objected to the assessments nor otherwise followed the procedures to protect their rights while the appellate courts were considering the matter.

On July 13, 2006, the administrative law judge ("ALJ") issued an Initial Decision agreeing with the OSBA's position. After the filing of exceptions and reply exceptions, the parties jointly petitioned the Commission for a review of coordinated decisions. On

October 19, 2006, the Commission entered an Opinion and Order denying Dominion's and Select's petitions for refunds and denying their exceptions.

On March 23, 2006, Strategic Energy LLC. ("Strategic") filed a Petition For Refunds of Assessments Paid To The Pennsylvania Public Utility Commission, similar to the petitions filed by Dominion and Select, seeking a refund of assessments allegedly levied upon Select by the Commission for fiscal years 1998-1999, 1999-2000, 2001-2002, 2002-2003, 2003-2004, and 2004-2005. The OSBA intervened.

On September 20, 2006, the ALJ issued his Initial Decision, which essentially agreed with the decision in the Select and Dominion cases. The Commission entered an Opinion and Order on December 5, 2006, adopting the Initial Decision and denying Strategic's exceptions.

The decision on the Dominion/Select case has been appealed to Commonwealth Court at Docket Nos. 2039 CD 2006 and 2040 CD 2006; the cases were consolidated by Order entered December 7, 2006. Likewise, the Strategic case was appealed to Commonwealth Court at Docket No. 2321 CD 2006. That case was also consolidated with the Dominion and Select cases.

## B. Gas Highlights

**UGI/PG Energy**
**Merger Proceeding**
**Docket Nos. A-120011F2000, A-125146F5000, A-125146, P-00062237, and G-00061205**

On February 16, 2006, UGI Utilities, Inc. and Southern Union Company filed an Application with the Commission seeking approval for UGI Corporation to purchase Southern Union's Pennsylvania operating division, PG Energy, for $580 million. UGI Utilities, Inc. is a subsidiary of UGI Corporation.

The Application proposed that once the purchase was complete, UGI Corporation would immediately retransfer that portion of PG Energy's property that was used and useful in providing natural gas distribution services and supplier of last resort services (except gas supply and pipeline and storage capacity contracts) to a newly formed subsidiary of UGI Corporation called UGI Penn Natural Gas, Inc. As a result, UGI Penn Natural would become the natural gas distribution company ("NGDC") for what was previously the PG Energy service territory.

The Application also proposed that UGI Corporation would transfer the stock of UGI Penn Natural to UGI Utilities, Inc., making UGI Penn Natural a wholly-owned subsidiary of UGI Utilities, Inc. and an indirect, rather than direct, subsidiary of UGI Corporation.

UGI Utilities, Inc. proposed, during the course of the proceeding, that PG Energy's gas supply, pipeline, and storage capacity contracts be transferred to UGI Penn Natural, and that UGI Penn Natural would contract with UGI Energy Services ("UGIES") to manage those assets.

The OSBA filed direct and surrebuttal testimony.

On June 19, 2006, an evidentiary hearing was held before the administrative law judge ("ALJ").

One of the conditions proposed by the OSBA was to prohibit UGI Penn Natural from entering into a gas supply assets management agreement with UGIES unless that agreement was approved by the Commission in a separate proceeding. UGI Utilities, Inc., during the briefing stage, acknowledged that an agreement for UGIES to manage UGI Penn Natural's gas supply assets would have to be submitted to the Commission for review and approval under the affiliated interest provisions of 66 Pa. C.S. Ch. 21.

On July 21, 2006, the ALJ issued an initial decision. Although the ALJ recommended the approval of the overall transaction, she observed that the asset management agreement was not properly before her, and therefore refused to rule on that issue.

The Commission approved the proposed transaction by Order entered August 21, 2006. However, the Commission adopted the OSBA's position and held that the proposed asset management agreement could not be approved as part of the merger and that UGI would have to file an affiliated interest agreement as required by Chapter 21 of the Public Utility Code.

UGI subsequently submitted the gas assets management agreement for separate approval. The OSBA and other parties raised numerous questions about the proposal, including whether assets purchased with revenues paid by PG Energy customers would be diverted for the benefit of UGI's other operations, and whether those customers would pay higher rates than without the agreement. Ultimately, UGI withdrew consideration of the asset management agreement.

**Equitable Gas/Dominion Peoples**
**Acquisition Proceeding**
**Docket No. A-122250F5000**

On March 31, 2006, Equitable Resources, Inc. ("Equitable Resources") and The Peoples Natural Gas Company ("Dominion Peoples") (collectively, "Joint Applicants"), filed an application seeking the approval of the Pennsylvania Public Utility Commission ("Commission" or "PUC") to consummate a stock transfer and acquisition of rights

("Proposed Acquisition") of Dominion Peoples and Hope Gas, Inc. d/b/a Dominion Hope by Equitable Resources. By their Application, the Joint Applicants requested the Commission's approval of the Proposed Acquisition, under Chapters 11 and 22 of the Public Utility Code, 66 Pa. C.S. Ch. 11 and 22.

Dominion Peoples is a natural gas distribution company ("NGDC") certificated by the Commission. Equitable Gas Company is an NGDC certificated by the Commission and owned by Equitable Resources. The Joint Applicants did not request approval to merge or consolidate Dominion Peoples and Equitable Gas. The OSBA filed a protest and intervened in the proceeding.

The Application alleges synergies due to the elimination of the overlapping service territories of Dominion Peoples and Equitable Gas and, in the long-term, single tariff pricing for the two NGDCs as benefits that support approval of the Proposed Acquisition. However, the Application also provides that Dominion Peoples and Equitable Gas will, for the near term, operate as separate subsidiaries of Equitable Resources. Although the Application further alleges that the ultimate goal is to combine Equitable Gas and Dominion Peoples into one operational unit with a single tariff, the Application is void of specifics as to how this combination would ultimately benefit customers. Of particular concern to the OSBA is the fact that Dominion Peoples' rates are significantly lower than the rates of Equitable Gas and would likely increase under a single tariff.

Further, while the Application purports to seek a certificate of public convenience for an acquisition of stock, the Joint Applicants are also requesting that the Commission allow Equitable Gas and Dominion Peoples to implement a "blended" purchased gas cost ("PGC") rate upon approval of the Application.

On December 1, 2006, the Joint Applicants and certain intervenors filed a non-unanimous settlement with the Administrative Law Judge ("ALJ"). The OSBA is not a signatory to the settlement document. In its briefs, the OSBA has argued that separate Commission approval is necessary to merge Equitable Gas with Dominion Peoples and to blend their rates. The case is still pending before the Commission.

**National Fuel Gas Distribution Corporation**
**Base Rates Proceeding**
**Docket No. R-00061493**

On May 31, 2006, National Fuel Gas Distribution Corporation ("NFG") filed Supplement No. 61 to Tariff Gas-Pa. P.U.C. No. 9 to produce $25,892,000 in additional annual revenues (an increase of 6.1%). In addition, NFG proposed to implement revenue decoupling.

The OSBA filed a complaint and submitted testimony against the proposed increase. The OSBA also prepared an analysis of NFG's forecasts that the Company would experience significant declines in gas use per customer for its residential and commercial customers, compared to the forecasts in its last base rates case for the test year ending May 2005. The Company's forecasted reduction in throughput contributes significantly to NFG's need for a rate increase.

The OSBA also took issue with the Company's initial filing because all four business customer classes were overpaying their distribution cost of service at present rates, but NFG proposed to assign above system average rate increases to three of the small business classes.

The parties engaged in extensive settlement discussions and were ultimately able to settle the case. The OSBA was a signatory to the Joint Settlement Petition because the terms resulted in a below system average increase for all classes of small business customers, thereby bringing each closer to the actual cost of providing service. In addition, other objectionable items proposed by NFG (such as the decoupling mechanism) were withdrawn by the Company. Because of the OSBA's intervention, the rates of small business customers are at least $750,000 lower than they would have been under the Company's proposed allocation of the increase among the customer classes.

The Commission approved the Joint Settlement Petition without modification by Opinion and Order entered December 4, 2006.

**T.W. Phillips**
**Base Rates Proceeding**
**Docket No. R-00051178**

On February 13, 2006, T.W. Phillips Gas and Oil Company ("T. W. Phillips" or "Company") submitted Original Tariff Gas – Pa. P.U.C. No. 6 ("Tariff No. 6"), seeking to increase the operating revenues by $21,652,666 per year.

The OSBA filed a Formal Complaint. In its Complaint, the OSBA identified several issues of concern, including the desire to ensure that the Company's proposed Tariff would not result in rates and charges that were excessive, unjust, unreasonable, or discriminatory to small business customers, or otherwise contrary to Commission regulation or policy.

The OSBA participated in informal discovery and the negotiations which ultimately led to the filing on June 30, 2006, of the Joint Petition for Settlement. The Settlement provided for rates which would produce an increase in operating revenues of $6,200,000. Additionally, the increase in the customer charges for General Service Small

("GS") customers was either reduced or eliminated, depending on the customer's individual usage.

On August 22, 2006, the Commission entered its Opinion and Order adopting the recommended decision of the ALJ approving the Settlement in its entirety.

**PPL Gas**
**Base Rates Proceeding**
**Docket No. R-00061398**

On April 27, 2006, PPL Gas Utilities Corporation ("PPL" or "Company") filed Tariff Gas – PA P.U.C. No. 3 (Supplement No. 11), seeking to increase the total distribution operating revenues of PPL by $12.8 million per year

The OSBA filed a Complaint. The OSBA's primary concerns in this case revolve around the central issue of cost of service for small business customers. Specifically, the OSBA's goal is to ensure that small business customers' rates have a basis in, and move towards, the actual cost incurred by the Company to provide service to those customers.

The PPL cost of service study ("COSS") contains errors and methodological biases which the OSBA identified in the testimony of its expert witness. Those errors cause PPL to overstate the cost of providing service to commercial customers.

In addition to the problems with PPL's COSS, PPL's proposed rate increases for each of its rate classes were presented on a bundled or total-bill basis, meaning that purchased gas costs for sales customers were included in the Company's percentage increase calculations. However, purchased gas costs ("PGC") are regulated in PPL's annual Section 1307(f) proceedings, and PPL did not propose to make any changes in its PGC rates in this proceeding. By including PGC when measuring the proposed percentage increases, PPL masked the magnitude of the proposed distribution rate increases. The difference was dramatic for all rate classes; but, for small business customers served under Rate Schedule G, the proposed rate increase was transformed from a below system average increase of 4.3% (as represented by PPL on a total-bill basis) to an above system average increase in distribution rates of 25.2%.

PPL claimed that its proposed allocation of the rate increase would move the revenues provided by GS-Small customers closer to the cost of service, based on its own COSS. However, despite the fact that the PPL COSS shows that the GS-Small rate class was overpaying its distribution cost of service at present rates, the Company proposed to increase distribution rates for the GS-Small class by more than the system average (23.6% v. 21.0%). Therefore, rather than moving GS-Small customers closer to cost of service, PPL was actually proposing to move them farther away from cost of service.

To remedy the flaws in the Company's proposed allocation of the rate increase, the OSBA recommended $1.49 million in "first dollar relief" for GS-Small customers, *i.e.*, the first $1.49 million by which the Commission reduced PPL's proposed $12.8 million increase would go to GS-Small customers.

The Administrative Law Judge ("ALJ") issued a recommended decision on November 30, 2006, which recommended the OSBA's proposal for first dollar relief for GS-Small customers in order to bring the class closer to the actual cost of providing service. On February 8, 2007, the Commission approved a rate increase for PPL Gas but granted the GS-Small class $1.49 million in first dollar relief. As a result, the GS-Small class' share of the rate increase will be about $800,000 less than it otherwise would have been.

**PG Energy**
**Base Rates Proceeding**
**Docket No. R-00061365**

On April 13, 2006, PG Energy filed proposed Supplement No. 44 to Southern Union Tariff Gas - Pa. P.U.C. No. 7, Supplement No. 34 to Southern Union Tariff Gas - Pa. P.U.C. No. 6, and Supplement No. 43 to Southern Union Tariff Gas - Pa. P.U.C. No. 1 with the Commission which requested an increase in the total operating revenues of PG Energy by $29.8 million per year.

The OSBA filed a complaint alleging that PG Energy's proposed Supplements created rates that were unjust, unreasonable, unduly discriminatory, and otherwise contrary to law. The OSBA also filed direct, supplemental direct, rebuttal, and surrebuttal testimony.

Ultimately, the OSBA and the other parties reached a settlement that allowed PG Energy $12.5 million in additional annual revenue.

PG Energy's original filing included a distribution cost of service study ("COSS"). Based upon that COSS, PG Energy originally proposed to allocate the distribution revenue increase among its customer classes in a manner that would move the classes towards their respective distribution cost of service. However, the OSBA discovered substantial errors in PG Energy's COSS. After extensive work with PG Energy, the OSBA was able to correct the COSS.

However, once all of the errors were corrected, the OSBA determined that PG Energy's original revenue allocation was moving the revenues from some customer classes significantly away from their distribution cost of service. PG Energy agreed with the OSBA's analysis and conclusion.

Under the settlement, the overall distribution revenue increase was allocated in a manner that moved PG Energy's customer classes toward their distribution cost of service. Because of the OSBA's intervention, commercial customers will pay about $1.28 million less each year than they would have if the $12.5 million settlement amount had been allocated as originally proposed by PG Energy.

The Commission approved the settlement by Order entered November 30, 2006.

**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 would not be eligible for CAP benefits. The OSBA and the OCA filed complaints against the filing. The OTS entered its appearance.

The parties engaged in settlement discussions in an effort to reach an agreement that would result in expansion of the CAP program with the proper funding mechanisms. On June 6, 2006, Peoples, the OSBA, and the OCA submitted to the Commission a fully executed Stipulation of Settlement ("Settlement") and corresponding statements in support of the Settlement. Of particular interest to the OSBA was the fact that the Settlement did not impose the cost of the CAP changes on small business customers. The OTS opposed the Settlement because Peoples' CAP program did not contain a maximum CAP credit.

At the Public Meeting of June 22, 2006, Commissioner Fitzpatrick sponsored a motion which remanded the Settlement to the Office of Administrative Law Judge ("OALJ") for hearings. Under his motion, the hearings were also to include matters relating to Peoples' triennial filing of universal service and energy conservation plans at Docket M-00061880.

After the submission of testimony, the administrative law judge ("ALJ") recommended that the June 6, 2006, Stipulation of Settlement be approved. OTS filed exceptions to the ALJ's recommendation. The OCA, the OSBA, and Peoples filed reply exceptions. On December 5, 2006, the Commission approved the June 6, 2006, Stipulation of Settlement and denied the OTS's exceptions.

**Equitable Gas Company**
**Low-Income Energy Funding**
**Docket Nos. P-00062240 and M-00061959**

On October 6, 2006, Equitable Gas Company ("Equitable") filed with the Commission a Petition for Approval to Increase the Level of Funding for its Customer Assistance Program and to Implement an Adjustable Funding Mechanism to Recover Associated Expenses Concerning Universal Service and Energy Conservation Plan Costs ("Petition"). On October 18, 2006, OSBA filed an answer to Equitable's Petition and a Notice of Intervention.

On December 26, 2006, the Commission assigned the Petition to the Office of Administrative Law Judge ("OALJ") for a hearing and a recommended decision.

## C. Telephone Highlights

**Verizon Pennsylvania Inc.**
**Access Charge Proceeding**
**Docket No. C-20027195**

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 exchange 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 exchange 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 administrative law judge ("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 limited the *specific* business rate increase to less than $1 per business line, and provided that the average increase for business local exchange lines could not 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.

On January 8, 2007, the Commission ordered that this case be stayed pending the outcome of the FCC's *Unified Intercarrier Compensation* proceeding or January 8, 2008, whichever arrived first. The Commission expressed concern the FCC proceeding may impact this case in significant and unpredictable ways, and concluded that coordinating its actions with those of the FCC would be the best way to proceed.

On January 23, 2007, Qwest Communications Corporation ("Qwest") filed a Petition for Reconsideration of the Commission's January 8, 2007, Order. The Commission granted the Petition on January 26, 2007, pending a review on the merits.

**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.

On August 30, 2006, certain parties petitioned the Commission to further stay this proceeding for another 12 months, or until the conclusion of the FCC's *Unified Intercarrier Compensation* proceeding, whichever arrived first. On November 15, 2006, the Commission granted that petition and further stayed this proceeding.

**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.

The OSBA filed a complaint against Verizon PA's 2006 PCO filing. The OSBA also filed direct and surrebuttal testimony.

The case did not settle, and was fully litigated before an administrative law judge ("ALJ"). The OSBA submitted main and reply briefs on a variety of disputed issues to the ALJ.

The ALJ issued his recommended decision on December 13, 2006. The ALJ ruled in favor of the OSBA on many issues, including: that Verizon PA does not have unfettered discretion to raise its rates as it sees fits; that Verizon PA improperly included competitive access charge revenue in its noncompetitive service revenue total; and that Verizon PA improperly made assumptions about its customer count when calculating its annual customer rate increases. The OSBA filed exceptions to certain other issues, the most important of which were the ALJ's refusal to place part of the rate increase on

access charges and his refusal to enforce a prior settlement limiting the rate increase on business customers with three or fewer lines.

The matter is awaiting a Commission decision.

**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.

The OSBA filed a complaint against Verizon North's 2006 PCO filing. The OSBA also filed direct and surrebuttal testimony.

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.

The case did not settle, and was fully litigated before an administrative law judge ("ALJ"). The OSBA submitted main and reply briefs on a variety of disputed issues to the ALJ.

The ALJ issued his recommended decision on December 13, 2006. The ALJ ruled in favor of the OSBA on many issues, including: that Verizon North does not have unfettered discretion to raise its rates as it sees fits; that Verizon North improperly included competitive access charge revenue in its noncompetitive service revenue total; that Verizon North improperly included inter-company telephone settlements in its noncompetitive service revenue total; and that Verizon North improperly made assumptions about its customer count when calculating its annual customer rate increases. The OSBA filed exceptions to certain other issues, the most important of which was the ALJ's refusal to place part of the rate increase on access charges.

The matter is awaiting a Commission decision.

**Alltel Corporation**
**Change of Control**
**Docket No. A-310325F0006**

On December 23, 2005, Alltel Pennsylvania, Inc. ("API") and Alltel Communications, Inc. ("ACI") (collectively, "Alltel" or "Joint Applicants") filed an Application ("Application") with respect to the proposed change of control ("Transaction") of API and ACI. By their Application, the Joint Applicants requested the Commission's approval to spin off the local exchange service as part of a new company (now known as Windstream).

The OSBA filed a protest to the Application, alleging that the proposed transaction would not provide affirmative benefits to telephone customers in Pennsylvania, *i.e.*, would not improve the rates and service over what would be available to customers in the absence of the proposed transaction. Further, the OSBA was concerned about the debt ratio and the extent, if any, to which the new wireline company would be able to offer service at reasonable and competitive prices.

The OSBA filed direct testimony and also actively participated in the negotiations which led to the filing on April 10, 2006, of the Joint Petition for Settlement ("Settlement"). The OSBA is a signatory to the Settlement.

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 Alltel from raising the business or residential local exchange rates through June 1, 2009. As a result, business customers will save about $8.5 million over three years.

Furthermore, the Settlement Petition accelerates Alltel's broadband deployment commitments. The Settlement Petition requires that by December 31, 2010, Alltel will make broadband available (within ten business days of a request) for 84% (versus the previous target of 80%) of its retail customers.

The Commission entered an Order approving the Settlement Petition on June 12, 2006.

**Commonwealth Telephone Company**
**Change of Control**
**Docket Nos. A-310800F0010, A-311095F0005, and A-311225F0003**

On September 29, 2006, an Application was filed by Commonwealth Telephone Company ("CTCo") and numerous affiliates (collectively, the "Joint Applicants"), seeking approval for the acquisition of their parent company—Commonwealth

Telephone Enterprises, Inc. ("CTE")—by Citizens Communications Company ("Citizens"). Citizens currently owns six incumbent local exchange carriers ("ILECs") serving Pennsylvania customers ("the Frontier Companies").

The OSBA filed a Notice of Intervention and a Protest. OSBA has two main concerns about this proposed acquisition. First, the proposed acquisition could allow Citizens to divert revenues from CTE in order to service Citizens' $990 million debt. Second, Citizens is projecting $30 million in synergy savings each year, but the application did not propose to share those savings with ratepayers.

After extensive negotiations, the parties submitted a settlement proposal to the administrative law judge ("ALJ"). That settlement includes provisions to prevent the diversion of revenues to Citizens which are needed for the operation of CTCo. The Settlement would also cap the annual rate increases for CTCo and the Frontier Companies in 2007-2009. Furthermore, the rates for business customers in those years would increase by less than the rates for residential customers. The settlement would save business customers about 12.6 million over three years. The ALJ has recommended that the Commission approve the settlement.

## D. Water and Wastewater Highlights

### Pennsylvania-American Water Company
### Collection System Improvement Charge
### Docket Nos. R-00027982 and C-20042816

In 2003, the Commission approved a petition of the Pennsylvania-American Water Company ("PAWC") to surcharge customers for the cost of certain wastewater system improvements implemented between base rate cases. The OSBA contested the legality of the collection system improvement charge ("CSIC") and intervened in the appeal to Commonwealth Court taken by the Office of Consumer Advocate ("OCA"). 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 PAWC 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 and PAWC then filed petitions asking the Supreme Court to hear an appeal of the Commonwealth Court's order. The OSBA and the OCA submitted briefs asking the Supreme Court to deny the petitions. On March 7, 2006, the Supreme

Court denied the petitions, thereby refusing to hear an appeal of the Commonwealth Court's decision.

Subsequent to the Supreme Court's action, the Commission approved a plan by which PAWC deleted its CSIC tariffs and refunded the money previously collected.

**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 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. The OSBA and the parties filed testimony and participated in hearings before an administrative law judge ("ALJ"). Subsequently, the parties, including OSBA, filed a Joint Petition for Settlement. The Settlement was approved by Order of the Commission entered June 22, 2006.

The OSBA agreed to the settlement, in part, because of the following: (a) The final rate increase was less than two-thirds the amount originally proposed by Aqua-PA. (b) Under the Settlement, commercial customers received the same percentage increase as every other customer class, except for public fire. Under the original filing, commercial customers were to get an above system average increase, even though they were already paying more than their cost of service. (c) Under the Settlement, all commercial rate blocks went up by the same percentage. Under the original filing, the rate blocks for commercial customers were to be increased by varying percentages.

As a result of the OSBA's intervention, small business customers are paying almost $800,000 less per year than if the rate increase had been allocated as proposed by Aqua PA.

**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 to increase the overall rates by

$463,576, an increase of 36.4%. The OSBA filed a complaint alleging that the requested rate of return of 11.0% on common equity would provide an excessive return on the City's investment and was therefore unjust, unreasonable and contrary to law.

The initial case as filed by the City included rate increases for customers within the City of DuBois who were not subject to the jurisdiction of the Commission. Therefore, the case was modified to a request for $129,349.00 in rate increases for the jurisdictional customers only. After extensive discovery and several unsuccessful attempts at mediation, the parties filed testimony and prepared for litigation. On the first day of hearings, the parties were finally successful in achieving a settlement, which was approved by the Commission by Order entered August 23, 2006.

The OSBA agreed to the settlement for the following reasons: (a) Under the original filing by the City Water Bureau, jurisdictional customers were to get an increase of $129,349.00, which would have provided an excessive 11.0% return on common equity. The Settlement reduced the rate increase to $92,000, or approximately 71% of the amount initially requested by the City Water Bureau. (b) In the absence of a cost of service study, the Settlement allocated the rate increase across-the-board. As a result, the rate increase is not discriminatory to the City Water Bureau's small business customers

**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 to increase the overall rates by $999,995, an increase of 13.7%. The OSBA 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 parties conducted several conferences, both in person and by telephone, in an attempt to achieve a settlement of some or all of the issues in this case. The Settlement which resulted was approved by the Commission by Order entered June 1, 2006. The following provisions were of particular significance to the OSBA in concluding that the Settlement was in the best interests of small business customers: (a) under the Settlement, all customer classes, including commercial customers, are moving closer to cost of service; and (b) the Settlement reduced the overall rate increase to less than the amount initially requested by the City.

**United Water Company**
**Base Rates Proceeding**
**Docket No. R-00051186**

On January 30, 2006, United Water Pennsylvania, Inc. ("United") filed Tariff Water – Pa. P.U.C. No. 7 ("Tariff No. 7"), seeking to increase the total base rate revenues of United by $7,500,000 (an increase of 32.4%). The OSBA filed a complaint against the proposed increase. Subsequently, the OSBA and the other parties were successful in reaching a settlement of the case, which was approved by Commission Order entered July 20, 2006.

Under the original filing by United, commercial customers were to get an above system average increase, even though, according to the cost of service study, they were paying more than their cost of service at present rates. Under the Settlement, commercial customers received a smaller than system average increase in the main division. Further, the Settlement reduced the overall rate increase to $5.9 million, approximately 78% of the amount initially requested by United.

**Emporium Water Company**
**Base Rates Proceeding**
**Docket Nos. R-00061454, R-00061297**

On March 29, 2006, Emporium Water Company ("Emporium") filed Supplement No. 20RR to Tariff Water-Pa. P.U.C. No. 5 ("Supplement No. 20RR"), seeking to increase total annual revenues by $316,144 (an increase of 49.85%). The rate filing was based upon a rate base/rate of return methodology.

As a preferred alternative, Emporium also filed a Petition for Waiver of Regulation and for Use of Operating Ratio Methodology ("Petition") to implement Supplement No. 20OR to Tariff Water – Pa. P.U.C. No. 5 ("Supplement 20OR"). Supplement No. 20OR sought approval to increase total annual revenues by $342,092 (an increase of 54.30%). This rate filing was based upon the use of the operating ratio methodology.

By Order entered May 19, 2006, the proposed Supplement 20RR was suspended by operation of law and the Commission ordered an investigation into the Company's rates, and also ordered that consideration be given to consolidating the two cases. The OSBA filed a Complaint, alleging that the requested rates were excessive, unreasonable and contrary to law. By Order entered June 9, 2006, the Commission denied Emporium's Petition and rejected the proposed Supplement No. 20OR to Tariff Water – Pa. P.U.C. at Docket No. R-00061454.

Evidentiary hearings were held telephonically on August 10, 2006, at which the testimony and exhibits of witnesses were admitted into the record by stipulation of the parties. After the filing of briefs, the administrative law judge issued a Recommended Decision in this case on October 17, 2006. Subsequent to the filing of exceptions, the Commission, entered an Order on December 21, 2006, approving an increase in rates of $238,578 (38 percent), as opposed to the initial proposal from Emporium of $316,144 (49.85%).

**York Water Company**
**Base Rates Proceeding**
**Docket No. R--00061322**

On April 27, 2006, The York Water Company ("York") filed proposed Supplement No. 72 to Tariff Water-Pa. P.U.C. No. 14 to increase the total operating revenues of York by $4,549,737 per year.

The OSBA filed a complaint alleging that York's proposed Supplement created rates that were unjust, unreasonable, unduly discriminatory, and otherwise contrary to law.

Ultimately, the OSBA and the other parties reached a settlement that allowed York $2.6 million in additional annual operating revenue.

Under the settlement, York's commercial customers received the system average rate increase. Therefore, York's commercial customers were not burdened with an above average rate increase in this proceeding.

The settlement also required that York undertake a feasibility study to estimate the cost of a customer demand study. Ultimately, if York Water agrees to perform a customer demand study, then future cost-of-service studies performed by York will be based upon usage data that is significantly more current than what is presently available.

The Commission approved the settlement by Order entered September 15, 2006.

**Pennsylvania American Water Company**
**Distribution System Improvement Charge**
**Docket No. P-00062241**

On October 17, 2006, Pennsylvania American Water Company ("PAWC" or "Company") filed with the Commission a Petition for Approval to Implement a Tariff Supplement Revising the Distribution System Improvement Charge ("Petition"). The

OSBA filed a Notice of Intervention, an Answer to the Company's Petition, and a Protest.

OSBA's main concerns in the case are: (1) whether allowing PAWC to raise the cap on its Distribution System Improvement Charge ("DSIC") from 5% to 7.5% would violate the safeguards previously adoped by the Commission; (2) whether PAWC's DSIC cap increase would permit PAWC to circumvent the traditional ratemaking process; (3) whether PAWC's DSIC cap increase would actually aid PAWC in fixing its aging water distribution system; (4) whether PAWC's claimed benefit of the DSIC ( *i.e.*, that PAWC will file less frequent rate cases) is really a benefit in light of the Commission's decision to initiate an investigation of PAWC main breaks; (5) whether an increase in PAWC's DSIC cap would reduce the Company's incentive to be cost-efficient when improving its distribution system; and (6) whether any increase in PAWC's DSIC cap would be accompanied by a reduction in PAWC's authorized rate of return to reflect the Company's reduced risk.

This case was assigned to an administrative law judge and a procedural schedule has been set.

**Pennsylvania American Water Company**
**Service Investigation**
**Docket Nos. I-00060112 and P-00062244**

On December 14, 2006, State Senator Jay Costa wrote a letter to the Commission requesting an investigation of a water line break affecting the areas of West Mifflin, Homestead, Munhall, and the City of Pittsburgh. The water line break occurred on or about December 10, 2006, in the service territory of Pennsylvania American Water Company ("PAWC"). Senator Costa's letter alleged that: (1) as of December 14, 2006, PAWC's water service had not been fully restored; (2) PAWC had not provided sufficient information and detail as to the cause of the break, whether there was or continued to be a sufficient reserve of water, and when the water would be fully restored to all affected areas and customers; and (3) residents, school districts, and businesses have all been impacted by the water line break.

Senator Costa also submitted a letter to the OSBA on December 14, 2006, requesting the OSBA's assistance. In response, the OSBA filed a Petition requesting a Commission investigation and appropriate remedies if the Commission determines that PAWC's service is inadequate. On December 21, 2006, the Commission instituted an investigation into PAWC's Pittsburgh area outages that began on December 10, 2006, and also PAWC's outages in Lackawanna County from November 17-24, 2006. The OSBA participated in public input hearings in Pittsburgh on January 22, 2007. The OSBA is now awaiting the Commission's Investigation Order to determine what further action needs to be taken.

**Pennsylvania American Water Company**
**Change of Control**
**Docket No. A-212285F0136**

On May 5, 2006, Pennsylvania-American Water Company ("PAWC") filed the Application Of Pennsylvania-American Water Company For Approval Of A Change In Control To Be Effected Through A Public Offering Of The Common Stock Of American Water Works Company, Inc. ("Application"), which requested that the Commission give its approval to allow Thames Water Aqua Holdings GmbH ("Thames GmbH") to sell up to 100% of its shares of common stock of American Water Works Company, Inc. ("American Water"), and to allow Thames Water Aqua US Holdings, Inc. ("Thames US") to merge into American Water. American Water, the surviving corporation, would be the new corporate parent of PAWC.

The OSBA filed a protest alleging that PAWC's Application was insufficient to justify the proposed transaction; did not demonstrate any affirmative public benefit; and was unjust, unreasonable, and otherwise contrary to law. The OSBA also filed direct testimony.

Several parties, but not the OSBA, reached a settlement with PAWC. The administrative law judge ("ALJ") cancelled the originally scheduled evidentiary hearings and briefs, and substituted in their place hearings and briefs on the non-unanimous settlement. The OSBA filed supplemental direct testimony on the non-unanimous settlement.

PAWC, throughout the Application proceeding, has claimed that the "demerger" will have a beneficial effect on PAWC's cost of debt. The cost of debt is a critical issue, because, as other parties have testified, PAWC will have to finance extensive repairs to its system over the near term, and a high cost of debt will make that a costly proposition. The OSBA is advocating that customers be held harmless if PAWC's cost of debt goes up because of the demerger. The OSBA is also advocating that if the cost of debt goes down because of the demerger (as PAWC predicts), PAWC must use that lower cost of debt to set future rates. However, the OSBA's cost of debt proposal was not made part of the non-unanimous settlement. The OSBA intends to pursue this issue before the ALJ and Commission to ensure that all customers of PAWC are not harmed by this transaction and that they benefit if the transaction results in lower capital costs.

Hearings on the settlement are scheduled for late February 2007.

**United Water Pennsylvania, Inc.**
**Change of Control**
**Docket No. A-210013F0017**

On November 1, 2006, an Application was filed by United Water Pennsylvania Inc. ("UWPA"), seeking approval for the proposed merger of UWPA's ultimate parent company—Suez SA—with Gaz de France.

Suez SA is a publicly-traded French corporation which produces electricity, trades and sells gas and power, provides gas transportation and distribution services, and provides environmental services (including water, sanitation and waste management) to customers around the world. Suez SA is the indirect sole shareholder of UWPA's corporate grandparent, United Water Resources. Suez SA's control of United Water Resources and UWPA was approved by Commission Order entered January 27, 2000, at Docket Nos. A-210013F0014 and A-230077F0003.

Gaz de France, which would be the surviving entity in this proposed merger, was formerly a public-sector entity, but currently is a government-owned corporation conducting business as an integrated energy utility. The surviving entity would be 34.6% owned by the French government.

The OSBA has filed a Notice of Intervention and Protest in this matter. The issues which concern the OSBA include whether transferring ownership of a Pennsylvania water company to an entity substantially owned by a foreign government would be consistent with Commission policy, and whether ratepayers would benefit from the increased size of the international company. This 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 2006. 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 2006 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

Proposed Rulemaking Re: Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa. C.S. § 2807(e)(2)
Docket No. L-00040169

Proposed Rulemaking for Net Metering for Customer-generators
Docket No. L-00050174

Proposed Rulemaking Re: Interconnection Standards for Customer-generators Pursuant to Section 5 of the Alternative Energy Portfolio Standards Act, 73 P.S. § 1648.5
Docket No. L-00050175

Proposed Rulemaking Order Re: Implementation of the Alternative Energy Portfolio Standards Act of 2004
Docket No. L-00060180

### G. 2006 PUC Cases

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 2006:

Peoples Natural Gas Company d/b/a Dominion Peoples to use a portion of its Commercial Boiler Fuel Rider Fund to expand heating benefits to energy-eligible residential customers
Docket No. P-00052196

Alltel Pennsylvania, Inc. and Alltel Communications, Inc. for Approval Required Under the Pennsylvania Public Utility Code in Connection with the Change of Control of Alltel Pennsylvania, Inc. and Certain Changes Relating to Alltel Communications, Inc.
Docket No. A-310325F0006 and A-312050F0006

Columbia Gas of Pennsylvania, Inc. Concerning a Change in Purchased Gas Costs
Docket No. P-00062200

T. W. Phillips Gas and Oil Company, 2006 Gas Cost Rate Filing
Docket No. R-00051134

UGI Utilities, Inc. – Gas Division's Petition
Docket No. P-00062201

PG Energy's Petition and Notification Concerning a Change in Purchased Gas Costs Docket No. P-00062202

PUC v. National Fuel Gas Distribution Corporation
Docket No. R-00061246

Petition of Dominion Retail, Inc. for Refund of Assessments Paid to the Public Utility Commission
Docket No. M-00061940

PUC v. United Water Pennsylvania, Inc.
Docket No. R-00051186

PUC v. Commonwealth Telephone Company
Docket No. R-00061290C001

Penn Power's CTC Reconciliation Filing
Docket No. M-FACE0602

Select Energy for Refund of Assessments Paid to the Public Utility Commission
Docket No. M-00061941

PUC v. Philadelphia Gas Works
Docket No. R-00061296

Petition of Direct Energy Services, LLC, for Emergency Order Approving a Retail Aggregation Bidding Program for Customers of Pike County Light & Power Company
Docket No. P-00062205

Application of UGI Utilities, Inc., UGI Utilities Newco, Inc. and Southern Union Company for Certificates of Public Convenience Evidencing the Pennsylvania Public Utility Commission's Approval of (1) the Transfer by Sale of all Property of the Latter in Pennsylvania that Is Used or Useful in Providing Natural Gas Service to the Public to UGI Corporation, (2) the Immediate Retransfer of All Such Property, Except Gas Supply and Pipeline and Storage Capacity Contracts, by UGI Corporation to UGI Newco Utilities, Inc., (3) the Immediate Retransfer by UGI Corporation of Gas Supply and Pipeline and Storage Capacity Contracts to UGI Energy Services, Inc., (4) the Initiation by UGI Newco Utilities, Inc. of Natural Gas Service in all Territory in Pennsylvania where Southern Union Company Does or May Provide Natural Gas Service, (5) the Abandonment by Southern Union Company of all Natural Gas Service in Pennsylvania and (6) the Transfer by UGI Corporation of all of the Stock of UGI Utilities Newco, Inc. to UGI Utilities, Inc.
Docket Nos. A-120011F2000, A-125146F5000, and A-125146

Pennsylvania Public Utility Commission v. T. W. Phillips Gas and Oil Company
Docket No. R-00051178

Pike County Light & Power Company's Universal Service Program
Docket No. M-00041793

Application of T. W. Phillips Gas and Oil Company for approval of: 1) the acquisition by T. W. Phillips Gas and Oil Company of all of the outstanding common stock of a new exploration and production subsidiary; 2) the transfer of T. W. Phillips Gas and Oil Company's production plant assets and related liabilities to said new subsidiary; and 3) affiliated interest contract for the purchase of gas by T. W. Phillips Gas and Oil Company from said new subsidiary
Docket Nos. A-122350F0005, A-122350F0006, and G-00061164

Petition for Expedited Relief and Notification of Significant Change in Natural Gas Costs of UGI Utilities, Inc. – Gas Division
Docket No. P-00062201

Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
1307(f) Docket No. R-00061355

Pennsylvania Public Utility Commission v. The Peoples Natural Gas Company, t/a Dominion Peoples
Docket No. R-00061301

Pennsylvania Public Utility Commission v. Equitable Gas Company
Docket No. R-00061295

Petition of Strategic Energy for Refunds of Assessments Paid to the Public Utility Commission
Docket No. M-00061948

County of Pike v. Pike County Light & Power Company
Docket No. C-20065942

Joint Application of Equitable Resources, Inc. and The Peoples Natural Gas Company, d/b/a Dominion Peoples, for Approval of the Rights to Transfer All Stock and Rights of the Latter to the Former and for the Approval of the Transfer of All Stock of Hopewell Gas, Inc., d/b/a Dominion Hope, to Equitable Resources, Inc.
Docket No. A-122250F5000

Pennsylvania Public Utility Commission v. Metropolitan Edison Company
Docket Nos. R-00061366, P-00062213

Pennsylvania Public Utility Commission v. Pennsylvania Electric Company
Docket Nos. R-00061367, P-00062214

Merger Savings Remand Proceedings
Docket Nos. A-110300F0095, A-110400F0040

Pennsylvania Public Utility Commission v. Duquesne Light Company
Docket No. R-00061346

Pennsylvania Public Utility Commission v. PG Energy, A Division of Southern Union Company
Docket No. R-00061365

Pennsylvania Public Utility Commission v. The Columbia Water Company
Docket No. R-00061496

Pennsylvania Public Utility Commission v. The York Water Company
Docket No. R-00061322

Pennsylvania Public Utility Commission v. PPL Gas Utilities Corporation
Docket No. R-00061398

Pennsylvania Public Utility Commission v. PPL Gas Utilities Corporation
Docket No. R-00061519

Pennsylvania Public Utility Commission v. PG Energy, A Division of Southern Union Company
Docket No. R-00061518

Application of Pennsylvania-American Water Company for Approval of a Change in Control to be Effected Through a Public Offering of the Common Stock of American Water Works Company, Inc.
Docket No. A-212285F0136

Pennsylvania Public Utility Commission v. UGI Utilities, Inc. – Gas Division
Docket No. R-00061502

Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-00061501

Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corporation
Docket No. R-00061493

Petition of PPL Electric Utilities Corporation for Approval of a Competitive Bridge Plan
Docket No. P-00062227

Windstream Pennsylvania, Inc. f/k/a ALLTEL Pennsylvania, Inc. Supplement No. 3 to Windstream Pennsylvania, Inc. Tariff Pa. PUC No. 7 (R-00061461), and 2006 Annual Price Stability Index/Service Price Index Filing of Windstream Pennsylvania, Inc.
Docket No. P-00981423F1000

Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval to Revise the Accounting Methodology Used for NUG-Related Costs
Docket No. P-00062235

Application of Duquesne Light Company for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. By Merger (A-110150F0035) and Application of DQE Communications Network Services LLC for a Certificate of Public Convenience Under Section 1102(a)(3) of the Public Utility Code Approving the Acquisition of Duquesne Light Holdings, Inc. By Merger
Docket No. A-311233F0002

Petition of UGI Penn Natural Gas, Inc. For A Declaratory Order That An Asset Management Agreement With UGI Energy Services, Inc. Is In The Public Interest And For Approval Of The Asset Management Agreement Under Chapter 21 Of The Public Utility Code
Docket Nos. P-00062237 and G-00061205

Joint Application of Commonwealth Telephone Company, CTSI, LLC, and CTE Telecom, LLC d/b/a Commonwealth Long Distance Company For All Approvals Under the Public Utility Code for the Acquisition By Citizens Communications Company of All of the Stock of the Joint Applicants' Corporate Parent, Commonwealth Telephone Enterprises, Inc.
Docket Nos. A-310800F0010, A-311095F0005, and A-311225F0003

Petition of Equitable Gas Company for Approval to Increase the Level of Funding for Its Customer Assistance Program and to Implement an Adjustable Funding Mechanism to Recover Associated Expenses Concerning Universal Service and Energy Conservation Plan Costs
Docket No. P-00062240

Petition of Pennsylvania American Water Company for Approval to Implement a Tariff Supplement revising the Distribution System Improvement Charge
Docket No. P-00062241

Pennsylvania Public Utility Commission v. Verizon North, Inc.
Docket No. R-00061914

Pennsylvania Public Utility Commission v. Verizon Pennsylvania, Inc.
Docket No. R-00061915

2006 Annual Price Stability Index/Service Price Index Filing of Buffalo Valley Telephone Company
Docket Nos. P-00981428F1000 and R-00061375

2006 Annual Price Stability Index/Service Price Index Filing of Conestoga Telephone and Telegraph Company
Docket Nos. P-00981429F1000 and R-00061376

2006 Annual Price Stability Index/Service Price Index Filing of Denver and Ephrata Telephone and Telegraph Company
Docket Nos. P-00981430F1000 and R-00061377

Application of United Water Pennsylvania, Inc. for all approvals and waivers (if any) which may be required under the Public Utility Code for the merger between Gaz de France and Suez, the ultimate corporate parent of United Water Pennsylvania, Inc.
Docket No. A-210013F0017

Petition of the Office of Small Business Advocate Requesting the Pennsylvania Public Utility Commission to Conduct a Formal Investigation of Pennsylvania American Water Company's Interruption of Service in Western Pennsylvania
Docket No. P-00062244

## H. 2006 Appellate 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 appellate court cases in 2006:

PGW v. Pennsylvania Public Utility Commission
No. 444 C.D. 2006

The City of Philadelphia v. Pennsylvania Public Utility Commission
No. 456 C.D. 2006

Equitable Gas Company, Petitioner v. Pennsylvania Public Utility Commission, Respondent
No. 687 C.D. 2006

Dominion Retail, Inc., Petitioner v. Pennsylvania Public Utility Commission, Respondent No. 2039 C.D. 2006

Select Energy, Inc., Petitioner v. Pennsylvania Public Utility Commission, Respondent
No. 2040 C.D. 2006

Strategic Energy, LLC, Petitioner v. Pennsylvania Public Utility Commission, Respondent
No. 2321 C.D. 2006

## I. Small Business Consumer Outreach

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

## V. THE OSBA'S 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, 2006, the OSBA recommended an overall 18.11% decrease in statewide industrial loss costs in lieu of the 8.58% 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, 2006, the OSBA recommended an overall reduction of 21.3% in traumatic loss costs in lieu of the 11.3% reduction requested by the CMCRB. The Insurance Department approved a reduction of 12%.

## VI. OSBA STAFF

William R. Lloyd, Jr.
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

Lauren M. Lepkoski (6/10/06 to present)
Assistant Small Business Advocate

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

Talia Hoch (2/25/06 to present)
Legal Assistant