
Irwin A. Popowsky
Consumer Advocate

555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048 Office
(717) 783-7152 Fax
800-684-6560 (PA Consumers Only)
E-Mail Address: paoca@ptd.net
Internet: www.oca.state.pa.us

Issued: November, 2001
65269
# Office of Consumer Advocate Annual Report for Fiscal Year 2000-2001

## Table of Contents

**INTRODUCTION** ............................................................. 1

**ELECTRICITY** ............................................................. 5

Pennsylvania .................................................................. 5

- PECO Energy Company ............................................. 5
- Duquesne Light Company ........................................... 7
- PPL Electric Utilities .................................................. 8
- Allegheny Power/West Penn Power ............................... 9

GPU Energy

- Metropolitan Edison Company and Pennsylvania Electric Company .......................... 9
- Pike County Light and Power Company .................................................... 13
- Wellsboro Electric Company ........................................... 13
- Rulemakings .................................................................. 13

Other Cases Involving Electric Generation Suppliers ........... 14

Other Electric Matters ...................................................... 15

Federal ............................................................................. 17

- Introduction .................................................................. 17
- FERC Electric Rulemaking Proceedings .......................... 18
- ISO Proceedings and Related Cases ................................. 20
- FERC Electric Cases ...................................................... 24

**NATURAL GAS** .............................................................. 26

Pennsylvania ........................................................... 26

- Base Rate Proceedings ................................................ 26
- Purchased Gas Cost Proceedings .................................. 28
- Restructuring Proceedings ............................................ 29
- Philadelphia Gas Works Proceedings .............................. 30
- Miscellaneous Matters and Collaboratives ...................... 33

Natural Gas Choice Implementation Committee ................ 36

- Gas Universal Service Task Force ................................. 36

Federal ............................................................................. 36

- FERC Natural Gas Rulemaking Proceedings .................. 36
- FERC Gas Base Rate Proceedings ................................. 38
- FERC Miscellaneous Rate Proceedings .......................... 40

**TELECOMMUNICATIONS** .................................................... 44

Pennsylvania ........................................................... 44

- Global Proceeding ...................................................... 44
- Verizon Structural Separations Proceeding ..................... 45
INTRODUCTION

The Office of Consumer Advocate (OCA) has served Pennsylvania utility consumers for 25 years, since its establishment by the General Assembly in 1976. The OCA represents Pennsylvania utility consumers in matters before the Pennsylvania Public Utility Commission (PUC) and other state and federal agencies and courts. The OCA also represents the interests of Pennsylvania consumers in non-governmental organizations, such as the PJM Interconnection. The OCA also seeks to protect and educate consumers during the transition from a fully regulated to a more competitive utility industry. The statute that established the OCA requires the Office to file an annual report. The following report is a summary of the OCA’s major activities during the Fiscal Year 2000-2001.

The OCA is a statutorily independent office, administratively included within the Office of Attorney General. On June 29, 1990, the Senate of Pennsylvania first confirmed the appointment of Sonny Popowsky as Consumer Advocate. On April 3, 2001, Mr. Popowsky was renominated as Pennsylvania’s Consumer Advocate by Attorney General Mike Fisher. After a hearing before the Senate Consumer Protection and Professional Licensure Committee, Mr. Popowsky was unanimously reconfirmed to his position on June 6, 2001.

The OCA's present employee complement consists of 37 persons, including the Consumer Advocate, 15 attorneys, and 21 other professional, administrative and clerical personnel.

A great deal has changed in the utility industry during the 25 years of the OCA’s existence, but the needs of Pennsylvania utility consumers to be fully and professionally represented in both Harrisburg and Washington, D.C. has not diminished. Indeed as the structure of the partially regulated, partially competitive utility industry has become more complex, the needs of utility consumers for not just representation, but also consumer protection and education has grown.

The OCA has continued to provide vigorous professional representation for Pennsylvania consumers before both state and federal regulatory agencies and courts. The OCA participates before the PUC in all major base rate cases, purchased gas cost cases, telephone rate rebalancing cases, and many non-rate proceedings that have a significant impact on consumers. OCA also participates in numerous matters before the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC) that have a substantial impact on Pennsylvania consumers. In the last two years, the OCA also has represented the interests of Pennsylvania consumers in bankruptcy court and insolvency proceedings in other states, in order to recover deposits and refunds that were owed to Pennsylvania consumers by competitive energy suppliers who had gone out of business. The OCA also participates actively on policy-making committees of non-government organizations such as the PJM Interconnection, whose decisions have a critical impact on electric competition and service in Pennsylvania. As noted above, the OCA also seeks to ensure that consumers are protected and informed about changes in their utility service that can be either beneficial or harmful.
In the electric industry, the OCA continues to be heavily involved in the implementation of the Pennsylvania Electric Choice program. The OCA’s primary focus has been to ensure that all Pennsylvania consumers are benefitted through the strict enforcement of rate caps and other protections that were included in Pennsylvania’s landmark 1996 Electric Choice Act. This focus has been reflected in settlements of major electric merger proceedings as well as a number of other proceedings, including OCA’s opposition to requests by two electric utilities to seek exceptions to their rate caps. The OCA also has continued to support efforts to introduce more competitive options for Pennsylvania consumers through its education activities and through various rulemaking and policy proceedings. Since much of the decision-making that affects Pennsylvania electric consumers now occurs at the federal and regional level, the OCA has greatly expanded its participation in key electric proceedings before the Federal Energy Regulatory Commission (FERC) and in the committees of the PJM Interconnection. In addition, the OCA has sought to protect consumers from any adverse consequences of electric restructuring. One example of this effort was the OCA’s participation on the California creditors’ committee, and the filing of a complaint at the PUC, regarding an insolvent electric generation supplier that had been serving thousands of Pennsylvania electric consumers. The OCA has thus far secured refunds totaling $125,000 for that company’s former Pennsylvania’s customers.

In natural gas, as noted in last year’s Annual Report, the OCA was active in the negotiations that led to the enactment of Natural Gas Choice legislation in 1999, as well as the specific restructuring proceedings that followed from that Act. As one result of that Act, the OCA has been given the statutory authority to represent the customers of the Philadelphia Gas Works in proceedings regarding that municipal utility’s service and rates before the Pennsylvania Public Utility Commission. The OCA also continues to represent consumers across Pennsylvania in the annual PUC review of every natural gas distribution company’s purchased gas costs. Over the last year and one half, wholesale natural gas prices have first skyrocketed and then plummeted both in Pennsylvania and across the Nation. In order to promote some greater stability in Pennsylvania retail gas rates, the OCA has proposed in the most recent round of purchased gas cost proceedings that our gas utilities should purchase a greater portion of their supply portfolio at fixed contract prices rather than under contracts that are indexed to the highly volatile spot gas price throughout the year. The OCA also continues to participate in proceedings at the FERC that involve the major interstate pipelines that serve Pennsylvania’s retail gas distributors.

In telecommunications, the OCA participated in a number of major proceedings involving efforts to increase both local and long distance competition in Pennsylvania. The OCA also has focused on the goal of ensuring that Pennsylvania maintains and enhances the provision of universal telephone service throughout both urban and rural areas of the state. This has included efforts to expand Lifeline telephone discount programs to low-income consumers who might otherwise not be able to afford service as well as efforts to extend deployment of new advanced services to rural areas. The OCA has worked vigorously both at the state and federal level to slow down the proliferation of area codes that has imposed inconvenience and additional costs on millions of Pennsylvania consumers. In particular, the OCA worked with other industry participants in efforts to preserve the existing 570 and 717 area codes without the need for additional codes in those areas. The OCA also has been successful in a number of cases in helping communities in several parts of Pennsylvania to obtain larger
In the water industry, the OCA continues to represent consumers in numerous base rate increase and acquisition proceedings involving both large and small utilities. In addition, the OCA supports efforts by consumers and homeowner groups to obtain extension of water service to their homes at reasonable cost. The OCA also has supported the development of programs that assist low-income consumers in paying their water bills.

In addition to its litigation activities, OCA participates on behalf of utility consumers in state and federal legislative and policy debates. The OCA has been called on to present formal testimony both in the Pennsylvania General Assembly and in the United States Congress regarding critical utility issues that affect Pennsylvania consumers.

The OCA responds to numerous individual utility consumer complaints and inquiries. The OCA received more than 27,000 consumer contacts in Fiscal Year 2000-2001, a substantial increase over prior years. This includes more than 14,000 requests for OCA’s Residential Electric Shopping guide. This increase was almost certainly due to the OCA’s establishment of a toll-free calling number (800-684-6560) which is staffed from 8 a.m. to 6 p.m. Monday through Friday. Many of these callers are seeking information, for example, about how to shop for electricity; many others are calling with complaints about their utility service or bills that the OCA staff is often able to help them resolve to their satisfaction.

Again last year, the OCA devoted substantial resources to educating consumers about changes in the utility industry. The OCA remains convinced that without adequate consumer education, consumers will not be able to benefit from the increased choices made possible by competition and, may, in fact be harmed by changes in prices and service that they do not understand. The OCA has a Consumer Education and Outreach Coordinator to direct its consumer education efforts. The Consumer Advocate and other members of OCA staff have helped plan and participate in consumer presentations, roundtables, and forums across the Commonwealth to help educate consumers about changes in the utility industry and to advise them about cases that affect them. The OCA also serves on the Public Utility Commission’s Council on Utility Choice. In addition, the OCA tries to keep consumers and members of the General Assembly informed through regular letters and bulletins about upcoming cases and public hearings.

The OCA provides consumer information and education through its website at www.oca.state.pa.us. The OCA received over 739,000 visits to its website in the last fiscal year. The OCA’s most popular education tool remains its Residential Electric Shopping Guide. This guide provides a list of electric generation suppliers with “apples-to-apples” comparative price information for residential customers in each of the major electric distribution service territories and has been widely circulated both in print form and from the OCA’s website. During the last Fiscal Year, the OCA distributed more than 14,000 shopping guides to individual Pennsylvania consumers. Another 218,000 shopping guides and pricing charts were downloaded from the OCA website.
As the OCA commemorates its 25th year of service to Pennsylvania consumers, we are proud of our accomplishments and look forward to meeting our new challenges. The OCA believes that it has served Pennsylvania consumers well both with respect to its traditional regulatory responsibilities, as well as in its new role in assisting consumers to obtain the benefits and avoid the pitfalls of more competitive utility service markets. Through this Annual Report, the OCA will summarize its activities in fulfilling its role in Fiscal Year 2000-2001.
On November 22, 1999, PECO Energy Company filed an Application requesting Commission approval of a plan for corporate restructuring and merger with Unicom Corporation. (Docket No. A-110550F.0147) The OCA filed a Protest in this matter raising concerns that as filed, the proposed merger did not provide substantial, affirmative benefits to PECO’s ratepayers and was not in the public interest, as required by Pennsylvania law. Of particular concern to the OCA were issues regarding the allocation of merger savings to ratepayers, the potential impact on retail competition, the potential impact on the quality of service, the potential impact on universal service programs, the additional risks associated with the merger of two utilities owning substantial nuclear generation, and the potential for limitation of the Commission’s jurisdiction and regulatory control over the merged entity. The OCA investigated PECO’s plans and engaged in extensive settlement negotiations with PECO and other interested parties. PECO, the OCA and other parties, including those representing environmental interests, community interests, retail electric marketer interests and low income consumer interests were able to enter into a comprehensive settlement that provided a wide variety of benefits and protections for PECO’s ratepayers. Importantly, the Joint Settlement provided for $200 million in rate reductions; extensions of rate cap protections; enhanced reliability and customer service; enhanced universal service programs; reduced risk and costs for nuclear decommissioning of PECO’s nuclear units; benefits that will improve the competitive market; environmental benefits, including a significant funding of renewable energy; and firm commitments to support the communities of Southeastern Pennsylvania. The Commission voted unanimously to approve the Joint Settlement by Order entered June 22, 2000. The SEC also approved the merger, and in October, 2000, the merger was completed.

The OCA then began working with the parties to implement the Settlement provisions. Of particular concern was the implementation of the Competitive Default Service (CDS) program for 20% of PECO’s residential, provider of last resort customers, about 300,000 customers, that was called for in PECO’s Restructuring Settlement, and then modified in the Merger Settlement. The initial solicitation under the Settlements did not result in any conforming bids. In accordance with the Merger Settlement, PECO then proceeded with a bilateral negotiation process to select a CDS provider to supply generation for twenty percent of PECO’s residential provider of last resort obligation. This process attracted three bids, and PECO selected New Power Company as the winning bidder. PECO negotiated an Agreement with New Power and submitted the Agreement to the Commission for approval. Under the Agreement, New Power will provide generation for twenty percent of PECO’s customers at a discount of two percent from the PECO price for Rate R customers and a discount of one percent for residential heating and off-peak water heating customers (Rates RH and OP). New Power agreed to meet the renewable energy requirement contained in PECO’s restructuring settlement and has agreed to the consumer protections and other requirements set forth in the bid protocols. In
November of 2000, the Commission approved the Petition. PECO has also filed a second Petition with the Commission seeking authority to have Green Mountain serve as a CDS provider for an additional 50,000 customers under the same terms and conditions as New Power. This second Petition was subsequently approved by the Commission. Notifications were provided to customers who had been randomly selected for the program. The OCA was listed as a source of information for customers. As a result, the OCA received over 2,100 calls from customers regarding the discount program. The OCA assisted customers in understanding the program and their options related to the program. The OCA is also working with New Power, Green Mountain and PECO on other implementation issues.

Also during Fiscal Year 2000-2001, the OCA participated in several other PECO proceedings. The OCA has been actively involved in two complaints lodged against PECO Energy regarding the implementation of its Renewable Pilot Program that was called for in the Restructuring Settlement. (Clean Air Council v. PECO Energy Company; Energy Coordinating Agency of Philadelphia, Inc. v. PECO Energy Company, Docket Numbers C-00004625 and C-00014645 (consolidated).) The OCA intervened in these proceedings to ensure that provisions in PECO Energy’s Restructuring Settlement regarding the Renewable Pilot Program were properly implemented. Settlement discussions took place during the spring and into the summer of 2001. These discussions were successful. Clean Air Council, Energy Coordinating Agency of Philadelphia, OCA and PECO entered into a Settlement regarding the complaints against PECO’s Renewable Pilot Program. Under the Settlement, PECO agreed to expend $500,000 over three years on photovoltaic applications in its service territory for low-income homes. PECO agreed to work with the parties and an advisory group to seek bids for specific projects that utilize photovoltaic applications in low income housing settings. At least $170,000 will be targeted to existing homes of customers enrolled in PECO’s low income usage reduction program (LIURP). As Fiscal Year 2000-2001 closed, the parties were in the process of completing the settlement documents which will be submitted to the Commission for review and approval.

Also in October of 2000, PECO Energy filed a tariff proposing to implement a 12-month stay requirement for residential customers who return to PECO provider of last resort service at capped rates after being served by an alternative supplier. (Docket No. R-00005882). PECO’s filing proposed that to receive rate cap protection, residential customer would have to agree to remain with PECO for 12 months upon their return to PECO service. Under PECO’s proposed filing, if a customer did not affirmatively elect the rate cap protection, the customer would be charged a monthly market price that would reflect market prices for the summer months and PECO’s capped rates for the winter months. The OCA filed a complaint against this tariff. The OCA took the position that, if a 12-month requirement is required at all for residential customers, then a customer that does not make an affirmative election should receive the rate cap protection, not the monthly market price. The OCA argued that by placing a customer on the monthly market price without affirmative consent the customer could unknowingly be exposed to excessively high prices in the summer. The OCA also raised concerns about consumer education and information regarding this proposal. PECO agreed to postpone the implementation of the tariff and to discuss the issues regarding this proposal with the OCA. Settlement discussions continued through the Spring and Summer of 2001. At the end of Fiscal
Year 2000-2001, the parties were continuing settlement discussions.

**Duquesne Light Company**

As reported in last year’s Annual Report, Duquesne Light Company successfully divested its generation assets in 2000, receiving $1.7 billion for its assets—an amount that significantly reduced its stranded costs. As Fiscal Year 2000-2001 began, the OCA was in the process of reviewing Duquesne’s reconciliation of its divestiture proceeds to its stranded cost, and reviewing the reasonableness of the costs incurred by Duquesne to achieve this generation divestiture. On October 5, 2000, the OCA filed Comments challenging certain claims and adjustments that would reduce the benefit of the divestiture for customers. By Order entered January 18, 2001, the Commission approved Duquesne’s Reconciliation with few modifications.

Also on June 30, 2000, Duquesne filed a Petition for Approval of Plan for Post-Transition Period Provider of Last Resort Service (Docket No. R-00974104). In its Petition, Duquesne filed its proposal to meet its provider of last resort obligation after the conclusion of its stranded cost recovery. The plan was proposed to cover the period from 2001 through 2004. The OCA has filed an answer generally supporting Duquesne’s proposal, but objecting to certain details, including a requirement that residential customers who are returned to POLR service cannot shop again for 12 months unless they pay a special “generation rate adjustment.” At Public Meeting on September 13, 2000, the Commission voted on a Motion to establish a collaborative working group to continue discussion of the contested issues. The OCA participated in this collaborative working group. This collaborative working group was able to reach a settlement of the issues presented by Duquesne’s proposal to meet its provider of last resort obligations in the 2001 to 2004 time frame. Under the Settlement, Duquesne’s POLR rates will continue to be capped through 2004. The “price to compare” against which customers shop will go up by one cent at the beginning of 2002, but the approximately three cent stranded cost charge will be eliminated. Therefore, customers are projected to see an overall rate reduction of approximately 20% at the same time that they have greater shopping opportunities. The Joint Petition also sought to extend existing transmission and distribution rate caps through December 31, 2003 and to ensure funding of Duquesne’s universal service programs for 2002, 2003, and 2004. The parties also agreed to certain limitations to prevent customers from going back and forth between Duquesne and competitive suppliers during high cost periods. Finally, the Joint Petition committed Duquesne to actively pursue admission to PJM-West, the newly proposed Independent System Operator in Western Pennsylvania. The Commission approved the POLR plan and the Joint Petition on November 29, 2000. At the end of Fiscal Year 2000-2001, a collaborative process was continuing to address implementation issues of the POLR plan and to address issues regarding Duquesne’s entry into PJM West.

**PPL Electric Utilities**

In the Fall of 1999, PPL filed its reconciliation statement for its stranded cost recovery through its competitive transition charge (CTC). (Docket No. M-FACE9908). As part of this filing, PPL included a claim for an additional $15 million in stranded cost associated with the implementation
of the Retail Pilot Program in 1998. PPL made this claim after the Settlement of its restructuring proceeding which had provided it with $2.97 billion of stranded cost. In the Settlement of the Restructuring Proceeding, PPL and the parties to the Settlement had agreed that the $2.97 billion was in full and final satisfaction of all stranded cost claims that were made or could have been made. The OCA opposed recovery of this additional $15 million stranded cost claim in light of the Settlement of PPL’s restructuring proceeding. In addition, the OCA argued that even if allowed, the Company had calculated the claim incorrectly and when calculated correctly, the Company had not incurred any additional stranded cost. Testimony and Briefs were filed with the Administrative Law Judge in May of 2000. On October 13, 2000, the ALJ issued a recommended decision adopting the OCA’s position and rejecting the Company’s request for an additional $15 million in stranded cost recovery. At its Public Meeting of December 20, 2000, the Commission adopted an Order agreeing in full with the OCA’s position, adopted by the ALJ, and rejecting PPL’s $15 million claim. PPL did not appeal the decision, and at the close of Fiscal year 2000-2001, the $15 million in savings for customers was assured.

On May 10, 2001, PPL Electric Utilities filed a Securities Certificate asking the Commission to find that the issuance of up to $900 million of Senior Secured Bonds was necessary and proper for the present and future capital needs of PPL. (Docket Nos. S-00010853 and G-00010872). Additionally, PPL asked the Commission for approval of any affiliated interest agreements that were necessary to implement the bond issuance. PPL plans to utilize the proceeds from this issuance to fund a new generation supply agreement to meet its provider of last resort obligation from 2002 to 2009, to fund the retirement of $200 million in debt, to fund capital additions to transmission and distribution facilities, and as a fund for general corporate purposes. The filing presented issues regarding the effect of the issuance on the transmission and distribution rate caps, and transmission and distribution rates subsequent to the expiration of the rate cap and issues regarding the new generation supply agreement and the process for securing this agreement. The OCA initiated discussions with PPL regarding these issues.

During the course of discussions, PPL was able to secure a Power Supply Agreement to meet its provider of last resort obligation from 2002 to 2009 for an approximate $90 million premium above its capped generation rate. Subsequently, the OCA, Company and the industrial customers were able to reach agreement on all of the issues in this proceeding. Pursuant to the Stipulation, PPL agreed that it would not seek an exception to its transmission and distribution rate cap or its generation rate cap to recover all or any portion of the $90 million. Additionally, PPL agreed that it would not seek to recover all or any portion of this premium through its transmission and distribution rates after the expiration of that rate cap. PPL also agreed that it would reflect this debt in its capital structure for ratemaking purposes in its next base rate case (which should lower any request) and would not seek a premium or adjustment based on this new capital structure. PPL also agreed that it will continue to maintain safe, adequate and reliable service and that this debt issuance cannot be used as a reason for any potential decline in service. The Commission approved the Stipulation and debt issuance at its Public Meeting of July 13, 2001.
Allegheny Power/West Penn Power

As reported in last year’s Annual Report, on March 23, 2000, West Penn filed a Petition requesting approval of its Competitive Default Service to begin in 2001. (Docket No. P-00001802) Under West Penn’s Settlement of its Restructuring Proceeding, West Penn was required to competitively bid its provider of last resort service for 20% of its residential customers for 2001. West Penn’s Petition presented its Plan for this auction of its provider of last resort service for these customers to the Commission. On April 12, 2000, the OCA filed an Answer to West Penn’s Petition. In its Answer, the OCA raised several concerns about West Penn’s bid procedure, but more fundamentally, questioned whether the bid should proceed at all given the very low shopping credit, the variability of the shopping credit, the bid structure, and the recent failure of the GPU Energy bid to attract any bidders. The OCA recommended that the West Penn bid be delayed and a collaborative group convened to discuss the many issues relating to the bid. The Commission entered an Order agreeing to the collaborative process. The Commission directed the parties to meet throughout the month of July 2000 and provide a Report by August.

The collaborative group held its first meeting on July 11, 2000, and meetings continued in July and August 2000. A consensus proposal was produced by the collaborative working group that was presented to the Commission. The Commission rejected the consensus proposal because of improper service by Allegheny to all of the parties and instructed the collaborative group to reconvene. The collaborative group reconvened on September 25, 2000 and the Company filed a Second Amended Petition for Approval of CDS Plan on September 29, 2000. The OCA filed an Answer to the Petition, generally reiterating its position in support of the consensus proposal. On October 27, 2000, the Commission approved the Amended Petition and the solicitation process moved forward. It is OCA’s understanding that the Company did receive bids in the process but was unable to successfully negotiate a final agreement. At the end of Fiscal Year 2000-2001, the collaborative to address West Penn’s subsequent CDS auctions had not yet been convened.

GPU Energy

Metropolitan Edison Company and Pennsylvania Electric Company

As reported in last year’s Annual Report, the GPU companies have completed the divestiture of their generation assets. Under the Restructuring Settlement, the net divestiture proceeds were to be utilized to determine the final stranded cost amount for each company. Accordingly, Met Ed and Penelec filed a reconciliation of the divestiture proceeds with the stranded cost allowance provided for in the Settlement. The reconciliation showed that the stranded cost for Met Ed and Penelec increased over the amounts provided for in the Settlement. As part of the reconciliation, Met-Ed and Penelec requested that their rates be increased in 2006 above the levels agreed to in the Settlement. (Docket Nos. P-0001837 and P-0001838).

The OCA requested a formal investigation of the numerous new claims for transaction costs and stranded costs that the Companies sought to recover out of the proceeds of the divestiture and the Companies request to increase rates in 2006 above the levels contained in the Settlement. On
October 25, 2000, the Commission entered an Order directing that the parties file Direct Testimony by November 3, 2000 and that hearings be concluded by November 13, 2000. The Commission directed the ALJ to certify the record to the ALJ by November 22, 2000 so that the Commission could make a decision by January 1, 2001.

The OCA provided testimony on November 3, 2000 and filed comments on November 9, 2000 challenging various aspects of the Company’s calculations. The OCA challenged the Companies’ new stranded cost claims, challenged a change in the net book value of TMI-1 from that provided in the Settlement, and argued that GPU’s proposal to increase its rates beyond the level agreed to in the restructuring settlement be rejected. At its Public Meeting of December 20, 2000, the Commission ruled on this matter adopting several of the OCA’s adjustments. Importantly, the Commission rejected GPU’s request at this time to increase its rates above the agreed upon settlement level in the post-2005 time frame. The Commission also reduced GPU’s revised stranded cost claim by $16.08 million for Met-Ed and $12.09 million for Penelec in accordance with many of the recommendations of the OCA.

The OCA also participated extensively in two key proceedings involving the GPU Companies. First, on November 9, 2000, GPU Energy and FirstEnergy filed a Joint Application for Approval of a Merger (Docket Nos. A-110300F.095, A-110400F.040). The merger is to be accomplished by FirstEnergy’s acquisition of all of GPU’s outstanding shares of common stock and assumption of GPU’s outstanding indebtedness. Then, in December 2000, GPU filed a Petition requesting authority to defer for future recovery the costs it incurs to serve its obligation as provider of last resort that are in excess of the “shopping credits” allowed in its Restructuring Settlement (Docket Nos. P-00001860 and P-00001861). This was the first request filed at the Commission for an exception to the rate caps contained in Pennsylvania’s Electric Generation Customer Choice and Competition Act. At the time of filing, the Company projected that it would incur approximately $42 million in 2001 in costs above the rate cap levels. By the time its testimony was filed, GPU argued that it required at least $316 million in rate relief above the rate caps.

In the merger proceeding, the OCA filed a Notice of Intervention and Protest on December 11, 2000. In its Protest, the OCA argued that the Company’s filing and proposals had not demonstrated affirmative ratepayer benefit as required under Pennsylvania law. Specifically, the OCA identified issues that required further exploration and consideration such as the treatment of merger savings, the on-going quality of service, the ability to meet the provider of last resort obligation, the need for protection from the risk of additional nuclear costs, and the need to prevent cross-subsidizations. An expedited litigation schedule was established so that the PUC could enter a final decision by May 24, 2001.

In its testimony and briefs, the OCA took the position that the merger should only be approved if certain conditions were met. Specifically, given GPU’s significant request for an exception to the rate caps provided by Pennsylvania law and the restructuring settlement, the OCA took the position that the merger should be conditioned on a commitment by GPU’s merger partner to meet the generation rate cap through 2010. Other conditions supported by the OCA included an extension of
the transmission and distribution rate cap for the GPU companies and Penn Power through 2007; assurance that the GPU transmission assets would remain in PJM; the possible inclusion of First Energy in PJM West; improvements to the GPU distribution system and the implementation of a Service Quality Index to ensure that customer service and reliability continue to improve; maintenance of universal service programs; maintenance of GPU’s current level of economic development programs, protections from the risk of additional nuclear cost obligations, and various conditions to avoid cross-subsidization and ensure the continuation of the Commission’s jurisdiction and corporate structure protections for Pennsylvania ratepayers.

The Petition proceeding was also consolidated with the merger proceeding for purposes of hearing and briefing. On December 18, 2000, the OCA filed an Answer opposing the deferral request arguing that it was inconsistent with the restructuring settlement and the Electricity Competition and Customer Choice Act. The OCA argued that if granted, GPU would, in effect, be permitted to exceed the rate caps provided for under the Act and the settlement without meeting the standards for a rate cap exception provided by the Act. At its Public Meeting of January 24, 2001, the Commission ruled that GPU’s Petition should be treated as a request for a statutory rate cap exception and litigated on an expedited schedule. Subsequently, the Companies filed testimony requesting a $316 million increase in rates.

The OCA strongly opposed any rate increase above the capped level in both its testimony and its Briefs. The OCA argued that GPU voluntarily divested its generating plants and failed to enter into long-term contracts to meet its provider of last resort obligation. The OCA argued that GPU’s purchased power costs were not outside of its control as required by the Act for an exception to the rate cap to be considered. The OCA also argued that the Companies had failed to demonstrate that they were unable to earn a fair rate of return.

On April 24, 2001, the ALJ issued his Recommended Decision in the merger proceeding and the Petition proceeding. First, the ALJ recommended that the merger be approved subject to certain conditions. The ALJ recommended adoption of many of the conditions proposed by the OCA including the OCA’s recommendation that the GPU transmission assets remain in PJM unless the Companies secure Pennsylvania PUC approval; that the T&D rate caps for Met-Ed, Penelec, and Penn Power be extended through 2007 and that the costs to achieve the merger be expensed or amortized during this period; that a Service Quality Index be established to ensure improved quality of service; that critical community support programs, including economic development programs, be continued; and that the Companies affirmatively recognize the Commission’s jurisdiction over the merged company. The ALJ, however, did not recommend adoption of the OCA’s recommendation that FirstEnergy be required to meet GPU’s POLR obligation within the agreed upon rate caps. Instead, as to GPU’s request for a rate cap exception, the ALJ recommended a $316 million rate increase for the GPU companies in this companion case--or about 15% increase in total rates and 30% increase in generation rates.

The OCA filed vigorous Exceptions to the ALJ’s recommendation of a $316 million rate increase and the failure to recommend a condition that FirstEnergy agree to serve GPU’s provider
of last resort obligation within the rate caps. On May 24, 2001, the Commission voted to approve the merger but established a collaborative to discuss the resolution of GPU’s rate increase request and the issue of the treatment of any merger savings. The OCA participated in the collaborative during the week of May 28th, but the collaborative ended without a negotiated resolution.

The OCA and several parties continued negotiations with GPU and its merger partner, FirstEnergy, to attempt to resolve these matters. These discussions resulted in a Stipulation whereby GPU will continue to serve its customers at the rate cap. If the merger is consummated, GPU and FirstEnergy will be permitted to defer costs to serve GPU’s POLR obligation that are above the rate cap through 2005. GPU must then recover these costs by 2010, the end of the rate cap period, or write the costs off. GPU is then provided an additional five years, through 2015, to recover its remaining stranded cost at a fixed level of recovery. If the merger is not consummated, GPU is permitted to defer the costs above its rate cap for 2001, but must write off costs incurred in the first five months of 2001. Recovery of the deferred 2001 costs, as well as any continuation of the deferral, will be decided by the Commission in a later proceeding if the merger fails.

On June 14, 2001, the Commission voted to accept the Stipulation and entered an Order on June 20, 2001. Appeals have been filed by ARIPPA, York County Solid Waste and Refuse Authority, the Mid-Atlantic Power Supply Association, Clean Air Council and Citizen Power. The OCA intervened in each of these appeals. At the close of Fiscal year 2000-2001, these appeals were pending in the Commonwealth Court.

The OCA also participated in a proceeding regarding Penelec’s request for approval of a settlement agreement with FirstMiss Steel, Inc. and rate recovery of costs associated with the settlement agreement. (Docket No. P-00001806). On May 3, 2000, Penelec filed a Petition with the Commission seeking rate recovery of $5 million in costs associated with the agreement as a stranded cost. Under the agreement, Penelec agreed to “buy out” its obligation to provide a credit to FirstMiss to offset a portion of the competitive transition charge since FirstMiss allowed a portion of its electric load to be subject to interruption or curtailment by Penelec. Penelec asserted in the Petition that although it was making a $5 million payment, there would be a net benefit to ratepayers of $3.7 million through this agreement. The OCA filed an Answer to the Petition raising concerns that the stranded cost not be shifted to other customer classes in violation of 66 Pa.C.S. §2802(a) and questioning whether the net benefit that Penelec projected would materialize. After the OCA filed its Answer, the Company, the industrial customers, and the OCA were able to engage in discussions to address the issues raised by the OCA and similar issues raised by the industrial customers. The OCA and the industrial customers agreed that Penelec had addressed its concerns. The Commission approved the Petition during Fiscal year 2000-2001.

Pike County Light and Power Company

increase its rates by more than two cents per kwh, or a total of $1.4 million. This increase represents a 24% increase in its total rates and a 44% increase in its generation rates. Pike averred that due to extremely high wholesale prices in the New York markets, and the divestiture of all generating assets by its parent, it was unable to procure generation supply for its provider of last resort obligation at the rate cap levels. Pike is a small subsidiary of Orange and Rockland, a New York utility that itself recently merged with Consolidated Edison, another New York utility. On March 6, 2001, the OCA filed an Answer strenuously opposing Pike’s request. The OCA noted that Orange & Rockland divested its generation without taking any steps to permit Pike to meet its rate cap obligations in Pennsylvania. The OCA argued that Pike should be required to continue to serve within the rate cap levels. The OCA filed testimony in this case and presented evidence to demonstrate that Pike County has not met the requirements of the Act for an exception to the rate cap. In particular, the OCA’s testimony presented evidence that the Company’s purchased power costs were not outside of its control and have not caused it to earn less than a fair rate of return. In addition, the Pike County Commissioners requested a public hearing to be held in Pike County regarding this proposed increase. The OCA supported this request and a public input hearing was held on May 30, 2001. At the end of Fiscal Year 2000-2001, the OCA was preparing for the scheduled administrative hearings in this case.

**Wellsboro Electric Company**

On June 29, 2001, Wellsboro Electric Company filed with the Commission for an increase in its distribution rates of $638,181. (Docket No. R-00016356). At this time, Wellsboro’s distribution rate caps have expired since all customers have choice and Wellsboro is not collecting any stranded cost. Under the Company’s proposed rate increase request, customers would experience a 27% increase in monthly distribution service bills and a 8.5% to 11% increase in their overall bills. The increase is proposed to become effective September 27, 2001. At the end of Fiscal Year 2000-2001, the OCA had just begun its examination of this important matter. This case presents the Commission with the first request for an increase in distribution rates following the unbundling of rates that occurred in restructuring. The OCA anticipates that it will participate fully in this matter in the upcoming fiscal year.

**Rulemakings**

The OCA also submitted Comments in two significant rulemakings by the Commission in Fiscal Year 2000-2001 that concerned issues involved in the operation of the competitive retail market. On December 7, 2000, the Commission entered a Tentative Order proposing to change its regulations at 52 Pa. Code §54.5 regarding notice requirements to a customer when an electric generation supplier (EGS) proposes a change in the terms of service, including its price. (Docket No. M-00001437). The Commission proposed that the notice period be reduced from 90 days to 60 days and that the number of notices to the customer be reduced from 3 to 2. Such notices would include a warning notice 45-90 days in advance and an options notice at least 45 days in advance. In addition, the Commission proposed that the EGS notify the electric utility or provider of last resort of any changes at the same time that the customer is notified. The Commission also proposed that the notice requirements resulting from the Tentative Order apply to a contract termination situation by an EGS.
The OCA submitted Comments to the Commission addressing a number of issues regarding the proposed changes. Among other things, the OCA argued that the notice provisions should also apply to a circumstance where the customers is being dropped by an EGS so that the customer has sufficient time to secure an alternative supplier. The OCA also supported the requirement that the provider of last resort be given sufficient notice of a return of customers so that the provider of last resort can obtain adequate supply. In addition, the OCA cautioned that shortening the notice period as proposed might not allow a customer sufficient time to obtain an alternative supplier thus resulting in an unintended return to the provider of last resort. On March 9, 2001, the Commission entered its Final Order. Although not adopting all of the OCA’s recommendations, the Commission did adopt the OCA’s recommendation that this notice procedure be utilized when a contract is set to terminate. Furthermore, the Commission required that certain information be provided with the notice, as recommended by the OCA, including the telephone number and website of the OCA.

On May 4, 2001, the Commission Order requesting comments on certain billing practices by entities known as third party billing was published. (Docket Nos. M-00011466 and M-00011467). In third party billing, the utility sends its bill for utility services to a third party, rather than the customer, upon the request of the customer. This service is now being offered by entities that are licensed as well as entities that are not licensed. The Commission expressed concern that this arrangement may result in consumer protections that are provided by Commission regulations and statutes being avoided. The OCA filed Comments on June 22, 2001 in this matter. In its Comments, the OCA questioned whether this service provided a meaningful benefit for residential consumers, but recognized the potential benefit for large, industrial or commercial customers. The OCA expressed its concern that essential customer protections not be circumvented by the third party billing process. The OCA took the position that for residential customers at least, all billing entities should be licensed and should be directed to comply with the Commission’s regulations, guidelines and Orders regarding billing. In this manner, consumer protection can be preserved. At the end of Fiscal Year 2000-2001, the OCA was in the process of preparing its Reply Comments.

**Other Cases Involving Electric Generation Suppliers**

During Fiscal Year 2000-2001, the OCA responded to two Petitions that were filed by electric generation suppliers seeking a waiver of various Commission regulations regarding notice and information disclosures for consumers. Shell Energy filed a Petition requesting that the Commission enter a declaratory order finding that the Commission’s regulations governing the information to be disclosed to consumers when an electric generation supplier (EGS) uses a variable price do not require the EGS to provide the customer with a floor and a ceiling price. (Docket No. P-00001848) In the alternative, if the regulations require that the EGS disclose a floor and ceiling price to the consumer, Shell Energy asked for a waiver of the regulation. The OCA filed an answer opposing Shell Energy’s request. The OCA supported the Commission Staff’s interpretation of the regulation to require the disclosure of floor and ceiling prices so that consumers can make informed decisions. At its Public Meeting of December 20, 2000, the Commission approved an Order that adopted the OCA’s position and rejected Shell’s request for a different interpretation of the regulation or a waiver.
On August 4, 2000, Exelon, an alternative electric generation supplier (EGS), asked for a waiver of the Commission regulations that require an EGS to provide notice to customers of proposed changes in the terms and conditions of service. The regulations require that notice be provided 90-days, 60-days and 30-days before the change is to occur. The OCA filed an Answer on August 28, 2000 opposing the requested waiver. The OCA expressed its concern that customers be given adequate notice and sufficient time to switch suppliers if they do not want to continue under the changed terms and conditions. Since the process to change suppliers can take 45-60 days, the OCA opposed Exelon’s proposal to waive the notice requirements. At its Public Meeting of December 20, 2000, the Commission adopted an Order that rejected Exelon’s request for a general waiver. Exelon refiled its request as a specific waiver. The OCA filed an answer to the new request raising the same concerns. At the close of Fiscal Year 2000-2001, the Commission had not acted on Exelon’s second request.

Other Electric Matters

The OCA also worked on several other matters throughout Fiscal Year 2000-2001. The OCA continued its participation in several working groups that continued to consider implementation issues related to customer choice and the implementation of the Restructuring Settlements. Notably, the OCA participated in the collaborative working group that was convened to address the scope and design of the provider of last resort obligation in the restructured environment. The OCA provided its positions to the collaborative group and participated in these discussions. The OCA also continued to serve as a board member of the Statewide Sustainable Energy Fund. As reported in last year’s Annual Report, as part of the restructuring proceeding settlements for PECO Energy, PP&L, Inc., Metropolitan Edison Company, Pennsylvania Electric Company, and West Penn Power Company, Sustainable Energy Funds were created. The Sustainable Energy Funds were established to provide funding and support to promote (1) the development and use of renewable energy and clean energy technologies; (2) energy conservation and efficiency; and (3) renewable business initiatives. By Order entered June 4, 1999, the Commission established a Statewide Board to provide oversight, guidance, and technical assistance to the Sustainable Energy Funds. The OCA was named a member of the Statewide Board. During this Fiscal Year, the OCA served as a Board member of the Statewide Board and continued its work with the Board on its strategic business plan and its operations.

The OCA also actively participated in the Commission’s Demand Side Response Working Group and its Interconnection Standards Working Group. These working groups are examining issues that are critical to both the reliability of the electric system and the proper operation of the markets. The Demand Side Response Group is working to broaden programs which allow consumers to change their usage in exchange for price breaks. This is a significant evolution of conservation programs which focused only on simply reducing usage. These programs, which each utility has agreed to pilot, directly address the hourly fluctuations in electricity prices so that wholesale price spikes are avoided. The economic benefits are immediate and impact the entire wholesale market. The OCA has submitted proposals which advocate for more broadly available residential programs, for effective customer education and for evaluation which shows the total benefits of these
programs. At the end of Fiscal Year 2000-2001, the OCA continued its efforts on this Working Group.

The Interconnection Working Group was initiated by the PUC in recognition of the key role that interconnection policies play in permitting new generation to be connected to the power grid. Removing barriers to connecting generation to the grid is important in ensuring the development of adequate generation supply. Initial discussions have centered around fundamental principles and technical standards. The Interconnection Working Group is attempting to develop a draft proposal for a rulemaking to ensure that there are no barriers to interconnecting generation under Pennsylvania regulations. This working group was ongoing at the close of Fiscal Year 2000-2001.

In addition, the OCA continued its efforts in the collaborative process that was addressing the design and implementation for the Renewable Pilot Programs for Low Income Customers that were called for by the various settlements. The OCA also filed Comments with the Commission in Guidelines For Renewable Pilot Programs, setting forth the OCA’s recommendations for the design of these programs. (Docket No. M-00991226) The Commission issued Guidelines based largely on the work of the collaborative groups and reflecting many of the OCA’s Comments and requiring that the Companies file their programs by July, 2000. In July 2000, the Pennsylvania Electric Association (PEA) requested an extension of time for these filings. The OCA filed an Answer to that request. While not opposing the PEA request, the OCA urged the Companies to adhere to their installation time lines, which contemplated that work would begin in the Spring of 2001. The Commission granted the Petition and in October 2000, the Companies submitted their programs for Commission approval. The OCA again provided comments on these programs and continued to work with the Companies in program design. At the end of Fiscal Year 2000-2001, the OCA continued to monitor the progress of the renewable pilot programs throughout the Commonwealth.

The OCA continued to serve on the PECO Energy Universal Service Advisory Committee that considers and advises PECO regarding these important issues. The Universal Services Advisory Committee met several times over the course of the year and discussed PECO’s efforts regarding universal services issues. At the meetings, PECO reported on the progress of enrollments to its CAP program, customer outreach efforts, LIHEAP and LIURP participation, PECO’s Renewable Fuel Fund and Renewable Pilot Programs, and the development of its data mart information system. Of particular importance this year, the Universal Service Advisory Program began consideration of the need for an additional element of PECO’s universal service programs to meet the needs of those whose incomes are at the lowest level of poverty. At the end of Fiscal Year 2000-2001, the Universal Service Advisory Board was continuing to work with PECO in developing recommendations to make electric service affordable for those whose incomes are at the lowest levels of poverty.

**Federal**

**Introduction**

The OCA continued to actively participate in electric proceedings before the Federal
Energy Regulatory Commission (FERC) over the past fiscal year. Many of those proceedings and activities center on issues related to the Pennsylvania-New Jersey-Maryland Interconnection, L.L.C. (PJM). PJM is an Independent System Operator (ISO) under FERC’s Order No. 888 issued in 1997. As such, PJM operates the electric transmission systems of the utility members of PJM, including PECO Energy Company, PPL Utilities, Inc. and General Public Utilities (GPU). PJM also operates the wholesale electric markets within its borders. PJM’s rules for and operation of those markets is critical to ensuring that retail competition in Pennsylvania will work. Since the issuance of Order No. 888, the OCA’s activities in FERC electric proceedings has increased substantially. That work continues to increase as PJM, along with other ISOs, attempt to transform themselves into Regional Transmission Organizations (RTOs) pursuant to FERC’s Order No. 2000, issued in 1999, further restructuring wholesale electric markets. Regional Transmission Organizations, Notice of Proposed Rulemaking, Docket No. RM99-2-000, 64 Fed. Reg. 31390 (1999). All electric utilities not currently participating in an ISO had to, by October 15, 2000, file a proposal to join or form a RTO, or explain their failure to do so. RTOs are similar in nature to the concept of ISOs, but are intended to cover a broader scope and geographic region. On October 11, 2000, PJM filed its compliance filing to transform its operations into an RTO. In March 2001, PJM filed another application jointly with Allegheny Power Systems to expand PJM’s markets into western Pennsylvania under an RTO construct known as PJM West. These cases are discussed in greater detail below.

Both Order No. 2000 and Order No. 888 required that RTO and ISO filings reflect certain basic governance and pricing characteristics, including requirements for independent governance and elimination of rate pancaking. FERC intended that independent governance would assure that electric utilities are providing non-discriminatory access to their transmission systems. Additionally, FERC intended that the elimination of rate pancaking would allow bulk power transactions to flow across multiple transmission systems for a single charge, thus eliminating barriers to competition in wholesale energy markets by lowering transaction costs.

The OCA’s primary focus in FERC electric matters continues to be the development of wholesale electric markets that benefit Pennsylvania retail consumers. Consequently, the OCA continues to actively participate in the ISOs and RTOs which affect Pennsylvania’s utilities and retail electric consumers. These include PJM, PJM West and the Alliance Regional Transmission Organization (Alliance RTO). The OCA is also involved in the FERC rate, tariff and formation proceedings related to these RTOs. The OCA’s main challenge in the federal electric arena is to ensure that the proper RTO structures and rules are in place to protect consumers from the potential for market power abuses and to support competition in both wholesale and retail markets so that even small consumers can benefit from retail choice.

FERC Electric Rulemaking Proceedings

1. Order No. 2000: Regional Transmission Organizations, RM99-2-000

On May 13, 1999, FERC issued a notice of proposed rulemaking seeking comment on the formation of RTOs, including comment on the characteristics and functions which such RTOs
should exhibit and undertake. FERC also sought comment on whether participation in RTOs should be mandatory or voluntary. The OCA submitted comments on behalf of itself and the National Association of State Utility Consumer Advocates (NASUCA) urging FERC to require a truly independent governance structure for RTOs, free from undue influence exerted by market participants.

In addition to governance issues, the OCA and NASUCA urged FERC to develop a pro-active market monitoring function for RTOs, to invest RTOs with the authority to require interconnection of new generation facilities to a particular utility’s transmission system, and to reject the use of extra “incentives” to encourage utilities to join RTOs. The OCA and NASUCA urged FERC instead to mandate that all electric utilities join RTOs. The Final Rule issued in December, 1999 adopting many of the positions set forth by the OCA and NASUCA. Numerous parties sought rehearing; however FERC made no significant changes to Order No. 2000 on rehearing. Several parties, including several electric utilities, appealed Order No. 2000. NASUCA intervened and filed a brief in support of the Final Rule in January, 2001. Oral argument is scheduled for October, 2001.

2. Order No. 888 Appeals

The OCA had actively participated with NASUCA in the proceedings which led to the issuance in 1997 of Order No. 888, requiring open-access transmission and recovery of stranded generation costs. In Order No. 888, FERC allowed electric utilities to recover 100% of their stranded wholesale electric generation costs as a result of the unbundling process, and further opined that the agency would consider granting stranded cost recovery for the retail portion of the business to any utility whose state commission lacked authority to allow stranded cost recovery. The OCA, NASUCA and most other sectors of the industry appealed Order No. 888 in May, 1997. The OCA joined with NASUCA and others in filing a brief relating to the stranded cost issues. The D.C. Circuit Court of Appeals issued its opinion on these appeals, largely upholding the main provisions of Order No. 888, including the provisions for stranded cost recovery. Several state commission appealed the opinion in the Supreme Court of Appeals where this appeal awaits a briefing order.

3. FERC Technical Conference on “Seams” Issues

OCA staff attended a technical conference held to discuss inter-regional transactions. This is an important issue impacting both wholesale markets and reliability. In particular, transactions between regions, for example, PJM and New York, are inefficient and potentially confusing for both parties. This is due to inconsistent communications systems, pricing systems, scheduling software, definitions, standards, etc. Information at this conference has contributed to OCA’s participation in a group of other state Consumer Advocates seeking standardization between PJM, New York and New England.

4. Meeting with FERC OMTR Staff

The OCA combined with Consumer Advocate staff from Indiana, Maryland and Ohio, met to discuss issues of concern with staff from FERC’s Office of Tariffs, Markets and Rates (OMTR).
The OCA and the other advocate offices stressed the importance of greater FERC vigilance in the area of monitoring wholesale markets and reviewing mergers for anti-competitive effects, and also stressed the importance of implementing demand response programs without which wholesale markets won’t be workably competitive. The FERC staff explained their perspectives and approaches regarding RTOs, demand response and market power/market monitoring. FERC Commissioner Brownell (formerly Pennsylvania Commissioner Brownell) made a strong commitment to work on demand response issues. FERC staff agreed to share information in this area.

5. **V010003 - Federal Trade Commission Inquiry into Retail Choice Programs**

The Federal Trade Commission on March 5, 2001, issued a notice requesting comments on retail electricity competition plans in the various states. On April 9, 2001, the OCA submitted comments describing the components of Pennsylvania’s program and the successes and concerns identified with that program. The OCA noted that while Pennsylvania’s retail choice program is the most successful in the nation in terms of numbers of customers switching and degree of consumer protection for those customers, that program is under pressure due to prices in wholesale energy and capacity markets in Pennsylvania. The OCA further noted that it is working in those wholesale markets and in proceedings before FERC to correct some of the market design flaws that exist with those markets so as to ensure that Pennsylvania consumers continue to enjoy benefits from Pennsylvania’s retail choice program. The FTC has not yet taken substantive action on these comments. However, on June 28, 2001, the OCA testified before the Senate on the issue of the need for electric reliability legislation to strengthen FERC’s authority to regulate electric reliability matters.

6. **Department of Energy Inquiry into Electric Reliability Regulations**

On January 4, 2001, the OCA, along with NASUCA, submitted comments in the Department of Energy’s Notice of Inquiry into whether DOE should implement, or instruct FERC to implement, regulations relating to the reliability of electric transmission systems. The OCA and NASUCA advocated support for the passage of federal reliability legislation and noted that they have participated in the efforts to obtain passage during the fiscal year of Senate Bill No. 2071. Unfortunately, however, legislation did not pass. NASUCA noted that its member offices encourage DOE and FERC to use whatever authority FERC may possess under existing law to require electric transmission providers to implement such mandatory electric reliability standards or guidelines. We noted that the dramatic increase in wholesale transactions during the fiscal year has produced conditions throughout the nation that have led to acute instabilities in the interconnected transmission grid. The OCA and NASUCA further noted their concern that the increasing frequency of transactions, increasing demand/supply imbalances and fluctuating regional transmission grid configurations may lead to further increases in unreliability events if neither legislative nor regulatory action is taken to promote mandatory reliability standards. We also supported FERC action to require RTOs to implement demand response programs in an effort to resolve some of these reliability concerns. Neither FERC nor DOE has taken action as a result of comments received in this docket.
ISO Proceedings and Related Cases

1. Pennsylvania-New Jersey-Maryland Independent System Operator (PJM ISO)

The OCA continues to participate in proceedings at FERC regarding the operations of the PJM Interconnection as an ISO. The OCA believes that PJM operates one of the most competitive wholesale markets in the nation and is one of the most responsive and independent ISOs in the nation. Over the past year, PJM filed numerous amendments to its agreements and tariff in an effort to construct a workably competitive wholesale market for electricity within its boundaries and to remedy several market design flaws, particularly in the capacity market.

The OCA actively participated in the collaborative process that led to many of these filings. Through this participation, the OCA has been able to influence the manner in which PJM addresses issues that arise as retail competition gains momentum in Pennsylvania. Senior Assistant Consumer Advocate Denise Goulet served as Secretary of the PJM Public Interest and Environmental Organizations User Group (PJM PIEO-UG) during most of the last fiscal year. This User Group is comprised of environmental groups, citizens groups, and the state consumer advocate offices from the four states and the District of Columbia that lie within the region governed by the PJM ISO. Throughout this fiscal year, the PJM PIEO-UG has become more proactive in addressing issues of concern within PJM. For example, the OCA led an effort to support PJM’s attempts to remedy certain market design flaws in the PJM tariffs and Operating Agreement which had provided generators a means of gaming the capacity markets during the winter of 2000 - 2001. The OCA continues to actively monitor market events within PJM and is currently reviewing the PJM Market Monitoring Plan to ascertain whether modifications to that Plan are necessary to ensure that PJM’s Market Monitoring Unit has all the tools necessary to effectively monitor all markets in PJM.

The OCA also monitors the activities of various other PJM Committees and User Groups, including the following: Members Committee, Energy Market Committee, Reliability Committee, Tariff Advisory Committee, Transmission Expansion Advisory Committee, and others. Through participation in these committees, the OCA has been able to influence PJM decisions relating to proposed revisions of the ISO’s rules and tariffs. Several of those activities are discussed in greater detail below.

2. PJM RTO, Docket No. RT01-2-000

On October 11, 2000, PJM filed with FERC for approval to operate as an RTO. The OCA intervened in this proceeding and filed comments along with several other consumer advocate offices in the PJM region, essentially supporting PJM’s qualification to operate as an RTO. As noted above, the OCA continues to support PJM as one of the most independent and responsive ISOs and as operating the most workably competitive markets in the nation. However, the OCA and the other advocates did protest the filing on two major issues. The OCA requested that FERC order PJM to provide voting rights to state consumer advocate offices within the PJM Members Committee so as to ensure that small consumers are fully represented in the consensus process of governing PJM and
reforming its markets. The OCA also requested that FERC reject the portion of the filing submitted by the electric utility transmission owners in this docket for incentive rates. These transmission owners, including PECO, GPU and PPL Utilities, seek incentives that will encourage them to transfer control over their facilities to PJM as an RTO. By order dated July 12, 2001, FERC essentially approved PJM’s application to operate as an RTO, rejected the OCA’s requested change relating state consumer advocate voting rights since a separate filing already addressed that issue as discussed below, and granted the OCA’s request for rejection of incentive rates for transmission owners. FERC found that only RTOs are entitled to incentive rates. Several requests for rehearing have been filed and remain pending before the Commission.

3. **Allegheny Power Systems, Docket No. RT01-10-000**

On October 16, 2001, Allegheny Power Systems filed on behalf of West Penn Power Company, The Potomac Edison Company and Monongahela Power Company, a compliance filing under Order No. 2000 announcing its intent to join PJM under a new construct known as PJM West. Essentially, Allegheny indicated that it was negotiating with PJM to become part of PJM by turning over operational control of its transmission facilities to PJM and thus expanding PJM’s energy markets into western Pennsylvania. The OCA intervened in this docket supporting Allegheny’s filing and encouraging Allegheny to move forward quickly in order to bring the benefits of PJM’s competitive energy markets to western Pennsylvania.

4. **Duquesne Light Company, RT01-13-000**

On October 16, 2001, Duquesne Light Company filed a compliance filing under Order No. 2000 indicating that it was considering several alternatives, including joining the Alliance RTO and or joining Allegheny as part of PJM West as discussed above. The OCA intervened in this docket supporting Duquesne’s joining the PJM West construct and encouraging Duquesne to move forward quickly in order to bring the benefits of PJM’s competitive energy markets to western Pennsylvania.

5. **PJM West, Docket No. RT091-98-000**

In March, 2001, PJM and Allegheny Power Systems filed with FERC for approval to create PJM West, an expansion of the PJM ISO or RTO operations into western Pennsylvania. The OCA intervened and submitted comments largely supporting the expansion of PJM markets and operations into western Pennsylvania. However, the OCA expressed concern that FERC ensure that Allegheny’s proposal to recover revenues lost as a result of elimination of rate pancaking be quantified and verified. FERC issued an order largely approving the expansion of PJM’s operations westward, and provided Allegheny the authority to recover such lost revenues subject to verification and quantification of the claim.

6. **Alliance Regional Transmission Organization (Alliance RTO), Docket Nos. ER99-3144-000 and ER99-80-000**
The OCA also has continued to participate during the fiscal year in the collaborative process to create an Alliance RTO. FirstEnergy Corporation, one of the utilities participating in this effort, has a subsidiary in Pennsylvania, Pennsylvania Power Company. The OCA intervened in these proceedings and filed comments highlighting the OCA’s concerns with the independence of the governance structure and the rate proposals. The OCA’s concerns focused on the Alliance RTO governance structure providing the electric utilities forming this entity significant veto power and undue influence over the RTO’s operations. The OCA contended that many of these utilities remain vertically integrated, and as such, exert significant market power in energy markets. Additionally, OCA’s comments raised the concern that the Alliance structure provides for the continuation of rate pancaking and thus eliminates one important benefit that ISOs and RTOs can provide, i.e. access to broader geographic markets at lower costs. FERC has issued several orders requiring the Alliance RTO to modify various aspects of its filing so as to ensure that the structure will satisfy the governance and rate requirements of Order No. 2000. The Alliance has made numerous compliance filings in attempts to satisfy FERC’s and the parties’ concerns. To date, the OCA and many other parties continue to believe that the Alliance RTO’s proposed structure fails to meet the requirements of Order No. 2000 for independent governance and a meaningful stakeholder advisory process. The matter remains pending before FERC.

7. Alliance RTO, Docket No. RT01-88-000

On January 16, 2001 the Alliance Companies filed their proposed RTO structure to comply with the Commission’s Order No. 2000 requirement that all electric utilities either join an RTO or explain why they cannot join an RTO. The Alliance Companies’ filing is substantially similar to the Transco filing pending at Docket Nos. ER99-3144 and EC99-80 discussed above with one major exception: the Alliance Companies now submit that it will be too difficult to create a “Publico” structure and propose instead to create a different managing member structure. The Publico concept from the 1999 dockets was the Alliance’s attempt to satisfy the independent management characteristic of Order No. 2000. FirstEnergy, which includes Pennsylvania Power Company in western Pennsylvania, is a founding member of the Alliance. As noted above, FERC issued an order in both the EC99-3144 et al. docket and this docket requiring that the Alliance immediately create a truly independent board and create an acceptable stakeholder process to ensure independence in the governance structure. Unless RTO structures ensure management of the RTO that is independent of market participants, opportunities for significant market abuse will exist and it will become very difficult to obtain truly competitive wholesale and retail markets. These issues have not been resolved by the Settlement Agreement discussed above. As noted above, several parties have become increasingly frustrated with the pace of progress and have requested that FERC initiate settlement proceedings to once again consider combining the Midwest ISO and the Alliance into a single RTO. In addition, National Grid, an electric utility that owns transmission and some generation facilities in the Northeastern United States, has filed with FERC for approval to become the managing member of the Alliance. This filing further complicates this proceeding since the independence criteria of Order No. 2000 requires that the governance structure of an RTO be free of undue influence from market participants, including owners of generation. The National Grid states that it is currently trying to divest itself of its generation assets. However, numerous stakeholders remain concerned since the National Grid owns transmission facilities
in the Northeast and is currently seeking to establish an Independent Transmission Company in the Northeast to manage transmission facilities across New England. Protests of these filings are due in mid-September.

8. **Illinois Power Company, Docket No. ER01-123-000**

    Illinois Power Company, along with its new owner, Dynegy, filed with FERC for approval to withdraw from the Midwest ISO in January, 2001. Illinois Power intended instead to join the Alliance RTO. Several other utilities, including Commonwealth Edison Company and Ameren made similar requests to FERC. The OCA, through its membership in NASUCA, intervened in this proceeding to protest the filing on the basis of the larger ramifications such action would have on the formation of new RTOs and specifically on RTOs being formed in the Midwest. The withdrawal of these three major utilities from the Midwest ISO would have effectively spelled the demise of the Midwest ISO due to the configuration of the resulting systems. Such a structure hinders the ability of both entities to resolve parallel path flows, rate pancaking, and other operational problems within their borders, thus potentially dampening competition. The OCA was concerned as well about the potential future ramification of unfettered RTO-shopping on the operations of existing ISOs which currently function well, such as PJM. FERC issued an order on January 24, 2001 noting the concerns expressed by NASUCA, numerous mid-western state commissions and other consumer groups and setting this matter for settlement proceedings. Settlement was reached on March 24, 2001 setting forth a seams agreement between the Midwest ISO and Alliance RTO in an effort to create one seamless market for the mid-west. As noted above, Pennsylvania Power Company is part of FirstEnergy which is part of the Alliance. The OCA did not oppose that settlement. On April 6, 2001, the Settlement Judge certified the settlement to the Commission for approval. FERC approved the settlement on May 8, 2001 and the MISO and Alliance RTO stakeholders are working to implement the Inter-Regional Coordination Agreement to create a seamless market in the Midwest.

**FERC Electric Cases**

1. **EL00-42-000: PJM Bilateral Contract Data**

    PJM filed a Request with FERC to compel PECO and PP&L Utilities, two Pennsylvania utilities, to provide certain data relating to bilateral contract data for transactions occurring during the summer of 1999 in order that PJM’s Market Monitoring Unit may timely complete its annual state of the markets report which is to be filed with FERC. FERC issued an order granting PJM additional time to file the report, pending the outcome of settlement negotiations between PJM and PECO and PP&L.

2. **ER00-2445-000: PJM (Market Design Flaw)**

    PJM filed an application under Sections 205 and 206 of the Federal Power Act to modify its Open Access Transmission Tariff and Operating Agreement to remedy the market design flaw which allows generators to exceed PJM’s energy price cap on maximum generation emergency
days. On June 2, 2000, the OCA filed an intervention and comments in support of the proposed remedy as an interim measure. On July 7, 2000, FERC issued an order largely approving the remedy proposed by PJM.

3. **ER00-298-000: PJM Unbundled Charges**

   PJM filed an application to unbundle its charges for services. Currently, PJM charges a single rate per kWh to recover its costs of operation. The filing classifies its costs into different categories and establishes separate charges for the different services PJM performs. Several parties had protested the filing. The OCA had intervened without protest. An uncontested settlement has been filed which essentially accomplishes the unbundling sought by PJM. The Presiding Administrative Law Judge certified the settlement to the Commission for approval without modification by Order dated June 15, 2000.

4. **EC00-31-000 / EC00-32-000: PP&L Corporate Restructuring**

   PP&L filed an application for FERC approval of a corporate restructuring plan which essentially unbundles into separate subsidiaries the various functions and services PP&L performs, for example distribution, transmission and generation. The OCA intervened in the FERC proceeding and has monitored this case.

5. **EC00-105-000 / EL00-85-000: PJM Asset Transfer**

   The electric utilities, comprising the transmission systems in the PJM regional system, filed on June 27, 2000 with FERC for approval to transfer to PJM certain information systems, capital assets and premises leases to PJM for a fee amounting to approximately $138 million. The OCA intervened in these proceedings questioning the price for the assets. Although FERC’s traditional rate policies require that capital asset costs be reflected in rates at depreciated original cost, PJM and the transmission owners seek to reflect the original cost of the assets, plus capture the carrying costs of the assets over the past few years. The OCA has requested an investigation into the reasonableness of this purchase price. The case is pending before FERC.

6. **EC00-75-000: NiSource, Inc. / Columbia Energy Group Merger Application**

   NiSource and Columbia Energy seek FERC approval of a merger of their respective electric and natural gas businesses. The OCA intervened in this proceeding on June 9, 2000 in order to monitor this case. Most of the OCA’s merger-related issues were resolved in the state merger proceeding before the Pennsylvania Public Utility Commission. FERC issued an order approving this merger.

7. **PECO / Commonwealth Edison Merger, EC00-26-000**

   PECO and Commonwealth Edison Company filed on November 22, 1999 for FERC
approval of a merger of their businesses. The OCA intervened in this proceeding on January 21, 2000. By order dated April 12, 2000, FERC approved this merger.

8. **PECO Corporate Restructuring, EC00-38-000**

In order to accommodate the corporate merger and better transition its company to implement retail choice in Pennsylvania, PECO filed on December 6, 1999 with FERC for approval of a corporate restructuring to separate out its generation, transmission and distribution businesses. The OCA intervened in this proceeding on January 20, 2000. By order dated March 17, 2000, FERC approved this corporate restructuring.
NATURAL GAS

Pennsylvania

Base Rate Proceedings

**PG Energy, Inc.** (Docket No. R-00005119)

On April 3, 2000, PG Energy, Inc. (PG Energy) filed for a base rate increase of $17 million, an approximate 11.35 percent increase in rates. The OCA filed a formal complaint and participated actively from the onset of the proceedings. The OCA presented expert testimony in the case, urging that the Company’s increase be reduced to $7.4 million. The OCA also proposed that the rate increase be applied equally to all customers across the board, rather than fall disproportionately on residential customers as proposed by the Company.

Prior to the administrative hearings, the parties reached a settlement resolving all contested issues in this case. Under the Settlement, the Company would receive an increase of $10.8 million, or 6.8 percent, and would not be permitted to seek another increase in base rates until at least January 1, 2004. In addition, the Settlement provides for a monthly customer charge of $11.25 instead of the $13.00 proposed by the Company. The settlement also requires the Company to strengthen its commitment to universal service programs in its territory by increasing its efforts to enroll people in its Customer Assistance Program and increasing the funding to its Low Income Usage Reduction Program and renewables pilot program. A final order approving the terms of the settlement was adopted by the PUC on November 29, 2000.

**T.W. Phillips Gas & Oil Co.** (Docket No. R-00005459)

On July 14, 2000, T.W. Phillips Gas and Oil Company (T.W. Phillips) filed for an increase in base rates of $15.3 million, an approximate 18.1 percent increase in rates. Residential customers would have seen an increase in their average monthly bill of 25.54 percent under the Company’s proposal. The OCA filed a formal complaint and was an active participant in the proceeding. The OCA presented expert testimony in the case, urging that the Company’s increase be reduced to $8 million. The OCA also proposed that the rate increase be applied equally to all customers across the board, rather than fall disproportionately on residential customers. Another issue in the case was the establishment of appropriate universal service programs to assist low-income customers in the Company’s service territory.

Prior to the administrative hearings, the parties reached a settlement resolving all contested issues in this case. Under the Settlement, the Company would receive an increase of $9.3 million and the Company cannot file for a general rate increase prior to March 28, 2002. In addition, the Settlement provides for a monthly customer charge of $11.00 per month, instead of the $13.50 proposed by the Company.
With respect to universal service programs, the Company has also agreed to revise its Customer Assistance Program (CAP) to better provide assistance to low income customers having difficulty paying their bills. The Company’s agreement with respect to its CAP will assist customers who have trouble paying their bills. This is especially important in light of the dramatic increase in natural gas costs experienced last year. The Company also agreed to maintain a hardship fund through its ongoing participation in the Dollar Energy Fund through which employee and customer contributions will be regularly solicited and matched on a dollar-for-dollar basis for distribution as emergency grants responding to nonpayment. On January 11, 2001, the PUC entered an order approving the settlement.

**Dominion Peoples** (Docket No. R-00005263)

Peoples Natural Gas Company filed a rate increase request to recover costs related to its low income universal service program. The OCA filed a complaint to ensure that costs are properly calculated and also reflect savings to Peoples that result from the program. This case was assigned to mediation that began in July 2000. Mediation sessions continued through the Fall of 2000. The parties were able to reach a successful resolution of this matter that calls for an expanded universal service program at a reasonable cost and provides a mechanism for base rate cost recovery. Under the settlement, the Company will ramp up its CAP to a target of 9000 customers by October 2003. On February 9, 2001, the PUC entered an order approving the settlement.

**PFG Gas, Inc and North Penn Gas Company (PPL Utilities)** (Docket No. R-00005277)

PFG Gas, Inc and North Penn Gas Company (PPL Utilities) filed a base rate increase request on June 30, 2000, requesting an increase in annual base rate revenues of $14.4 million, an increase of approximately 12.88 percent. The OCA filed a formal complaint and was an active participant in the proceeding. The OCA presented expert testimony in the case, urging that the Company’s increase be reduced to $5.9 million. The OCA also proposed that the rate increase be applied equally to all customers across the board, rather than fall disproportionately on residential customers. Prior to the technical evidentiary hearings, the parties reached an agreement resolving all contested issues. The settlement provides for an increase in base rates of $9.3 million, with a three-year stay-out period until January 1, 2004. The PUC entered an Order on January 12, 2001, approving the settlement.

**Valley Cities/NUI Dual Issue Base Rate Case** (Docket No. R-00994946)

Valley Cities and NUI filed a dual issue rate case concerning the appropriate level and cost recovery for its low-income customer assistance program and consumer education program. The OCA filed a complaint challenging the proposed rate increases and is an active participant in the proceeding. Informal discovery has proceeded and the parties have entered into settlement negotiations. At the close of the fiscal year, the case had been suspended pending outcome of those settlement negotiations.
The Office of Consumer Advocate (OCA) continued its assessment of gas utilities’ gas purchasing practices during the year pursuant to Section 1307(f) of the Public Utility Code. This past winter, Pennsylvania’s natural gas customers experienced an unprecedented increase in the cost of natural gas. Under the Public Utility Code, gas utilities are permitted to pass these increased costs on to consumers through quarterly adjustments to the purchased gas cost rate. For some Pennsylvania gas utilities, the purchased gas cost rate nearly tripled between the winter of 1999-2000 and the winter of 2000-2001. These dramatic increases in gas costs, coupled with a colder than normal winter, imposed significant hardships last winter upon consumers who heat with natural gas and left many people with gas bills which were largely unaffordable. As a result of the dramatic increase in gas prices experienced last winter, one of the OCA’s primary concerns in this year’s purchased gas cost cases was to ensure that the natural gas distribution companies (NGDCs) were taking the necessary steps to manage the risk associated with price volatility.

It is the OCA’s position that NGDCs must reduce their reliance on index-based purchases of natural gas supply. This practice may have worked well in the past when prices were low and price volatility was relatively low, but in today’s more volatile gas markets it leaves consumers exposed to wild fluctuations in the prices that they pay for natural gas service. The risk associated with price volatility can be addressed if the NGDC implements an appropriate price risk management program. Elements of such a program include both physical hedging tools and financial hedging tools.

The OCA reviewed the gas purchasing practices of all the Pennsylvania NGDCs to ensure that they have an adequate risk management plan in place with a goal of reducing price volatility while still purchasing gas for its customers at the lowest possible prices. The OCA made various recommendations to the NGDCs about the amount of their gas supplies that should be hedged and the timing of those purchases. By adopting the OCA’s recommendations, the NGDCs will be able to significantly reduce the dramatic fluctuation in purchased gas cost rates that consumers were faced with last winter.

Additionally, the OCA continued to address a wide range of issues in these cases and continued, in particular, to provide careful evaluation of utility contractual commitments with interstate pipelines to which significant purchased gas costs are attributable. In particular, the OCA continued to analyze the gas supply planning practices of gas utilities in light of the changing regulatory environment in the industry and, in light of the Natural Gas Choice and Competition Act, NGDC decisions to renew capacity entitlement or acquire new capacity. The OCA also continued to assess the use of the capacity release and off-system sales markets by gas utilities to maximize offsets of costs to PGC customers. The OCA also continued to possible analyze possible subsidization between retail sales customers and transportation customers and the use of back-up propane facilities to meet interruptible load requirements.

The OCA also continued to address a variety of other issues, including gas companies’ proposals for performance-based gas purchasing programs. These include programs under which gas
utilities’ gas purchases are compared to published gas indices, and the utility is rewarded or penalized for its performance; capacity release incentive programs, under which a gas company’s performance in the capacity release market is compared to historic levels of performance; incentives for making sales off-system; and gas company proposals to purchase a portion of their gas supply based upon long-term contracts and hedging programs. As discussed above, the OCA also reviewed gas companies’ contracts and evaluated numerous standard purchasing issues such as the level of interstate pipeline capacity held by gas companies, the allocation of gas costs among customer groups, the recovery of capacity costs from customers utilizing transportation service, and gas commodity price projections, among other issues.

Restructuring Proceedings

Equitable Appeal of Restructuring Order (Docket No 1366 C.D. 2000)

Equitable Gas Company filed a petition for review in the Commonwealth Court, appealing the PUC’s decision in Equitable’s restructuring proceeding on the appropriate level of funding for the Company’s Low Income Usage Reduction Program (LIURP). In the restructuring proceeding, the OCA had contended that funding for the Company’s program should remain, at a minimum at the existing budget level of $635,000. The Company had argued that its LIURP budget should be set at 0.2% of its jurisdictional sales revenues, which meant that LIURP funding would be reduced if more people participated in customer choice and left Equitable’s sales service. The PUC agreed with the OCA that the current funding level should be continued and directed this result. The PUC also laid to rest the question presented by Equitable of whether the PUC’s requirement that LIURP be funded at a level of 0.2% of an NGDCs jurisdictional revenues included all jurisdictional revenues or only revenues derived from sales service. The PUC agreed with the OCA that the PUC’s requirement applied to all jurisdictional revenues – transportation revenues as well as sales revenues – and rejected Equitable’s argument.

Equitable filed a petition for review in the Commonwealth Court seeking review of the PUC’s decision on this issue. Prior to submission of briefs and argument on this appeal, however, the Company withdrew the appeal.

UGI Restructuring Mediation (Docket No. R-00994786)

In the restructuring proceeding of UGI Utilities, Inc. - Gas Division (UGI), the PUC directed the parties to mediate the issues involving the appropriate bonding requirement for Natural Gas Suppliers (NGSs) and the appropriate type of universal service programs to address the needs of low-income customers and funding for such programs. After extensive mediation of these issues, agreement was reached on both issues and the PUC approved NGS bonding requirements for suppliers who wish to serve choice customers on UGI’s system as well as a comprehensive universal service program to provide assistance to low-income customers in UGI’s service territory. Under the terms of the settlement, UGI will ramp-up its CAP program to 4,000 customers over a three-year period.
PGW Interim Base Rate Proceeding (Docket No. R-00005654)

PGW filed a petition for establishment of interim rate procedures and declaratory order on August 8, 2000. The petition sought to establish a procedure for consideration of an interim base rate increase of $52 million to go into effect on November 15, 2000. PGW also filed a petition for an expedited proceeding which the PUC granted. The OCA did not object to the expedited proceeding provided that this was a one-time transitional procedure to address a unique, transitional problem. The OCA also emphasized in its Answer to PGW’s Petition that if the interim rate proceeding was to be utilized, such rates would be subject to refund at the conclusion of a full base rate case and that the Company would not seek to retroactively recoup additional revenues for the interim period should the PUC subsequently determine that a higher level of rates is just and reasonable. The OCA filed a formal complaint and presented direct testimony stating that the Company should receive only $7.46 million of its $52 million request. After the Company filed its rebuttal testimony, the OCA witness increased his recommendation to $25 million to reflect expected increases in uncollectible expenses and a likely reduction in productivity savings. The OCA expert witness stated that this amount was sufficient to allow the company to meet its obligations, including its debt coverage requirements over the next several months. Public input hearings and technical evidentiary hearings were held in Philadelphia. At the public input hearings, there was substantial public opposition to the rate increase, particularly in light of what consumers and public officials viewed to be poor service by PGW.

The parties filed briefs and, on November 22, 2000, the PUC entered an order granting the Company only $11 million of its requested rate increase. In addition, the PUC adopted all of the conditions proposed by the OCA to improve service quality as well as a condition that the Company obtain a permanent new management team. The PUC stated that if the Company refused to accept any of the conditions that it would not be permitted to put the $11 million rate increase into effect.

On December 7, 2000, PGW filed an Application for Stay and Affirmative Relief Pending Appellate Review, which sought a stay of certain portions of the PUC’s Interim Rates Order. PGW’s Application sought permission to implement the $11 million interim rate increase without accepting certain conditions imposed by the PUC’s November 22 Order which PGW has challenged on appeal. The OCA filed an Answer in opposition to PGW’s Application on December 18, 2000. The PUC entered an Order on December 20, 2000 denying PGW’s Application. The PUC’s December 20 Order did, however, allow PGW to implement the $11 million interim rate increase without withdrawing its appeal of the November 22 Order. However, PGW did not immediately implement the $11 million interim rate increase due to concerns about several of the conditions imposed by the PUC.

PGW entered into settlement negotiations which resulted in a settlement of the interim rates case and related appeal. The settlement permitted PGW to increase its customer charge from $8.00 per month to $11.66 per month, which enabled PGW to fully recover the PUC’s authorized $11
million interim rate increase by the end of August 2001. The appropriate level of customer charges beyond August 2001 will be determined as part of PGW’s current base rate proceeding. In addition, PGW was allowed to recover through its GCR an additional $7 million by August 2001 for additional bad debt expense resulting from the dramatic increase in gas costs. PGW is also allowed to hold in reserve any overcollections that it actually incurs between the time of the settlement and the end of August 2001 to ensure that it will have sufficient cash to meet its bond covenants through the beginning of 2002. PGW also committed to make a good faith effort to implement all of the recommendations of the PUC’s recently completed management audit.

In addition, the settlement requested PUC approval of operational changes in certain gas procurement activities as consistent with PGW’s least cost gas procurement obligation. These activities are designed to allow PGW to better manage its cash obligations between the time of the settlement and January 2002.

In addition, the City of Philadelphia was also a signatory to the settlement and committed to make a good faith effort to proceed with its independent permanent management search process which is designed to result in the selection of qualified management personnel or a management team by the end of September 2001. The City also agreed to proceed with its present process of revising PGW’s governance structure.

The PUC entered an Order on February 22, 2001 approving the settlement.

**PGW 2000-2001 Gas Cost Rate Proceeding (Docket No. R-00005619)**

PGW filed its annual Gas Cost Rate (GCR) for 2000-2001 with the PUC proposing an increase in its annual GCR of $97 million. This represented an increase in the GCR factor from its then-present level of $1.09 per Mcf to $2.79 per Mcf, an increase of $1.69 per Mcf. (under proposed rates the total GCR would have been $5.97 per Mcf, consisting of $3.18 per Mcf of Base Fuel and the $2.79 GCR). PGW also filed a Petition for an expedited proceeding which the PUC granted at the August 17, 2000 Public Meeting. The OCA did not object to the expedited proceeding provided that this was a one-time transitional procedure to address a unique, transitional problem. The OCA filed a formal complaint and presented testimony recommending that the Company receive its full gas cost rate increase in light of the high prices being experienced at the time in the natural gas markets. Thereafter, the Company increased its requested GCR increase to $120 million. On November 22, 2000, the PUC entered an Order granting the Company its original $97 million GCR increase. The PUC also allowed the Company to file for additional gas cost relief on January 1, 2001 if necessary. The PUC also adopted a series of adjustments and conditions that had been proposed by the OCA which were aimed at improving reliability of the PGW system.

PGW made its compliance filing implementing the $97 million GCR increase on November 27. On December 12, 2000, PGW filed for an additional interim increase to its GCR of $103 million. The OCA filed letter exceptions to this increase on December 13. On the same day, the PUC rejected the PGW filing on the grounds that it was not in compliance with the PUC’s November
22 Order, PGW’s Tariff and the PUC’s regulations governing quarterly gas cost updates. On December 29, 2000, PGW filed another GCR increase for $133 million. This increase complied with the PUC rules for interim gas cost increase filings and was permitted by the PUC to go into effect on January 1, 2001. On the same date, the Company also filed a Petition for Declaratory Order seeking permission to do monthly updates to its GCR in February and March 2001. The OCA filed an Answer to PGW’s Petition for Declaratory Order on January 8, 2001. The PUC entered an Order on January 24, 2001 which granted PGW permission to file monthly updates to its GCR in February and March.

**PGW 2001 Base Rate Proceeding** (Docket No. R-00006042)

On January 5, 2001, PGW filed for an increase in base rates. The Company proposed to increase its annual operating revenues by $65 million, or 9.4%. The proposed rates would increase the average residential heating bill approximately 10.4% and the average residential non-heating bill by 20.1%. The Company also proposed an increase in its customer charge from $8.00 per month to $15.00 per month.

In a separate Petition filed at the same time, the Company requested expedited consideration of its proposed base rate increase and waiver of certain filing requirements. On February 8, 2001, the PUC entered an Order suspending the proposed rate increase until October 8, 2001 and instituted an investigation into the proposed rate increase. The February 8 Order also denied the Company’s request for an expedited proceeding and denied the Company’s request for a waiver of certain filing requirements.

The OCA filed a formal complaint and was an active participant in the proceeding. The OCA presented expert testimony in the case, urging that the Company’s increase be reduced to $21.5 million. The OCA’s testimony noted the poor quality of service and recommended that PGW should not be entitled to increase its rates unless it can demonstrate that it is providing safe and adequate service. The OCA also recommended that the PUC reject PGW’s cash-flow method of rate setting and that rates be set at levels which are just and reasonable. Since PGW consumers have had to absorb nearly $250 million in rate increases in the past year already, the OCA is concerned about the affordability of PGW’s rates if it is granted an additional increase in this base rate case. If the PUC does allow PGW an increase in base rates, the OCA recommended that PGW’s rate increase be limited to $21.5 million (inclusive of the $11.0 million interim rate increase already approved by the PUC). The OCA also recommended that PGW begin the restructuring process by reallocating the recovery of certain expenses from the gas cost rate to base rates. The OCA recommended that the current gas cost factor of $3.18 per Mcf which is currently being recovered through base rates should be recovered in the GCR. In turn, electricity expense and bad debt expense which are currently being recovered through the GCR should now be recovered through base rates.

Technical evidentiary hearings were held the week of May 22nd in Philadelphia. The parties filed main briefs and reply briefs and at the end of the fiscal year, the matter was pending before the Administrative Law Judge.
On June 1, 2001, PGW made its 2001 Gas Cost Rate filing. The OCA filed a formal complaint to ensure that the Company’s proposed purchased gas cost rates are consistent with a least cost fuel procurement policy. At the end of the fiscal year, the matter was still proceeding.

Miscellaneous Matters and Collaboratives

Emergency Petition to Extend the Winter Termination Procedures (Docket No. P-00011811)

This past winter, Pennsylvania’s natural gas customers experienced an unprecedented increase in the cost of natural gas. Under the Public Utility Code, gas utilities are permitted to pass these increased costs on to consumers through quarterly adjustments to the purchased gas cost rate. For some Pennsylvania gas utilities, the purchased gas cost rate nearly tripled between the winter of 1999-2000 and the winter of 2000-2001. These dramatic increases in gas costs, coupled with a colder than normal winter, imposed significant hardships last winter upon consumers who heat with natural gas.

Under the PUC’s regulations, gas utilities are not permitted to terminate service to residential heating customers between November 1 and March 31. As the weather continued to remain unseasonably cold this past spring, the OCA became concerned that many more customers would be subject to termination of gas service on April 1 due to the dramatic increases in gas bills that had been experienced in recent months. Large scale terminations of service during a period of unseasonably cold weather presents a significant threat to the health and well-being of residential heating customers.

In light of these circumstances, the OCA filed a Petition for Emergency Order requesting that the PUC extend its winter termination procedures applicable to Natural Gas Distribution Companies (NGDCs) until April 30, 2001. On March 30, 2001, the PUC issued a Secretarial Letter to all NGDCs directing that NGDCs forego terminations for a 7-day period so that terminations could not commence before April 9, 2001. The NGDCs were given until noon on April 3, 2001 to file responses to the OCA’s Petition. The PUC addressed the OCA’s Petition at the Public Meeting held April 5, 2001.

In its Secretarial Letter, the PUC requested that the gas utilities suggest methods that could be employed by the PUC to alleviate the effects on ratepayers of the increases in gas prices experienced during the recent winter heating season. On April 5, 2001, the PUC entered an order in which it continued the extension of the winter termination prohibition until April 9. In addition, the PUC’s order encouraged NGDCs to refrain from terminations until April 16 and emphasized the importance of strict compliance by the NGDCs with the PUC’s regulations requiring them to exercise good faith in negotiating payment arrangements with customers prior to terminating service. The PUC specifically noted that a critical aspect of compliance with this provision is ensuring that customers are able to readily access a customer service representative through the NGDC’s call center. The PUC
indicated that it intends to closely examine statistics on telephone access for this time period to ensure that customers were able to contact their Company upon receipt of a termination notice.


On March 16, 2001, NUI Corporation (NUI), C&T Enterprises, Inc. (C&T), and Valley Energy, Inc. (Valley Energy) filed an Application seeking to transfer NUI’s tangible and intangible property used and useful in the public service within the Commonwealth to C&T. The proposed transaction provided for the sale of NUI’s Pennsylvania natural gas distribution company service under the name of Valley Cities Gas Service to C&T. Valley Cities Gas Service provides gas service to approximately 5,000 customers in Bradford County, Pennsylvania. On April 23, 2001, the OCA filed a Notice of Intervention and Protest to ensure that the acquisition was approved only if it was found to be in the public interest and provided affirmative benefits to Valley Cities ratepayers. In its Protest, the OCA raised issues concerning the on-going quality of service, the regulatory treatment of any savings resulting from the acquisition, the supplier of last resort obligation, the costs associated with the transaction, and the commitment of the new company to the local communities. At the close of Fiscal Year 2000-2001, the OCA and the Joint Applicants were continuing negotiations to resolve the issues raised in the OCA’s Protest.

**Columbia Customer Assistance Program** (Docket No. P-00011906)

During the winter of 2001, Columbia Gas of Pennsylvania initiated a series of collaborative meetings to discuss developments in Columbia’s Customer Assistance Program (CAP). Columbia’s CAP was expanded as part of Columbia’s restructuring proceedings under the Natural Gas Choice and Competition Act. Due to the unprecedented increase in natural gas prices, there were a significant number of low income customers requiring payment assistance. Columbia determined to enroll as many customers as possible to address these problems, but the program participation then outpaced the levels of participation called for under the settlement of Columbia’s restructuring proceeding and outpaced the expenditures for the CAP program that were assumed as part of the settlement. Throughout the winter and into the spring, the parties met to examine program design changes to contain costs and to identify other sources of funding for the program so that the increased level of enrollment could be maintained. Through this process, the parties were able to reach agreement to continue the higher levels of enrollment without increasing rates. The parties also agreed upon a number of program modifications to assist in controlling the cost of the program. Columbia submitted this proposal to the PUC for approval (Docket No. P-00011906). At the end of Fiscal Year 2000-2001, the matter was pending before the PUC.
On August 30, 2000, Columbia Gas of PA, Inc. filed a Petition for a one-time, partial waiver of several mandatory tariff provisions dealing with charges for failure to comply with certain operational orders pertaining to transportation service, i.e. OFOs (Operational Flow Orders) and OMOs (Operational Management Orders). The penalties were incurred by certain GDS (General Distribution Service) customers for partial or non-compliance with OFOs and OMOs called by Columbia between January 20, 2000 and January 30, 2000. Columbia filed its Petition in recognition of the fact that this was the first time Columbia issued an OFO or an OMO since the tariff provisions were approved in 1996, Columbia did not incur any increased charges or pipeline penalties during the OFO/OMO period, and the 10-day period resulted in significant charges for non-compliance.

The OCA filed an Answer on September 19, 2000, in which the OCA did not object to the waiver and agreed that the penalty may have been too severe for the violations. The OCA submitted, however, that sufficient information was not provided in the Petition to determine whether the level of adjustment proposed by Columbia ($30.00 per Mcf for imbalances on the one day out of the ten OFO/OMO days when the customer was the most noncompliant), was appropriate and reasonable. In particular, the OCA submitted that the record should be further developed concerning the effect of the OFO/OMO violations on Columbia's gas supply activities, e.g., lost off-system sales opportunities, and the extent to which suppliers should have been aware of the OFO/OMO procedures and consequences.

Columbia filed a Reply to the OCA's Answer on November 2, 2000. The Reply stated, inter alia, that because sales customers receive a fixed credit for off-system sales revenues, any lost opportunities would be absorbed by the Company, and not the sales customers.

On March 8, 2001, the PUC entered an Order granting the Petition on the grounds that, in these limited circumstances, the penalties were too harsh, and Columbia's system suffered no financial or operational harm, the customers lacked practical experience with OFOs/OMOs and because a stakeholders' collaborative process already existed pursuant to the Restructuring settlement.

**NGDC Collaboratives on Operational and Capacity Issues**

As part of the Natural Gas Choice and Competition Act, all Pennsylvania Natural Gas Distribution Companies (NGDCs) are required to convene periodic collaboratives with interested stakeholders to discuss operational and capacity issues related to customer choice, including NGDCs’ decisions with respect to entering into new or renewed contracts for interstate pipeline and storage capacity. 66 Pa.C.S. §2204(f). The OCA has been a participant in all of these collaboratives, representing the interests of residential consumers to ensure that customer choice options for residential customers are enhanced and that NGDCs continue to procure interstate pipeline capacity in a manner consistent with their least cost gas procurement obligations.
Natural Gas Choice Implementation Committee

On August 29, 2000, the PUC convened a working group to consider implementation issues related to choice in natural gas. The OCA has participated in these committee meetings. In addition, the OCA is also participating in working groups regarding the implementation of “provider of last resort” service in both the electric and natural gas industries.

Gas Universal Service Task Force

The OCA serves on this task force. The second Annual Report of the Task Force was issued on December 29, 2000. In the second Annual Report, the Task Force identified the dramatic increases in natural gas prices and the increased burden this places on low income households in Pennsylvania. The Task Force recommended that Pennsylvania provide funding to supplement the federal Low Income Heating Assistance Program (LIHEAP) and the utility provided programs that are ratepayer funded so that assistance can reach more of Pennsylvania’s low income households.

Federal

FERC Natural Gas Rulemaking Proceedings

1. Order No. 637: Short and Long Term Transportation Markets, Docket Nos. RM98-10-000 and RM98-12-000

On February 9, 2000, FERC issued its Final Rule restructuring short term transportation markets. Regulation of Short-Term Natural Gas Transportation Services, Order No. 637, III FERC Stats. & Regs. ¶ 31,091; order on reh’g, Order No. 637-A, III FERC Stats. & Regs. ¶ 31,099; order denying reh’g, Order No. 637-B, 92 FERC ¶ 61,062 (2000). In 1998, FERC had initiated two related, comprehensive rulemaking and policy proceedings inquiring into the wisdom of allowing competitive market forces and/or light-handed regulation to govern interstate pipeline rates and services. In the Final Rule, FERC waived price caps for all short-term capacity release transactions for an experimental two year period, but theoretically maintained rate caps for all pipeline short and long term transactions, citing the fact that pipelines continue to exert market dominance for such transactions.

Despite FERC’s ruling that pipeline transactions should continue to receive regulatory oversight, FERC did allow the pipelines to implement peak and off-peak rates for short-term transactions and market based rates for long term transactions that are undertaken pursuant to a voluntary auction process. In order to place constraints on the pipelines’ ability to exert market power in such transactions, FERC directed that peak and off-peak rates for short-term transactions would be constrained by the pipeline’s last authorized cost of service. However, if the pipeline receives revenues above that level, the pipeline may keep at least 50% of such excess revenues. To receive market based rate authority for long-term transactions implemented pursuant to a voluntary auction process, the pipeline must have measures in place to mitigate market power in such markets. FERC does not,

however, specify any guidelines for making such a showing.

Order No. 637 requires that all short-term capacity release transactions not subject to rate caps during the experimental two year period must be posted and competitively bid. Even those short-term transactions undertaken as pre-arranged deals in state mandatory capacity assignment programs must be exposed to the risk that another party may competitively bid the capacity away from the marketer taking assignment under a mandatory capacity release transaction. Such a ruling places local distribution companies in Pennsylvania implementing mandatory capacity assignment programs in the situation of deciding whether to proceed with mandatory capacity assignment and forego the right to receive revenues above the price caps for all release transactions or to subject marketers in their retail choice programs to the risk of paying prices for mandatorily assigned capacity that exceed the pipeline’s otherwise applicable maximum tariff rate.

The OCA had filed comments in the proceeding that had led to the issuance of Order No. 637 supporting the concept of lifting price caps for capacity release transactions, but maintaining price caps for pipeline transactions. While the Final Rule essentially adopts this structure, the OCA and NASUCA have appealed the peak and off-peak rates provisions and the voluntary auction provisions of the Final Rule on the basis that such provisions do not adequately protect small consumers from the pipelines’ ability to exert market power. Additionally, the OCA has appealed the requirement that local distribution companies (LDCs) with mandatory capacity assignment programs must choose between the mandatory assignment program or participation in the price cap elimination experiment.

Additional provisions of Order No. 637 which the OCA supports include the continued prohibition on negotiated terms and conditions of service, requirements for comparability in scheduling between capacity release and pipeline sales of capacity, providing greater flexibility in segmentation and receipt and delivery point rights, moving toward market solutions for handling imbalances as opposed to a penalty structure; and limiting the imposition of Operational Flow Orders and penalties to days when reliability and system integrity are threatened. Pipelines must make compliance filings on a staggered schedule throughout the summer of 2000 in order to reflect tariff revisions which are consistent with the Order No. 637 requirements.

The OCA and NASUCA have appealed one additional issue in Order No. 637. FERC, in the Final Rule, tightened the eligibility requirements for exercising Right of First Refusal and further subjected LDCs exercising such rights to the potential for paying significantly higher rates to retain such capacity.

The OCA and NASUCA comments also urged FERC to adopt policies which provide adequate protection for small, captive consumers and to adopt policies which will allow state retail choice programs to proceed unencumbered by federal rules. For example, the OCA and NASUCA urged FERC to extend the Right of First Refusal rule to marketers serving retail load behind an LDC’s city gate so as ensure that pipeline capacity historically dedicated to a state remains dedicated to that state in the wake of retail choice programs. Additionally, the OCA and NASUCA urged FERC to eliminate straight-fixed variable rate design and to require pipelines to develop greater flexibility in
contract terms so that LDCs may more easily adjust to load migration as retail choice programs get underway.

2. **Pipeline Capacity Expansions, Docket No. PL99-3-000**

   On September 15, 1999, FERC issued a new Policy Statement governing pipeline certificate proceedings. FERC determined that pipeline expansion projects should be undertaken on an incremental pricing basis without subsidies from existing pipeline shippers unless the expansion project provided significant benefits to existing shippers as well as the new shippers to be served by those projects. The OCA supports this policy and has advocated incremental pricing for expansion projects in rulemaking and rate proceedings before FERC.

3. **Order No. 636 Appeals, Docket No. RM91-11-000**

   FERC issued Order No. 636 on April 8, 1992 mandating a comprehensive restructuring of the interstate natural gas industry. That Order required pipelines to unbundle sales functions from transportation functions and opened access to competitive natural gas supply markets for all consumers. By order dated July 16, 1996, the D.C. Circuit Court of Appeals upheld the Commission’s SFV rate mandate, but remanded certain issues to FERC for further consideration. On remand, by order dated February 27, 1998, FERC established a five year contract term matching requirement on LDCs seeking to exercise a right of first refusal to renew their pipeline contracts. The OCA supports this move toward shortening the matching requirements in order to facilitate natural gas retail choice programs. The Interstate Natural Gas Association of America (INGAA), the trade association for the pipelines, appealed this decision to the D.C. Circuit. The OCA intervened in August 1998 in this appeal in support of the FERC order. FERC has now filed a motion to consolidate these appeals with the appeals of Order No. 637, considering the similarity of issues involving the Right of First Refusal issue. The appeal awaits the establishment of a briefing schedule.

**FERC Gas Base Rate Proceedings**

1. **Transcontinental Gas Pipeline Company, Docket No. RP95-197-000**

   Transcontinental Gas Pipeline Company (Transco) filed on March 1, 1995 to increase rates by $132 million annually. On November 1, 1996, FERC approved a settlement reflecting a reduction of $58 million annually in Transco’s rates and a savings for Pennsylvania ratepayers of approximately $7 million annually.

   Rate of return issues were litigated at separate hearings held during the fall of 1996. The Presiding Administrative Law Judge issued his Initial Decision in December 1996, approving an overall return for Transco higher than that recommended by OCA. In Opinion No. 414 issued August 1, 1997, FERC established a return policy which extends substantial deference to pipelines to establish capital structures with large equity ratios. The OCA argued that this policy provides windfall profits to the pipelines at the expense of ratepayers. On rehearing in Order No. 414-A, issued July 29, 1998,
FERC affirmed its decision and rejected all rehearing requests. The OCA appealed this decision to the DC Circuit as part of a joint effort with the North Carolina Utilities Commission and the Transco Municipal Group. The Court, however, rejected the appeal.

The OCA also raised an important rate design issue concerning the pricing of expansion capacity. This issue was consolidated with the identical issue in Transco’s 1997 rate case discussed below, at Docket No. RP97-71-000.

2. Columbia Gas Transmission Corporation, Docket No. RP95-408

Columbia Gas Transmission Corporation (Columbia Gas) filed on August 1, 1995 to increase rates by $147 million annually. FERC approved a settlement on cost-of-service issues in Phase I by order dated April 17, 1997, providing for a reduction in Columbia Gas’s filed rates of $178 million annually. The cost of service settlement saved Pennsylvania ratepayers approximately $21 million annually.

The environmental issues severed into Phase II were scheduled to go to hearing in 1998. The OCA filed direct testimony in November 1997 challenging the prudence of Columbia Gas’s handling of poly-chlorinated biphenyls (PCBs) and oily wastewaters, contaminants which Columbia Gas must now clean-up under the oversight of the United States Environmental Protection Agency. The $20.8 million in environmental expenses at issue in this case represent the costs for the first year of Columbia Gas’s clean-up program, a program which could take 10 to 15 years to complete. The OCA recommended allowing no more than $5.6 million in rates. In September, 1998, the OCA and the Columbia Customer Group reached a global settlement which will govern Columbia’s remediation program throughout the anticipated fifteen year remediation period reducing expenditures to an average of $10 million annually. The Settlement thus provides significant benefits to Pennsylvania consumers of approximately $16 million in savings over that period. FERC approved this settlement by order dated August 2, 1999. The parties are currently negotiating allocation of refunds associated with insurance proceeds received by the Columbia Companies as indemnification for these clean-up costs.

3. Transcontinental Gas Pipeline Company, Docket No. RP91-71-000 and RP95-197-000

Transco filed on November 1, 1996 to increase rates by $83 million annually. FERC approved a settlement of cost-of-service issues in June 1998 which saves Pennsylvania consumers in excess of $11 million annually.

A substantial controversy existed in this case with respect to Transco’s claimed rate of return due to FERC’s policy changes in Opinion No. 414, discussed above at Transco’s Docket No. RP95-197-000 and due to FERC’s new policy for calculating an appropriate return on equity. The OCA jointly sponsored a witness on this issue with the NC Utilities Commission and the Transco Municipal Group recommending a substantial reduction in the return sought by Transco. Those issues remain pending before FERC on rehearing.
Rate design issues concerning Transco’s proposal to roll-in to pre-expansion customer rates the costs of incremental Leidy Line facilities used to serve incremental customers were consolidated for hearing and decision with the identical issue raised in Transco’s last rate case at Docket No. RP95-197-000, discussed above. The OCA supported maintaining incremental pricing for the Leidy Line expansion facilities. The OCA’s analysis of the facts in the case when measured against FERC’s criteria for rolled-in rates disclosed that rolled-in rates were not justified in this case because the incremental facilities at issue were built to serve, and are primarily used to serve, only the incremental customers. The Presiding ALJ issued his Initial Decision rejecting rolled-in rate treatment in March 1998. On April 16, 1999, FERC issued its order reversing the ALJ and approving rolled-in pricing for these facilities. The OCA filed a request for rehearing in May, 1999, which is still pending. On April 4, 2000, the Presiding ALJ issued an Order on Remanded Issues, finding that rate mitigation is warranted and requiring a three year phase-in of the roll-in. Several parties filed exceptions and the OCA filed a Brief Opposing Exception. Both the rehearing requests and the exceptions to the Order on Remand are pending before FERC.

**FERC Miscellaneous Rate Proceedings**

1. **Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company, Docket Nos. RP98-249-000 and RP98-250-000**

   Columbia Gas and Columbia Gulf filed on June 16, 1998, to implement negotiated terms and conditions of service on their pipeline systems. The OCA intervened on July 17, 1998 opposing the Columbia Companies’ requests as premature considering that these issues are pending before FERC in generic rulemaking proceedings at Docket Nos. RM98-10-000 and RM98-12-000, and as discriminatory since residential consumers are unlikely to benefit from such negotiations and may be harmed by deterioration in service quality as a result. Order No. 637’s continued prohibition on negotiated terms and conditions of service resolved all issues in this filing and FERC issued an order on February 9, 2000 rejecting the Columbia Companies’ filings in these dockets.

2. **Texas Eastern Transmission Corporation, Docket No. RP98-83-000**

   Texas Eastern filed in December 1997 a request that FERC issue a declaratory ruling that Public Service Electric & Gas Company’s (PSE&G) attempt to release all its capacity on Texas Eastern to an inadequately funded affiliate of PSE&G violated the Commission’s capacity release regulations. Texas Eastern claimed that PSE&G’s proposal was a plan to avoid payment for that capacity through the end of PSE&G’s contract, which would leave significant stranded capacity on this pipeline system. The OCA intervened in this proceeding in order to protect the interests of Pennsylvania residential customers with respect to stranded costs. FERC issued its order granting Texas Eastern the relief it sought in February 1998. PSE&G appealed this order to the D.C. Circuit Court of Appeals where the proceeding awaits the establishment of a briefing schedule.
3. **National Fuel Gas Distribution Corporation, Docket No. RP99-190-000**

On December 22, 1998, National Fuel filed a request with FERC for a waiver of the Shipper-Must-Have-Title rule in order to facilitate a system-wide retail choice program. National Fuel noted that it receives the bulk of its gas supplies from Tennessee Gas Pipeline Company and that Tennessee’s tariffs are structured in such a manner as to limit National Fuel’s ability to release certain pricing and operational flexibility to marketers. In order to implement a retail choice program that will continue to provide reliable and reasonably priced transportation services to retail customers behind its city gate, National Fuel sought permission to retain the pipeline capacity contract and allocate use of that capacity to marketers in lieu of formally releasing that capacity to marketers. The OCA intervened in support of National Fuel’s request in order to ensure that Tennessee’s tariff did not increase the cost or reduce the reliability of retail choice for Pennsylvania consumers. By order dated February 24, 1999, FERC granted National Fuel’s request. On January 31, 2000 National Fuel requested a one year extension of the waiver and FERC granted that request by order dated March 30, 2000.

4. **CP00-35-000: Equitrans (Application for the Purchase of Three Rivers Pipeline)**

Equitrans filed an application in September, 1999 for approval to purchase its affiliate, Three Rivers Pipeline and sought pre-approval of a proposal to roll-in the costs of these facilities into its next rate case. The OCA intervened and protested the acquisition and the roll-in of the costs of the facilities on the basis that the facilities were not necessary to provide service to Equitrans’ existing customers, provided no benefits to these existing customers, and served only to shift the risk of the loss of Three Rivers’ only firm contract in 2002 to Equitrans customers and away from Equitrans’ shareholders. FERC rejected this protest and issued its Order Granting Certificate on April 13, 2000. That order also grants pre-approval of the roll-in. The OCA filed a Request for Rehearing on May 14, 2000. On July 3, 2000, FERC issued an order denying rehearing, but clarifying that Equitrans continues to bear the burden of proof with respect to the roll-in of these facilities in its next rate case.

5. **CP97-315-000: Independence Pipeline (Certification of new pipeline jointly owned by ANR, Transcontinental Gas Pipe Line and Coastal Pipeline)**

A substantial portion of this to-be-built pipeline is located in Pennsylvania. There is substantial landowner opposition in both Pennsylvania and New Jersey. Texas Eastern, a competing interstate pipeline serving Pennsylvania, proposed an alternative of using turned-back capacity on its system in lieu of building new capacity. By order dated December 19, 1999, FERC conditionally granted the certificate, rejected Texas Eastern’s proposal, placed over 100 environmental conditions on the certificate and required Independence to obtain contracts for 65% of the capacity from non-affiliates. The OCA had intervened to monitor the transmission pricing issues. The order requires incremental pricing, thus placing the risk of the project on the project sponsors and not on Transco’s shareholders. FERC issued an order on April 26, 2000 denying rehearing and issuing the certificate premised upon the execution of firm contracts for this capacity. Independence, ANR and the State of New Jersey all filed appeals of this order in the District of Columbia Circuit Court in late June, 2000.
Various issues relating to the issuance of the certificates remain pending before FERC.

6. **RP00-21-000: CNG Transmission**

   CNG filed an application in August, 1999 to implement two new balancing services on its system to accommodate retail choice programs. These services include, Delivery Point Operator, and citygate swing customer. CNG also proposed to restrict the hourly swing flexibility provided for in its current tariff, stating that such restrictions are necessary to accommodate the new balancing services. Several parties protested the restrictions on existing hourly swing flexibility. The OCA intervened to monitor this proceeding, generally supporting the creation of the new balancing services. FERC issued an order on March 31, 2000 authorizing the new services, but rejecting CNG’s proposed limitations on hourly swing flexibility. CNG made a compliance filing on May 26, 2000 to implement the new services. By order dated June 29, 2000, FERC approved this compliance filing.

7. **RP00-237 & RP00-238: Columbia Gas Transmission Corp. and Columbia Gulf Transmission Co. Order No. 637 Compliance Filings on Right of First Refusal Issues**

   The Columbia Companies filed on March 31, 2000, revised tariffs to implement FERC’s new requirements in Order No. 637 limiting the availability of right of first refusal rights. The OCA protested the Columbia Companies’ filings on the basis the Companies had omitted language which grandfathers certain negotiated and discounted rate transactions. FERC issued an Order on April 26, 2000 accepting the tariff sheets subject to certain conditions, including a requirement that the Companies refile to incorporate the condition sought by OCA. The Columbia Companies did not seek rehearing of this order, and made the required compliance filing on May 26, 2000. FERC issued a further order accepting Columbia Gulf’s compliance filing.

8. **RP91-203-071: Tennessee Gas Pipeline Company PCB Surcharge Filing**

   Tennessee filed on May 31, 2000 to extend for a two year period the surcharge mechanism through which it recovers environmental expenses from customers pursuant to a global settlement related to environmental expense recoveries filed in 1995. The OCA had played a lead role in negotiating the original settlement. The settlement provided for a surcharge to be in place for a five year period to recover all costs for this remediation program which was anticipated to last ten to fifteen years. Tennessee’s filing notes that the pipeline has currently over-recovered approximately $30 million based on its overall total program costs even though the pipeline anticipates completing all remediation work in 2004. Tennessee remains concerned, however, that environmental policies may change in the near future, causing Tennessee to face tougher clean-up standards and consequently higher costs. The settlement had provided Tennessee the opportunity to recover any such legitimate costs from customers. Tennessee seeks in this filing to continue the surcharge mechanism in place, albeit at a zero dollar charge, and to also retain the existing over-recovery of anticipated expenses as a hedge against the potential increase in overall program costs. The OCA intervened in this proceeding on June 12, 2000, but did not protest the filing considering the fact the settlement provides for early recovery of
anticipated costs and for recovery of any costs necessitated by changes in environmental laws and policy relating to this program. National Fuel Gas Distribution Corporation, a Pennsylvania local gas distribution company, did protest, seeking immediate flow-through of all over-recovered amounts. By order dated June 29, 2000, FERC accepted this filing. Tennessee filed for clarification of this order to correct the effective date for the surcharge due to an inadvertent typographical error in the order. By letter order FERC corrected the effective date.

9. RP00-326-000 and RP00-327-000: Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation

The Columbia interstate pipeline companies filed their Compliance Filings pursuant to Order No. 637 on June 15, 2000. These filings seek approval to implement new balancing services, to provide greater flexibility on receipt and delivery point rights; to provide for crediting of penalty revenues; and to clarify criteria for implementing Operational Flow Orders. Columbia Gas Transmission seeks a waiver of the Order No. 637 requirement to provide segmentation rights. The OCA intervened in these proceedings on June 29, 2000 and filed comments on these compliance filings. Columbia Gas Transmission scheduled additional settlement meetings for October 2, 2000 in an attempt to resolve some of the issues raised by parties, including the OCA, in their comments.

10. RP00-344-000: Dominion Transmission, Inc.

Dominion Transmission, Inc. (DTI), successor in interest to CNG Transmission, Inc., filed its Compliance Filing pursuant to Order No. 637 on June 15, 2000. This filing seeks approval to implement new balancing services, to provide greater flexibility on receipt and delivery point rights; to provide for crediting of penalty revenues; and to clarify criteria for implementing Operational Flow Orders. DTI also seeks a waiver of the Order No. 637 requirement to provide segmentation rights. The OCA intervened in this proceeding on June 29, 2000 and filed comments on this compliance filing. The parties are now attempting to resolve some of the issues raised in comments, including those raised by the OCA.

11. RP00-374-000: Columbia Gas Transmission Corporation

Columbia filed on June 30, 2000 to revise its tariffs related to its capacity release mechanism to reflect charges required by Order No. 637. The OCA intervened in this proceeding. FERC is planning to schedule a technical conference in an effort to resolve the issues raised in this proceeding relating to the use of capacity auctions on Columbia’s system.
TELECOMMUNICATIONS
Pennsylvania

Global Proceeding

In October, 1998, the Commission invited all interested parties to negotiate concerning a number of telecommunications proceedings that had been pending before the PUC, some for many years. The issues addressed included universal service, access charge reform, rate caps, and the numerous rules and rates necessary to bring about local telephone competition. These negotiations extended for approximately 6 months but were unsuccessful in reaching agreement among all parties.

Beginning in April, 1999, the Commission then established a procedure for litigating all issues outstanding in consideration of two petitions for settlement (Docket Nos. P-00991649, P-00991648). The OCA cooperated with a number of other parties, formed a Consumer Parties group, offered testimony on a range of issues, and fully litigated this proceeding. Through that litigation the OCA encouraged the Commission to act consistent with the interest of consumers as follows:

- Cap all of Bell Atlantic-PA’s (Bell’s) basic local service rates at their current levels through 2003;

- Establish a Universal Service Fund to support a $16.00 per month maximum limit on local residential rates, and otherwise maintain local rates at or below that limit for all Local Exchange Carriers, including small rural companies;

- Prevent local exchange companies from raising their basic local service rates in order to make up for revenue losses resulting from competition in services that are subject to some competition;

- Require Bell to automatically enroll eligible low income consumers in the Lifeline program and otherwise expand the program in order to raise the level of enrollment above current levels;

- Require Bell to offer various network elements to Competitive Local Exchange Carriers (CLECs) in order to encourage CLECs to serve residential customers and customers in the non-urban portions of Pennsylvania;

- Reject Bell’s contention that the PUC was only permitted to change the rules under which Bell would operate if Bell approved of such changes.

Hearings were held in the Global proceeding in June and July of 1999. The PUC
entered its Global Order on September 30, 1999. That Order put in place many of the requests that OCA had advocated. Specifically, the OCA was successful in achieving Bell rate caps, a limit on universal service charges to $16.00 for residential local service, and requiring Bell to modify its rates even though it did not voluntarily agree to do so.

The most controversial aspect of the Global Order was the Commission’s decision to require Bell to structurally separate into wholesale and retail companies. The Commission determined that this separation was necessary in order to permit local competition.

On November 1, 1999, the Global Order was appealed to the Commonwealth Court by various parties, including Bell and GTE North (GTE). (Docket Nos. 2790 C.D. 1999, 2793 C.D. 1999, etc.) Bell and GTE sought to reverse the PUC’s determinations concerning structural separations as well as many of the important points that the OCA had achieved in the Global proceeding. The OCA filed its Brief in the appeals on May 1, 2000, defended the PUC’s Global Order on appeal and argued that:

Bell and GTE had been given adequate due process before the PUC;

- The PUC was fully empowered to create a universal service fund to support the local rates of rural customers;
- The PUC’s actions in the Global Order did not violate Bell’s Chapter 30 Plan.

On October 25, 2000 the Commonwealth Court rendered a decision that upheld the PUC and supported the OCA’s position on all issues raised. This was a significant victory for the OCA and the PUC. Particularly, this decision sustains the OCA position on limiting local rate increases, allows the PUC to change the regulation of Chapter 30 companies, limits the extent to which the PUC may be required to reduce access rates and raise local rates at a future time, and permits the Commission to order the local telephone companies to fund universal service, Lifeline, and consumer education programs. In addition, the Court upheld the Commission’s plan to require that Bell Atlantic (now Verizon) be structurally separated.

This case was further appealed by other parties to the Pennsylvania Supreme Court. The OCA argued against the Supreme Court accepting such appeals. As a result of other litigation, Verizon subsequently dropped all such appeals.

**Verizon Structural Separations Proceeding**

On April 27, 2000, the Commission issued an Order instituting a structural separations proceeding in order to provide an evidentiary record as to how to structurally separate Verizon-PA as ordered in the Global Order. (Docket No. M-00001353) More specifically, the Commission
determined in the Global Order that functional separation alone was not sufficient to “ensure local telephone competition where a large incumbent monopoly controls the market.” The Commission found, however, that the record did not contain the information necessary to allow the Commission to make “an informed decision regarding the implementation of structural separation.” Therefore, this proceeding was opened and all parties were invited to present evidence as to which elements should or should not be separated in the creation of a separate retail affiliate.

The OCA filed testimony in this proceeding and proposed a modified form of structural separation that would allow the existing Bell Atlantic (Verizon) to continue to offer basic services to customers at regulated (capped) rates, but would require that new packages of bundled services that include both local and either long distance or high speed data services be provided by a new competitive retail company.

The ALJ issued a Recommended Decision rejecting Verizon’s proposal, but also rejecting the alternative structural separation plans of all the other parties as well. The ALJ told Verizon to refile a plan that would be consistent with the Commission original structural separations order. The OCA filed exceptions to that RD in order to preserve the OCA proposal for structural separation.

On December 5, 2000, Verizon filed a proposed settlement that would resolve this proceeding and a number of other matters remaining from the Global Order and Appeals. The OCA filed Comments on January 2, 2001, generally opposing the proposed settlement, particularly a provision that would prohibit the PUC from changing any terms of Verizon’s regulatory plan without Verizon’s permission.

On April 11, 2001, the PUC issued an order concerning how the structural separation proceeding would be resolved. Generally, the PUC decided to offer a functional separation that would not require the creation of a separate corporation. The PUC rejected the Verizon settlement. The PUC also required Verizon to drop its pending appeals of the Global proceeding. The PUC will also create a number of new proceedings in order to continue to regulate Verizon so that it will open its market to competition.

**Verizon Section 271 Petition For PUC Approval Concerning Long Distance Entry**

Verizon Pa. filed its application to the PUC for a positive recommendation to the FCC concerning its request to offer interLATA long distance service in Pennsylvania (Docket No. M-00001435). The PUC evaluated whether Verizon had successfully met the 14 point checklist under Section 271 of the Telecommunications Act. This was an extremely important case and will affect the businesses of Verizon and its local and long distance competitors dramatically.

The OCA reviewed the Verizon filing and took the position that Verizon had failed to open its market to competition in several respects, i.e. 1) the pendency of certain appeals that may erode competitive conditions, 2) the lack of competition in the residential and rural markets, 3) the
failure to accurately include the customers of competitive carriers in the Verizon white page directory,
4) failing to offer access to its digital equipment in such a way that competitors can offer service
throughout Pennsylvania.

On June 25, 2001, the PUC issued a report to the FCC about Verizon’s openness to
competition in Pennsylvania. The PUC recognized the points made by OCA. In the course of this
proceeding, the PUC had accepted the OCA recommendation that Verizon must drop its appeal of the
PUC’s plan to assure adequate performance by Verizon concerning CLECs. Accordingly, Verizon
dropped that appeal. On other issues, the PUC did not consider the issues raised by OCA or other
parties to be of such magnitude to prevent the PUC from issuing a positive consultative report to the
FCC. The FCC will consider this report as it makes a final determination concerning Verizon’s entry
into the long distance market.

Chapter 30 Proceedings

On October 31, 2000, Verizon North (VN)(formerly GTE North) filed its Chapter 30
Plan. (Docket No. P-00001854). This case concerns how the VN rates will be set and what network
modernization plans the company will have for the next 15 years.

The OCA opposed the VN plan for alternative regulation as filed. The OCA opposed
VN's unwillingness to commit to any real network modernization. It was notable in this case that two
large customers in the Pine Grove area in Schuylkill County complained that they could not get an
affordable rate on VN’s ISDN data service. These customers, Guilford Mills and the Pine Grove Area
Schools, complained that they were being charged much higher rates for ISDN than many other
customers in the area. This results from VN using less modern facilities in their area. As a result, this
local industry and the school were unable to use data services for video conferencing. The OCA
opposed VN on other issues, such as VN proposing to increase rates through the use of an inadequate
inflation offset.

The ALJ issued a Recommended Decision and accepted many of the arguments made
by the OCA and others that VN had made no network modernization commitments in its Chapter 30
Plan and that the Plan must be rejected.

The PUC subsequently issued its decision and accepted many of the OCA’s arguments
concerning network modernization. As a result, the PUC rejected the VN Network Modernization
Plan (NMP). VN was given until November 23, 2001 to propose an acceptable NMP. The PUC
proposed other changes in VN’s regulatory plan such as an increased inflation offset of 2.5%. VN has
accepted these other changes.

AT&T Communications of Pennsylvania/TCG Pittsburgh Application

On April 19, 2000, AT&T, and its affiliate TCG, filed an Application with the
Commission seeking to provide facilities-based competitive local exchange service in the service territories of eight rural telephone companies in western Pennsylvania. (Docket Nos. A-310125F0002 and A-310213F0002)

The OCA intervened in this proceeding to represent the interests of Pennsylvania consumers particularly with regard to the effect that introducing competition may have upon consumers. The OCA filed testimony generally recommending approval of the Application while cautioning that the Commission should further monitor the impact of such approval.

On December 20, 2000 the PUC ruled in favor of AT&T’s request, as supported by OCA, to permit the company to compete in these rural service territories. Accordingly, AT&T is now permitted to interconnect and compete with a number of small telephone companies in western Pennsylvania.

**Telephone Numbering Issues**

On October 30, 2000, the OCA filed Comments in a proceeding (P-00961071F0002) initiated by the PUC in order to determine what type of additional area code would need to be implemented in the 570 area in Northeastern Pennsylvania. At that time the industry had projected that the 570 area code would exhaust in the second quarter of 2002.

The OCA argued that the PUC should implement no additional area codes until it was demonstrated that such an area code was unavoidable. OCA also argued that the PUC should make public all information concerning how the numbers in the 2002 area code were being used by the industry. Most importantly, the OCA emphasized that the PUC should approve no additional area codes until it was satisfied that no other measures could be taken in order to avoid further area code relief. The OCA also participated in public input hearings in this docket in order to explain its position and review the positions of consumers.

On February 9, 2001, the PUC initiated a proceeding (Docket No. M-00011452) in order to examine the use of Rate Center Consolidation (RCC) as a means to conserve numbering resources in Pennsylvania. RCC would increase the size of telephone exchanges and require fewer telephone number blocks to serve the same size areas. The OCA participated with other parties in an RCC Subcommittee to study the use of RCC.

The OCA encouraged the industry to study RCC. The RCC Subcommittee considered what effect RCC would have on the use of telephone numbers, the operation of the telephone system, and the rates of consumers. During the course of the study it became clear that it would take a lengthy period of time to implement RCC and the result could be increases in local rates.

The OCA and other parties concluded that a better alternative would be the use of 1000 block number block pooling more rapidly than planned by the industry and the FCC.
Accordingly, the OCA and other parties negotiated an agreement among all affected parties that would implement voluntary 1000 block pooling in the 717 and 570 area codes in lieu of RCC. On June 22 and June 29, 2001, the OCA filed Comments to that effect and urged the PUC to accept 1000 block pooling in the 570 and 717 area codes in lieu of RCC.

On January 19, 2001, the OCA filed Further Comments of the Office of Consumer Advocate Regarding Cost Recovery at Implementation of Number Conservation Measures Granted to Pennsylvania by the Federal Communications Commission in its Order Released July 20, 2000 - Thousands-Block Number Pooling (Docket No. M-00001427). At that time the PUC had been granted the authority by the FCC to initiate further numbering measures to conserve numbering resources in Pennsylvania. Notably, the FCC had allowed Pennsylvania to initiate 1000 block pooling in certain area codes. The industry had also argued that it might attempt to increase rates in order to pay for any costs related to implementing such measures.

The OCA stressed that the additional conservation measures to be implemented would result in a net reduction in costs to the industry. Thus, it was entirely inappropriate to initiate a rate increase by selectively examining the costs of 1000 block pooling without also examining the cost savings. In any event the costs of numbering administration should be considered as an ordinary cost of doing business. Further, any rate increase would have to comply with the applicable procedural protections. Subsequent to the filing of the OCA’s Comments, no Pennsylvania telephone company has attempted any rate increase related to the implementation of 1000 block pooling.

Federal

Numbering Issues

The OCA has continued to be active at the national level on the issue of area code changes that are facing Pennsylvania and the United States as a whole. The OCA has continued to advocate policies that, if implemented, would avoid the continued proliferation of area codes in the future.

Part of the OCA’s activity on this issue has taken place through the involvement of Philip McClelland, Senior Assistant Consumer Advocate, as a member of the North American Numbering Council (NANC), and Joel Cheskis, Assistant Consumer Advocate as an alternate member. The NANC recommends telephone numbering policies throughout the United States, Canada and the Caribbean.

The OCA filed Comments at the FCC, on behalf of NASUCA, on February 14, 2001, concerning the FCC’s Second Notice of Proposed Rulemaking (CC Docket No. 99-2000) NASUCA argued that the FCC should take the following actions:

- eliminate its prohibition on service-specific and
technology-specific overlays;

- continue encouraging states to implement rate center consolidation where appropriate;

- establish a conservation minded set of reserve numbering guidelines;

- strictly enforce all its number conservation rules and orders as well as industry guidelines;

- grant state commissions the authority to conduct audits; and

- ensure that consumers will not see an increase in their telephone bill as a result of the implementation of number conservation measures.

The FCC has not yet acted in response to NASUCA’s recommendations.

**Federal Appeals**

GTE filed an appeal with the United States Supreme Court, *GTE v. FCC* (No. 99-1244) which was accepted by the U.S. Supreme Court, from a decision of the Fifth Circuit which had affirmed the FCC’s method of calculating federal universal service support. GTE claimed the method violated the 5th Amendment to the United States Constitution and was confiscatory. OCA served as Counsel of Record on behalf of NASUCA in a Brief filed on September 28, 2000 in support of the FCC decision and the Fifth Circuit Order that had rejected the appeal.

The GTE appeal challenged the precedent established in the 1989 United States Supreme Court decision in *Duquesne Light Company v. Barasch*, which the OCA won on behalf of Pennsylvania consumers. After briefs were filed and argument scheduled, however, GTE asked the Supreme Court for permission to withdraw its appeal and the case was terminated.

Subsequent to the dismissal of the GTE Appeal above, the Supreme Court agreed to hear appeals by Verizon and other local telephone companies from the Eighth Circuit, *Verizon v. FCC* (Nos. 00-511, 00-555, 00-587, 00-590 and 00-602) which had struck down in part the manner in which rates were set for the unbundled network elements (UNE’s) that the incumbent telephone companies must charge to their competitors. This appeal also raised constitutional issues similar to those in the GTE Appeal.

The OCA again filed a brief with the United States Supreme Court on June 8, 2001 on
behalf of NASUCA urging the Supreme Court to reject the argument that the FCC’s method of setting UNE rates through the use of long run incremental cost is unconstitutional. Again, the OCA is arguing that the Companies’ appeal is inconsistent with the Duquesne v. Barasch decision that the OCA won in the United States Supreme Court in 1989.
WATER

**Base Rate Increase Proceedings**

**Pennsylvania-American Water Co., Docket No. R-00016339.** Pennsylvania American Water Company (PAWC) filed for a base rate increase of approximately $38 million on April 27, 2001. The OCA filed a formal complaint, served discovery and a prehearing conference was held. In addition, public input hearings were scheduled throughout the Company’s service territory. As of the end of the fiscal year the case was still pending.

**York Water Company, Docket No. R-00016236.** York Water Company filed for a $2 million increase in base rates on March 19, 2001. In June 2001, the OCA served its written Direct Testimony relevant to rate base, revenues, depreciation, rate of return, cost of service and rate structure and design issues. The OCA proposed that the rate increase be denied. In addition, the OCA proposed that several modifications be made to the Company’s rate design, *i.e.*, a reduction in the proposed residential customer charge and modification to the volumetric blocks to promote conservation policy to a greater extent. The case was pending as of the end of the fiscal year.

**Penn Estates Utilities Inc., Water and Sewer, Docket Nos. R-00005031 and 5032.** Penn Estates Water and Sewer Companies filed for base rate increases of $68,571 (28%) and $248,218 (89%) respectively on January 10, 2000. OCA filed formal complaints. Public input hearings were held. A settlement petition was filed by the Company, OTS and OCA. The settlement provided for base rate increases of $39,000 for water and $236,000 for sewer. The settlement also provided for a number of water quality/managerial improvements and a stay out for filing until January 15, 2003. A copy of the settlement was sent to all formal complainants (approximately 100 complaints were filed.) with an opportunity to contact OCA and other parties with objections, or file objections with the ALJ. The ALJ received more than 200 objections and the OCA received numerous calls and letters. Many of the objections, as with the complaints, focus on issues that are not subject to PUC jurisdiction, but relate to HUD reports provided by the developer. On September 12, 2000, the ALJ issued a recommended decision adopting the settlement. The ALJ found that the objections to the settlement did not merit holding a separate evidentiary hearing. The Commission approved the ALJ decision, but the complainants asked for reconsideration on numerous grounds. The Commission denied the Petition.

**City of Lancaster-Water, Docket No. R-00984567.** As discussed in last year’s annual report, the City of Lancaster-Water filed a base rate increase request of $999,937 (18.8%) in December, 1998. (Docket No. R-00984567). The OCA filed a formal complaint as did a group of municipalities. The parties were able to stipulate to all issues except two, including the cost of equity and overall rate of return. After full litigation on those issues, the PUC entered an order granting Lancaster an increase of $610,350. In October, 1999, City of Lancaster-Water filed an appeal of the final Commission order in its base rate proceeding. OCA filed a brief in support of the PUC’s Order and oral argument was held in October, 2000. In March, 2001, Commonwealth Court upheld the PUC’s order. In its

decision, the Court found that the PUC based its rate of return findings on substantial evidence and that the PUC’s determination was consistent with its discretion. The City has filed a Petition for allowance of Appeal to the Pennsylvania Supreme Court. The OCA filed a brief in opposition to the City’s Petition. As of the end of the fiscal year, the Petition was pending.

Emporium Water Company, Docket No. R-00005050. As discussed in last year’s report, on March 31, 2000, Emporium Water Company filed for a base rate increase of $259,937 (40.2%). OCA filed a complaint, conducted discovery and a site visit. The Company also filed a Petition with the Commission for permission to recover its PURTA taxes separately through a tax adjustment surcharge. The Commission entered an Order on November 2, 2000, allowing the request. Other issues in the case remained, including the Company’s request to earn returns in excess of the low cost loans they are receiving through PennVest. Briefs were filed on November 16, 2000, and Reply Briefs were filed on November 28. On December 29, 2000, the ALJ issued a Recommended Decision granting the Company only $21,856 of its proposed increased request. Most significantly, the ALJ agreed with the OCA and OTS that the Company could only charge customers the actual 1% cost of its taxpayer-subsidized PennVest debt, rather than use a hypothetical capital structure that would allow the Company to earn an equity return of 9 to 12 percent on those funds. On March 9, 2001, the PUC entered an order granting Emporium an increase of $33,371 (5.16%). Emporium filed an appeal with Commonwealth Court contending that the overall rate of return is inadequate and that the level of rate case expense is inadequate. OCA intervened. Emporium and the Commission Law Bureau entered into a settlement of the appeal that the company an additional $24,000 per year and allow the Company to use a hypothetical capital structure. The OCA filed comments in opposition to the Settlement, as did the PUC’s OTS. The PUC approved the Settlement of the Appeal in an Order entered on June 21, 2001. The OCA subsequently appealed this Order to the Commonwealth Court.

The OCA also has filed a Complaint against the Company’s state tax filing on the ground that the request is above the amount that the company is entitled to receive. On November 22, 2000, the Company filed its separate STAS filing proposing a 14.5% surcharge to recover $117,580 over 15 months. OCA filed a complaint advocating that the Company be allowed to collect only the incremental tax liability. Testimony and hearings followed preliminary motions. Briefs were filed in late June, 2001. This case was pending before the ALJ at the end of the fiscal year.

Marietta Gravity Water Company, Docket No. R-00005305. Marietta filed for a base rate increase of $107,000 (18.4%) on May 26, 2000. OCA intervened. A mediation conference was held on September 13 at which the parties reached an agreement in principle. A settlement petition was filed with the ALJ on September 25, 2000. On November 9, 2000, the PUC entered an order adopting the settlement providing for a revenue increase of no more than $68,210.

City of Lancaster-Sewer, Docket No. R-00005109. City of Lancaster-Sewer filed for a base rate increase of $349,970(46%) in June, 2000. OCA intervened. A stipulation among the City, OCA and Lancaster Township was submitted to the ALJ. The Stipulation provided for an increase of no more than $312,167. OTS, the only other active party, did not join the stipulation. The ALJ issued a
recommended decision, adopting many of the OTS adjustments to the City’s filing. The ALJ’s recommendation results in a revenue requirement that is less than under the proposed stipulation. Exceptions and reply exceptions were filed by the City and OTS. The PUC entered an order on February 2, 2001, adopting the ALJ’s recommendations that the City receive no more than $223,189. The City has filed an appeal of the PUC’s order with Commonwealth Court. The City’s appeal addresses the PUC’s allowed rate of return, capital structure recommendations and the allowance of a normalized level of rate case expense. OCA has intervened in the appeal in support of the Commission.

United Water Bethel, Docket No. R-00005584. United Water Bethel filed for a general base rate increase of $212,512 (22.27%) on July 21, 2000. The filing included a 12% increase in the cost of purchased water. The Company proposed to eliminate a 10,000 gallon minimum allowance. The OCA filed a formal complaint and the case went to mediation. The parties proposed a settlement on December 5, 2000 that was subsequently approved by both the ALJ and the Commission. The result was a rate increase of no more than $187,500 in additional annual revenues.

Tri-Valley (El-Do Division), Docket No. R-00005505. Tri-Valley filed for an increase of $6,564 (17.78%) on July 28, 2000. The OCA filed a formal complaint on September 27, 2000. The case proceeded to mediation at which time the Company, OCA and OTS reached an agreement in principle. At the end of the fiscal year, the parties were working on a settlement agreement.

Honesdale Consolidated Water Company, Docket No. R-00005348. Honesdale filed for a base rate increase of $107,523 on August 16, 2000. OCA filed a formal complaint on August 15, 2000 and the matter was set for mediation. A settlement was filed on December 20, 2000. The settlement proposed an increase of $65,000 (7.5%), a twelve month stay out, a leak detection survey, and a reduction in the minimum allowance. The PUC entered an order on March 8, 2001 adopting the settlement.

Jackson Sewer Corporation, Docket No. R-00005997. Jackson filed for an increase in its rates on November 22, 2000. Specifically, Jackson Sewer seeks to reduce its current base rates but establish a surcharge that increases the overall level of rates it charges its customers. If approved, Jackson Sewer’s base rate charge would decrease from $78 per quarter to $60 per quarter. However, a surcharge of $175 per quarter would be added. The OCA filed a formal complaint and the case was suspended. The Company also filed a Petition for Extraordinary Relief asking the PUC to approve an immediate increase to $700 per customer per year to allow the Company to pay the Jackson Township Sewer Authority for providing service to the customers. The Company agreed that it would zero out its base rates until the conclusion of the pending rate case. OCA filed an answer suggesting certain safeguards that should be added if the PUC grants the request, including an escrow account to ensure that the monies paid are turned over to the Authority, and a provision that any reduction to the Authority’s rates be reflected within 10 business days in the rates being charged to the Jackson Sewer Company’s customers. The parties executed a stipulation to reflect these safeguards. The Company filed its testimony in the base rate case. OCA’s testimony was filed on May 18. The PUC approved the stipulation regarding the emergency rate request. A public input hearing was held on May 30, 2001.
Evidentiary Hearings were held on June 7. OCA and the Company filed main briefs on June 26. The OCA’s position is that customers should pay no more than $700 per year because it represents a full retail rate. In the alternative, the OCA recommends that customers pay no more than $69 in addition to the Authority rate. This case was pending before the ALJ at the end of the fiscal year.

City of Lancaster-Water, Docket No. R-00016114. The City of Lancaster filed for a base rate increase of $999,989, or 15.46% on February 5, 2001. The OCA filed a formal complaint. The parties filed a settlement agreement, covering the base rate case, on June 15, 2001. The settlement provides for a revenue increase of no more than $905,000, which will be phased in two phases. The City agreed to a “stay-out” for filing of another base rate case until October 31, 2002. The Commission consolidated a tariff filing made by the City seeking approval to charge tapping fees with the base rate proceeding. The parties have filed testimony on the tapping fee tariff and a hearing will be held on it and the proposed settlement on July 2, 2001. As of the end of the fiscal year, this case was before the ALJ.


Applications & Related Proceedings

Pennsylvania American Water Company/Coatesville Acquisition (Docket No. A-212285F0071, A-211070F2000, A212285F0074). PAWC filed an application seeking approval to acquire the City of Coatesville Authority water system. Part of the acquisition proposal was to provide “free” fire hydrant service to the municipalities served by this system and to include the costs of that service in the rates of other PAWC customers. Objections and testimony were filed by OCA, as well as the Office of Small Business Advocate, the Office of Trial Staff, and the Philadelphia Suburban Water Company (“PSWC”). Hearings were held in early September and a partial settlement was reached in which the Company agreed that it would charge fire hydrant rates to the affected municipalities. The Company also agreed to make contributions to the City of Coatesville in support of economic development, but the contributions may not be charged to other customers. The PUC approved the purchase as modified. PSWC filed a Petition for Reconsideration which was denied and the PSWC appeal from the Order approving the application is currently pending.

Application of PAWC to Acquire LP Water and Sewer Company, Docket No. A-212285F0077. PAWC is seeking PUC authority to acquire LP’s utility assets. One protest was filed by an LP customer. The OCA filed an intervention to monitor as well as to address the issue presented by the refunds due to LP’s customers as a result of a prior rate case. Testimony was been filed and, as of the end of the fiscal year, the parties were awaiting the ALJ’s decision on a preliminary motion to dismiss the customer’s protest.
CONSUMER COMPLAINT PROCEEDINGS

Introduction

In addition to litigation in which OCA initiates its own complaint or responds to utility filings, the OCA also intervenes in numerous proceedings in support of individual consumers or groups of consumers. Summaries of some of these cases follow:

Water

Balla v. Redstone Water Co., Docket No. C-00992270. On November 8, 2000, the ALJ issued an Initial Decision recommending sustaining complaints of inadequate service by customers of Redstone Water Company. The ALJ recommended adopting OCA’s recommendation to require an engineering feasibility study to determine the most cost effective method for bringing the water into compliance with federal and state drinking water standards and to assure that its system provides that water pressures that comply with applicable regulatory standards. Upon completion of the study, Redstone is to submit the study and an implementation plan to the Commission for review and approval. Exceptions and reply exceptions were filed. The Commission entered an order adopting many of the ALJ’s recommendations and particularly ordered the Company to perform a feasibility study within one year, with quarterly reports to the Commission and OCA. Redstone filed an appeal with the Commonwealth Court and the OCA intervened in the appeal on March 15, 2001. As of the end of the fiscal year the parties are awaiting a decision by the Commonwealth Court.

Maltony v. PAWC, Docket No. C-00003636. A Formal Complaint was filed April 26, 2000 by residents of Jefferson Township, Washington County and the OCA intervened on June 2, 2000. The residents asserted that they have been seeking public water service for a lengthy period due to the fact that many of the wells in their area frequently ran dry and were contaminated by bacteria from faulty septic systems. The OCA engaged in settlement negotiations on behalf of the customers which proved successful and the case was stayed pending the Company’s application for PennVest funding for the $3.1 million project. The PennVest application was granted on March 21, 2001 and construction has commenced. As a result of this case, approximately 300 families whose current water sources are inadequate and in some instances contaminated will receive public water service by the first quarter of 2002 and will not have to pay a contribution in aid of construction. The OCA has confirmed the construction schedule for the Formal Complainants and the Formal Complaint was recently withdrawn.

Morra v. PAWC, Docket No. C-00014733. The OCA filed a Notice of Intervention in this Formal Complaint case in order to assist the Complainants and twenty-eight families within their neighborhood in obtaining public water service from Pennsylvania-American. The Complainants are interested in service to their Hanover Township, Washington County, neighborhood for residential and fire protection purposes. Property damage has occurred due to fires in their area and wells often run dry. The matter is still pending.
Cindy Parks v. Pennsylvania-American Water Co., Docket No. C-00015377. The OCA intervened in this main extension case on June 14, 2001. Approximately thirteen hundred Washington County, Mount Pleasant Township residents are in need of water service. The residents currently obtain water for household purposes from wells, cisterns or springs. The OCA is investigating the complaint and the extent of the need for water service in cooperation with the Mount Pleasant Township Water Authority, a committee formed to seek public water service for the community.

Gazvoda v. PAWC, Docket No. C-00003200. The OCA intervened in this case on behalf of residents in Cecil Township, Washington County and hearings were scheduled for May 2000. Negotiations on behalf of the customers proved successful and PAWC has agreed to provide service to the one hundred families in Mr. Gazvoda’s vicinity without customer contributions toward the construction of the mains and other facilities required to be installed. Construction of mains has now been completed and the complaint was withdrawn as satisfied.

Donald Crist v. Clyde A. Scott Water Co., Docket No. C-00003337. Mr. Crist filed a Formal Complaint alleging serious quality of water and service problems. The OCA intervened in May 2000 and investigated the problems with the assistance of a consulting engineer. Following the intervention, the owner of Scott Water signed a Consent Decree with the Department of Environmental Protection agreeing to remedy the violations or else pay pre-established penalties. The OCA then focused upon the customers’ requests for refunds due to the service quality problems and, ultimately, the Company agreed to partial reimbursement of charges during periods of inadequate service and expenses related to outages. The Formal Complaint was withdrawn as satisfied in December 2000.

Rendero, et al. v. Roulet Water Co., Docket No. C-00014879-C-00014883. On September 12, 2000, Roulet Water Company filed a request with the PUC to increase its base rates by $44,757 (60%). The PUC approved an increase of $46,731, effective December 1, 2000, although it did not determine that the rates were lawful, just or reasonable. The PUC also gave the Company additional time to meter its system, to September 30, 2001 and an additional year in which to read the meters. The complainants had filed complaints with the PUC prior to the effective date of rates, however, the PUC did not consider them as formal complaints. On January 18, 2001, formal complaints were filed by the complainants and these complaints were give the complaint dockets listed above. The OCA filed an intervention on April 15, 2001, after working with the complainants to identify their concerns about the rate increase and the metering issues, among others. The parties were able to reach an agreement that was filed on June 7, 2001 with the ALJ. The settlement provides for a base rate reduction to reflect annual revenue increase of $41,410. In addition, Roulet agreed to credit an overcollection of the state tax adjustment surcharge from 1995-2000. In addition, Roulet agreed to file for metered rates within 8 months after meter installation is completed. Roulet also agreed that it will not file a general rate increase for at least one year following the completion of meter installations. At the end of the fiscal year, the case was pending before the ALJ.
Telephone

Keith McCall v. Bell Atlantic, Docket No. C-00981941. Through Representative McCall’s Formal Complaint, the Lehighton community sought Extended Area Service (“EAS”) to the Palmerton exchange— an area within the Lehighton customers’ “community of interest.” The Administrative Law Judge issued his Initial Decision in favor of Interexchange Carrier Optional Calling Plans rather than EAS by Bell of PA and the OCA filed exceptions to that recommendation. The PUC entered an Order granting the OCA Exceptions and ordering EAS in the requested area. The Company filed the required petition with the FCC to allow these calls to be carried over LATA boundaries and, as of the end of the fiscal year, the parties were awaiting a decision.

Norton v. Bell Atlantic, Docket No. C-00992980. Numerous Formal Complainants sought EAS from Mount Gretna to Elizabethtown, Hershey and Hummelstown. Public hearings concluded in March 2000 and a motion to require an additional traffic study was granted, which generated information relevant to Mount Gretna calls to Hershey during the summer months. The Company and the OCA filed direct testimony in December 2000 and January 2001 and further hearings on the technical issues were convened in February 2001. Briefing concluded on May 8, 2001 and, as of the end of the fiscal year, the OCA was awaiting an Initial Decision.

Warner & Golden v. Bell Atlantic, Docket No. C-00981878. The Portage community sought EAS to Altoona, Ebensburg, Hollidaysburg, Johnstown and South Fork. An Initial Decision issued July 27, 2000 which recommended Extended Area Service to Ebensburg, Johnstown and South Fork. In January 2001, the PUC adopted an Order dismissing Bell’s exceptions and adopting virtually all of OCA’s recommendations regarding the manner in which EAS data should be utilized. A customer polling for the new local exchange areas concluded in April 2001, with 92% of the customers voting in favor of the expanded local area in conjunction with an increase to the Residential monthly flat rate of $1.40. A Secretarial letter issued requiring that Extended Area Service be implemented within ninety days. As a result of this improvement in service, the Portage community as a whole will experience toll charge savings of as much as $500,000 each year.

Kish v. Alltel, Docket No. C-00981534. Represented by the Complainant Mr. Robert Kish, a group of five hundred customers in Colver, PA, Cambria County, alleged inadequate service and sought EAS to several neighboring exchanges. Notice of Intervention was filed by OCA in August 2000. A Motion to Join Verizon as an Indispensable Party was granted and an Amended Complaint alleging network performance inadequacies was submitted in January 2001. Following the ALJ’s decision on several motions, the parties were given a 90-day period to complete discovery before the submission of direct testimony and hearings. As of the end of the fiscal year, discovery was ongoing.

Bell Atlantic of Pa., Docket No. C-00992839. The OCA’s Intervention was filed in this case on June 19, 2000, to protect the interests of Bell Atlantic of Pa’s non-published number subscribers. The Complainant is a non-published number subscriber who alleges that her telephone number and address were released by Bell to a telemarketing affiliate. The OCA opposed Bell’s Motion for Summary
Judgment, which was denied by the ALJ. The OCA and Bell (now Verizon-PA) have filed a proposed settlement to address the generic privacy issues raised in this complaint. A hearing was held on March 13, 2001 regarding the settlement and additional issues raised in the individual’s complaint. The OCA submitted a statement in support of the settlement to be filed on June 4, 2001. The evidentiary record closed and the parties were awaiting an Initial Decision, as of the end of the fiscal year. The salient provisions of the proposed settlement protect Verizon customers from disclosure of their non-published number and address and from unwanted solicitations, as follows:

- Verizon agreed to institute a company-wide weekly “scrubbing” of all telemarketing and direct mail lists by comparing the lists to the company-wide “Do-Not-Call” and “Do-Not-Mail” lists and deleting all names which appear on the latter two lists.

- Verizon agreed to provide the OCA with a quarterly update regarding a date for implementation with a goal of January 1, 2001.

- Verizon agreed to improve the text of its “Welcome Letter” to afford notice to new non-published number customers that they can be included or excluded from telemarketing and mail solicitation lists.

- Verizon also agreed to provide several documents to affirm that the Complainant’s Social Security number has been deleted from account records and that all available privacy indicators have been added to the Complainant’s new non-published number accounts.

As of the end of the fiscal year, the OCA was awaiting an Initial Decision on this proposed settlement.

**Thomas v. Verizon, Docket No. C-00004254.** The OCA intervened in this case in November 2000. The Complainants, Harry and Loretta Thomas, seek Extended Area Service from Bath to the Easton and Pen Argyl exchanges. Discovery ensued and an evidentiary hearing was held in March 2001 in Bath, Pa. Approximately fifty customers attended, with twenty-six offering testimony in favor of the change. The OCA submitted technical testimony in June 19, 2001 and further evidentiary hearings were scheduled for August 2001, as of the end of the fiscal year.

**Bubner v. Verizon North, Inc., Docket No. C-00004308.** The OCA submitted its Notice of Intervention in January 2001. The Complainant seeks Extended Area Service from the Hooversville exchange in which she resides to the Somerset exchange, within which lies the Somerset County seat. A Prehearing Conference was held in March 2001 and evidentiary hearings in the service territory

Thomas Goode v. United Telephone Co. of PA., Docket No. C-00004250. The OCA filed a Notice of Intervention in this Formal Complaint case, through which Mr. Goode is requesting a modification of the boundary between the United Fort Loudon and St. Thomas exchanges. The OCA’s Motion to Compel answers to discovery was granted on May 3, 2001 and discovery was still in progress at the end of the fiscal year.

Briggs v. Commonwealth Telephone Co., Docket No. C-00014669. The OCA submitted a notice of intervention in March 2001. The Complainant seeks EAS from Huntington Mills to neighboring Commonwealth exchanges, including Wilkes-Barre. A Prehearing Conference was held in March 2001 to plan a schedule and at the end of the fiscal year hearings were scheduled for August 8, 2001 in the Huntingdon Mills exchange.

Lori Lucas v. Verizon-PA, Docket No. C-00004207. The OCA intervened in this interLATA EAS case in June 2001. The Complainant and a group of fellow customers are seeking EAS from the Barnesboro exchange in Cambria County to the Clymer exchange in Indiana County. The OCA attended public input hearings in Cherry Tree PA on June 11, 2001 and is assisting the customers by engaging in discovery to determine the extent of the traffic data between the exchanges, as well as the other EAS criteria.

Loretta Dusack v. Verizon PA, Docket No. C-00004033. Mrs. Dusack and approximately 100 other Mine 42 residents in Somerset County are requesting that the local exchange boundary of the Windber exchange be moved so that all Mine 42 residents will be located with Verizon North’s Beaverdale exchange. The OCA intervened in this Complaint case in June 2001 and was awaiting a procedural schedule at the end of the fiscal year.

**Electric Outages - Inadequate Service**

OCA investigated numerous consumer complaints regarding excessive electric outages in various areas served by GPU Energy, PECO, Duquesne and PPL. These cases include:

Versa-Fab v. Duquesne Light Company, Docket No. C-00003590. Versa-Fab, Inc., a small industrial manufacturing firm in Monroeville, PA, Allegheny County, had experienced substantial property losses and lost profits due to thirteen outages of varying durations within calendar year 1998. The Company filed a Formal Complaint against Duquesne seeking compensation and improvements in service. The OCA intervened in support of the affected Duquesne customers in Monroeville to assist in obtaining improved reliability. The case was submitted for mediation, in which the OCA and its expert electrical engineering consultant actively participated. The mediation was partially successful, in that Duquesne responded favorably to several of the OCA’s proposals to improve reliability, i.e., the installation of lighting arrestors and more frequent tree-trimming on the distribution lines serving the Complainant. In addition, the Company revealed that plans for constructing a new substation in the
area were underway; however, the project had been delayed due to permitting difficulties. As the Complainant’s claim for compensatory damages was not resolved through mediation, the Formal Complaint went forward to hearings before the PUC.

**Washington Crossing, Bucks County, Kovelowski v. PECO, Docket No. C-00003678.** Complainant and fifty other customers alleged repeated outages for twenty-five years. The outages had resulted in persistent losses of heating, air conditioning, cooking, refrigeration and other household facilities. The Complainants alleged that the Company had not been responsive to their complaints. The OCA intervened in June 2000. Following investigation and extensive discussions, PECO committed to multiple remedial actions to enhance reliability by January 2001. After a 150-day waiting period, it became evident that the remedial actions had proved successful and reliability was restored to Washington Crossing. Just after the end of the fiscal year, formal complaint was withdrawn.

**Capaccione v. PPL, Docket No. C-00004108.** Complainant Capaccione alleged recurrent outages in her neighborhood and property damage resulting from the surges which followed. The OCA intervened in October 2000. After an extensive investigation and settlement negotiations with PPL, the problems were resolved. The Complainant then entered into a settlement agreement with the Company and a Certificate of Satisfaction was submitted to the Commission.

**Washburn v. PPL, Docket No. C-00004614.** The Complainant complained of frequent, excessive and recurrent outages in his community of Newfoundland in Wayne County since 1999. The OCA conducted an investigation into the safety and reliability of the Company’s distribution system in that area. Through the mediation process, the Complainant, the OCA and the Company were able to come to an agreement about certain distribution system improvement projects which included tree-trimming in the rights of way and relocation of the distribution line to a more accessible area. Additional improvements are planned for 2002 in the Complainant’s area; however, the first phases resulted in substantial improvements in reliability in the area, leading to the filing of a settlement agreement and the withdrawal of the Formal Complaint without prejudice.

**Richardson v. GPU, Docket No. C-00014646.** The Complainant, Mr. Richardson, alleges recurrent outages in his neighborhood in Franklin County, which were blamed by GPU on geese and various other wildlife. The OCA filed a Notice of Intervention in March 2001. A settlement conference was held in May 2001, during which numerous proposals were made to improve the service, including more frequent tree trimming in the rights of way, installation of wildlife protection and infrared inspection of transformers on the distribution line serving the community. Discussions were ongoing at the end of the fiscal year.

**Gas**

**Walters v. National Fuel Gas Distribution Corporation, Docket Nos. A-121280F2023 & C-00003500.** The Company seeks permission to abandon service to a group of five customers. The OCA has filed a Notice of Intervention and Protest in these dockets on behalf of the customers who
stand to lose their natural gas service. The OCA will investigate whether all less costly alternatives have been explored and whether the customers are being treated fairly and equitably by the utility. A site visit was conducted in January 2001; additional discovery and discussions are in progress. The OCA continues to obtain and evaluate information from Columbia Gas, whose service territory also encompasses the Walters’ neighborhood, in order to determine whether the Formal Complaint can be resolved. The OCA moved to join Columbia Gas as a necessary party and that motion was granted.

Gas And Electric Consumer/Marketer Issues

Titan Gas – The OCA investigated receipt of deposits by Titan Gas, a natural gas supplier in the Pennsylvania Gas Choice program. Titan Gas obtained deposits ranging from $25 to $75 from at least 1500 Pennsylvania consumers shortly before the company declared bankruptcy in Georgia. The OCA intervened in the case of Titan Energy, Inc., United States Bankruptcy Court, Northern District of Georgia, Case No. 00-69001. OCA filed Objections to the Debtor’s Emergency Motion For Order Authorizing the sale of Property. OCA’s objections sought the return of the deposits sent in by some of Titan’s customers, in response to a June 14, 2000 letter from Titan, to assure the continuation of the fixed rate contract with Titan. OCA attended a hearing in Atlanta on July 18, 2000 at which time Titan’s Pennsylvania and Ohio customer accounts were to be auctioned. The Bankruptcy Judge continued the hearing until July 25, 2000.

At the July 25 hearing, the Court tentatively approved the sale of Titan’s stock to AES Power Direct, an electric and gas marketer which will take over Titan’s customer accounts in Pennsylvania and Ohio. The Court approved as part of that order an agreement between AES and the OCA in which AES agreed to return all the deposit checks within 60 days to Pennsylvania consumers and to honor existing Titan contracts without requiring any deposit. AES also agreed to work with OCA on developing a notice to all Titan customers advising them of their right to remain on Titan contracts, switch to a new contract, or return to their gas utility for future service without a switching fee. OCA worked with the PUC and the new management to develop the notices to customers.

The Notices to Titan customers were mailed at the end of September, 2000. Approximately 6,300 customers received their uncashed deposit checks back from the company, with assurances that they will retain their current contracts without the need for a deposit. The returned deposits amount to $281,500.

Petition of Utility.com, Inc. for Waiver of the Regulations of the Commission Related to Ninety (90)-Day Notice Requirement for Abandonment of Service, 52 Pa. Code Section 54.14(b). OCA filed an Answer to the Petition of Utility.com an electric marketer, which sought a shortening of the customer cancellation notice period to three days. OCA opposed this request as this would have afforded insufficient time to select a new generation provider and contravene customer choice. The OCA also opposed release of the marketer’s $250,000 bond pending evaluation by the PUC of all of the circumstances of Utility.com’s abandonment of service and withdrawal from the market, through a January 31, 2001 Petition for Order to Restrict the Release of Bond and to Provide Other Appropriate
Subsequent to the filing of its Petition for Waiver, Utility.com dropped many of its customers. The OCA Petition alleged that customers were being deprived of savings that they would have experienced had Utility.com complied with its cancellation obligations. As such, the OCA requested an Order that the bond not be returned and that all payments received from Pennsylvania customers be placed into an escrow account until an accounting is made. The PUC granted the OCA’s Motions and Ordered that the bond not be released unless and until all complaints surrounding the departure from the generation market were resolved. Utility.com filed a motion to require PECO to disclose usage data so that final bills could be issued. The ALJ recommended that the Motion be granted and certified the issue to the Commission. The OCA filed a brief in support of that recommendation in April 2001. The Commission ordered hearings on the OCA’s complaint, and several utilities intervened and filed formal complaints to be joined with the OCA’s. In addition, OCA participated in the Utility.com Creditors’ Committee since its inception, in order to represent Pennsylvania consumers’ interests.

The OCA served discovery on all of the utilities in order to obtain sufficient information to substantiate the residential customers’ lost savings claims. The procedural schedule called for the submission of affidavits in support of these claims in May 2001. In addition, Utility.com established a $200,000 escrow account for the purpose of repaying customer refunds. As of the end of the fiscal year, Utility.com had refunded approximately $70,000 that had been paid in advance (such as through budget billing) by Pennsylvania consumers. The first round of refunds went primarily to customers served by Duquesne and Allegheny. An additional $55,000 in refunds to the customers of other Pennsylvania electric utilities were to follow.

In addition, in the proceeding before the PUC, the OCA filed four Affidavits and two Memoranda of Law in support of the former Utility.com customers’ lost savings claims. The OCA contends that customers should also be reimbursed for savings they lost due to the departure of Utility.com without adequate notice. The final calculation of the Pennsylvania customers lost savings claims is approximately $650,000. Following the Commission’s Final Order in the Complaint proceeding, the OCA submitted Proofs of Claims with substantiation of the former Utility.com customers’ lost savings claims to the trustee of the insolvent through the California General Assignment process upon receipt of the Commission’s Final Order on the Formal Complaint. Proportional payment of all creditors’ claims, including those submitted by the OCA on behalf of the former Utility.com customers, is expected by the end of 2001. By Order of the Commission, the $250,000 bond proceeds were paid to the Department of Revenue to cover past due Gross Receipts Taxes.
CONSUMER EDUCATION AND OUTREACH

Consumer Education

The Office of Consumer Advocate continues to expand its consumer education efforts since October 1998 when it hired its first Consumer Education and Outreach Coordinator. The Office has produced new brochures, newsletter articles and consumer bulletins to inform the public on the functions and responsibilities of the Office, and to help consumers understand their choices in an increasingly complex utility industry.

During the last fiscal year the Office’s education program:

- Produced a monthly statewide shopping guide for residential electric customers. The guide explains how to shop for a new generation supplier and gives consumers the tools necessary to shop and make a decision on the supplier that will provide them with the service they want or need. It includes charts of information, including each electric distribution company’s price to compare and the prices for each generation supplier serving that area. It provides total generation billing information for three levels of electric usage, 500, 1000 and 2000 kWh for each supplier listed and identifies product offerings that are certified by the “Green-e” program. This shopping guide has proven to be an excellent complement to the PUC’s Electric Choice Program. Thousands of copies have been distributed throughout the state. The guide is updated monthly and receives thousands of hits on the OCA website. It has been reproduced and distributed by the PUC, the Dollar Energy Fund, the Public Utility Law Project and other organizations as a very useful educational tool. A Spanish language version of the guide is also available.

- prepared quarterly charts disclosing the numbers and percentages of customers and their respective total electric “load” in megawatts that have actually switched from their local electric distribution company to another generation supplier. This information is available on the OCA website. It receives thousands of hits and is used in presentations all over the country by many different sources. It has become a valuable, national tool in monitoring the electric choice program in Pennsylvania.

- actively participated as a Consortium Board Member in the planning and implementation of the Pennsylvania Energy, Utilities, and Aging Consortium’s educational roundtable events around the state. In the last fiscal year, the Consortium held three roundtable workshops, in York,
Williamsport and Wilkes-Barre, educating over 300 consumers, government agency representatives, and community leaders on utility and aging issues. We have three more roundtable events planned for the near future. We have also begun planning for a statewide conference to be held in September 2002.

• issued 19 Consumer Bulletins and informational letters alerting consumers to utility mergers, and proposed rate increases. We also issued Consumer Bulletins to announce and promote consumer attendance at 29 locally scheduled public input hearings. At some public hearings, OCA ran prepared Power Point presentations to inform participants before the hearing, of issues to highlight and hints on presenting their testimony.

• served and actively participated both as a Board Member and Acting Secretary on the Council for Utility Choice, responsible for input and implementation of the statewide education programs on electricity choice, natural gas choice and telecommunications issues including TV, radio and print advertising, brochures and other educational materials.

• served on the Consumer Protection and Education Committee of the National Association of Utility Consumer Advocates and helped to conduct an extensive educational survey of each state’s educational programs relating to electric choice. The survey results will be used to prepare a report as a result of a grant from the US Department of Energy. The report will be used nationally for evaluation purposes and to assist those states just beginning the electric restructuring process.

• worked in conjunction with the Communications Office of the PUC in reviewing and evaluating the natural gas distribution companies’ education plans and budgets relating to gas choice. Suggested program and implementation changes. Reviewed the customer mailings regarding price to compare for the gas choice program.

• reviewed and provided input on all materials that the state’s local electric distribution companies sent to their customers regarding the price to compare and electric supplier shopping information.

• served as a presenter at state and national conferences, forums, organization and group meetings and delegations covering topics concentrating on Pennsylvania’s electric restructuring benefits, consumer education and protections, natural gas competition and
• participated in sessions organized by the Public Utility Commission to train the leaders of community based organizations on how to properly use the information available and participate in Pennsylvania’s Utility Choice Program.

• worked with utility representatives and other office staff to prepare plain language consumer informational letters and bill messages to explain difficult to understand concepts such as telephone boundary line changes, polling and rate change issues associated with the extended area service process and rate rebalancing for telephone companies.

• monitored, supplied information and materials and participated as requested in the PUC’s Consumer Advisory Council meetings.

• participated in consumer fairs sponsored by the Office of Attorney General and by members of the General Assembly.

• appeared in several media events, including radio, TV and Cable TV. Participated in numerous interviews for radio and newspapers.

**Consumer Outreach**

*Presentations And Speaking Engagements*

Consumer Advocate Sonny Popowsky and other members of the OCA Staff participated in the following public forums during the last fiscal year:

<table>
<thead>
<tr>
<th>Date</th>
<th>Purpose</th>
<th>Place</th>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>7-19-00</td>
<td>York Springs Senior Citizen's Group</td>
<td>York, PA</td>
<td>telephone service and billing</td>
</tr>
<tr>
<td>8-3-00</td>
<td>JFK Center (Seniors)</td>
<td>Erie, PA</td>
<td>OCA and electric shopping</td>
</tr>
<tr>
<td>8-22-00</td>
<td>Minnesota Rural Electric Cooperatives</td>
<td>Hbg, PA</td>
<td>electric restructuring</td>
</tr>
<tr>
<td>8-23-00</td>
<td>Digital City Forum–Internet interview</td>
<td>Hbg, PA</td>
<td>PA Energy Choice</td>
</tr>
<tr>
<td>9-6-00</td>
<td>Delegation from Chile</td>
<td>Hbg, PA</td>
<td>Electric restructuring</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Location</td>
<td>Notes</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------</td>
<td>------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>9-27-00</td>
<td>Be UtilityWise Roundtable</td>
<td>Washington, PA</td>
<td>Mergers</td>
</tr>
<tr>
<td>10-6-00</td>
<td>Rep Elinor Taylor Senior Expo</td>
<td>West Chester</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>10-6-00</td>
<td>Rep. Tom Stevenson’s Senior Expo</td>
<td>Galleria Mall Mt. Lebanon, PA</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>10-12-00</td>
<td>Workshop on How to Deal With High Energy Costs This Winter</td>
<td>Erie, PA</td>
<td>OCA public event with speakers from DPW, DEP, NFG, $ Energy, Energy Star and others</td>
</tr>
<tr>
<td>10-13-00</td>
<td>Workshop on How to Deal With High Energy Costs This Winter</td>
<td>Erie, PA</td>
<td></td>
</tr>
<tr>
<td>11-9-00</td>
<td>Annual Energy Services Conference</td>
<td>Philadelphia, PA</td>
<td>Electricity Restructuring Panel Discussion</td>
</tr>
<tr>
<td></td>
<td>Annual Energy Services Conference</td>
<td>Philadelphia, PA</td>
<td></td>
</tr>
<tr>
<td>11-14-00</td>
<td>NARUC Annual Meeting</td>
<td>San Diego, CA</td>
<td>The State Restructuring Story: Is San Diego the Future or the Exception?</td>
</tr>
<tr>
<td>11-14-00</td>
<td>NASUCA Annual Meeting</td>
<td>San Diego, CA</td>
<td>On-Line Marketing of Electricity: Friend or Foe?</td>
</tr>
<tr>
<td>11-14-00</td>
<td>NARUC Annual Meeting</td>
<td>San Diego, CA</td>
<td>Commission and Customer Benefits In A Sea of Structural Evolution</td>
</tr>
<tr>
<td>11-17-00</td>
<td>Energy Bar Association Mid-Year Meeting</td>
<td>Wash, D.C.</td>
<td>Retail Markets: Where Are We and Why?</td>
</tr>
<tr>
<td>12-7-00</td>
<td>Power Markets Week Conference</td>
<td>Las Vegas, Nevada</td>
<td>Competition in 2000: Is it Working?</td>
</tr>
<tr>
<td>12-8-00</td>
<td>Harvard Electricity Policy Group</td>
<td>Houston, Texas</td>
<td>State of the Retail Markets</td>
</tr>
<tr>
<td>1-17-01</td>
<td>AARP Chapter Meeting</td>
<td>Phila, PA</td>
<td>OCA and Utilities</td>
</tr>
<tr>
<td>1-22-01</td>
<td>AARP Legislative Mtg</td>
<td>Pgh, PA</td>
<td>Gas Deregulation &amp; Shopping</td>
</tr>
<tr>
<td>1-25-01</td>
<td>Allegheny Co. Mayor’s Association</td>
<td>Turtle Creek, PA</td>
<td>Utility Concerns</td>
</tr>
<tr>
<td>1-26-01</td>
<td>AARP Legislative Mtg</td>
<td>Wash, D.C.</td>
<td>Where to go from here</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Location</td>
<td>Description</td>
</tr>
<tr>
<td>-----------</td>
<td>--------------------------------</td>
<td>----------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1-30-01</td>
<td>AARP Legislative Mtg.</td>
<td>Hbg, PA</td>
<td>Overview of OCA and Dereg</td>
</tr>
<tr>
<td>2-1-01</td>
<td>WICU-TV Call-in Show</td>
<td>Erie, PA</td>
<td>High Gas Prices</td>
</tr>
<tr>
<td>2-3-01</td>
<td>AARP Mtg</td>
<td>New Castle, PA</td>
<td>High Gas Prices</td>
</tr>
<tr>
<td>2-7-01</td>
<td>Attorney General’s Fair</td>
<td>Hbg, PA</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>2-9-01</td>
<td>Attorney General’s Fair</td>
<td>Phila, PA</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>2-22-01</td>
<td>AARP Mtg</td>
<td>Pgh, PA</td>
<td>Office and Utilities</td>
</tr>
<tr>
<td>2-28-01</td>
<td>Rotary Mtg</td>
<td>Mechbg, PA</td>
<td>Office and Utilities</td>
</tr>
<tr>
<td>3-7-01</td>
<td>Testimony before the PA House Consumer Affairs Committee</td>
<td>Harrisburg, PA</td>
<td>Electric Reliability</td>
</tr>
<tr>
<td>3-21-01</td>
<td>Prime Timers Meeting</td>
<td>Broomall, PA</td>
<td>Office and Utility Services</td>
</tr>
<tr>
<td>3-22-01</td>
<td>NJ Bar Assoc–Energy Bar Conference</td>
<td>NJ</td>
<td>Lessons from California</td>
</tr>
<tr>
<td>3-26-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>2010: An Energy Odyssey</td>
</tr>
<tr>
<td>3-26-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Telecommunications 101</td>
</tr>
<tr>
<td>3-26-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Preparing Consumers to Participate in the Competitive Energy Market</td>
</tr>
<tr>
<td>3-26-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Educating our Water Consumers</td>
</tr>
<tr>
<td>3-27-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Evolution of Change in the Water Industry</td>
</tr>
<tr>
<td>3-27-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Assuring Universal Participation in the Information Age</td>
</tr>
<tr>
<td>Date</td>
<td>Event</td>
<td>Location</td>
<td>Description</td>
</tr>
<tr>
<td>------------</td>
<td>-----------------------------------------------------------------------</td>
<td>---------------</td>
<td>----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>3-27-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Consumer Protections in a Competitive Telecommunications Market</td>
</tr>
<tr>
<td>3-28-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Meeting Low-Income Needs Through Universal Service Programs</td>
</tr>
<tr>
<td>3-28-01</td>
<td>Utilities and Public Policy V PUC Conference</td>
<td>Harrisburg, PA</td>
<td>Electric Reliability in the Competitive Age</td>
</tr>
<tr>
<td>3-30-01</td>
<td>PA Sustainable Energy Funds Training Conference</td>
<td>Phila, PA</td>
<td>Wholesale Energy Markets and Opportunities for Renewable Energy</td>
</tr>
<tr>
<td>4-9-01</td>
<td>PUC Briefing to Balkan countries on AID/NARUC</td>
<td>Hbg, PA</td>
<td>What Happened in California</td>
</tr>
<tr>
<td>4-24-01</td>
<td>Utility, Energy and Aging Consortium Roundtable Event</td>
<td>York, PA</td>
<td>Gas and electric updates as general session.</td>
</tr>
<tr>
<td>4-27-01</td>
<td>Senator Waters Senior Fair</td>
<td>Philadelphia, PA</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>5-2-01</td>
<td>Affordable Comfort</td>
<td>Milwaukee, WI</td>
<td>Sticker Shock–What Happened in CA and What it Means for US</td>
</tr>
<tr>
<td>5-10-01</td>
<td>Delegation from India</td>
<td>Harrisburg, PA</td>
<td>What a Consumer Advocate’s Office does and how to make it work</td>
</tr>
<tr>
<td>5-16-01</td>
<td>Sen. Jake Corman &amp; Rep Clark Senior Expo</td>
<td>Juniata County</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>5-16-01</td>
<td>Utility, Energy and Aging Consortium Roundtable Event</td>
<td>Wilkes-Barre, PA</td>
<td>Gas and electric updates as general session.</td>
</tr>
<tr>
<td>5-17-01</td>
<td>Illinois State University Institute for Regulatory Policy Studies</td>
<td>Springfield, IL</td>
<td>Energy Markets in Turmoil The Consumer Perspective</td>
</tr>
<tr>
<td>5-18-01</td>
<td>Retired Teachers Association of Dauphin County</td>
<td>Grantville, PA</td>
<td>Electric, Gas and Telephone issues and consumer protections</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Location</td>
<td>Theme</td>
</tr>
<tr>
<td>------------</td>
<td>--------------------------------------------------------</td>
<td>-------------------</td>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>5-23-01</td>
<td>AARP Meeting</td>
<td>Newtown Square, PA</td>
<td>Office and Utility Issues</td>
</tr>
<tr>
<td>5-31-01</td>
<td>Senator’s Greenleaf, Tilghman and Holl Senior Fair</td>
<td>Ft. Washington, PA</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>6-7-01</td>
<td>Senator Tim Murphy’s Senior Expo</td>
<td>Castle Shannon, PA</td>
<td>staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>6-5-01 to 6-7-01</td>
<td>NLIEC</td>
<td>Cincinnati, OH</td>
<td>Prognosis on Energy Prices</td>
</tr>
<tr>
<td>6-14-01</td>
<td>Testimony before the PA House of Representatives’ Consumer Affairs Committee</td>
<td>Harrisburg, PA</td>
<td>Matching PA funding for the state’s LIHEAP and low income programs.</td>
</tr>
<tr>
<td>6-26-01</td>
<td>Testimony before the PA House of Representatives’ Subcommittee on Telecommunications for the House Consumer Affairs Committee</td>
<td>State College, PA</td>
<td>Slamming/Cramming</td>
</tr>
<tr>
<td>6-28-01</td>
<td>Testimony before the United States Senate Committee on Governmental Affairs</td>
<td>Washington, D.C.</td>
<td>Electric System Reliability</td>
</tr>
<tr>
<td>6-29-01</td>
<td>Senator Bob Thompson and State Rep Elinor Z. Taylor</td>
<td>West Chester, PA</td>
<td>Senior Fair</td>
</tr>
</tbody>
</table>
OCA CALL CENTER

As of April, 2000, the OCA implemented a toll free number for Pennsylvania’s utility consumers - **800-684-6560**. As noted in last year’s annual report, the OCA began development of a toll free number to aid consumers who have questions about or problems with their utility service. The OCA’s consumer service representatives staff the toll free number from 8AM to 6 PM, Monday through Friday. The addition of a toll free number continues to represent a major undertaking for our office. Many benefits for consumers have already been realized, but there will be long-term benefits as well. The addition of the toll free number and consumer service representatives is another step in expanding our outreach to all Pennsylvania utility consumers in the rapidly changing world of utility regulation.

During Fiscal Year 2000-2001, the consumer service representatives have handled nearly **27,685 consumer contacts**, including phone calls, letters and e-mail. This figure includes 14,242 requests for the OCA’s Electric Shopping Guide.

Summarized here are some examples of our assistance to individual consumers:

- An example of assistance in the telecommunications area involved a man who was repeatedly being charged long distance rates for calls that should have been included in his local calling area. Despite numerous calls, no one had been able to resolve his problem. We contacted the local phone company and found that despite their previous investigations into the complaint, they had inadvertently been routing his calls incorrectly. The problem was immediately corrected and he was given an adjustment on his bill.

- Another telephone case involved a customer who received a telemarketing call from a company who was trying to persuade her to switch from her current long distance provider. The company representative offered her a rate which was better than she was currently paying, along with a pre-paid $100 calling card and 360 free minutes, so she agreed to switch. While on the phone, she asked him twice to confirm that her local toll company would not be switched, and he confirmed that they would not do that. When she received her next telephone bill, she realized that they had not only switched her local toll call provider, but they were charging her more per minute than she had been paying previously with the other company. She contacted them only to find out that the rate and offer which she had been promised was not even one of their current offerings. She spent many evenings trying to straighten out her service and came to our office extremely frustrated. We were able to get her back to her original company and
have the company re-rate her calls at the promised rate. She was very grateful for our intervention and assistance in helping her to resolve her telephone problems.

• We assisted numerous customers who had selected an alternate gas supplier, only to find that the rate was not going to stay at the contracted rate. With the problem of gas rates rising so quickly, they were very upset and confused by the increases in their bills. We educated the customers on the reason for the increases, the things to look out for in signing a contract, along with sending them a booklet which gave them energy saving tips.

• An example of assistance in the water area involved a customer who received a bill from a water company for service two years after he had moved from the service address. He had attempted to resolve this problem on his own, by providing some proof of residence, however he was not successful. He contacted us to see if we could assist him in his pursuit. We contacted the company and negotiated a resolution to the consumer’s satisfaction.

• One utility inadvertently debited a customer’s account in the amount of $1,100.75 instead of 75 cents, the amount of the check. The customer had repeatedly asked the company to return the money to her account, however the company left it as a credit on the account for nine months. The customer contacted our office to see if we could assist in getting the money returned. We contacted the company and advised them that the money should be returned to the customer immediately, since it was not the customer’s desire to maintain such a high credit balance. We were able to have a check returned to the customer in a short amount of time.
SERVICES TO PENNSYLVANIA AND THE NATION

Participation in NASUCA and in
Other Consumer Interest Organizations

On the national level, members of the OCA staff continued to serve in leadership positions with the National Association of State Utility Consumer Advocates (NASUCA). NASUCA has members from 40 states throughout the United States and provides valuable input on consumer utility issues. Sonny Popowsky is a Past President of NASUCA. Senior Assistant Consumer Advocate Denise Goulet serves on the Gas committee. Senior Assistant Consumer Advocate Philip McClelland serves on the Telecommunications Committee. Senior Assistant Consumer Advocate Christine Hoover is the Chair of the Water Committee, and Senior Regulatory Analyst Marilyn Kraus serves on the Tax and Accounting Committee. OCA Consumer Education and Outreach Coordinator Grace Cunningham serves on the Consumer Protection Committee.

Additionally, OCA staff members serve in an advisory role on committees at the federal level. Mr. Popowsky was elected to serve as the first representative of small consumers on the Board of Trustees of the North American Electric Reliability Council (NERC), the national organization that was created to promote the reliability of the electric supply system in North America. He now serves as a consumer representative on the NERC Stakeholders’ Committee. Mr. Popowsky also is a member of the Harvard Electric Policy Group at the Kennedy School of Government at Harvard University. Senior Assistant Consumer Advocate Philip F. McClelland is Chair of the state staff of the Federal/State Universal Service Joint Board, which presents policy recommendations to the Federal Communications Commission. Mr. McClelland also serves as a NASUCA representative to the North American Numbering Council. Similarly, Senior Assistant Consumer Advocate Christine M. Hoover is the NASUCA representative to the American Water Works Association Public Advisory Forum and serves as its Vice-Chair. Ms. Hoover also represented NASUCA on two U.S. Environmental Protection Agency groups, the Stage 2 M/DBP regulatory negotiation and National Drinking Water Advisory Council’s Small Systems Working Group. Ms. Hoover also serves on the American Water Works Research Foundation’s Public Advisory Council on Drinking Water Research.

Senior Assistant Consumer Advocate Denise Goulet and Senior Public Policy Research Analyst Dan Griffiths participate on the following PJM groups: Energy Markets Committee, Credit Users Groups, Information Task Force, Demand Response Task Force, and Distributed Generation Users Group. These committees are devoted to the development of the PJM Interconnection as a Regional Transmission Organization under the jurisdiction of FERC, including serving as Secretary of the PJM Public Interest and Environmental Users Group.

In Pennsylvania, the OCA represents the interests of ratepayers on a number of different Boards and projects. Notably, Mr. Popowsky was appointed by the Public Utility Commission to the Council on Utility Choice created to oversee the education of consumers regarding utility choice. Ms. McCloskey serves on the Board of the Pennsylvania Sustainable Energy Fund. Ms.
Hoover continued to represent consumer interests in issues related to water systems. She served as a member of the PUC’s Small Water Company Task Force, which meets regularly to address existing and emerging problems of small water and sewer systems. Ms. Hoover also continued to serve on the Technical Assistance Center (TAC) for small water systems. TAC’s role is to provide advice to the Department of Environmental Protection (DEP) on small water system issues and to help coordinate activities among various agencies and organizations affecting small water systems. Mr. Griffiths participates in the PUC’s Demand Side Working Group and the PUC’s Interconnection Working Group.

The OCA staff has also shared its expertise with other state agencies, consumers, and industry representatives at conferences and training programs.
OCA STAFF

Sonny Popowsky
Consumer Advocate

Dianne E. Dusman
Denise C. Goulet
Christine Maloni Hoover
Stephen J. Keene
Philip F. McClelland
Tanya J. McCloskey
Senior Assistant Consumer Advocates

Christy M. Appleby
Aron Beatty
Joel H. Cheskis
Erin L. Gannon
Lori A. Herman
James A. Mullins
Barrett C. Sheridan
Shaun Sparks
Darlene Wong
Assistant Consumer Advocates

George Bibikos
Candis Tunilo
Legal Interns

Marilyn J. Kraus
Senior Regulatory Analyst

Daniel W. Griffiths
Senior Public Policy Research Analyst

Grace C. Cunningham
Consumer Education Coordinator

Mary M. Gillette
Director of Administration

Robert Robinson
Information Technology
Generalist Administrator

Jayne M. Hontz
Computer Systems Analyst

Jane K. Long
Information Officer

Pamela R. Carroll
Leslie B. Chatman
Kathleen A. O'Handly
Administrative Staff

Judith P. Edgett
Judy A. Miller
Susan M. Noble
Margaret A. Shelley
Clerical Staff

Cammie A. Shoen
Legal Assistant

Susan J. Henry
Consumer Liaison

Bonnie Hoffner
Heather S. Reider
Sheri R. Steigleman
Kevin R. Yiengst
Consumer Service Representatives