ANNUAL REPORT

OF THE

PENNSYLVANIA
OFFICE OF SMALL BUSINESS ADVOCATE

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TABLE OF CONTENTS

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"), before comparable federal agencies, and in the courts. 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 2008-2009 is $1,203,000. 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.

In an appeal brought by the OSBA, the Commonwealth Court held "that rates and rate structures [must] be set for each service primarily on a cost-of-service study." *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006), *appeals denied*, 916 A.2d 1104 (Pa. 2007). 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. In addition, the Court stated that gradualism may not be permitted to trump cost of service and that, whenever gradualism is successfully invoked, there must be a plan to move rates to cost of service gradually, *e.g.*, a multi-year phase-out of any subsidy provided by small commercial and industrial customers to residential customers.

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 for non-competitive services 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." A 2004 state law reenacted Chapter 30 and provided for larger annual rate increases as an incentive to accelerate broadband deployment.

Second, a 1996 state law (which was amended in 2008) 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 be based on the competitive procurement of electricity in the market place.[1] 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.

[1] Under the 1996 statute, the utility was required to acquire the electricity at "prevailing market prices." However, the 2008 amendments repealed the "prevailing market prices" standard and imposed the requirement that the utility acquire the electricity competitively through a "prudent mix" of contracts and at the "least cost to customers over time." The 2008 amendments also prohibited any interclass subsidization, *e.g.*, small commercial and industrial ratepayers can not be required to pay an above-market price for electricity so that residential or large commercial and industrial customers can pay a below-market price.

III. UTILITY ACQUISITIONS AND MERGERS

Approval from the PUC is required before a Pennsylvania utility may be sold to, acquired by, or merged with another utility or a non-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 v. Pennsylvania Public Utility Commission*, 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.[2]

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 PUC 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 PUC may approve a transaction which would not meet the *City of York* standard without those conditions.

Moreover, the Pennsylvania Supreme Court recently applied Section 1103(a) in deciding the appeal of the Commission's decision regarding the Verizon/MCI merger. *Popowsky v. Pennsylvania Public Utility Commission*, 594 Pa. 583, 937 A.2d 1040 (Pa. 2007). The Supreme Court ruled that "while in some circumstances conditions may be necessary to satisfy the Commission that public benefit sufficient to meet the requirement of Section 1103(a) will ensue, even where the PUC finds benefit in the first instance, Section 1103(a) also confers discretion upon the agency to impose conditions which it deems to be just and reasonable." *Popowsky*, 937 A.2d at 1057.

Through its ruling in *Popowsky*, the Supreme Court provided further guidance on what the Commission is required to review in a merger or acquisition case. The Court opined that "the appropriate legal framework requires a reviewing court to determine whether substantial evidence supports the Commission's finding that a merger will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way. In conducting the underlying inquiry, the Commission is not required to secure legally binding commitments or to quantify benefits where this may be impractical, burdensome, or impossible; rather, the PUC properly applies a

[2] 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."

preponderance of the evidence standard to make factually-based determinations (including predictive ones informed by expert judgment) concerning certification matters." *Popowsky*, 937 A.2d at 1057. In other words, the proponents of the transaction are required to prove the likelihood of *substantial* affirmative public benefits by a preponderance of the evidence.

In both *City of York* and *Popowsky*, the Supreme Court simply concluded that there was substantial evidence to support the Commission's finding that the proposed transaction would provide affirmative public benefits. The Supreme Court did not hold that it would have been erroneous if the Commission had found that the benefits (although proven by a preponderance of the evidence) were not "substantial" and, therefore, did not justify approval of the transaction. In *City of York*, 449 Pa. at 141, 295 A.2d at 828, the Supreme Court stated the test as follows:

> [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. (emphasis added)

In other words, even if the Commission finds by a preponderance of evidence, that a proposed transaction would yield affirmative public benefits, the Commission is not permitted to approve that transaction unless it finds that the benefits would be *substantial*.

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 commercial and industrial ("Small C&I") customers. The following is a summary of some of the most significant cases in which the OSBA was active in 2008:

A. Electric Highlights

1. Transmission and Distribution Rates

Citizens' Electric Company of Lewisburg, PA
Distribution Rates
Docket Nos. R-00072348

In May of 2007, Citizens' Electric Company of Lewisburg, PA ("Citizens'") filed a tariff requesting a distribution rate increase of $898,363 per year, a 28% increase in annual distribution revenues. The OSBA filed a complaint, alleging that the proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable, and unlawfully discriminatory.

The Citizens' case was partially settled. The parties agreed to a reduction in the proposed rate increase from $898,363 to $699,000, resulting in an increase of approximately 5.7% rather than the 7.4% originally proposed. The Company agreed not to file for another distribution increase prior to January 1, 2010.

Citizens' and the OSBA were not able to agree on the rate design proposed by Citizens' for the GLP-1 rate class, the small commercial class represented by the OSBA. Citizens' proposed to redesign the GLP-1 rate schedule by consolidating the current two-block demand structure to one block and replacing the declining three-block energy rate structure with a single energy charge. The Company also proposed to add a $21 customer charge and a $2.88 demand charge where there previously had been none. After analyzing Citizens' proposal, the OSBA opposed the changes, because they would impact different customers within the GLP-1 rate class in a disproportionate fashion without having any basis in the cost of providing service to those customers.

The OSBA and Citizens' filed main briefs and reply briefs on the issue of the GLP-1 rate design. The ALJ issued his recommended decision on December 14, 2007. The recommended decision adopted nearly all of the OSBA's arguments and recommended that the Commission reject Citizens' proposed GLP-1 rate design and keep the current design, as proposed by the OSBA. Citizens' filed exceptions to the recommended decision. The Commission entered an Order adopting the recommended decision on February 14, 2008.

Metropolitan Edison Company
and Pennsylvania Electric Company
Base Rates, Merger Savings, and Rate Cap Exception
Appeal to Commonwealth Court at
960 A.2d 189 (Pa. Cmwlth. 2008)

In January 2007, the Commission entered an Order granting Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") 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. Among other things, 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 saves small business ratepayers about $9.3 million per year.

Met-Ed and Penelec, the OCA, and the large industrial customers ("MEIUG/PICA") all filed petitions for reconsideration of certain issues. These petitions were subsequently denied by the Commission. These parties then filed petitions for review with the Commonwealth Court. The OSBA intervened in each of the appeals.

The parties filed briefs on the issues being appealed. The OSBA filed (1) a brief in opposition to the Commission's decision to permit the Companies retroactively to recover deferred 2006 transmission costs with interest; (2) a brief supporting the Commission's decision to deny the Companies an exception to the generation rate caps and its decision to assign universal service costs only to residential ratepayers; and (3) a reply brief responding to the argument put forth by the Companies and the Commission that the issue of recovery of interest on the transmission costs was not properly preserved for appeal. Oral argument on these issues took place before the Commonwealth Court *en banc.*

The Commonwealth Court issued its Opinion in the case on November 7, 2008, which affirmed the Commission's decision. On the issues briefed by the OSBA, the Court upheld the Commission's decision to deny the Companies an exception to the generation rate caps and the Commission's decision to assign universal service costs only to residential ratepayers. However, the Court determined that the Companies were entitled retroactively to recover the deferred 2006 transmission costs with interest, in part because the issue of recovery of interest on the transmission costs was not properly preserved for appeal.

Metropolitan Edison Company
and Pennsylvania Electric Company
Transmission Rates
Docket Nos. M-2008-2036197 and M-2008-2036188

On April 14, 2008, Met-Ed filed Supplement No. 5 and Supplement No. 6 to Tariff Electric – Pa. P.U.C. No. 50 with the Commission. This proceeding was docketed at M-2008-2036197. The two Met-Ed Supplements were filed in the alternative to recover an alleged under-recovery through the Transmission Service Charge ("TSC") in the amount of $144.48 million.

Also on April 14, 2008, Penelec filed Supplement No. 5 to Tariff Electric – Pa. P.U.C. No. 79 with the Commission. The Penelec Supplement was filed to recover an alleged under-recovery through the TSC in the amount of $3.5 million.

The OSBA filed a Complaint, Notice of Appearance, and Public Statement in both proceedings. Several other parties also filed complaints or interventions.

The Commission approved Penelec's Supplement No. 5, subject to adjudication of the filed Complaints. In the Met-Ed case, the Commission entered an Order adopting Supplement No. 6 and instituting an investigation of the proposed rates, reserving the right to order refunds if the investigation concludes that any revenues collected under Supplement No. 6 are unjust, unreasonable, or otherwise contrary to law.

The issues raised by the OSBA are that (1) the Companies are not entitled to recover interest on marginal losses and other transmission costs; and (2) the Companies should have re-adjusted their transmission rates at the conclusion of the 2006-2007 rate case to make up for the fact that their request for increasing the generation rates in the rate transition case was denied.

The cases are pending before the Commission

Pike County Light & Power Co.
Distribution Rates
Docket No. R-2008-2046518

On July 18, 2008, Pike County Light & Power Company ("Pike") filed Supplement No. 46 to Tariff Electric – Pa. P.U.C. No. 8 with the Commission, seeking an additional $1.2 million in annual revenues.

The OSBA filed a Complaint in the case.

Following the filing of testimony by the parties, but before the commencement of evidentiary hearings, the parties successfully negotiated a settlement of the case. The settlement called for an increase in revenues of $855,000 instead of the $1.2 million requested by the Company. Of particular interest to the OSBA, the parties agreed that the small commercial and industrial ("Small C&I") classes, which had been overpaying, would move toward cost of service. Specifically, secondary Small C&I customers would receive less than the system average increase, while the primary Small C&I customers would receive first dollar relief resulting in no increase. The Settlement would also relieve Small C&I customers of having to pay for universal service. The Company also agreed to base its next cost of service study on the same time period as the historic test year, and to address in its next cost of service study a number of criticisms raised by the OSBA.

The settlement is pending before the Commission.

2. POLR (or Default) Service

Policies to Mitigate Potential Electricity Price Increases
Default Service
Docket No. M-00061957

On May 19, 2006, the Commission commenced a proceeding to develop policies to address potential electric rate increases upon the expiration of generation rate caps. The Commission presided over an *en banc* hearing, solicited public comments on appropriate price mitigation strategies, issued a tentative order that identified proposed policies for addressing rising energy costs, and issued a final order after consideration of the public comments.

In the Commission's Final Order (entered May 17, 2007), the Commission ordered that its Office of Communications and stakeholders develop recommendations regarding the scope, objectives, duration, budget, design and cost-recovery of a statewide consumer education campaign.

The OSBA participated in meetings regarding such an education plan. The last meeting was held on January 28, 2008.

The Commission's Final Order also directed each EDC to file a proposed consumer-education plan that is tailored to its service territory.

The Commission reviewed each plan and issued a Tentative Order for each plan. Thereafter, interested parties (including the OSBA) filed comments on each of the EDC's consumer education plans. The OSBA focused its comments on making sure that each EDC will have a consumer education plan directed towards Small C&I customers

(including a grassroots approach for Small C&I customers) and that each EDC will recover the costs for its consumer education plans from the customer class that receives the benefit from the education provided.

The Commission entered Final Orders approving each EDC's consumer education plan. The Commission approved the OSBA's request that consumer education plans contain a grassroots approach for Small C&I customers and that the costs for consumer education plans be allocated to the customer class that receives the benefit of the program.

Energy Conservation, Efficiency, Demand Side Response
Default Service
Docket No. M-00061984

The Demand Side Response Working Group ("DSR Working Group") was originally created in 2001. In 2006, the Commission reconvened the DSR Working Group and initiated an investigation into reasonable, cost-effective programs that can be implemented for all customers. The investigation was also to include an analysis of advanced metering infrastructure and appropriate ratemaking mechanisms that may remove any barriers to the development of energy efficiency, conservation, and demand side response ("DSR"). One goal of the Commission is to help mitigate the rate increases expected when the generation rate caps expire.

The DSR Working Group held subgroup meetings on the following topics: programs, advanced metering, and consumer education. The DSR Working Group participants were asked to submit white papers or straw proposals on these topics. The OSBA submitted straw proposals on "Focusing DSR Programs" and "The Cons of Time-of-Use Metering."

After numerous meetings and the submission of comments on an outline, the Commission staff circulated a draft of the DSR Working Group Report, to which the OSBA submitted comments.

Thereafter, the Commission staff submitted recommendations in the form of a draft tentative order for consideration by the Commission. However, the matter was postponed pending the outcome of the General Assembly's special session on energy.

Governor Edward Rendell signed Act 129 of 2008 ("the Act" or "Act 129") into law on October 15, 2008. The Act requires each EDC with at least 100,000 customers to adopt a plan, approved by the Commission, to reduce electric consumption by at least one percent (1%) of its expected consumption for June 1, 2009, through May 31, 2010, adjusted for weather and extraordinary loads. This one percent (1%) reduction is to be accomplished by May 31, 2011. By May 31, 2013, the total annual weather-normalized

consumption is to be reduced by a minimum of three percent (3%). Also, by May 31, 2013, peak demand is to be reduced by a minimum of four-and-a-half percent (4.5%) of the EDC's annual system peak demand in the 100 hours of highest demand, measured against the EDC's peak demand during the period of June 1, 2007, through May 31, 2008. By November 30, 2013, the Commission is to assess the cost-effectiveness of the program and set additional incremental reductions in electric consumption if the benefits of the program exceed its costs.

The Commission sought comments from all the EDCs and the members of the DSR Working Group at Docket No. M-00061984 on the content of the Commission's Energy Efficiency and Conservation Program ("EE&C Program"), which is to set parameters for the individual EDC plans. The OSBA was among the parties which submitted Comments. The OSBA also participated in a special *en banc* hearing on alternative energy, energy conservation and efficiency, and demand side response.

The Commission circulated a draft staff proposal of its EE&C Program and had an EE&C Program stakeholder meeting, in which the OSBA participated. The OSBA also supplied reply comments to the Commission's draft staff proposal.

On January 15, 2009, the Commission entered an Implementation Order that established its EE&C Program.

Duquesne Light Company
Default Service (PJM to MISO)
Docket No. P-00072338

On October 9, 2007, Reliant Energy filed a petition asking the Commission to declare state jurisdiction over Duquesne Light Company's ("Duquesne") proposed withdrawal from PJM Interconnection, L.L.C. ("PJM").

The OSBA filed a brief in support of Reliant's petition. The OSBA argued that the Commission need not address the question raised by Reliant Energy regarding whether the Federal Energy Regulatory Commission ("FERC") or the Commission has jurisdiction over Duquesne's proposed move out of PJM and into Midwest Independent Transmission System Operator ("MISO").

Instead, the OSBA pointed out that Duquesne is obligated to remain in PJM through December 31, 2010, because the company entered into a default service settlement with the OSBA which assumes continued PJM membership.

The ALJ issued an initial decision that denied the petition and rejected the OSBA's argument.

The OSBA filed exceptions to the ALJ's initial decision.

On June 25, 2008, the Commission entered an order agreeing with the OSBA that the Commission retained the discretion as to whether to issue a declaratory order in this proceeding. The Commission ultimately declined to decide whether it retains jurisdiction over Duquesne's proposed withdrawal from PJM.

In the meantime, Duquesne has apparently decided not to withdraw from PJM.

Duquesne Light Company
Default Service Rates (25 kW to 300 kW)
Docket No. P-00072247
and
Duquesne Light Company
Default Service Rates (25 kW to 300 kW)
Docket No. P-2008-2079461

On December 1, 2008, Duquesne Light Company ("Duquesne" or "Company") filed a tariff to become effective on January 1, 2009, which proposed to adjust the default service rates for Medium Commercial and Industrial ("Medium C&I") customers. The adjustment was purported to be an implementation of a previously-approved default service multiplier. However, contrary to the formula previously approved by the Commission, the proposed tariff included a new adder for capacity to reflect the PJM Interconnection's Reliability Pricing Model ("RPM").

The OSBA filed a complaint, citing to the inclusion of the adder as the principal basis for the complaint. The Commission apparently agreed that the adder was problematic because on December 31, 2008, the Commission issued a Secretarial Letter summarily rejecting Duquesne's December 1st tariff filing.

On December 15, 2008, Duquesne filed a second tariff supplement which was purported to "clarify" the previously-approved formula and to provide a basis for the rate adjustment the Company sought to have approved via the December 1st filing.

The OSBA filed a complaint, again citing to the adder as the principal basis for the complaint. The OSBA also filed an answer to the Company's December 15th petition, as well as direct testimony.

Ultimately, the OSBA and Duquesne were able to reach a settlement which allows the Company to modify its previously approved default service plan ("POLR IV") in a way that complies with the new requirements of Act 129.

The settlement discontinues the use of a formula to adjust Medium C&I default service rates and allows the competitive market to set those rates. Specifically, Duquesne will procure energy for its default service obligations through a competitive Request for Proposal ("RFP") process. The default service supply for Medium C&I customers will be acquired through full-requirements load-following contracts with adjustments in rates scheduled every six months to coincide with the procurement process.

If the default service rates under the currently approved tariff had gone into effect as of January 1, 2009, the rates for Medium C&I customers would have decreased by approximately 1.8%. However, if the Company's proposal were approved and permitted to go into effect as of January 1, 2009, the rates for Medium C&I customers would have increased by approximately 13.3%. The settlement is a compromise of the positions of the OSBA and Duquesne for the first six months of 2009, in that default service rates for Medium C&I customers will be frozen at the level in effect on December 31, 2008.

The settlement was submitted to the Administrative Law Judge for approval on March 5, 2009.

Metropolitan Edison Company
and Pennsylvania Electric Company
Phase-In of Default Service Rates
Docket No. P-2008-2066692

On September 25, 2008, Met-Ed and Penelec filed a joint Petition for Approval of a Voluntary Prepayment Plan ("VPP") with the Commission, seeking permission for a program to enable certain qualified customers to make prepayments against an anticipated default service rate increase in 2011. The OSBA filed an Answer to the Joint Petition.

The parties negotiated a settlement of the VPP before it was necessary for the parties (other than the Companies) to file testimony. The OSBA supported the settlement particularly because of the resolution of the following issues: (1) the inclusion of all small C&I customers with peak demands of up to 25 kW in the program, which the Companies did not initially propose; and (2) obtaining the agreement of the Companies to forgo the collection of any costs associated with providing customers the 7.5% interest on prepaid amounts.

The settlement is pending before the Commission

PECO Energy Company
Default Service
Docket No. P-2008-2062739

On September 10, 2008, PECO Energy Company ("PECO" or "Company") filed its plan for acquiring electricity for default service customers after the expiration of the Company's generation rate caps on December 31, 2010.

The OSBA intervened in the case, and filed an Answer to the petition. In analyzing the proposals in the petition, the OSBA agreed, in principle, with many elements of the Company's proposal, particularly the use of full requirements contracts to provide most of the electricity to small business customers. The case is pending before the Commission.

PECO Energy Company
Phase-In of Default Service Rates
Docket No. P-2008-2062741

On September 10, 2008, PECO Energy Company ("PECO" or "Company") filed a petition which sought approval from the Commission of PECO's plan for mitigating the rate increases anticipated to occur when the generation rate caps expire at the end of 2010.

The principal issues identified by the OSBA include that there is not sufficient specific language with respect to a price to compare, for customers to be able to ascertain whether to opt-in to the program; that customers are not permitted into the program after an initial 60-day period; and the implementation costs are not specified to be recovered on a class-basis.

The case is pending before the Commission.

Pennsylvania Power Company
Default Service
Docket No. P-00072305

On May 2, 2007, Pennsylvania Power Company ("Penn Power" or "Company") filed a default service plan for the period from June 1, 2008, through May 31, 2011.

The OSBA timely filed an answer and a notice of intervention.

The OSBA took part in negotiations which led to the filing of a settlement which results in a procurement plan that is more favorable to commercial customers than Penn Power's original proposal.

The settlement addresses a number of technical issues raised by various parties with respect to the Supplier Master Agreement ("SMA"). Two of the issues were of concern to the OSBA, namely the issue of compliance with the Alternative Energy Portfolio Standards Act ("AEPS Act") and the issue of MISO transmission tariff increases. The settlement shifts the risk of changes in the AEPS Act requirements and increases in MISO transmission rates to Penn Power, with any related cost increases to be recovered from customers through higher default service rates. The OSBA anticipates that this change will result in a lower risk premium, and therefore lower bid prices from wholesale suppliers.

Penn Power proposed a mix of one-year and two-year full-requirement contracts for commercial customers. While the OSBA believes that position was consistent with the Commission's default service regulations, several EGSs proposed shorter contracts. The settlement represents a compromise, with all commercial supplies being procured for one-year terms.

The timing of the commercial procurements raised concerns about the effects of procurements during hurricane season. The settlement mitigates those concerns in two ways. First, the duration of the purchases has been limited to one year for commercial customers, thereby reducing the period for which rates would be affected by a hurricane. Second, the settlement will allow the Company to withdraw or terminate the RFP in the case of unforeseen circumstances, such as hurricanes or adverse market conditions.

Penn Power proposed to implement a customer education program and to recover the costs for the program through an administrative fee in the default service rider. The OSBA was concerned about the ability to match program costs and benefits. The settlement addresses the latter concern by assigning costs on a class basis. The settlement also limits the cost of the program for commercial customers to $40,000 unless the OSBA agrees to some larger amount.

The Commission approved that part of the settlement applicable to commercial and industrial customers. However, the Commission rejected the settlement with regard to residential customers by Order entered January 2, 2008, and remanded to the ALJ for the development of a new residential procurement plan relying on a portfolio approach rather than on full-requirements contracts. In addition, the Commission issued a set of directed questions, seeking comments on specific issues regarding the portfolio approach.

The OSBA, and numerous other parties, filed responses to the directed questions. The OSBA did not take a position on the modification to the residential procurement but

did file general comments about the differences, and the different risk to customers, between a full requirements approach and a portfolio approach.

The Commission entered a final order on March 13, 2008, approving the plan. In so doing, the Commission reversed its previous decision that residential customers should be served through a portfolio rather than through full-requirements contracts.

Pike County Light & Power Co.
Default Service
Docket No. P-2008-2044561

On May 30, 2008, Pike County Light & Power Co. ("Pike") filed a Petition seeking Commission approval of Pike's program to supply its default service customers for the period from June 1, 2009, through December 31, 2012. The OSBA filed a formal Protest and an Answer in opposition to the Petition.

Pike and the OSBA filed direct testimony, and public input hearings were held. On October 15, 2008, Act 129 was signed into law. Among other things, Act 129 changed various portions of Section 2807(e) of the Public Utility Code, 66 Pa. C.S. §2807(e), with regard to default service procurement, thereby directly impacting Pike's Petition. As a result of the statutory changes, the procedural schedule was suspended.

On October 31, 2008, Pike filed an Amended Petition and supplemental testimony to address the Act 129 statutory changes. In its Amended Petition, Pike affirmed its original proposal to maintain the *status quo* of spot market purchases as the default service strategy through 2009. Pike predicted that, by the end of 2009 (seven months after the scheduled termination of Direct Energy's aggregation program which has provided electricity to most of Pike's customers), the Company would better know the default service load that it would have to serve. Pike proposed in its Amended Petition to serve that load primarily through the use of layered financial hedges purchased in coordination with Orange & Rockland Utilities (an affiliated interest), and supplemented by modest unhedged spot market purchases. In addition, Pike stated that it does not consider long-term contracts to be prudent because of the Company's unique characteristics. Finally, Pike made recommendations regarding its rate design and Alternative Energy Portfolio Standards ("AEPS") requirements.

The OSBA filed supplemental direct testimony in response to Pike's Amended Petition and supplemental testimony. No other parties filed testimony.

The OSBA recommended that Pike continue to serve its default service load through purchases on the spot market, based on the assumption that the majority of Pike's load would continue to be served through the combination of Direct's aggregation program and shopping with electric generation suppliers ("EGSs")

In the Amended Petition, Pike recommended that Direct's retail aggregation program not be renewed or extended. Pike and Direct Energy (through its pleadings) also recommended that the customers of Direct Energy who did not take affirmative action to return to Pike's default service at the end of the aggregation program and who did not shop for default service supply from another EGS would remain with Direct Energy under such terms and conditions as would be agreed upon between the customers and Direct Energy.

After extensive negotiations, the parties agreed to a settlement.

The OSBA initially advocated that the Commission consider rebidding and extending the aggregation program as the best way to assure Pike's customers a reasonable fixed-price default service option. However, there are several factors that weigh against the success of a rebidding of the aggregation program.

As an alternative to seeking protection for ratepayers through a rebidding of the aggregation program, Direct Energy agreed in the settlement to provide a fixed price during a two-year extension of the aggregation period. That price appears reasonable to the OSBA in view of the aforementioned uncertainty regarding the results of a rebidding of the aggregation program. The settlement adopted the OSBA position that those default service customers who opt not to be customers of Direct Energy should be served at spot market prices.

The OSBA argued that when the Direct Energy aggregation program ends, the customers in that program should automatically return to Pike for their default service unless, on an individual basis, a customer affirmatively "opts in" to continued service by Direct Energy or another EGS. This issue has been carried over from Pike's last default service case.

The status of Direct Energy's aggregation customers at the end of the aggregation program is the single issue which was not resolved by the settlement. The parties view this dispute as a legal issue. The parties intend that this issue be resolved by the filing of briefs.

The Commission approved the settlement on February 5, 2009. The schedule has not yet been set for briefing the single remaining issue.

PPL Electric Utilities Corporation
Default Service
Docket No. P-2008-2060309

In September of 2008, PPL Electric ("PPL" or "Company") filed a petition for approval of a default service plan for the period from January 1, 2011, through May 31, 2014.

The essence of the Company's plan is to acquire electricity for Small Commercial and Industrial customers through full-requirements, load-following contracts; five-year and ten-year fixed blocks of power; and the spot market. The OSBA filed direct, rebuttal, and surrebuttal testimony in this proceeding, recommending changes in the plan.

The matter is pending before the Commission.

PPL Electric Utilities Corporation
Phase-In of Default Service Rates
Docket No. P-2008-2021776

In November of 2007, PPL filed a petition for approval of a Rate Stabilization Plan ("RSP") to phase-in the increased rates that will result when PPL's generation rate caps expire at the end of 2009. PPL proposed to enroll most of its customers in an opt-out program where the customers would make partial payments in 2008 and 2009 against the expected 2010 rate increase in addition to their current payments. The customers then would receive those partial payments back (with 6% interest) as credits toward the increased rates when they go into effect.

The OSBA filed a notice of intervention and an answer to PPL's petition, as well as a protest. In its answer, the OSBA noted that despite the representations of PPL to the contrary, the program was not voluntary, since it would automatically enroll customers who would then have to "opt-out" if they did not wish to participate. Further, PPL did not demonstrate that 6% interest was a reasonable return on the prepaid billings.

The parties engaged in settlement negotiations which resulted in the filing of a settlement. The primary issue for the OSBA that was resolved by the settlement is that the RSP has been changed from the original plan to make participation truly voluntary. Under the petition, all eligible customers were to be enrolled automatically in the RSP, with the right to "opt-out" of the plan. Under the settlement, only those customers that affirmatively "opt-in" will be enrolled in the plan. The "opt-in" arrangement is consistent with the Commission's Policy Statement on Default Service and Retail Electric Markets, which requires the customer's affirmative *consent* to be enrolled in a program such as the RSP.

Further, PPL demonstrated to the OSBA's satisfaction that the 6% interest rate that customers will earn on customer prepayments is just and reasonable.

UGI-Electric Division
Default Service
Docket Nos. P-2008-2022931 and P-2008-2063066

In February of 2008, UGI Electric filed a petition for approval of a default service plan that lasted four years and five months and used a "portfolio" approach for obtaining default service supplies.

The OSBA disagreed with nearly every feature of UGI Electric's plan. Furthermore, the OSBA protested that the plan was incomplete, as it did not include any rate design for the customer classes, nor did it include any plan for procurement of the required alternative energy credits. The OSBA filed an extensive answer explaining the defects of the plan, and also filed direct testimony in the proceeding.

Ultimately, UGI Electric agreed to significant modifications proposed by the OSBA. Consequently, a settlement was reached among the parties. The settlement addressed the rate design and alternative energy credits issues, and revamped the procurement in a manner much more favorable to UGI Electric's small business customers. Of critical importance, the settlement will assure that small business ratepayers are not required to subsidize other rate classes.

The Commission approved the settlement by order entered July 17, 2008.

In August of 2008, UGI Electric subsequently made a filing setting forth the rate design details and alternative energy credits procurement plan as required by the settlement.

The OSBA identified a number of defects and errors in the August filing. Once those problems were corrected, all parties reached a settlement on the rate design and alternative energy credits issues.

The Commission approved the settlement by order entered January 22, 2009.

West Penn Power Company d/b/a Allegheny Power
Default Service
Docket No. P-00072342

On or about October 25, 2007, West Penn Power Company, d/b/a Allegheny Power ("Allegheny" or the "Company") filed with the Commission a plan for providing

default service beginning on January 1, 2011. The Commission entered an Order on July 25, 2008, approving the plan with revisions.

The OSBA litigated the following issues before the Commission:

1.) Full Requirements vs. Portfolio Approach - West Penn proposed to procure its default service for Small and Medium C&I customer groups through a modified full-requirements contract approach supplemented by modest spot market purchases. Although the OSBA supported the Company's procurement strategy, some parties proposed other procurement strategies. However, the Commission agreed with the Company and the OSBA and ordered that default supplies for Small and Medium C&I customers be procured through a modified full-requirements contract approach.

2.) Composition of the Medium C&I Group - West Penn proposed that its Medium C&I procurement group include customers which range in size from a maximum peak demand of 100 kW to a maximum peak demand of 2000 kW and over (*e.g.*, about 50 MW in the case of Penn State). The OSBA opposed the inclusion of customers with peak demand over 500 kW because the high risk that those customers would shop would result in higher-than-necessary bid prices to serve the customers under 500 kW. Ultimately, the Company and the Commission agreed with the OSBA.

3.) Contract Length - One party in the proceeding argued for substantially shorter contracts than proposed by the Company. Because these shorter contracts would have made rates more volatile, the OSBA supported the Company's proposal. The Commission agreed with the OSBA and the Company.

4.) Procurement Schedule for Small and Medium C&I customers - West Penn proposed to begin procurements in October 2008 for supply that would not be provided to customers for some three to five years in the future. The OSBA opposed procuring supply so far in advance. Instead, the OSBA recommended that West Penn's Small and Medium C&I procurement begin in mid-2009 rather than in October 2008. The Company adopted the OSBA's procurement schedule. Moreover, the Company agreed to the OSBA's request that the consultant who evaluates the wholesale bids should report the risk premium inherent in the winning bids, reflecting the difference between the bid price and forward market prices on the day of the procurement. The Commission approved the OSBA's procurement schedule for the Company's initial contracts. However, the Commission provided that subsequent contracts are to be procured six months in advance; however, those procurements must have multiple solicitations at pre-set staggered times (as the OSBA proposed).

5.) Interest - The Company proposed a waiver of the Commission's regulations, so that no interest would be accrued on either over- or under-collections in the Company's reconciliation charge, *i.e.*, the Energy Cost Adjustment ("ECA"). The OSBA opposed the Company's request. The Company decided not to pursue this issue.

6.) Purchase of Receivables Program and the Customer Education and Referral Program- Parties in the proceeding wanted West Penn to begin a Purchase of Receivables Program and Customer Education and Referral Program as a result of this proceeding. The OSBA proposed that the resolution of these issues is better achieved through the generic Retail Markets Working Group initiated by *Default Service and Retail Electric Markets*, Docket No. M-00072009, Final Statement of Policy (May 10, 2007). The Commission agreed with the OSBA.

Pennsylvania State University
(West Penn Power Company d/b/a Allegheny Power)
Default Service
Docket No. P-2008-2021608

On December 3, 2007, the Pennsylvania State University ("Penn State") filed a petition for declaratory order at Docket No. P-2007-2001828, requesting that the Commission issue an order declaring that the generation rate cap extension from 2008 to the end of 2010, approved as part of a 2005 settlement for certain other rate classes, applies to electric generation service provided to Penn State.

On January 21, 2008, Allegheny filed a petition at Docket No. P-2008-2021608, seeking approval of a plan to provide default service for Penn State in 2009 and 2010.

By Order entered April 22, 2008, the Commission consolidated the two proceedings.

The OSBA was concerned with two issues since the Penn State proceeding was running on a similar time frame as West Penn's Default Service Proceeding at Docket No. P-00072342. First, the OSBA was concerned with the Company's request to be exempted from the Commission's regulations regarding interest on over- and under-collections of default service rates. Second, the OSBA was concerned that Penn State would be grouped with Medium C&I customers for purposes of procurement, thereby significantly increasing rates for the Medium C&I customers.

The OSBA's concerns were alleviated by the Company's withdrawal of the interest proposal and by the Commission's approval of a separate procurement group just for Penn State.

Penn State has filed a Petition for Review in the Commonwealth Court. The OSBA has entered a Notice of Intervention in that proceeding.

Citizens' Electric Company of Lewisburg, PA
and Wellsboro Electric Company
Default Service
Docket Nos. P-00072306 and P-00072307

On May 18, 2007, Citizens' Electric Company of Lewisburg, PA ("Citizens'"), and Wellsboro Electric Company ("Wellsboro") (collectively, "the Companies") filed for approval of a plan to provide default service beginning on January 1, 2008.

Thereafter, the Companies hired Aces Power Management LLC ("APM"), a wholesale trading and risk management firm, to assist in the development of a procurement methodology. With the guidance of APM, Citizens' and Wellsboro initially proposed a procurement plan ("the Scheduled Procurement Plan") that consisted of a 25 MW 7x24 block product and a 25 MW 5x16 block product to be purchased each quarter. The remainder of the Companies' default service requirements were to be purchased through the PJM spot market.

However, at the hearing, the Companies presented rebuttal testimony which significantly modified their original position in the case and proposed a new procurement plan ("the Stratified Procurement Plan"). Under the Stratified Procurement Plan approach, the Companies proposed to purchase power via an annual 7x24 block product for approximately 20 to 25 MW of load, with the remainder of the load met through monthly contracts of mostly 5 MW increments plus spot market purchases.

The OSBA supported the Scheduled Procurement Plan and opposed the Stratified Procurement Plan. In the OSBA's view, the Stratified Procurement Plan, *i.e.*, an actively managed portfolio, gave the Companies too much discretion as to when to buy power and how much to buy in each purchase. In theory, this discretion would enable the Companies to "time the market" in order to get lower prices than under the more rigid Scheduled Procurement Plan *i.e.*, a passively managed portfolio. However, the Stratified Procurement Plan did not explicitly subject the Companies' decisions to a prudence review, whereby recovery of the purchase price of any procurements could be denied if the Companies made unsound choices. Without a prudence review, the risk of mistakes by the Companies would fall entirely on the ratepayers.

On October 3, 2007, the Commission entered an Opinion and Order, which approved the Companies' Stratified Procurement Plan for the period of January 1, 2008, through May 31, 2010. Rather than impose a requirement for prudence review, the Commission ordered that the Companies, the OTS, the OCA, and the OSBA initiate a collaborative process to develop portfolio performance benchmarks and reporting requirements for those benchmarks.

In accordance with the Commission's directive, the Companies, the OSBA, the OCA, and the OTS attempted to develop consensus performance benchmarks. The parties agreed that the following three performance benchmarks should be used:

1) The total power, transaction, and administrative costs incurred under the Companies' Stratified Procurement Plan will be compared to the total power, transaction, and administrative costs that would have been incurred if all of the power had been purchased in the spot market.

2) The total power, transaction, and administrative costs incurred under the Companies' Stratified Procurement Plan will be compared to the total power, transaction, and administrative costs that would have been incurred under the Companies' Scheduled Procurement Plan, *i.e.*, the purchase each quarter of a 25 MW 7x24 block and a 25 MW 5x16 block and the purchase of the remainder of the Companies' default service requirements on the PJM spot market.

3) The total power, transaction, and administrative costs incurred under the Companies' Stratified Procurement Plan will be compared to total power, transaction, and administrative prices that could have been obtained through an RFP for long-term, full requirements contracts.

However, the parties could not reach a consensus on how the third benchmark should be constructed in order to obtain a valid proxy for the costs associated with long-term, full requirements contracts to serve the Companies' default service customers. The parties also could not reach a consensus on the timing and frequency of the Companies' submission of the benchmark reports.

The Companies, the OCA, and the OSBA submitted comments to the Commission regarding the two benchmark issues on which they had been unable to agree. In an Opinion and Order entered on March 28, 2008, the Commission decided that the third benchmark should be constructed using the New Jersey auction but that the Companies should not be required to devote substantial resources to rendering the New Jersey "results into a directly 'equivalent' Citizens/Wellsboro price." The Commission also ordered that Citizens' and Wellsboro should provide benchmark reports annually and not quarterly (as the OSBA suggested). The first annual benchmark report is due on April 1, 2009.

Wellsboro Electric Company
Default Service Rates
Docket No. P-2008-2020257

On October 3, 2007, the Commission entered an Opinion and Order, which approved a default service program for Wellsboro Electric Company ("Wellsboro") and its affiliate, Citizens' Electric Company of Lewisburg, PA ("Citizens"), for the period of January 1, 2008, through May 31, 2010.

On November 2, 2007, Wellsboro submitted its Generation Supply Service Rate ("GSSR") filing for the period from January 1, 2008, through March 31, 2008. Wellsboro's GSSR filing projected congestion costs for January 2008 to be -$11,145.97; congestion costs for February 2008 to be -$11,878.07; and congestion costs for March 2008 to be $12,071.11.

On January 30, 2008, Wellsboro filed a petition proposing alternatives for recovering an unanticipated increase in congestion costs for the period of January 1, 2008, through March 31, 2008. The petition alleged that actual congestion costs for Wellsboro for the months of January, February, and March of 2008 were now projected to be $821,045.81; $769,661; and $803,437, respectively. The Company's Petition further alleged that the reason the Company was, and would be, experiencing higher congestion costs was the derating of a transformer at East Towanda on the FirstEnergy transmission system.

As part of the pleadings in the case, the OSBA proposed that the Company be permitted to begin recovering the extraordinary congestion costs, subject to a possible refund at the conclusion of a proceeding to determine the reasonableness of those costs.

On February 28, 2008, the Commission entered an Opinion and Order approving the recovery of the extraordinary congestion costs over a period of twelve months.

Moreover, the Commission granted the OSBA's request that this matter be assigned to the Office of Administrative Law Judge for hearings to investigate the high congestion costs; to identify the likely causes of the extraordinary congestion costs; to recommend options that could mitigate the future possibility of such extraordinary congestion costs; to provide a recommendation regarding the level of congestion charges that are reasonable per Section 2807(e)(3) of the Public Utility Code, 66 Pa. C.S. § 2807(e)(3), and therefore recoverable in the GSSR over the twelve-month recovery period; to provide a recommendation regarding the Company's request for a waiver of Section 54.187(f) of the Commission's regulations; to address the Commission's nine directed questions; and to address the following issues:

1. Why the derating of the transformer occurred;

2. What steps Wellsboro took, or could have taken, to avoid the effects of the derating or to mitigate the impact of the derating on ratepayers;

3. What steps can be taken by Wellsboro, FirstEnergy, and PJM to make sure this problem does not reoccur; and

4. What steps First Energy/Penelec could have taken to avoid the derating or to mitigate its impact.

Furthermore, the Commission directed Pennsylvania Electric Company ("Penelec") to participate in the hearings to investigate Wellsboro's high congestion costs.

The investigation is ongoing.

3. Alternative Energy

Non-Utility Generators
Alternative Energy
Docket No. P-00052149 and 1198 C.D. 2007

On February 22, 2005, Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("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.

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 ("AEPS Act"), requires that a percentage of the electricity sold to retail customers by EDCs and EGSs be derived from certain alternative energy sources. To comply with the Act, EDCs and EGSs may purchase the required proportion of their total energy requirements from alternative energy sources, or they may purchase an equivalent number of AECs in the marketplace.

This dispute arose after the AEPS 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 AEPS 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 AEPS Act.

On July 5, 2006, the ALJ issued her recommended decision. The ALJ recommended that the Petition be granted and that ownership of the AECs be awarded to the Companies.

On February 12, 2007, the Commission adopted the ALJ's recommendation.

On June 28, 2007, ARIPPA appealed the Commission's order to the Commonwealth Court at 1198 C.D. 2007. York Authority also filed an appeal on that date. However, York Authority withdrew its appeal one month later.

Briefs were filed by all of the parties, including the OSBA, in mid-2008. Oral argument was held before the Commonwealth Court in early December 2008.

On March 3, 2009, the Commonwealth Court issued an Opinion upholding the PUC's decision.

West Penn Power Company d/b/a Allegheny Power
Wind Energy
Docket No. P-00072349

On or about November 19, 2007, West Penn Power Company d/b/a Allegheny Power ("Allegheny" or the "Company") filed with the Commission a petition seeking approval of a wind energy tariff supplement to be available to ratepayers on a voluntary basis.

The Commission assigned the case to the Office of Administrative Law Judge for scheduling of hearings and the issuance of a Recommended Decision. The Commission also issued a list of Directed Questions to be answered in the proceeding.

The OSBA raised the following concerns regarding the proposed wind energy tariff:

> 1.) Whether the Company expected to bank any of the Alternative Energy Credits ("AECs") associated with the wind energy service program to help meet the alternative energy requirements in the Company's Default Service Program at Docket No. P-00072342;
>
> 2.) Whether buying AECs from outside of the PJM Interconnection, L.L.C. ("PJM") or the Midwest Independent Transmission System Operator ("MISO") would undermine the incentive for the development of more alternative energy facilities in PJM or MISO;
>
> 3.) Whether the proliferation of voluntary AEC tariffs would increase the cost of AECs to ratepayers that are used to comply with the Alternative Energy Portfolio Standards Act; and
>
> 4.) Whether the Company intended to reconcile the actual costs for the wind energy against the wind energy service charge.

Subsequently, the Company submitted a joint stipulation with the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA"), and the OSBA.

The joint stipulation and the Company's revised answers to the Commission's Directed Questions helped mitigate the OSBA's above-mentioned concerns.

> 1.) The Company confirmed that AECs being used for the voluntary program will be secured, verified and retired through the PJM GATS and the Midwest ISO RETS system. Therefore, the AECs for the Company's voluntary wind program cannot be used for other state, federal, or voluntary renewable energy purchases or for the mandated programs proposed by Pennsylvania EDCs and EGSs to comply with the Alternative Energy Portfolio Standards Act.
>
> 2.) In the Company's original wind energy tariff proposal, the Company proposed that 20 percent of the AECs would be purchased from sources in Pennsylvania, 20 percent from sources in the PJM region outside of Pennsylvania, and 60 percent from nationwide sources. In the joint stipulation, the Company agreed to provide 60 percent of the AECs from within the MISO region instead of from nationwide sources.
>
> 3.) The Company's agreement that the termination period for the voluntary program is December 31, 2010, and that the participation in the

wind energy services tariff will be capped at annual wind generation of 23 GWh within Pennsylvania and PJM helps to mitigate the OSBA's concern that demand for the voluntary AECs would unreasonably increase prices of the AECs needed by the Company for default service customers beginning on January 1, 2011.

4.) Retail customers who voluntarily choose to pay the renewable energy premium for 100 kWh blocks will be charged $2.50 per each block in addition to the standard energy price. The price includes the cost of the AECs, marketing costs and the gross receipts tax. The Company is not seeking reconciliation.

Despite the joint stipulation, the ALJ rejected the wind tariff primarily on the grounds that the Commission lacked jurisdiction. However, the Commission reversed the ALJ and approved the tariff.

4. Low-Income Programs

There has been an ongoing controversy between advocates for low-income residential customers and advocates for commercial and industrial 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. However, the issue was again joined in PPL's 2004 electric 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 also conducted a generic proceeding on cost recovery and other issues related to universal service and energy conservation programs. 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 have been recovered from customers other than the residential class, the Commission recognized that none of the exceptions constitutes legal precedent because each involved 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."

The OCA raised its statutory construction and legislative intent arguments before the Commonwealth Court as part of the appeals from the Commission's January 2007 decision in the Met-Ed/Penelec consolidated rate case. Oral Argument on the issue was heard before the Commonwealth Court on September 10, 2008. The Commonwealth Court issued a decision on November 7, 2008, affirming the Commission's decision that only the residential class should be required to contribute toward the cost of universal service programs

5. Miscellaneous

Metropolitan Edison Company
Power Purchase Agreement
Docket No. P-00072259

In March of 2007, Met-Ed filed a petition requesting approval to amend a power purchase agreement with Northampton Generating Co., a non-utility generating ("NUG") facility supplying power to Met-Ed under a contract running through September of 2020. In exchange for releasing Northampton from its obligation to supply the power after the end of 2010, Met-Ed would receive an up-front payment, which it proposed to apply to both NUG and non-NUG stranded costs.

The OSBA intervened in the proceeding and filed an answer with new matter in response to Met-Ed's petition. During the litigation of the case, the OSBA took the position that the purported benefits claimed by Met-Ed were illusory; that ratepayers would receive little, if any, benefit as a result of giving up nearly ten years of low-cost power from Northampton; and that ratepayers would continue to pay for NUG stranded costs for the original duration of the power purchase agreement without receiving the reciprocal benefit of the low contract rates.

In his recommended decision, the ALJ disagreed with the position taken by the OSBA and recommended that Met-Ed's petition be granted, with the modification that Met-Ed should apply the up-front payment only to its NUG stranded costs. The OSBA filed exceptions and reply exceptions to the recommended decision.

By order entered on January 24, 2008, the Commission rejected the ALJ's recommendation and denied Met-Ed's petition. Met-Ed then filed a Petition for Reconsideration, seeking reconsideration of only one issue: the Commission's denial of recovery of the transaction costs. The OSBA filed an Answer to the Petition for Reconsideration, in opposition to that recovery. By Order entered October 16, 2008, the Commission denied Met-Ed's Petition for Reconsideration, thereby agreeing with the position advocated by the OSBA.

B. Gas Highlights

1. Rates

Columbia Gas Company
Base Rates
Docket No. R-2008-2011621

On January 28, 2008, Columbia Gas of Pennsylvania ("Columbia" or "Company") submitted a filing that requested $50.7 million in additional annual distribution revenues.

The OSBA filed a complaint alleging that Columbia's proposed distribution rate increase was unjust, unreasonable, unduly discriminatory, and otherwise contrary to law. The OSBA also filed direct and rebuttal testimony.

Ultimately, the OSBA and the other parties reached a settlement that allowed Columbia an additional $41.5 million in annual distribution rate revenue.

While Columbia's proposed revenue allocation resulted in modest progress towards cost-based-rates, the OSBA proposed to reduce the cross-subsidies even further through first dollar-relief. Under the settlement, Columbia's small business customers

will experience a smaller percentage increase than they would have under Columbia's filed proposal. The redistribution of the rate increase results in moving small business customer class rates closer to their cost of service, thereby reducing the amount by which the Company's small business customers are overpaying.

The settlement also properly reflects the Company's costs associated with its Low-Income Usage Reduction Program ("LIURP") in its proposed rider for universal service. While the Company's filing included only a portion of the LIURP costs in the rider, it was established that all LIURP costs were associated with the Company's universal service programs and, as such, those costs should all be included in the rider.

The Commission approved the settlement by order entered October 28, 2008. The settlement sets the distribution rates for Small C&I customers about $247,000 per year lower than proposed by Columbia and about $1.6 million per year lower then proposed by OCA.

Equitable Gas Company
Base Rates
Docket No. R-2008-2029325

On June 30, 2008, Equitable Gas Company ("Equitable" or "Company") requested an increase in distribution rates of $51.5 million per year, an increase of 10.1% over the then-current levels. The OSBA filed a complaint.

Ultimately, the OSBA and the other parties reached a settlement that allowed Equitable an additional $38.35 million in annual distribution rate revenue.

Using any of the cost allocation methodologies submitted in this proceeding, the small business customers taking service under rate GS overpay their distribution cost of service at present and proposed rates. For business customers taking service under rate GSL, both of the Company's allocation methods showed business customers overpaying at present rates, but only one reflected an overpayment at proposed rates.

While Equitable's proposed revenue allocation resulted in modest progress towards cost-based-rates, the OSBA proposed to reduce the cross-subsidies even further through first dollar-relief. Under the settlement, Equitable's small business customers will experience a smaller percentage increase than they would have under the Company's filed proposal. The Settlement sets forth rates that are consistent with the OSBA's proposal for first dollar relief in which rate GS receives no increase. The Settlement results in rate GSL receiving a 9.6% increase, which is lower than the Company had proposed and lower than the system average increase of 24.8%. The redistribution of the rate increase results in moving small business customer class rates closer to their cost of service, thereby reducing the amount by which the Company's small business customers

are overpaying. In summary, the Settlement sets the distribution rates for Small C&I customers about $903,000 per year lower than proposed by the Company and about $5.3 million per year lower than proposed by the Independent Oil and Gas Association ("IOGA").

The Commission entered a final order approving the settlement on February 26, 2009.

PECO Energy Company
Base Rates
Docket No. R-2008-2028394

On March 31, 2008, PECO filed a proposed tariff requesting an increase in PECO's total gas distribution revenues of approximately $98.3 million per year.

The OSBA and several other parties filed complaints or notices of intervention. Several of the parties, including the OSBA, filed direct and rebuttal testimony. Public Input Hearings were held. After several rounds of negotiations, the parties reached a settlement of the issues in this case.

The principal issues of concern that were resolved to the satisfaction of the OSBA because of the settlement are as follows:

PECO agreed to reduce the revenue requirement from $98.3 million per year to $76.5 million per year. Of that total amount, $76 million would be recovered through distribution rates. The remaining $500,000 would be designated for the expansion of the Low Income Usage Reduction Program and would be recovered entirely from residential customers through the Universal Service Fund Charge.

PECO's original revenue allocation would have imposed a larger than system average rate increase on classes GC (small commercial) and L (large commercial), even though both classes are providing a greater than system average rate of return at present rates and would continue to do so under proposed rates. PECO's original revenue allocation would have moved those classes farther away from, rather than closer to, cost of service. The OSBA proposed to move the GC and L classes closer to cost of service by providing them with first dollar relief.

PECO agreed with the concept of first dollar relief and proposed to eliminate the subsidies provided by the overpaying classes over three rate cases, with this case being the first case. The settlement adopts PECO's proposal (in order to assure that both the GC and L classes make progress toward cost of service) that the GC and L classes would receive increases of 35.51% and 35.67%, respectively, both of which would be below the system average increase of 36.42%. As a result, GC and L customers would pay about

$3.1 million less each year than they would have under a proportional scaleback of PECO's original revenue allocation. In addition, the settlement commits PECO to propose eliminating the subsidies provided by these overpaying classes over its next two rate cases.

Philadelphia Gas Works
Base Rates
Docket No. R-2008-2073938

On or about November 14, 2008, Philadelphia Gas Works ("PGW" or the "Company") filed with the Pennsylvania Public Utility Commission ("Commission") a Petition for Extraordinary or Emergency Rate Relief ("Petition") and a tariff seeking approval of rates and changes to increase distribution revenues by $60 million per year. The proposed increase was purportedly to be allocated on an across-the-board basis. The Petition also requested that the Commission authorize the deferral of the Company's required filing of its regular quarterly Gas Cost Rate ("GCR") adjustment, usually filed on December 1, and allow PGW to simultaneously implement the $60 million distribution increase and an estimated $85 million decrease to its GCR and Universal Service Charge ("USC") rates.

The OSBA filed a letter with the Commission's Secretary on November 17, 2008, indicating that the OSBA would file a timely Notice of Intervention, Public Statement and Answer to the Petition. In its letter, the OSBA objected to PGW's request for a November 17 decision on the merits of the requested delay in the GCR filing. The OSBA subsequently filed a timely Notice of Intervention and Public Statement on November 18, 2008.

PGW did not file an updated cost of service study. According to PGW, the Company did not have time to prepare a cost of service study because of the time constraints under which the filing was made. The OSBA's primary concerns revolved around the size of the requested increase, the allocation of the requested increase, the statutory waivers requested, and the fact that PGW was trying to "end run" the requirement that it file and litigate a full base rate proceeding concurrently with the request for extraordinary rate relief.

The OSBA ultimately supported PGW's request for $60 million on an interim basis, and successfully argued for a change in the way in which PGW allocated the requested increase (saving Small C&I customers about $1.3 million per year). The Commission granted PGW's request for $60 million in extraordinary rate relief and granted waivers of the statute which the OSBA believes to be legally impermissible. The Commission also declined to order an immediate proceeding on cost of service and revenue allocation issues.

The OSBA has filed a Petition for Reconsideration with the Commission. PGW has filed an Answer and New Matter. The OSBA filed a response to the New Matter. PGW filed a Motion to Strike the OSBA's response. To date, the Commission has not adjudicated the OSBA's Petition.

Philadelphia Gas Works
Base Rates
Docket No. R-00061931

On December 22, 2006, Philadelphia Gas Works ("PGW" or the "Company") filed a tariff seeking approval of rates and rate changes to increase the distribution revenues of PGW by $100 million per year.

The OSBA filed a complaint against the proposed increase. The OSBA's primary concerns revolved around the size of the requested increase and the manner in which the Company proposed to allocate the rate increase across the classes of customers. The evidence reflected that PGW's business customers were overpaying based on the actual cost of service prior to the rate increase and would be overpaying to an even greater extent after the rate increase. At the same time, the evidence reflected that PGW was under-recovering its costs from the residential classes.

The OSBA successfully argued that there was a substantial inequity in the way PGW proposed to collect its rate increase. The Commission agreed with the OSBA that commercial customers were subsidizing residential customers. As a remedy, the OSBA and the OTS argued that if the Commission awarded PGW less than a $100 million increase, first-dollar relief should be provided to the overpaying classes to mitigate the subsidy. The basic theory of first-dollar relief is that none of the rate increase goes to customer classes that are overpaying for utility service until the rates of underpaying classes are increased enough to cover the actual cost of providing service to those underpaying classes.

The Commission ultimately awarded PGW only a $25 million annual increase in distribution revenues. Because the Commission adopted first-dollar relief, none of the $25 million rate increase was allocated to business customers. Therefore, the Company's small business customers are saving about $6.8 million per year.

The Commission rejected the OSBA's proposal to phase out the allocation of universal service costs to non-residential customers over a three-year period. The OSBA's proposal was rejected because the Commission concluded that the combined effect of allocating the $25 million rate increase solely to the residential classes and phasing out the requirement that non-residential customers share in paying universal service costs would amount to rate shock for the residential customers. However, the Commission did acknowledge that the Commission's policy is to allocate universal

service costs solely to the residential class, thereby preserving the opportunity for the OSBA to argue this issue in future cases.

Additionally, the Commission directed the Company to submit a cost-based rate for Interruptible Transportation ("IT") customers. The result of the redesign of the IT rate (from a market-based to a cost-based rate) resulted in a revenue shortfall of $2.671 million. In its compliance filing, PGW proposed to assign the entire revenue shortfall to the residential classes.

The OCA excepted to PGW's proposed allocation of the $2.671 million shortfall. However, the OSBA agreed with PGW. As the OSBA pointed out, the Commission was aware that the revenue shortfall created by moving IT rates to cost of service would have to be made up by a class or classes other than IT, but the Commission neither stated nor implied that the responsibility for the shortfall should be allocated differently than the responsibility for the $25 million rate increase.

In approving first-dollar relief, the Commission had acknowledged that "the record before us reflects a *substantial inequity* in rates between the residential classes and the non-residential firm sales customers." That inequity, which the Commission sought to address by awarding first-dollar relief, would be exacerbated if the $2.671 million shortfall were recovered from any class but the residential classes. The Commission agreed with the OSBA and allocated the shortfall to the residential classes, thereby saving small business consumers about $500,000 per year in increased rates.

PGW filed an appeal with the Commonwealth Court at 1914 C.D. 2007. The OSBA filed a notice of intervention in the Commonwealth Court proceeding. After the filing of briefs and an oral argument, the Commonwealth Court issued an unreported opinion on February 4, 2009, in which the Court upheld the Commission's decision to limit PGW's increase to $25 million. On February 19, 2009, PGW filed a Motion with the Court for Reconsideration, for Reargument and/or for Argument *En Banc*.

Pike County Light & Power Co.
Base Rates
Docket No. R-2008-2046520

On July 18, 2009, Pike County Light & Power Company ("PCL&P" or "Company") requested an increase in annual gas distribution revenues of approximately $454,900. The OSBA filed a complaint as well as direct, rebuttal and surrebuttal testimony.

Ultimately, the OSBA and the other parties reached a settlement that allowed PCL&P an additional $260,000 in annual distribution rate revenue.

There was a difference of opinion among the parties about the proper cost of service methodology. The consensus among the parties, except the Company, was that the Company's methodology was not consistent with recent Commission precedent. However, given the size of the requested increase, the fact that PCL&P has very few business customers, and the fact that the Company was willing to make modifications to its methodology in its next case, the OSBA elected not to litigate the issue in this proceeding.

The Commission approved the settlement by order entered February 26, 2009.

2. **Acquisitions and Mergers**

Dominion Peoples
Sale
Docket No. A-2008-2063737

On September 16, 2008, a Joint Application was filed by The Peoples Natural Gas Company, d/b/a Dominion Peoples ("Peoples"), Peoples Hope Gas Companies LLC ("PH Gas") and Dominion Resources, Inc. ("Dominion") (collectively, the "Joint Applicants"), seeking approval of the transfer by sale of 100% of Peoples' issued and outstanding capital stock to PH Gas by Dominion.

The OSBA filed a Notice of Intervention and Protest, a Public Statement, and a Notice of Appearance. The OSBA has also submitted direct and rebuttal testimony.

The proceeding is ongoing.

PPL Gas Utilities Corp.
Sale
Docket Nos. A-2008-2034045 and A-2008-2034047

On April 2, 2008, UGI and PPL Gas filed an application seeking Commission approval to consummate an acquisition by stock transfer of PPL Gas by UGI.

The OSBA filed a notice of intervention and protest. In its protest, the OSBA requested that the Commission reject the application as filed or, in the alternative, impose those terms and conditions as necessary to ensure that the proposed acquisition would be in the public interest; provide substantial, affirmative benefits to customers; not adversely affect retail natural gas competition in Pennsylvania; and comply with the Public Utility Code.

The OSBA actively participated in the proceeding by filing testimony and a main brief. The OSBA also actively participated in the negotiations that led to the filing of a settlement.

The application for acquisition failed to identify any synergies or other affirmative public benefits resulting from the transaction. However, the settlement cured the deficiency and provided for affirmative public benefits, in the form of a $2.5 million annual credit which is to be allocated among the rate classes on the basis of awarded base rate revenues. The credit will continue until the effective date of the compliance filing following the final order in PPL Gas' 'subsequent' rate case (the one following the 'next' base rate case). The settlement also provides for monitoring service quality for a five-year period following the close of the transaction.

The Commission approved the settlement by order entered August 21, 2008.

C. Telephone Highlights

Verizon Pennsylvania Inc.
Verizon North Inc.
Price Change Opportunity (2006)
Docket Nos. R-00051227 and R-00051228

On December 30, 2005, Verizon Pennsylvania Inc. ("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 revenues by the rate of inflation, minus a small productivity offset. Verizon PA's 2006 PCO filing proposed to increase the company's annual revenue by $16,765,000.

On December 30, 2005, Verizon North Inc. ("Verizon North") also submitted its annual PCO filing. The Verizon North PCO filing proposed to increase Verizon North's annual revenue by $3,257,000.

The OSBA filed a complaint against both the Verizon PA and Verizon North (collectively, "Verizon") PCO filings. The OSBA also filed direct and surrebuttal testimony, and main and reply briefs.

The ALJ issued his recommended decision on December 13, 2006. The ALJ ruled in favor of the OSBA on most issues, including: that Verizon PA does not have unfettered discretion to allocate its rate increase 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 allocating its annual rate increase.

The Commission agreed with the ALJ, and decided that Verizon PA improperly included competitive access charge revenue in its noncompetitive service revenue totals and that Verizon PA improperly made assumptions about its customer counts rather than using the actual counts from the relevant time period.

Verizon appealed the Commission order on these two issues to the Commonwealth Court at 988 C.D. 2007.

The OSBA submitted a Commonwealth Court brief on November 21, 2007.

Prior to oral argument before the Commonwealth Court, Verizon approached the OSBA with a settlement offer. Ultimately, Verizon and the OSBA reached a settlement which permanently excluded the competitive access charge revenue from Verizon's noncompetitive service revenue totals, allowed Verizon to update its line count in a more disciplined fashion, and corrected Verizon's calculation of its business rates.

The Commission approved the settlement in an order entered May 27, 2008.

D&E Companies
Price Change Opportunity (2006)
Docket Nos. 847 CD 2008 and 940 CD 2008

In May of 2006, the Denver and Ephrata Telephone and Telegraph Company, the Buffalo Valley Telephone Company, and the Conestoga Telephone and Telegraph Company (collectively, the "D&E Companies") submitted their Annual Price Stability Mechanism ("PSM") Filings to the Commission. These annual PSM filings were made pursuant to the requirements set forth in Chapter 30 of the Public Utility Code, as well as the D&E Companies' respective alternative form of regulation plans. In effect, these filings permit a telephone company to increase its revenues from non-competitive services to keep pace with inflation.

Over the course of the next two years, the Commission issued a series of orders in regards to the D&E Companies' 2006 PSM filings. In May of 2008, the D&E Companies and the OCA appealed the various Commission orders to the Commonwealth Court.

One issue on appeal is whether there are caps on local exchange rates, thereby preventing local telephone companies from implementing rate increases to which they would otherwise be entitled under their annual PSM filing. Those PSM filings provide additional revenue to the telephone companies to help them pay for broadband

deployment across the Commonwealth. The Commission held that there are no such caps. The OSBA filed a brief in Commonwealth Court in support of the Commission.

The appeal is currently awaiting oral argument before the Commonwealth Court.

Embarq
Price Change Opportunity (2008)
Docket No. P-2008-2062354

In August of 2008, the United Telephone Company of Pennsylvania LLC d/b/a Embarq Pennsylvania ("Embarq" or the "Company") submitted its 2008 Price Stability Mechanism ("PSM") filing to the Commission.

The OSBA filed a complaint against Embarq's 2008 PSM filing when it was determined that Embarq assigned a significant part of the overall revenue increase to the local exchange rates of its business customers, but none of the increase to the local exchange rates of its residential customers.

Ultimately, the parties settled the matter once Embarq agreed to eliminate the rate increase assigned to its business customers. As a result, business customers will save about $116,000 per year.

The Commission approved the settlement by order entered December 4, 2008.

Verizon Pennsylvania Inc.
Access Charges
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 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 per month 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.

The OSBA filed exceptions and reply exceptions to the RD.

On February 26, 2004, Verizon, the OCA, and the OSBA reached an agreement on the issues litigated by the OSBA. The Verizon-OCA-OSBA settlement limited the *specific* business rate increase to less than $1 per business line per month, 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. Thereafter, the OSBA submitted exceptions and reply exceptions in response to the RD.

The OSBA and several other parties had 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 at the Federal Communications Commission ("FCC"). Therefore, the OSBA excepted to the ALJ's recommendation against waiting for the Unified Intercarrier Compensation proceeding to conclude.

The ALJ had recommended that Verizon's carrier charge be eliminated. The OSBA excepted to 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, to which the OSBA excepted for the same reasons it opposed elimination of the carrier charge. In addition, the OSBA excepted to 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 excepted to 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 excepted to 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.

In the fall of 2007, Verizon and certain other parties petitioned the Commission to extend the stay, while several other parties opposed any additional stay. On September 12, 2008, the Commission entered an order extending the stay until September 12, 2009, or until a final outcome in the FCC's *Unified Intercarrier Compensation* proceeding, whichever occurs first.

Rural Local Exchange Carriers
Access Charges
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.

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.

On April 24, 2008, the Commission entered an order that generally continued the stay of this investigation, but reopened the investigation for the limited purpose of addressing whether the cap of $18.00 on residential monthly service rates, and any corresponding cap on business monthly service rates, should be raised.

The OSBA filed direct, rebuttal, and surrebuttal in the limited investigation. Hearings were held before the ALJ in mid-February 2009.

The limited investigation proceeding is pending before the Commission. However, the remainder of the investigation is presently on-hold until the FCC's *Unified Intercarrier Compensation* proceeding reaches a conclusion.

Embarq
Change of Control
Docket No. A-2008-2076038

In November of 2008, the United Telephone Company of Pennsylvania LLC d/b/a/ Embarq Pennsylvania and Embarq Communications, Inc. ("Applicants") filed an application with the Commission seeking approval for the indirect transfer of control of the Applicants to CenturyTel, Inc. The application proposes to carry out the transfer of

control through a stock-for-stock transaction between CenturyTel and the Applicants' parent, Embarq Corporation.

Under appellate case law, the Commission is not permitted to approve a change of control unless the transaction would provide substantial public benefits. The OSBA has not been able to identify any public benefit that would arise from this proposed transaction. Consequently, the OSBA has filed direct, rebuttal, and surrebuttal testimony in opposition to the transaction.

The case is pending before the Commission.

D. Water and Wastewater Highlights

Aqua-PA Water Company
Base Rates
Docket No. R-00072711

In November of 2007, Aqua Pennsylvania, Inc. ("Aqua-PA") filed a tariff seeking approval of rates and rate changes which would increase total operating revenues by $41,700,000 per year, an increase of 13.6%. The OSBA filed a complaint alleging that the proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable, and unlawfully discriminatory.

After discovery and the filing of testimony, evidentiary hearings were held in Philadelphia. The parties also filed main briefs and reply briefs.

Aqua PA proposed to increase its Main Division commercial, industrial, and public rate blocks by differing percentages. The OSBA argued that there is no cost evidence in this record to justify different percentage increases for these different rate blocks. Therefore, according to the OSBA, there must be a uniform percentage increase for the four commercial rate blocks, for the first four rate blocks of the industrial class, and for the first three blocks of the public class.

With respect to the Bristol Division, Aqua PA initially proposed to move the non-residential consumption charges to the level of the Main Division rates even though some of the increases would be well above the class average increase. The OSBA proposed a more gradual approach, moving non-residential blocks 3, 4, and 5 only 50% to the Main Division (rather than 65% proposed by Aqua PA) to be consistent with the goal of gradualism.

The Purchased Water Adjustment ("PWA") proposed by Aqua PA was opposed by the OSBA. Further, the Company requested a return on equity of 11.75%. In the last litigated major water rate case (the Pennsylvania American Water Company base rate

case in 2004), the return on equity granted by the Commission was only 10.6%, even though the utility in that case was not granted a PWA. Since the PWA would actually lower Aqua PA's risk of earnings attrition between this rate case and the next one, the OSBA argued that the return on equity should logically be lower than 10.6%.

To resolve the OSBA's objections, Aqua PA agreed during litigation to increase the four commercial blocks by close to a uniform percentage. Aqua PA also agreed to move some of the Bristol Division rate blocks to the Main Division rates more gradually.

By Order entered July 31, 2008, the Commission awarded Aqua PA a $34,427,517 rate increase. Furthermore, the Commission approved Aqua PA's proposed "compromises" on the Main Division and Bristol Division rate blocks. However, the Commission rejected Aqua PA's request for a PWA.

Aqua-PA Water Company
Distribution System Improvement Charge
Docket No. A-2008-2079310

On December 8, 2008, Aqua PA filed Supplement 88 to Tariff Water-Pa. P.U.C. No. 1, seeking to increase the Company's Distribution System Improvement Charge ("DSIC") from a surcharge cap of 5% to a cap of 7.5% of billed revenues, thereby increasing DSIC-eligible capital expenditures by a claimed $65.5 million.

The OSBA and OCA have filed Complaints against the proposed tariff. This case is in its beginning stages.

Pennsylvania-American Water Company
City of Coatesville Division
Docket No. R-2008-2032689

Pennsylvania-American Water Company-City of Coatesville Division ("PAWC" or the "Company") sought approval of an increase of $2,685,488 in the annual revenues of PAWC's City of Coatesville Division. The Coatesville Division provides wastewater service.

In the proceeding, the OSBA focused on whether the Company's proposed class revenue allocation was cost-based and whether the Company's proposed Commercial/Public class service charge of $15 per month was proper.

PAWC and the other parties involved in the proceeding (including the OSBA) entered into a Settlement. The Settlement provided the following savings to ratepayers:

1.) In the Company's original filing, PAWC proposed a revenue increase of $2,685,152 million per year. The Company proposed that $279,495 of the rate increase be collected from the commercial class. Under the Company's original filing the commercial class would have been allocated 10.41% of the rate increase. In contrast, the Settlement provided for $1,849,964 million per year in additional annual operating revenues. The Settlement also provided that the commercial class pay $132,366 of the $1,849,964 amount. Therefore, under the Settlement, the commercial class is allocated only 7.16% of the rate increase, which is a savings for the commercial class of more than $60,000 a year compared to the Company's original methodology.

2.) In PAWC's original filing, the proposed rates applicable to the Commercial/Public class failed to move that class to cost of service. The Settlement moves the Commercial/Public class to 9.2% of the Company's revenue, which is close to the percentage of the Company's costs caused by that class. This result is consistent with *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeals denied*, 916 A.2d 1104 (Pa. 2007), wherein the Commonwealth Court held that cost of service is the "polestar" criterion for setting utility rates.

3.) In the Company's original filing, the Company proposed to set the Commercial/Public service charge at $15.00. The OSBA did not agree with the Company's methodology in deriving the proposed service charge. Instead, the OSBA proposed that the Company's service charge should be based on actual meter size. In the alternative, the OSBA proposed that the customer service charge should be set at $10.00 at the Company's full revenue requirement. The Settlement accepted the OSBA's alternative service charge proposal of $10.00 and (as recommended by the OSBA) scaled it back to reflect the reduction in the overall rate increase. The result is a Commercial/Public class service charge of $8.50.

On November 14, 2008, the Commission approved the Settlement.

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

In November of 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 the Commission in 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 partly owned by the French government.

The OSBA filed a notice of intervention and protest in this matter. The issues which concerned the OSBA included 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.

The merger, and this proceeding, were put on "hold," pending the outcome of the French presidential election, which resulted in the election of Nicholas Sarkozy to the presidency. The newly elected president subsequently gave the "go-ahead" for Suez and Gaz de France to proceed with the merger.

As finally proposed, the merger was somewhat different than originally planned, at least from the perspective of UWPA. The merger resulted in the spin-off of 65% of the shares of Suez Environment in an initial public offering to Suez shareholders. Suez Environment is the arm of Suez SA that specializes in water and wastewater, among other environmental services. The French government will hold approximately 35.6% of the shares of the merged companies and, therefore, will indirectly control approximately 12% of Suez Environment (and UWPA).

UWPA filed an amended application seeking approval of the merger and adding United Water Bethel, Inc., another subsidiary of United Water Resources (the corporate grandparent), as a party to the application.

After several rounds of negotiations, the parties reached a settlement in June of 2008. The issues of interest to the OSBA were resolved to the satisfaction of the OSBA because of the following provisions in the Amended Application and Settlement: (a) Suez reduced its ownership of Suez Environment (the water/wastewater subsidiary of Suez), from 100% to 35%. The resulting indirect ownership interest in Suez Environment by the French government was reduced from the original projection of 34.6% to 12%; and (b) UWPA agreed to establish benchmark levels for unaccounted for water, average duration to repair main breaks, number of employees, and operation and maintenance expenditures and to report annually to the OSBA on the achieved levels of these service quality measures. The Commission approved the settlement by Order entered July 17, 2008.

United Water Bethel, Inc.
Base Rates
Docket No. R-00072744

In November of 2007, United Water Bethel, Inc. ("UWB") filed a tariff seeking approval of rates and rate changes which would increase total operating revenues by $79,445 per year, an increase of 6.31%. The OSBA filed a complaint alleging that the proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable, and unlawfully discriminatory. The OSBA has intervened in this case primarily because of UWB's status as an applicant in the amended application for approval of the merger of Suez SA and Gaz de France.

Some of the parties to this case agreed to a settlement which the Commission approved. The OSBA, having been satisfied with the settlement of the United Water Pennsylvania merger case, did not support or oppose the settlement in this case.

York Water Company
Base Rates
Docket No. R-2008-2023067

In May of 2008, the York Water Company ("York Water") filed a tariff with the Commission proposing to increase the Company's rates by $7,086,005 per year.

The OSBA filed a complaint against the proposed increase. In addition, the OSBA filed direct testimony in the proceeding.

Ultimately, the case reached a settlement among all the parties. The settlement properly allocated the overall rate increase among the various customer classes in a manner that was non-discriminatory and consistent with the Company's cost of service study. The settlement set rates for small business customers about $386,000 per year lower than proposed by OCA. In addition, the settlement committed York Water to proposing to move each class to cost of service in the next case.

The Commission approved the settlement by order entered October 9, 2008.

E. Steam Highlights

NRG Energy Center Harrisburg
Base Rates
Docket No. R-2008-2028395

In April of 2008, NRG Energy Center Harrisburg LLC ("NRG Harrisburg") filed a tariff with the Commission proposing to increase the Company's rates by $1,845,871 per year.

The OSBA filed a complaint against the proposed increase. Unfortunately, the Company did not provide a full cost of service study with its filing. Therefore, the OSBA was unable to assess whether the rate increase would be allocated among customer classes in a non-discriminatory way.

The parties were able to reach a settlement in the proceeding. As part of the settlement, NRG Harrisburg agreed to perform a full cost of service study for the company's next filed base rate case.

The Commission approved the settlement by order entered November 7, 2008.

E. Legislation

Section 9 of the Small Business Advocate Act, 73 P.S. § 399.49, requires the OSBA to make reports to the Governor and the General Assembly regarding matters within the OSBA's jurisdiction. In addition to testifying at a budget hearing before the House Appropriations Committees, the Small Business Advocate testified before the House Consumer Affairs Committee on electric energy issues. The OSBA also responded to inquiries from individual legislators and legislative staff members.

G. List of Proceedings

1. 2008 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. The OSBA filed comments in 2008 in the following proceedings:

Retail Electricity Choice Activity Reports
Docket No. L-00070184

Proposed Rulemaking Relating to Universal Service and Energy Conservation Reporting Requirements, 52 Pa. Code §§54.71 - 54.78 (electric); §§62.1 - 62.8 (natural gas); and Customer Assistance Programs, §§76.1 - 76.6
Docket No. L-00070186

Proposed Rulemaking to Permit Electronic Filing
Docket No. L-00070187

Rulemaking to Amend Chapter 63 Regulations so as to Streamline Procedures for Commission Review of Transfer of Control and Affiliate Filings for Telecommunications Carriers
Docket No. L-00070188

Investigation of Conservation, Energy Efficiency Activities, and Demand Side Response by Energy Utilities and Ratemaking Mechanisms to Promote Such Efforts
Docket No. M-00061984

Default Service and Retail Electric Markets
Docket No. M-00072009

Revision of Guidelines for Maintaining Customer Services Establishment of Interim Standards for Purchase of Receivables (POR) Programs
Docket No. M-2008-2068982

Re: Energy Efficiency and Conservation Program and EDC Plans
Docket No. M-2008-2069887

2. 2008 PUC Cases

The OSBA participates in major rate increase cases before the Commission; the annual Gas Cost Rate cases for Pennsylvania's 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 2008:

Electric

Joint Petition of Metropolitan Edison Company and Pennsylvania Electric Company for Approval of a Voluntary Prepayment Plan
Docket No. P-2008-2066692

Pennsylvania Public Utility Commission v. Metropolitan Edison Company
Docket No. M-2008-2036197

Pennsylvania Public Utility Commission v. Pennsylvania Electric Company
Docket No. M-2008-2036188

Petition of Wellsboro Electric Company for Waiver of Interim Filing Requirement and for Recovery of Non-Recurring Congestion Costs Over Nine-Month Period
Docket No. P-2008-2020257

Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 Through December 31, 2010
Docket Nos. P-00072247 and P-2008-2079461
Petition of PPL Electric Utilities Corporation for Approval of a Default Service Program and Procurement Plan for the Period January 1, 2011 Through May 31, 2014
Docket No. P-2008-2060309

Petition of PECO Energy Company for Approval of Its Default Service Program and Rate Mitigation Plan
Docket No. P-2008-2062739

Petition of PECO Energy Company for Approval of Its Market Rate Transition Energy Efficiency Package
Docket No. P-2008-2062740

Petition of PECO Energy Company for Approval to Implement a Market Rate Transition Phase-In Program
Docket No. P-2008-2062741

Petition of PPL Electric Utilities Corporation for Approval to Offer Customers a Voluntary Alternative Energy Program and to Bank Alternative Energy Credits
Docket No. P-2008-2021398

Petition of UGI Utilities, Inc. – Electric Division for Approval of a Default Service Rate and AEPS Implementation Plans and an Associated Potential Affiliated Interest Agreement
Docket No. P-2008-2063006

Petition of UGI Utilities, Inc. – Electric Division for Expedited Approval of a Default Service Procurement, Implementation, and Contingency Plan Pursuant to 52 Pa. Code §§ 54.181-54.189
Docket No. P-2008-2022931

Petition of West Penn Power Company d/b/a Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period for Tariff 37 Providing Service to The Pennsylvania State University
Docket No. P-2008-2021608

Re: Pennsylvania Public Utility Commission v. Pike County Light & Power Company
Docket No. R-2008-2046518

Re: Petition of Pike County Light & Power Company for Approval of Its Default Service Implementation Plan
Docket No. P-2008-2044561

Gas

In re: Application of UGI Utilities, Inc., and PPL Gas Utilities Corporation for a Certificate or Certificates of Public Convenience Evidencing the Pennsylvania Public Utility Commission's Approval of the Transfer by Sale of 100% of the Issued Outstanding Stock of PPL Gas Utilities Corporation, a Public Utility Providing Natural Gas Service in Pennsylvania to UGI Utilities, Approval of Certain Affiliated Interest Filings, and All Other Approvals Or Certificates Appropriate, Customary or Necessary Under the Public Utility Code to Carry Out The Transactions Described in the Application
Docket Nos. A-2008-2034045 and A-2008-2034047

Joint Application for All of the Authority and the Necessary Certificate(s) of Public Convenience to Transfer All of the Issued And Outstanding Shares of Capital Stock Of The Peoples Natural Gas Company, d/b/a Dominion Peoples, currently owned by Dominion Resources, Inc., to Peoples Hope Gas Companies, LLC, an indirect subsidiary of Babcock & Brown Infrastructure Fund North America, LP, and to Approve the Resulting Change in Control of The Peoples Natural Gas Company, d/b/a Dominion Peoples
Docket No. A-2008-2063737

Michael J. Kuehn v. UGI Utilities, Inc. – Gas Division
Docket No. C-2008-2029596

Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania
Docket No. R-2008-2011621

Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania
Docket No. R-2008-2028039

Pennsylvania Public Utility Commission v. Equitable Gas Company
Docket No. R-2008-2021160

Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corporation
Docket No. R-2008-2012502

Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-2008-2028394

Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-2008-2039468

Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-2008-2021348

Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-2008-2073938

Pennsylvania Public Utility Commission v. PPL Gas Utilities Corporation
Docket No. R-2008-2039634

Pennsylvania Public Utility Commission v. The Peoples Natural Gas Company t/a Dominion Peoples
Docket No. R-2008-2022206

Pennsylvania Public Utility Commission v. T.W. Phillips Gas and Oil Company
Docket No. R-2008-2013026

Pennsylvania Public Utility Commission v. UGI Penn Natural Gas, Inc.
Docket No. R-2008-2039284

Pennsylvania Public Utility Commission v. UGI Utilities, Inc. – Gas Division
Docket No. R-2008-2039417

Petition of Equitable Gas Company, a Division of Equitable Resources, Inc. For Waiver of the 120 Day Period Prescribed in 52 Pa. Code § 53.52 and an Extension of Time To File a General Rate Increase Based Upon an Historic Test Year Ended December 31, 2007 and a Future Test Year Ending December 31, 2008
Docket No. unspecified

Re: Pennsylvania Public Utility Commission v. Equitable Gas Company
Docket No. R-2008-2029325

Re: Pennsylvania Public Utility Commission v. Pike County Light & Power Company
Docket No. R-2008-2046520

Telephone

Joint Application of the United Telephone Company of Pennsylvania LLC d/b/a Embarq Pennsylvania and Embarq Communication, Inc. For all Approvals required under the Pennsylvania Public Utility Code for the Indirect Transfer of Control of CenturyTel, Inc.
Docket No. A-2008-2076038

Joint Application of Yukon-Waltz Telephone Company and Yukon-Waltz Communications for the Issuance of a Certificate of Public Convenience Approving the Transfer of Control to Laurel Highland Total Communications, Inc., Pursuant to Section 1102 of the Public Utility Code
Docket Nos. A-2008-2014207 and A-2008-2014281

Pennsylvania Public Utility Commission v. The United Telephone Company of Pennsylvania, LLC d/b/a Embarq
Docket No. R-2008-2062354

Re: Petition for Streamlined Form of Regulation and Network Modernization Plan of Consolidated Communications Company of Pennsylvania (formerly North Pittsburgh Telephone Company)
Docket No. P-00981437F1000

Water

Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc.
Docket No. A-2008-2079310

Pennsylvania Public Utility Commission v. Pennsylvania-American Water Company
Docket No. R-2008-2032689

Re: Pennsylvania Public Utility Commission v. The York Water Company
Docket No. R-2008-2023067

Steam

Pennsylvania Public Utility Commission v. NRG Energy Center Harrisburg, LLC
Docket No. R-2008-2028395

3. 2008 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 2008:

Pennsylvania Commonwealth Court

Buffalo Valley Telephone Company, *et al.*, Petitioner v. Pennsylvania Public Utility Commission, Respondent
Docket No. 847 CD 2008

Irwin A. Popowsky, Consumer Advocate, Petitioner v. Pennsylvania Public Utility Commission, Respondent
Docket No. 940 CD 2008

The Pennsylvania State University, Petitioners v. Pennsylvania Public Utility Commission, Respondent
Docket No. 1957 CD 2008

H. Small Business Consumer Outreach

In addition to its litigation caseload, the OSBA also handles individual small business consumer problems. Small business consumers usually contact the OSBA as a result of the OSBA's web page, referrals by the PUC, and referrals by legislators.

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, 2008, the OSBA recommended an overall 12.87 % decrease in statewide industrial loss costs in lieu of the 10.22 % 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, 2008, the OSBA recommended an overall reduction of 17.8 % in traumatic loss costs in lieu of the 7.7 % reduction requested by the CMCRB. After accepting several of the OSBA's suggestions, the Insurance Department approved a reduction of 11.3 %.

VI. OSBA STAFF

William R. Lloyd, Jr. (11/24/03 to present)
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

Theresa Gillis (10/9/07 to present)
Legal Assistant