INTRODUCTION

The Office of Consumer Advocate (OCA) has served Pennsylvania utility consumers 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 2001-2002.

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 in the last several years, but the needs of Pennsylvania utility consumers to be fully and professionally represented in both Harrisburg and Washington, D.C. have not diminished. Indeed as the structure of the partially regulated, partially competitive utility industry has become more complex, the needs of utility consumers for representation, as well as for consumer protection and education, have 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. 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 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 creditors’ committee, and the filing of a complaint at the PUC, regarding an insolvent electric generation supplier that had been serving Pennsylvania electric consumers. The OCA has thus far secured refunds totaling $125,000 for that company’s former Pennsylvania customers.

In natural gas, 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. The OCA also participates 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 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 toll-free calling areas that actually reflect their local community of interest.

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 communities 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 21,000 consumer contacts in Fiscal Year 2001-2002. The establishment, in 2000, of a toll-free calling number (800-684-6560) which is staffed from 8 a.m. to 6 p.m. Monday through Friday, has resulted in a dramatic increase in the number of calls handled by the OCA. 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 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 727,000 hits on 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 5,000 shopping guides to individual Pennsylvania consumers. Shopping guides and pricing charts are the most requested pages and downloaded files from the OCA website. In May, 2002, the OCA introduced a Natural Gas Shopping Guide to provide a list of natural gas suppliers with “apples-to-apples” comparative price information for residential customers in each of the major natural gas distribution service territories.

The OCA looks forward to meeting its 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 role in assisting consumers to obtain the benefits and avoid the pitfalls of more competitive utility service markets. The OCA recognizes the importance of its role in advocating for the interests of Pennsylvania consumers and keeping consumers informed with respect to their utility services. Through this Annual Report, the OCA will summarize its activities in fulfilling its role in Fiscal Year 2001-2002.
ELECTRIC

Pennsylvania

PECO Energy Company

Petition of PECO Energy For Approval Of Competitive Default Supplier Pursuant To The Merger Settlement, Docket No. A-110550F.0147. As discussed in last year’s report, in 1999 PECO Energy Company filed an application requesting Commission approval of a plan for corporate restructuring and merger with Unicom. In 2000, the PUC approved a settlement of the proceeding. The merger was completed in 2000. As discussed in last year’s report, pursuant to the Merger Settlement, PECO Energy solicited bids for competitive default service. The initial solicitation did not result in any conforming bids. In accordance with the Settlement, PECO proceeded with a bilateral negotiation process to select a Competitive Default Service provider to provide generation for 20% of PECO’s residential provider of last resort obligation. This process attracted three bids, and PECO selected NewPower Company as the winning bidder. PECO negotiated an Agreement with NewPower and submitted the Agreement to the PUC for approval. Under the Agreement, NewPower will provide generation for 20% of PECO’s customers at a discount of 2% from the PECO price for Rate R customers and a discount of 1% for residential heating and off-peak water heating customers (Rates RH and OP). NewPower agreed to meet the renewables requirement contained in PECO’s settlement and has agreed to the consumer protections and other requirements set forth in the bid protocols. Green Mountain filed objections to the Agreement. On November 29, 2000, the Commission approved the Petition and dismissed the objections of Green Mountain and Shell Energy. 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 NewPower. This second Petition was objected to by New Power but 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 also worked with NewPower and PECO on other implementation issues. In addition, the OCA worked with Green Mountain regarding customer notification procedures in an attempt to avoid some of the customer confusion and hostility that occurred at the initiation of the New Power program.

During the week of February 25, 2002, NewPower announced that it was merging with Centrica. Shortly thereafter, NewPower announced that it was withdrawing as the Competitive Default Service provider in PECO’s service territory. The proposed merger with Centrica was subsequently terminated because of continuing concerns over NewPower’s liabilities resulting from the Enron bankruptcy. PECO agreed that if an alternative provider could not be found prior to NewPower’s departure from the market, PECO will have these customers return to PECO service but at the same discounted rate as that offered by NewPower.
The OCA worked with PECO to ensure adequate customer notification and a seamless return process. During the month of May 2002, the customers were returned to PECO at the discounted rate.

Complaint Of Green Mountain Energy Company, The NewPower Company, SmartEnergy, Inc., and AES NewEnergy, Inc. Against PECO Energy and Community Energy, Inc. – Wind Energy Service Rider, Docket No. R-00016938. On November 29, 2001, PECO Energy filed a tariff supplement for the purpose of creating a Wind Energy Service Rider which provides eligible customers the opportunity to purchase wind energy from Pennsylvania wind resources. The wind blocks are being made available to PECO POLR customers. The rider was developed with Community Energy, Inc. as called for in the settlement of PECO’s merger proceeding at Docket No. A-110550F.0147. A customer can elect the purchase a block of wind energy to meet their energy needs for an additional $2.50 per month for 100 Kwh of wind. If the customer elects to meet all of their needs with wind energy, they would be charged 2.5¢/kwh in addition to their regular POLR charges. Several alternative providers filed a complaint against the tariff supplement alleging that PECO, as POLR, should not be permitted to offer such a competitive service. The marketers also alleged that PECO’s provision of this tariff was done in violation of PECO’s Codes of Conduct. By Order entered January 24, 2002, the Commission allowed the tariff to become effective without prejudice to the complaint filed against the tariff. The marketers immediately filed a Petition for Review in Commonwealth Court asking the Court to direct the Commission to suspend the tariff and institute and investigation into the justness and reasonableness of the tariff. The Commonwealth Court granted a Stay of the Commission’s Order allowing the tariff to become effective and directed the Commission to conduct hearings on the tariff. The OCA filed a Notice of Intervention in the proceeding at the Commission.

The Commission has also filed a request with the Supreme Court to review the Commonwealth Court’s Order granting the Stay. As of the end of the Fiscal Year, that matter is awaiting a decision by the Supreme Court as to whether it will review the issuance of the Stay. Briefing on the merits of the issue is proceeding in the Commonwealth Court.

PECO Universal Service Advisory Board. The OCA serves as a member of PECO Energy’s Universal Service Advisory Board. The Advisory Board meets with PECO to provide input regarding its Customer Assistance Programs (CAP) for low income customers and its low income usage reduction programs (LIURP). Under the Settlement of PECO’s merger case, the Board was assigned the task of considering this issue of the affordability of PECO’s rates, including its CAP rates, for those customers at the lowest levels of income, 0-50% of the federal poverty level. Under the settlement, a study of this issue was conducted by an independent evaluator with the Report provided to the Board for consideration. In May of 2002, the Report was concluded and the Board began a series of meetings to develop recommendations as to how to address affordability for this group of customers. A recommendation developed by the Company regarding a special program for customers at 0-50% of federal poverty was under consideration by the Advisory Board at the end of the Fiscal Year.
Tariff Filing Of PECO Energy For Implementation Of A 12-Month Rule For Residential Customers, Docket No. R-00005882. As discussed in last year’s report, on October 20, 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. PECO’s filing proposed that to receive rate cap protection, the residential customer must agree to remain with PECO for 12 months. If the customer does not affirmatively elect the rate cap protection, PECO proposed to place the customer on 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 the rate cap protection should be the default, not the monthly market price which could result in customers paying excessively high prices in the summer. 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. On October 2, 2001, a Settlement was submitted to the Administrative Law Judge. The Settlement allows PECO to implement a 12-month requirement on January 1, 2002, but requires that the 12 month rate cap protection be the default if a customer fails to make an election. Additionally, a customer who selects the monthly pricing option is free to return to the rate cap service if they stay on the rate cap service for the remainder of the 12-month term. After the initial 12-month term, all customers are free to switch to an alternative provider. The Settlement also provides for cooperation between PECO and the OCA in the drafting of the necessary consumer education and information materials. The ALJ recommended approval of the settlement. The Commission approved the 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). Also during Fiscal Year 2001-2002, 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. 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 throughout 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). During Fiscal Year 2001-2002, the parties completed the settlement documents and submitted the Settlement to the Commission for review and approval. The Commission approved the Settlement and PECO is in the process of implementing the expanded program.
Duquesne Light Company

Petition of Duquesne Light Company For Approval of Post-Transition Period POLR Service, Docket No. P-00021969, R-00974104, et al. As discussed in last year’s Annual Report, on November 29, 2000, the Commission approved a Joint Settlement Agreement signed by nearly all the major parties in Duquesne’s restructuring case, that presented a plan for Duquesne to meet its provider of last resort obligation after the conclusion of its stranded cost recovery. The plan is to be in place from 2001 through 2004. Under the Settlement, Duquesne’s POLR rates continue to be capped through 2004. The “price to compare” against which customers shop went up by one cent at the beginning of 2002 for most customer classes, but the approximately three cent stranded cost charge was eliminated for those customer classes. Therefore, customers saw an overall rate reduction of approximately 20% in 2002 at the same time that they have greater shopping opportunities. Additionally, rules were implemented that provide certain limitations to prevent commercial and industrial customers from going back and forth between Duquesne and competitive suppliers during high cost periods. A rule was also implemented for residential customers who return to Duquesne POLR service. Under this rule, residential customers who return to POLR service must remain with Duquesne for a minimum of 12 months before they can switch again to another supplier.

Under the Settlement, Duquesne was obligated to explore admission to PJM West, the operator of the transmission grid and the energy and capacity markets for almost all of Pennsylvania. Throughout Fiscal Year 2001-2002, further meetings were held among the parties to determine the impact of Duquesne’s possible admission to PJM West on the POLR service costs. The OCA supports the inclusion of Duquesne in PJM West, but sought to ensure that substantial additional costs are not imposed on Duquesne ratepayers that would reduce the value of the existing POLR contract.

On May 1, 2002, Duquesne filed a Petition requesting Commission approval of Duquesne’s participation in PJM West and approval of the recovery of the incremental costs of that participation. The incremental cost to Duquesne’s ratepayers of Duquesne joining PJM West at this time was $61.2 million. Of this $61.2 million, $43.7 million represented payments to Orion/Reliant, Duquesne’s current generation supplier and the purchaser of its generation assets, for the provision of a portion of its required Available Capacity Credits (ACAP). ACAP is the method utilized in PJM West to ensure reliable service. To join PJM West, Duquesne must meet this obligation. Duquesne was able to secure ACAP from FirstEnergy at no cost to Duquesne’s ratepayers for a significant portion of its load, but was charged $43.7 million by Orion/Reliant for the remaining portion.

On May 24, 2002, the OCA filed an Answer to Duquesne’s Petition. In its Answer, the OCA supported Duquesne’s decision to join PJM West, but given the cost to ratepayers, particularly the $43.7 million being paid to Orion/Reliant, the OCA argued that Duquesne should postpone its entry until closer to the end of the expiration of its current provider of last resort contracts. Although there will be long run benefits to Duquesne’s participation, Duquesne was not able to identify any significant, quantifiable benefit of membership now, during the term of its existing contract with Orion/Reliant to meet its provider of last resort obligation.
Several other parties, including the Duquesne Industrial Intervenors and a marketer, Strategic Energy, L.L.C. filed Answers and Complaints. Through a Secretarial Letter, the Commission assigned this matter to the Office of Administrative Law Judge for an expedited hearing. As of the end of the Fiscal Year, this matter is pending before an ALJ.

**PPL Electric Utilities**

**PUC Investigation Into Market Power In the PJM Installed Capacity Markets, I-00010090.** On November 30, 2001, the PUC initiated an investigation into the alleged exercise of market power by one PJM company to raise the price of installed capacity in the PJM Market in the first three months of 2001 above competitive levels. The Investigation was in response to a report issued by the PJM Market Monitoring Unit (MMU) that the exercise of such market power was the reason for excessive prices in that market. The OCA filed Comments on January 15, 2002 in this investigation. In its Comments, the OCA addressed the background of the ICAP market and supported the methodology and analysis conducted by the PJM Market Monitoring Unit. The OCA also discussed the Commission’s jurisdiction and authority in this matter and made recommendations for possible Commission actions if it agrees with the findings of the PJM MMU. In particular, the OCA recommended that the Commission continue this investigation and compile specific information on the harm to Pennsylvania ratepayers and Pennsylvania retail markets from the exercise of market power in the ICAP market.

On June 13, 2002, the Commission voted to issue its Report on its investigation. In its Report, the Commission concluded that there was cause to believe that PPL had engaged in the exercise of unlawful market power in the PJM ICAP markets, that it intends to continue such behavior in the event that those or similar circumstances recur, and that PPL’s behavior has led to a loss of confidence by market participants in the competitive nature of PJM wholesale markets generally. The Commission ordered that the matter be referred to the Attorney General of Pennsylvania, the United States Department of Justice – Antitrust Division and the Federal Energy Regulatory Commission in accordance with 66 Pa.C.S. §2811(d).

**Petition of PPL For Waiver Of 52 Pa.Code §§57.20(e) and 57.20(h), Docket No. P-00021940.** On January 29, 2002, PPL filed a Petition requesting a waiver of certain regulations pertaining to testing of meters. PPL is embarking upon an extensive meter replacement program to replace all 1.2 million meters in its service territory over the next three years. The regulations require that all meters removed from service be tested for “as found” registration accuracy. Additionally, the regulations require testing of installed meters on a specific schedule. Given the extensive replacement program, PPL asked for a limited waiver so that it would not have to test every meter for “as found” registration accuracy and so that it could suspend its current testing program and not test existing meters that will be removed within the next three years. The OCA filed an Answer with the Commission pointing out certain consumer protections that would be necessary if the waiver is granted. In particular, the meter testing regulations ensure that meters are accurate so that bills are accurate. A waiver of the meter testing regulations could result in lost data necessary to resolve consumer complaints about fast meters, and information necessary to properly
determine if a refund is in order. The OCA recommended several consumer protections similar to those ordered by the Commission in similar situations. Specifically, as a condition of waiver, the OCA requested that the Company be directed to accept as final all fast meter determinations of the Commission’s Bureau of Consumer Services (BCS). BCS is to make these determinations based on consumption history. Additionally, the OCA requested that the refund effective period be extended beyond the current 12-month limitation, and cover the entire waiver period of three years. The Commission entered an Order accepting the position of the OCA and directing the protections recommended by the OCA as a condition of the waiver.

PPL Electric Utilities Corporation Tariff Supplement for Residential Demand Side Response Rider, Docket No. R-00027175. On February 15, 2002, PPL filed a tariff supplement for a pilot residential demand side management program. This program, which is essentially a new time-of-use rate, will apply to up to 200 residential consumers for a period of three years. The intention is to create a price structure which encourages customers to drastically reduce consumption during times and seasons when wholesale energy prices are at their highest. On April 3, 2002, the OCA filed comments requesting that the PUC direct PPL to make several modifications in its proposal. These comments identified, among other things, a need for better customer education, improved program design, evaluation of results, a better billing design and screening out customers who are likely to lose money under the proposed program. PPL’s response, filed with the Commission on April 8, 2002, accepted a number of the OCA recommendations. The PUC Order of April 11, 2002, accepted the revisions filed by PPL.

Allegheny Power/West Penn Power

Petition For Declaratory Order Concerning The Joint Petition For Settlement Of West Penn Power Company’s Restructuring Plan, Docket No. P-00011918. On September 10, 2001, the Utility Workers Union of America (UWUA) and UWUA Local 102 filed a Petition with the Commission seeking a declaratory order regarding a term of West Penn’s Restructuring Settlement. West Penn’s parent company has recently proposed a new corporate structure that will create two companies, a company that holds the regulated distribution utility and a company that holds the generating assets. The proposal calls for an Initial Public Offering (IPO) for the company that holds the generating assets. UWUA seeks to have the Commission determine whether this IPO constitutes a “divestiture” of generating assets under West Penn’s Restructuring Settlement. If it does, then under West Penn’s Restructuring Settlement, the proceeds of the divestiture are to be used as an offset against stranded cost. On October 1, 2001, the OCA intervened in the Petition proceeding. An Answer was filed by West Penn along with a Motion to Dismiss. Subsequently, the UWUA filed a Petition to Withdraw its request for declaratory order since Allegheny Power has now indicated that it will not pursue the IPO based on current market conditions.

Metropolitan Edison Company and Pennsylvania Electric Company

Joint Application of GPU Energy and FirstEnergy for Approval of Merger, Docket Nos. A-110300F.095 and A-110400F.040. GPU Inc., the owner of two major Pennsylvania electric utilities (Met Ed and
Penelec) announced that it will merge with FirstEnergy Corp., a major Ohio utility that also has a Pennsylvania subsidiary (Penn Power). On November 9, 2000, GPU Energy and FirstEnergy filed their Application for Approval of a Merger. 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. The Application was published in the Pennsylvania Bulletin on November 25, 2000 and Interventions and Protests were due on December 11, 2000. 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. The matter was assigned to an ALJ and an expedited litigation schedule was established. The OCA filed direct testimony and public input hearings were held in February, 2001 in Erie, Reading, and Altoona.

The OCA took the position that the merger should only be approved if certain conditions were met. Specifically, the OCA tied approval to a commitment to meet the generation rate cap through 2010; an extension of the distribution rate cap for GPU and Penn Power through 2007; continuation of GPU in PJM and possible inclusion of First Energy in PJM West; improvements to the GPU distribution system; maintenance of universal service programs; and corporate structure protections for Pennsylvania ratepayers.

Briefs in the merger proceeding were filed on April 6, 2001. On April 24, 2001, the ALJ issued his Recommended Decision in the merger. 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, the ALJ recommended a $316 million rate increase for the GPU companies in the companion case.

The OCA filed Exceptions to the ALJ’s Recommended Decision regarding the ALJ’s rejection of a condition that would require FirstEnergy to meet GPU’s obligation within the rate cap, and to the ALJ’s rejection of certain other limited conditions. On May 24, 2001 the Commission approved the merger subject to certain conditions, but instituted a collaborative to address the issue of merger savings and GPU’s POLR obligation. The OCA participated in the collaborative during the week of May 28, 2001 but the collaborative did not result in a negotiated resolution.

After the conclusion of the collaborative, the OCA and several other parties continued discussions with FirstEnergy and GPU. Through these discussions, a Stipulation was reached with FirstEnergy and GPU. Under the Stipulation, FirstEnergy agreed to maintain the rate caps agreed to by GPU in its restructuring
proceeding. FirstEnergy and GPU were permitted to defer the costs to meet GPU’s POLR obligation in excess of the rate cap through 2005. GPU is then provided an opportunity to recover these costs for the remainder of the rate cap period, but must write off any costs not collected at the expiration of the rate cap. FirstEnergy and GPU also agreed to adhere to the conditions set forth in the Commission’s Order with minor modifications. On June 14, 2001, the Commission voted to adopt the Stipulation, and entered an Order in this regard on June 20, 2001.

The Commission’s Order was appealed to the Commonwealth Court by ARIPPA (a coalition of non-utility generators), York County Solid Waste and Refuse Authority (a non-utility generator), Clean Air Council (an environmental group) and Citizen Power (an environmental/consumer group), and the Mid-Atlantic Power Supply Association (an association of retail marketers). The OCA intervened in each of these appeals. MAPSA sought expedited consideration of its appeal, which the OCA opposed. The Commonwealth Court granted the expedited consideration and established a briefing schedule so that the cases could be argued in the November 2001 session. The OCA filed a brief in support of the Commission’s Order on October 17, 2001. Oral argument was conducted November 7, 2001. The OCA presented oral argument in support of the Commission’s Order.

On February 21, 2002, the Commonwealth Court entered its Order in this matter. In its Order, the Commonwealth Court upheld the Commission’s Order approving the merger and setting various conditions. The Court, however, rejected the Commission’s treatment of the merger savings issue as part of a comprehensive settlement that resolved GPU’s request for relief under Section 2804(4)(iii)(D). The Court found that GPU did not qualify for relief under Section 2804(4)(iii)(D) and as a result, the issue of merger savings was remanded to the Commission for further consideration in the merger context.

A number of Petitions for Allowance of Appeal of the Commonwealth Court’s Order have been filed with the Pennsylvania Supreme Court. Both the Commission and the GPU companies filed Petitions seeking review of the Commonwealth Court’s holding that GPU did not qualify for relief under Section 2804(4)(iii)(D). Other parties have filed Petitions for Allowance of Appeal challenging the Court’s decision to uphold the Commission’s approval of the merger. At this time, the Supreme Court has not issued a decision as to whether it will hear these appeals.

GPU Petition for Interim Rate Relief Pursuant To Section F.2 Of the Settlement, Docket Nos. P-001860 and P-001861. 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 the Settlement. The Company projected that it will incur approximately $42 million in 2001 in costs above the rate cap levels. 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 January 24, 2001 Public Meeting, the Commission ruled that GPU’s Petition should be treated as a request for a statutory rate cap exception and that the case should be consolidated.
with the pending merger and litigated on an expedited schedule. Under the schedule, the OCA’s testimony was filed on March 2, 2001.

The OCA has strongly opposed any rate increase above the capped level. The OCA has argued that GPU voluntarily divested its plants and failed to enter into long-term contracts. Therefore, its purchased power costs were not outside of its control. The rate increase is also opposed by the Companies’ industrial customers, who filed testimony that was similar to the OCA’s.

On April 25, 2001, the ALJ issued a Recommended Decision in the consolidated merger and generation rate cap proceeding. The ALJ granted the companies a combined rate cap increase of $316 million per year, or about 15% increase in total rates and 30% increase in generation rates. The Judge also recommended approval of the merger with several conditions that had been suggested by the OCA, including extension of the distribution rate caps for Met Ed, Penelec and Penn Power through 2007; requirement that GPU companies cannot be taken out of PJM without Pa. PUC approval; and a Service Quality Index for distribution improvements. The ALJ rejected the most important condition, however. That is, a requirement that First Energy meet GPU’s Provider of Last Resort obligation for generation service within the prior rate cap levels. The OCA filed vigorous Exceptions to the Recommended Decision on May 7. On May 24, 2001, the Commission voted to approve the merger but established a collaborative to discuss the resolution of GPU’s POLR rate increase request and the issue of the treatment of any merger savings. The OCA participated in the collaborative during the week of May 28, 2001 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. As set forth above, 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. The Commission entered an Order on June 20, 2001. An appeal was 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. MAPSA sought expedited consideration of its appeal, which the OCA opposed. The Commonwealth Court granted the expedited consideration and established a briefing schedule so that the cases can be argued in the November session. The OCA filed a brief in support of the Commission’s Order on October 17, 2001. Oral argument was conducted on November 7, 2001. The OCA presented oral argument in support of the Commission’s Order.
On February 21, 2002, the Commonwealth Court issued its Order in this matter. After affirming the Commission’s Order approving the merger, the Court reversed the Commission’s Order approving the Stipulation. The Court found that GPU did not qualify for relief under Section 2804(4)(iii)(D), specifically finding that a voluntary divestiture and subsequent purchase strategy did not place the cost of purchased power “outside of the control” of the utility. Rather, the Court found that these were strategic corporate decisions that failed and as such, did not entitle GPU to any relief under the Section 2804(4)(iii)(D) rate cap exception. The Court also specifically found that the extension of the transmission and distribution rate caps called for in the Stipulation was not supported in the Commission’s Order as a means of addressing merger savings and remanded this matter for further consideration. The Court also found that certain other provisions of the Settlement were not supported by the Commission’s Order.

A number of Petitions for Allowance of Appeal of the Commonwealth Court’s Order have been filed with the Pennsylvania Supreme Court. Both the Commission and the GPU companies filed Petitions seeking review of the Commonwealth Court’s holding that GPU did not qualify for relief under Section 2804(4)(iii)(D). Other parties have filed Petitions for Allowance of Appeal challenging the Court’s decision to uphold the Commission’s approval of the merger. At this time, the Supreme Court has not issued a decision as to whether it will hear these appeals.

Petition of Pennsylvania Electric Company Requesting Approval Of A Supplemental Agreement For The Sale Of Electric Energy From The Conemaugh Hydroelectric Plant, Docket No. P-00011926. On October 23, 2001, Pennsylvania Electric Company (Penelec) filed a Petition requesting approval of a supplemental agreement with the Conemaugh Hydroelectric Plant. Under the Supplemental Agreement, Penelec agreed to the elimination of the Recapture Pool which tracked the difference between the contract price and the market price. In addition, the ceiling price was reduced from 7.25¢/kwh to 7.0¢/kwh and the term of the contract was shortened by 5 years. Penelec projected that there would be no impact on its level of stranded cost associated with the project as a result of these changes. The OCA filed an Answer to the Petition on November 15, 2001. The OCA raised issues and questions regarding the provisions of the supplemental agreement and whether the changes are reasonable and in ratepayers’ interest. The parties are in the process of conducting informal discovery sessions and discussions to address the OCA’s concerns.

Pike County Light and Power Company

Pike County Light & Power Company Petition for Rate Cap Exception, Docket No. P-00011872. Pike filed a request on February 14, 2001, to increase its rates by more than two cents per kwh, because of high wholesale prices. 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. Pike should be required to continue to serve within the rate cap levels. The OCA filed testimony in this case on May 22, 2001. In its testimony, the OCA 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. Hearings were conducted in July 2001 in Philadelphia.

On August 1, 2001, the OCA filed its Main Brief in this matter. The OCA argued that Pike County had not met the requirements set forth in the Act for an exception to the rate cap. Reply Briefs were filed in this matter on August 10, 2001. On October 16, 2001, the Office of Administrative Law Judge issued the Recommended Decision of the presiding ALJ. In his Decision, the ALJ recommended that Pike County be permitted to increase its rates above the statutory rate cap level as requested. The ALJ concluded that the purchased power rate cap exception of Section 2804(4)(iii)(D) applied to Pike, and Pike had met the requirements of that section. The ALJ’s decision would have resulted in a 44% increase in generation rates for these customers. On October 31, 2001, the OCA filed vigorous Exceptions challenging the ALJ’s conclusion. The OCA continued its arguments that Section 2804(4)(iii)(D) was not intended to apply to a utility that voluntarily divested its generating assets after the enactment of the Customer Choice Act, and even if applicable to Pike, Pike had not met the requirements for a rate cap exception. Specifically, the OCA argued that Pike had engaged in a risky power procurement strategy decided at the corporate parent level with no regard for Pike’s needs in Pennsylvania. The OCA also argued that Pike’s parent had the financial resources to honor the Pennsylvania rate caps and should be required to do so. On November 13, 2001, the OCA filed Reply Exceptions to the Company’s Exceptions. At its Public Meeting of January 24, 2002, the Commission determined to institute a Commission-led collaborative settlement process to attempt to reach a settlement of this matter. The OCA participated actively in this Commission-led settlement process but the process was unable to reach an acceptable resolution.

On February 8, 2002, the OCA filed a Petition to Reopen the Record and an accompanying Affidavit. In its Petition, the OCA argued that market price for electricity had declined dramatically since the close of the record and that long term contracts at or near Pike’s generation rate cap should now be available. The OCA argued that rather than base any decision on data that has long since changed to set prospective rates, the Commission should reopen the record to reflect current market prices. On February 15, 2002, Pike filed a Reply and submitted a revised proposal. In its revised proposal, Pike proposed to eliminate its remaining stranded cost recovery and thereby its rate cap, and increase its rates to 6.786¢/kwh rather than the 7.2¢/kwh in its original filing. Additionally, Pike proposed to keep this rate in effect until the end of 2003, at which time it would charge ratepayers market price.

On February 28, 2002, the OCA filed a Reply opposing Pike’s proposal, particularly in light of the recent Commonwealth Court decision in the GPU proceeding. In that Order, the Commonwealth Court found that a utility that voluntarily divests its generating units, and pursues a purchasing strategy that fails, does not qualify for an exception to the rate cap under Section 2804(4)(iii)(D). The Court concluded that such actions cannot place the cost of purchased power “outside of the control of the utility.” In its Reply, the OCA argued that Pike could not circumvent this statutory protection, and the Court’s Order, through its
proposal to end its stranded cost recovery, particularly where it retained all other benefits from restructuring.

On April 15, 2002, the Commission entered an Order reopening the record, remanding the proceeding to the ALJ, and requiring that the ALJ issue a Recommended Decision in the remanded proceeding within 60 days. Among the questions in the remanded proceeding was whether Pike is distinguishable from the GPU proceeding, and whether other options exist for Pike.

The OCA filed testimony in the reopened proceeding regarding current market prices, and the factual similarities of Pike to GPU. Additionally, the OCA participated in the evidentiary hearings, conducting cross-examination and presenting additional evidence on these matters. On May 17, 2002, the OCA filed its Brief on Remand. The OCA argued that Pike’s request for an exception under Section 2804(4)(iii)(D) is directly controlled by the Commonwealth Court’s decision in the GPU case and that Pike could not circumvent this important statutory protection. Additionally, the OCA argued that if Pike took appropriate actions to meet its provider of last resort obligations now when market prices have moderated, it should be able to meet its obligation very near its existing rate cap.

On June 13, 2002, the ALJ issued his Recommended Decision. In his R.D., the ALJ agreed with the OCA that the case was controlled by the Commonwealth Court’s decision in the GPU case. The ALJ also found that Pike’s situation was not distinguishable from GPU’s. The ALJ recommended that Pike’s request for rate relief be denied in its entirety in that the Company is unable to meet the statutory requirements for a rate cap exception.

Settlement negotiations resumed with Pike after the issuance of the Recommended Decision. In July of 2002, the parties were able to reach a settlement that resolved the issues in this proceeding. Under the Settlement, Pike agreed to forego any further stranded cost recovery and thus eliminate the Competitive Transition Charges to its customers. Pike will then begin to offer its post-transition provider of last resort service at rates that are capped through 2005. The rate through 2004 is approximately 0.5¢/kwh above its current provider of last resort rates. In 2005, Pike can charge is actual costs for power supply, provided that the cost is no more than 5% higher than the 2004 POLR rate. Additionally, Pike agreed to reinstate the cap on its transmission and distribution rates, which had expired, through 2004 while it continues significant distribution system improvements. Finally, the Settlement calls for Pike to further study the feasibility of interconnection with PJM so that Pike’s customers can benefit from the large and liquid markets in PJM in meeting its provider of last resort obligations. The Commission approved the Settlement at its Public Meeting of August 8, 2002.

**Wellsboro Electric Company**

*Pa. PUC v. Wellsboro Electric Co.*, Docket No. R-00016356. On June 29, 2001, Wellsboro Electric Company filed with the Commission for an increase in its distribution rates of $638,181. Wellsboro’s distribution rate caps had expired since all customers had choice and Wellsboro was 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 was proposed to become effective September 27, 2001. On August 24, 2001, the OCA filed a complaint against Wellsboro’s proposed increase. The OCA participated actively in the proceeding, submitting the testimony of three expert witnesses on a variety of issues raised by the filing. The parties were able to reach a settlement agreement that resolved all of the issues in the case. Under the Settlement, Wellsboro was permitted to increase its distribution rates by $250,000. This represented an approximate overall increase of 4% rather than the 11% increase originally requested by the Company. Additionally, the parties agreed upon targeted annual benchmarks for distribution system improvement work to secure service quality improvements while these rates are in effect. Other provisions addressing service quality issues raised during the proceeding were also included in the Settlement. Finally, the parties were able to agree upon modifications to Wellsboro’s tariff to clarify Wellsboro’s obligations as provider of last resort and to clarify Wellsboro’s line extension procedures. The Commission entered an Order on January 24, 2002 approving the Settlement.

Request of Wellsboro Electric Company To Increase POLR Rates And Implement Proposed Provider Of Last Resort Tariff Supplements, Docket No. R-00027380. On April 30, 2002, Wellsboro Electric filed for an increase in its generation rates due to an increase in its contract price for electricity from its supplier. Wellsboro also sought to implement various tariff revisions governing its Provider of Last Resort Service that were similar to those implemented by its sister company, Citizens’ Electric. On June 10th, the OCA filed comments. The OCA did not oppose the rate increase since Wellsboro is not subject to a rate cap and the increase was controlled by the terms of the contract. The OCA urged the Company to pursue additional contract remedies to attempt to mitigate the increase. The OCA did oppose implementation of tariff revisions for POLR service at this time. The OCA argued that the tariff revisions adopted for Citizens’, which served as the model for Wellsboro, were specifically required by the type of wholesale contract that Citizens’ entered. The OCA argued that this form of wholesale contract may not be optimal for encouraging customer choice and should not be pursued, necessarily, by Wellsboro. The OCA recommended that Wellsboro seek to modify its tariff, if necessary, after it determines the appropriate wholesale contract. Wellsboro filed Replies agreeing to delay the implementation of its tariff changes until after it enters a contract and agreeing to pursue other contract remedies to attempt to mitigate the rate increase. On June 27, 2002 the Commission entered an Order allowing the rate to go into effect, but postponing implementation of the tariff changes.

**Citizens Electric Company**

Petition Of Citizens’ Electric Company Of Lewisburg To Modify Restructuring Settlement And Implement A Proposed Provider Of Last Resort Supply Offering, P-00011930 and R-00016999. On December 3, 2001, Citizens’ Electric filed a Petition requesting the implementation of a new provider of last resort supply pricing and structure. The new pricing, which resulted from a competitive bid process, required that Citizens increase its rates above the levels agreed to in its Restructuring Settlement. In the settlement, Citizens has specifically reserved its right to seek this increase based on the competitive bid since it is a
small purchased power company that owns no generation. Citizens serves just over 6,500 customers in Union and Northumberland counties as the provider of last resort. At this time, none of Citizens customers are served by an alternative supplier.

After an extensive RFP process, Citizens entered into a purchased power agreement with Reliant Energy Services, Inc. The projected fixed price for generation service to customers will be 5.2695¢/kwh, an increase of 1.14¢/kwh in Citizens’ current generation rate of 4.1285¢/kwh. Citizens proposed to recover the costs through a reconcilable surcharge mechanism similar to an ECR. Included in the reconciliation was payment made to Reliant, the “Switching Keep Whole Payment,” that was intended to account for the impact of seasonal switching by customers. Additionally, Citizens proposed that any customer that switches to an alternative provider but then returns in less than 12 months be placed on a seasonal rate that is higher in the summer months and the on-peak winter months, and lower in the off-peak months.

The OCA filed an Answer to Citizens’ Petition. In its Answer, the OCA acknowledged that the increase in the generation rate was the “price tag” at this time for this purchased power company to meet its POLR obligation. The OCA objected, however, to certain other aspects of Citizens’ proposal. In particular, the OCA opposed the Switching Keep Whole Payment that allowed costs to be shifted from shopping customers to non-shopping customers, the use of a reconcilable surcharge mechanism, the new switching rule that required a customer to return to a seasonal rate if they had shopped for less than 12 months, and the elimination of the previously agreed upon distribution rate cap. The OCA identified these features of Citizens’ proposal as being inconsistent with the principles that have guided Pennsylvania’s transition to more competitive retail electric markets.

At its Public Meeting of January 24, 2002, the Commission directed that a Commission-led collaborative be initiated to address the issues raised in the OCA’s Answer. The Commission agreed with the OCA that the rate could go into effect so that Citizens could meet its obligation under the new contract, but recognized that some of Citizens’ proposals were inconsistent with Pennsylvania’s Electric Choice Program. The OCA actively participated in this collaborative process, which began in February. The collaborative was able to resolve the remaining issues and the resolution was presented to the Commission for disposition. The Commission approved the resolution of the issues at its Public Meeting of June 27, 2002.

**UGI-Electric**

Tariff Supplement Of UGI Utilities, Inc. – Electric To Implement Post Transition Provider of Last Resort Rates, Rules And Regulations, Docket No. R-00017033. On December 27, 2001, UGI-Electric filed a tariff supplement seeking to implement rates, rules and regulations for its post-transition provider of last resort service. In its Petition, UGI-Electric proposed to retain its current total generation rate (shopping credit plus CTC) as its POLR rate after the conclusion of its stranded cost recovery for a one year period. UGI then proposed to increase its generation rate by 5% and cap it at that level through December 31, 2005. UGI also proposed to implement a “shopping window” on an annual basis. During the 45-day “shopping window”, the customer can select an alternative supplier a switch. The customer must enter into a 12 month contract with the alternative supplier. If the customer does not switch during the 45-day
shopping window, the customer must remain with UGI for 12 months. UGI has also proposed that if a customer is returned to UGI POLR service during the 12 month period, the customer will be assessed a “generation rate adjustment” which charges the customer the higher of market price or the POLR rate. UGI will also require new customers entering the service territory to be served on this GRA schedule, charging them the higher of market price or the POLR rate.

The OCA entered into discussions with UGI regarding the concerns identified by the OCA. Through these discussions, the OCA and UGI were able to agree to certain modifications to the proposal to address the OCA’s concerns. Specifically, UGI will withdraw its request to charge new and returning residential customers a GRA that reflects market price. New customers will receive the POLR price until the next shopping window. Customers that return during the course of the 12-month period will have to remain with UGI through the next price application period, but will be charged the POLR rate. UGI also agreed to work with the OCA in developing the consumer education and information materials necessary to explain and implement the new POLR service.

The Commission subsequently approved UGI’s proposal, as modified, but expressed reservations with UGI’s approach. As of the end of the fiscal year, the OCA and UGI are continuing to discuss implementation issues.

**Other Cases**

**Single Issue Rate Proceedings And Requests To Exceed The Statutory Rate Caps As A Result Of An Increase In The Revenue Neutral Reconciliation Tax Rate For 2002.** (PECO Energy Co., PPL Electric Utilities, Metropolitan Edison Co., Pennsylvania Electric Co., Pennsylvania Power Co., Duquesne Light Co., West Penn Power Co., UGI-Electric, Pike County Light and Power, and Citizens’ Electric.) On October 1, 2001, the Department of Revenue published a new tax rate adjustment of 16 mills for calendar year 2002 for the Revenue Neutral Reconciliation (RNR) pursuant to Section 2810. The RNR is a statutory mechanism that is intended to ensure that the Commonwealth maintains the level of tax revenue from the electric industry after restructuring that was received prior to restructuring. Section 2810 provides a formula for the calculation of this tax revenue and provides that any shortfall or overcollection be recovered through an adjustment to the Gross Receipts Tax (GRT). The tax rate adjustment results in a gross receipts tax of 60 mills per dollar of revenue as compared to the rate of 43 mills for calendar year 2001. For Pennsylvania’s electric utilities, this increase represented an approximate $142 million in tax liability for 2002. This increase in tax liability if passed through to customers, would result in rates exceeding the statutory rate cap. As a result, the EDCs filed a request pursuant to Section 2804(16) to exceed the rate cap to recover the increased tax liability. The OCA filed Complaints in each case arguing that in accordance with Section 2804(16), the Commission must find that any increase above the rate cap results in rates that are just and reasonable. The OCA argued that the EDC filings did not provide sufficient information to make this determination, and were particularly devoid of information regarding their rate of return. Additionally, the OCA presented the alternative method of a deferral mechanism for this year’s tax liability since the final tax rate will be established next year. The OCA also raised the issue of the proper
allocation of the tax to the generation and non-generation functions if the tax increase is to be passed through to ratepayers.

By Order entered December 21, 2001, the Commission approved the EDC requests to exceed the rate cap. In its Order, the Commission found that since the tax increase was “known and measurable” it was “just and reasonable” within the meaning of Section 2804(16)(ii). The Commission directed that evidentiary hearings be held on the “further issues” raised in the OCA’s complaint, but the Commission in its Order also rejected the OCA’s alternative deferral mechanism and directed the EDCs to reflect the increase in the “price to compare.

On January 8, 2002, the OCA appealed all nine cases to the Commonwealth Court. In its appeal, the OCA contended that the Commission committed an error of law in concluding that the resulting rates were “just and reasonable” based only on a “known and measurable” standard. The OCA also argued that the Commission abused its discretion and that its Order was not supported by substantial evidence. The matter was set for briefing with the OCA’s Brief due on April 1, 2002.

On February 25, 2002, the Commission filed a Motion to Quash the OCA appeals. The Commission argued that its Order was not final. The Commission argued that it would now consider all issues raised by the OCA’s complaint, and that it would order refunds if the OCA prevailed. On March 4, 2002, the OCA filed an Answer to the Motion to Quash. The OCA argued that the Commission’s Motion did not reflect the language in the Commission’s Order or the fact that the OCA had been assigned the burden of proof in the proceedings below since the OCA was seen to be challenging an approved rate. Additionally, the OCA pointed out that the Commission’s Order was an adjudication, which is a final determination. The OCA asked that if the Court finds the Commission’s Order to be interlocutory, that it direct the Commission to assign the burden of proof to the EDCs, clarify that the rates are fully subject to refund, and direct that all issues set forth by the OCA and reflected in the Commission’s Motion to Quash be examined on the record below. Oral argument on the Motion to Quash was held on March 20, 2002.

Based on the Commission’s representations that it would consider the issues raised by the OCA, the Commonwealth Court granted the Motion to Quash. At the prehearing conference in the returned proceeding, however, the Administrative Law Judge narrowed the scope of the proceeding in a manner that precluded the consideration of the issues raised by the OCA in its complaints. On April 15, 2002, the OCA filed a Petition for Review Of and Answer To A Material Question, asking the Commission to determine whether the ALJ had erred in narrowing the scope of the proceeding in light of the Commission’s representations to Commonwealth Court. On April 22, 2002, the OCA filed a Brief in Support of its Material Question.

On May 9, 2002, the Commission ruled on the OCA’s Petition for Review of and Answer to a Material Question. The Commission ruled that the ALJ erred in narrowing the scope of the proceedings to preclude a review of each EDCs current earnings and rate of return, but agreed with the ALJ’s determination that offsetting tax savings should not be considered. The Commission remanded the case to the ALJ for
hearings on the rate of return matters. A hearing schedule was established with the OCA’s testimony due on June 28, 2002 and evidentiary hearings at the end of July.

On June 4, 2002, the Commission issued a Secretarial Letter revoking the schedule established by the ALJ and requiring that the proceeding be concluded by July 30, 2002. The ALJ issued a new schedule requiring that the OCA’s testimony be filed on June 14th rather than June 28th. Hearings were then held on June 25th. The parties were permitted to file a Main Brief, but no Reply Briefs were allowed under the schedule. The OCA submitted the testimony of two witnesses addressing the rate of return matters. As the end of the fiscal year, the OCA was in the process of preparing its Main Briefs.

The OCA has been able to settle these issues with one company, UGI-Electric. Under that settlement, UGI has agreed to end its stranded cost recovery several months early for residential customers, and move those customers into its post-transition provider of last resort service. The post-transition provider of last resort service continues the existing rate cap levels until June 2004 with an increment to the rate cap thereafter. This plan also provides a higher price to compare and a "shopping window" approach to securing alternative providers. The Commission approved this Settlement at its Public Meeting of June 13, 2002.

**Rulemakings**

**Third Party Billing By Licensed Or Unlicensed Entities, Docket Nos. M-00011466 and M-00011466.** On May 4, 2001, the Commission entered an Order requesting comments on certain billing practices by entities known as third party billing. 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 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. Reply Comments were filed on July 20, 2001. In its Reply Comments, the OCA highlighted the importance of licensing third party billing entities who serve the residential markets. The matter is still pending before the Commission.

**Petition Of The Energy Association Of Pennsylvania For Revisions To The Licensing Regulations Regarding Bonding Requirements For Energy Generation Suppliers (EGS), Docket No. P-00011923.** On October 9, 2001, the Energy Association of Pennsylvania (EAP) filed a Petition requesting that the Commission revise its Licensing Regulations for Electric Generation Suppliers (EGS) to modify the bonding and security requirements. EAP averred that recent experiences with the default of EGSs in the market has demonstrated the need for prudent financial assurances due to the significant costs that are imposed as a result of these departures. EAP recommended specific changes to provide for stronger financial assurances and security. The OCA filed an Answer acknowledging that with recent experience, it may be
appropriate to revisit the bonding requirements to ensure that they are achieving their intended purpose. The OCA recommended that the Commission explore these issues through an appropriate proceeding. The matter is now pending before the Commission.

Petition of the Energy Association Of Pennsylvania For Waiver Of Regulations Regarding Preservation Of Records, Docket Nos. P-00011902 and P-00011903. In January, 2002, new record retention rules promulgated by the Federal Energy Regulatory Commission (FERC) became effective. These rules updated, reduced and clarified record retention requirements for FERC jurisdictional utilities. Subsequently, the Energy Association of Pennsylvania (EAP) filed a Petition asking the Commission to waive its record retention regulations that established time frames for record retention that were different than the FERC requirements. On February 4, 2002, the OCA filed an Answer opposing the EAP Petition arguing that the Commission’s regulations should not be waived unless a showing is made that compliance with those regulations would result in a violation of the federal regulations. The OCA noted that in almost all instances, the Commission’s regulations required that records be retained for a longer period of time than the revised FERC regulations. The OCA argued that these longer time frames were appropriate due to the nature of the Commission’s regulatory responsibilities particularly as it regards rates and service.

On April 16, 2002, the Commission entered an Order rejecting the Petitions for Waiver and adopting the position set forth by the OCA. The Commission also established a Working Group to consider appropriate changes to its record retention requirements and make recommendations to the Commission. At the end of the Fiscal Year, the OCA was preparing to actively participate in this Working Group.

Other Energy Matters

Comments On Governor’s Energy Task Force Draft Recommendations For Pennsylvania Energy Policy. On July 20, 2001, the Governor’s Energy Task force issued its recommendations for a long-term energy policy for Pennsylvania. On July 26, 2001, the OCA was invited to comment on these recommendations by Chairman Glen Thomas of the Pennsylvania Public Utility Commission. The OCA provided Comments to Chairman Thomas on August 17, 2001. In its Comments, the OCA supported the Task Force’s efforts to take a renewed and comprehensive look at energy issues in the restructured environment. The OCA emphasized the need for regional coordination of energy issues and the need for the Task Force to focus its efforts on areas where Pennsylvania can have the greatest impact through policy, legislation and state agency proceedings. These areas include, among others, retail competition policy, demand side management initiatives, distributed generation programs, local renewable resources and advanced metering. The OCA also supported the draft recommendations regarding the need to assist low income customers with their energy burdens. The OCA suggested that the recommendations of the draft policy be strengthened in this regard so that affordable energy service for low income consumers can be realized in Pennsylvania.

In late March, 2002, the Governor’s Energy Task Force issued its recommendations for a State Energy Policy. The recommendations adopted many of the suggestions of the OCA, particularly those that called
for a strengthening of the policy in regard to the provision of affordable energy service to low income customers.

**PUC Demand-Side Working Group.** Organized through the efforts of Commissioner Fitzpatrick, this 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. Work continues on the development of consumer education programs and on a permanent evaluation system for the programs. Discussions are being held regarding both guidelines and specific program content for residential consumers. The OCA has been working with Citizens for Pennsylvania’s Future and the Energy Association of Pennsylvania to establish specific goals and time lines. At the end of the Fiscal Year, the OCA was continuing its participation in this group.

**PUC Interconnection Working Group.** The PUC initiated this informal process in recognition of the key role which interconnection policies play in permitting new generation to be connected to the power grid. Initial discussions have centered around fundamental principles and technical standards. The Commission informally halted work on this pending the results of the FERC Interconnection NOPR which was issued in January 2002.

**Task Force On 21ST Century Energy Policy For Pennsylvania.** Established under House Resolution 224, this stakeholder group is charged with identifying how the Commonwealth can act to reduce our vulnerability to energy crises, particularly petroleum shortages. The OCA participated to emphasize the importance of conservation, renewables and education strategies which impact residential consumers. The group met monthly with the objective of issuing a final report in May 2002. The OCA put forward a number of proposals for energy saving programs and OCA staff chaired the committee which developed recommendations for the residential sector. A final report was released June 3, 2002 and addressed a number of recommendations for legislative action.

**OCA Shopping Statistics.** The OCA released its most recent set of electric shopping statistics on July 3, 2002. These showed an overall reduction in the number of Pennsylvania consumer served by alternative suppliers from 534,381 to 305,422. This latter number includes 34,499 residential customers assigned to Green Mountain’s Competitive Discount Service program. Due to New Power’s withdrawal from the market, 174,279 CDS customers formerly served by NewPower, and not reported here, are now served by PECO but continue to receive the discounted CDS price. In terms of total load served by competitive suppliers, that amount decreased from 2443 megawatts in April 2002 to 2142 megawatts. It should be noted that 381 megawatts is of load for CDS customers formerly served by NewPower, and are not reported here.
Federal

Introduction

During the past fiscal year, while the nation generally experienced instability and lack of consumer confidence in energy markets, Pennsylvania consumers generally enjoyed the benefits of stable, competitively priced electricity services. The OCA’s continued active participation in electric proceedings before the Federal Energy Regulatory Commission (FERC) during this period focused on attempts to set rules governing wholesale electricity markets in Pennsylvania that would ensure maximum protection for Pennsylvania consumers. Many of the FERC proceedings center on developing policies and regulations governing wholesale electricity markets, including those operated by the Pennsylvania-New Jersey-Maryland Interconnection, L.L.C. (PJM) and the Midwest Independent System Operator (MISO).

As FERC moves forward with a national plan to promote competitive wholesale electricity markets, the OCA’s activities in FERC electric proceedings has increased substantially. High energy price and blackout events in California and the financial demise of Enron Corporation led FERC in the fall of 2001 to open several investigations into promoting greater consumer protection by proposing standardization of the rules governing these markets and transactions. These efforts were initiated with FERC’s issuance last fall of several orders related to market monitoring and refund protection provisions and issuance on July 31, 2002 of the Standard Market Design (SMD) Notice of Proposed Rulemaking. These various proceedings are discussed in greater depth below.

PJM is an Independent System Operator (ISO) under FERC’s Order No. 888 issued in 1997, while MISO is a Regional Transmission Operator (RTO) under FERC’s Order No. 2000 issued in December, 1999. PJM operates the electric transmission systems of the utility members of PJM, including PECO Energy Company, PPL Utilities, Inc. and the FirstEnergy companies of Metropolitan Edison and Pennsylvania Electric. Since April, 2002, PJM has expanded to incorporate PJM West, consisting of the transmission systems of Allegheny Power Systems. As a result, all but two electric utility transmission systems in Pennsylvania are now operated by PJM. Duquesne Light Company is working toward joining PJM West, but the FirstEnergy Operating Company of Pennsylvania Power Company has decided to join MISO. On May 28, 2002, American Electric Power Company, Commonwealth Edison Company and Dayton Power & Light Company also filed with FERC for approval to join PJM West.

PJM also operates the wholesale electric markets within its borders and, discussions between PJM and MISO and their stakeholders are on-going in an effort to develop a single energy market that will span the Midwestern and Mid-Atlantic regions of the nation. The OCA anticipates that this effort could bring even lower priced electricity into Pennsylvania’s wholesale electricity markets. Consequently, the OCA is devoting substantial resources to these discussions.

PJM’s and MISO’s rules for and operation of these markets are critical to ensuring that retail competition in Pennsylvania will work. The OCA’s work on these issues continues to increase as
PJM, along with other ISOs, attempt to transform themselves into RTOs pursuant to FERC’s Order No. 2000, and possibly in the future into Independent Transmission Providers (ITPs) under the SMD. All electric utilities not currently participating in an ISO had to, by October 15, 2000, file a proposal to join or form an RTO, or explain their failure to do so. On October 11, 2000, and in March, 2001, PJM filed to transform itself and PJM West into an RTO. To date, FERC has only granted provisional approval for that effort, and is encouraging PJM to expand its markets and operations further. In fact, FERC used the PJM governance and market design as the basis for the SMD NOPR. These cases are discussed in greater detail below.

Order No. 2000, Order No. 888 and the SMD NOPR all share the same basic goal: elimination of discrimination by vertically integrated electric utilities and fostering competitive wholesale electricity markets by promoting access to electric transmission systems by competitive electric suppliers. These orders require that ISO, RTO and ITP filings reflect certain basic governance and pricing characteristics, including requirements for independent governance, elimination of rate pancaking, and standardization of energy markets, congestion management systems and market monitoring.

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 MISO. The OCA is also involved in the FERC rate, tariff and formation proceedings related to these entities. 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**

**Order No. 2000: Regional Transmission Organizations**, RM99-2-000. On December 19, 1999 FERC issued a final rule encouraging the formation of RTOs, including requirements on the characteristics and functions which such RTOs should exhibit and undertake. FERC made participation in RTOs voluntary, but required every utility to make a compliance filing either proposing to join or form an RTO, or to explain why the utility has chosen not to join or form an RTO. The OCA had submitted comments on behalf of itself and the National Association of State Utility Consumer Advocates (NASUCA) in the rulemaking proceeding leading to this final rule 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

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 commissions appealed the opinion. On March 4, 2002, in New York et al. v. FERC, 122 S.Ct.1012 (2002), the United States Supreme Court upheld FERC’s authority to regulate interstate transmission of electricity. This order lends substantial support to FERC’s efforts to regulate matters affecting interstate electricity transactions in both Order No. 2000 and the current SMD NOPR proceedings.

Market Design Notice of Proposed Rulemaking, RM01-12-000. FERC held collaborative meetings with electricity market stakeholders in October, 2001, and again in February, 2002 with the intent of developing a new Notice of Proposed Rulemaking (NOPR) that would implement additional criteria by which FERC will judge whether RTO filings comply with the Order No. 2000 requirements relating to the formation of RTOs. That effort focused on the development of standardized governance structures, congestion management, market design, market monitoring and other technical issues. The Consumer Advocate spoke at these conferences on market monitoring issues. The OCA filed comments at various times in this proceeding jointly with other consumer advocate offices in the Northeast. Those comments focused on issues relating to cost-benefit analyses, governance, transmission planning, market monitoring and the allocation of RTO functions between hybrid RTO / Independent Transmission Company (ITC) structures. On February 27, 2002, FERC issued its Economic Assessment of RTO Policy, requesting that comments be filed in April, 2002. This cost / benefit analysis of FERC’s policy in fostering a limited number of RTOs around the nation, including the Northeast RTO discussed below, indicates that Pennsylvania would incur a net increase in electricity prices and charges if PJM were to combine with the New York ISO and ISO-New England into a single RTO. The OCA did not file comments on the cost / benefit analysis. However, in March and April, 2002, FERC issued additional Staff White Papers on Standard Market Design, asking parties to comment on Staff’s recommendations relating to standardization of market structure and RTO governance, transmission pricing and capacity markets. The OCA participated in the filing of joint comments with numerous other consumer advocate offices in the northeastern United States generally supporting the existing market design and governance structures that exist in the PJM ISO and in ISO New
England and the New York ISO. On July 31, 2002, FERC issued its SMD NOPR in this proceeding, proposing to standardize RTO market design and governance structures along the basic lines of the structures and markets that exist in PJM as advocated by the OCA in its comments in these proceedings.

**Capacity Markets Study, EX01-1-000.** On September 27, 2001, FERC issued a request for comments on a Staff study recommending that RTOs develop forward reserve capacity markets to address generation adequacy and reliability concerns. This issue is one of the most critical issues facing competitive wholesale energy markets today. The lack of such capacity markets, obligations and rules in California has been linked to the capacity deficiencies which existed in California’s markets in 2000 and 2001. The OCA is concerned that the rules in PJM that govern the capacity markets in which Pennsylvania utilities participate are flawed and require revision. This issue is now subsumed within the global SMD NOPR issued in Docket No. RM01-12 as discussed above.

**Standardization of Generator Interconnection Agreements and Procedures, RM02-1-000.** On October 25, 2001, FERC issued an Advanced Notice of Proposed Rulemaking (ANOPR) in this docket announcing its intent to issue a proposed rule standardizing generation interconnection procedures among ISOs and RTOs, and requesting comments by December 21, 2001, from stakeholders on related issues. Subsequent to the issuance of the ANOPR, the Commission Staff convened a collaborative process among stakeholders to develop a consensus proposed rule. As a result of that process, the Staff posted a consensus proposed rule on the FERC website on January 11, 2002 to assist the stakeholders in preparing comments on the ANOPR. OCA staff attended one meeting in Washington and another in Philadelphia relating to this process. On April 24, 2002 FERC issued a NOPR regarding interconnection under Docket No. RM02-1-000. The OCA filed comments on June 17, 2002 jointly with several other consumer advocate offices in the Mid-Atlantic region. Those comments generally support the need for flexibility in the standardized rules for ISO and RTO procedure already adopted or proposed by stakeholders through a consensus stakeholder process so long as the adopted or proposed procedures are consistent with the underlying goals in the standardized rules. This NOPR remains pending before FERC.

**Revisions to Market Based Rate Authority Orders, EL01-118-000.** On November 20, 2001, FERC issued a notice that it was proposing to revise the language in all market based rate authority orders for all jurisdictional entities to include language that such entities agreed not to engage in anti-competitive behavior and to further include language that these entities agreed by acceptance of the market based rate authority to accept any Commission ordered refunds or termination or limitations on market based rate authority in the event the Commission were to find that the entity had engaged in anti-competitive behavior. The OCA filed comments in this proceeding through its participation in NASUCA on December 5, 2001 and February 5, 2002. In those comments, NASUCA and the OCA supported FERC’s efforts to address market power concerns and the potentially unjust and unreasonable rates stemming from the exercise of such market power and urging FERC to balance investor and consumer interests in ensuring that competitive markets remain workably competitive by providing for the type of oversight, monitoring and refund remedies envisioned in the November 20 Order. Numerous parties, including most utilities and generator participants, sought rehearing of this order, challenging FERC’s authority to issue the order and
questioning the wisdom and effectiveness of any proposed rule. FERC held a technical conference on March 11, 2002 to address the concerns raised by the parties in this proceeding. The OCA participated via its membership in NASUCA, as NASUCA had a spokesman on the panel presentation for this conference. The OCA filed additional comments on March 22, 2002 in this proceeding on behalf of several consumer advocate offices in the northeastern United States. This matter is pending before FERC.

**AEP Power Marketing, Inc. et al., ER96-2495-015 et al.** On November 20, 2001, FERC issued an order in three utility proceedings, AEP Power Marketing Inc., Entergy Services, Inc. and Southern Company Energy Marketing, L.P., ruling on their requests for market based rate authority. In the order, FERC noted that it was revising the market power screen analysis used to assess whether generators and power marketers had market power. Previously, FERC used a hub and spoke analysis that many stakeholders in the industry, including the OCA and NASUCA, have criticized as failing to capture the impact of transmission congestion in the analysis. FERC now proposed to revise its methodology by including an analysis of the impact of transmission constraints on market power and an analysis of whether the generator’s capacity was pivotal to the market during peak periods. This new analysis is called the Supply Margin Assessment (SMA) screen. FERC also noted that it would address these issues in a new proposed rulemaking proceeding to revise its market power screen methodology and would propose various remedies in the event market power was determined to exist. Finally, FERC determined that these entities had not met the screen and required certain mitigation measures to be taken. On December 20, 2001, FERC issued an order delaying the effective date for the mitigation measures and noted that it intended to hold a technical conference on these issues. The OCA supports the direction FERC is heading in this proceeding and plans to participate in any future technical conferences or rulemaking proceedings. This matter remains pending before FERC.

**Standards of Conduct for Transmission Providers, RM01-10-000.** On September 27, 2001, FERC issued a Notice of Proposed Rulemaking proposing to revise its Standards of Conduct governing affiliated relations for both interstate pipelines and electric transmission providers. FERC sought comment on whether it should merge its currently separate standards for gas pipelines and electric transmission providers considering the convergence of such entities through mergers. In addition, FERC sought comment on whether to expand the scope of affiliates covered under the comments to ensure that all energy affiliates of gas pipelines and electric transmission providers are affected. Finally, FERC sought comment as to how these standards should apply to electric transmission providers that are RTOs or are subject to the operational control of an RTO, as well as to how the standards should apply to electric transmission providers who have not unbundled their vertically integrated operations. The OCA assisted NASUCA in developing comments that we submitted in this proceeding on December 20, 2001. On May 21, 2002, FERC held a technical conference in this docket on a Staff proposal to narrow the definition of energy affiliate in the NOPR. The OCA participated in this conference, along with the West Virginia Consumer Advocate Division, on behalf of NASUCA, urging FERC to retain a broad definition of energy affiliate, but to establish rules which would allow employees of vertically integrated electric utilities to continue to undertake integrated resource planning without violating the proposed ban on all communications between transmission and merchant function employees. On June 28, 2002, the OCA and the West Virginia
Consumer Advocate submitted Supplemental Comments on behalf of NASUCA continuing to urge FERC to apply a broad brush to the definition of energy affiliate as many stakeholders at the May 21, 2002 conference argued for exemptions. This matter remains pending before FERC.

Electricity Market Design and Structure, RM01-12-000. Although this docket is discussed at length above, one phase of this docket related to the creation of the North American Energy Standards Board (NAESB) and the wholesale electric quadrant requires separate discussion. In 1993, the interstate natural gas industry created the Gas Industry Standards Board (GISB) in an effort to standardize protocol for electronic data interchange among interstate pipelines and their customers. In the fall of 2001, FERC directed the wholesale electric industry to pursue a similar course and pattern the resulting organization after GISB. As a result of substantial efforts by all stakeholders, including the OCA’s participation through its membership in NASUCA, the electric and gas industries have decided to transform GISB into NAESB, with four quadrants: retail gas, retail electricity, wholesale gas and wholesale energy. In the wholesale energy quadrant, the stakeholders were unable to reach consensus on several critical issues, including: a) the relationship of NAESB to the North American Electric Reliability Council (NERC); and b) the creation of stakeholder sectors for governance and membership fees. The OCA, through its membership in NASUCA submitted comments to FERC in March, 2002 requesting that FERC clarify NAESB’s role in setting standards as related to electronic data interchange and business protocols and that all reliability standards be left to NERC, state commissions and local regional reliability councils. On May 16, 2002, FERC issued an order in this docket declining to resolve this dispute and requesting that the stakeholders resume negotiations on these points. NAESB’s wholesale electric quadrant (WEQ) held another meeting on May 29 - 30, 2002 to continue the discussions on these issues. On June 14, 2002, the OCA through its participation in NASUCA, joined with several other small consumer organizations, including the American Public Power Association and the Transmission Access Policy Study Group, in seeking rehearing of the May 16 order on the basis that FERC failed to give sufficient direction to ensure that small consumers will have a voice in the NAESB WEQ process. The pleading points out the deficiencies experienced to date with small consumers attempting to have a viable role in the NAESB formation process that appears to be dominated by transmission and generation owners. The OCA continues active involvement in this process through its participation in NASUCA. The OCA also participates as a member of the Stakeholders Committee on NERC and has joined the retail electric and gas quadrants of NAESB.

ISO Proceedings and Related Cases

Alliance RTO Order No. 2000 Compliance Filing, RT01-88-000; and ER99-3144-000, EC99-80-000. On January 16, 2001 the Alliance Companies, including FirstEnergy Operating Companies and its affiliate Pennsylvania Power Company, 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 Alliance Companies’ prior filing pending at Docket Nos. ER99-3144 and EC99-80 to establish a “Transco” to operate the transmission systems of member utilities. FERC had, through a series of orders issued between 1999 and 2001, rejected the Alliance Companies’ attempts in those dockets to create a Transco that would operate either as an ISO
under Order No. 888 or as a RTO under Order No. 2000 on the bases that the Alliance filings failed to satisfy the independence characteristic as well as several other requirements of Order Nos. 888 and 2000. Additionally, National Grid, an electric utility that owns transmission and some generation facilities in the Northeastern United States, filed with FERC for approval to become the managing member of the Alliance. Numerous protests of these filings were filed in September and November, 2001. On December 20, 2001, FERC issued an order granting the Midwest ISO authority to operate as an RTO, rejecting the Alliance Companies Order No. 2000 RTO compliance filings for failure to satisfy the scope and configuration requirements of Order No. 2000, and directing the Alliance Companies to pursue membership in the Midwest RTO as a Transco or ITC. The OCA believes this order is a significant step forward toward creating a single market for the Midwest. However, on January 22, 2002, the Alliance Companies and others sought rehearing. Additionally, on April 25, 2002, FERC issued another order in this docket rejecting the Alliance Companies’ proposal to allow National Grid to operate the Alliance Companies’ facilities as an ITC and to share Order No. 2000 functions with the Midwest RTO. FERC ordered these companies to either join the Midwest RTO or PJM. Once again, this is a significant policy statement from FERC moving in the direction of a single market for the Midwest.

On May 8, 2002, AEP, one of the founding members of the Alliance Companies, issued a press release announcing its intent to join PJM West. Additionally, on May 21, 2002, American Transmission Systems, Inc. (ATSI), the transmission subsidiary of FirstEnergy, another founding member of the Alliance Companies, filed with FERC for approval to join the Midwest ISO. On May 28, 2002, Commonwealth Edison, an affiliate of PECO Energy, and Illinois Power also announced their intent to join PJM West. On June 25, 2002, Dominion Resources declared its intent to join PJM.

On June 12, 2002, FERC held a public meeting at which it expressed concern with the RTO configuration that was taking place in the Midwest. FERC was especially concerned that ATSI / FirstEnergy’s decision to join MISO in light of AEP joining PJM did not make sense. The OCA on June 18, 2002 intervened in the ATSI / FirstEnergy filing at Docket No. EL02-65-000 noting that ATSI / FirstEnergy’s physical ties to AEP and PJM were stronger than they were with MISO and urging FERC to hold ATSI / FirstEnergy to a heavy burden to show that it was in the public interest for ATSI / FirstEnergy to join MISO. The OCA also noted in its comments that on-going efforts between PJM and MISO are attempting to create a single energy market for the MISO - PJM region and that such efforts, if successful, could resolve many of the most serious concerns with seams issues resulting from the emerging configuration of these two ISOs / RTOs. Many Midwestern stakeholders have protested these filings on the basis that the result is a jagged seam running through the Midwest and the isolation of ATSI / FirstEnergy as a MISO island surrounded by PJM. These stakeholders prefer that all former Alliance Companies, including ATSI / FirstEnergy, join MISO. FERC issued an order on July 31, 2002 approving the utilities’ initial selections conditioned on PJM and MISO creating a single market across the region.

PJM Order No. 2000 RTO Compliance Filing, RT01-2-000. On October 11, 2000, PJM filed its Order No. 2000 compliance filing to transform the ISO’s operations into an RTO structure. The OCA intervened and filed joint comments with other state consumer advocate offices on November 20, 2000. The
consumer advocates sought greater voting rights in the new PJM structure and also opposed a plan proposed by the PJM transmission owners for “incentive” ratemaking that would have allowed the companies to avoid the requirements of their state rate caps. On February 23, 2001, Enron Power Marketing and Trading, Inc. filed in this docket, and in the New York ISO and ISO New England dockets to consolidate these three dockets with the goal of creating a single RTO for the PJM, New York and New England regions. On July 12, 2001, FERC issued a series of orders in this docket and in the RTO dockets of the New York ISO, ISO - New England and PJM West encouraging these entities to combine into a single RTO for the Northeast. FERC provisionally approved PJM and PJM West’s RTO filings, rejected the New York ISO and ISO New England filings, and ordered all to participate in a mediation proceeding to accomplish the end result of a single Northeast RTO. Several state commissions filed a request for a stay of the settlement process, noting their concern that this process may harm the operations of PJM in running a competitive energy market for the Mid-Atlantic region. Numerous requests for rehearing were filed and remain pending before FERC. The OCA does not anticipate an order in this proceeding until FERC has issued a final rule in its SMD NOPR proceeding at Docket No. RM01-12 discussed above, however, the New York ISO and ISO New England have abandoned efforts to merge with PJM and are pursuing a merger of their two ISOs.

Northeast RTO, RT01-99-000. This is the new proceeding FERC established to encourage mediation among all stakeholders and parties to the separate RTO filings of the PJM ISO, PJM West, the New York ISO and ISO New England to establish a single RTO for the Northeast as discussed above. During August and September, 2001, the parties developed a Plan that would allow this mediation process to move forward on specific topics, using the PJM ISO design and market structure as the structural design for the new RTO while incorporating the best practices of the other ISOs. The OCA has participated extensively in the settlement process to establish a Northeast RTO. That process resulted in the OCA’s commitment of two staff people on almost a full time basis to this effort to ensure that any resulting Northeast RTO retains a structure similar to PJM and provides benefits to Pennsylvania ratepayers. The Settlement Judge issued his report on the mediation process on September 17, 2001. The OCA, through its participation in the Northeast Consumer Advocates Coalition, filed comments in this docket on October 9, 2001 setting forth minimum requirements for governance of the process of creating a Northeast RTO in order to ensure that energy suppliers and ultimately consumers in Pennsylvania continue to have access to workably competitive wholesale energy markets. This matter is now pending before FERC, and is on hold pending the outcome of the deliberations in RM01-12 discussed above. However, several public announcements have been made that affect the prospect of a Northeast RTO as proposed above. First, New York ISO and ISO-New England have announced that they are negotiating to combine into a single RTO for New York and New England. Additionally, PJM and the Midwest RTO have announced an agreement reached to create a single, seamless market across the Midwest and Mid-Atlantic regions of the nation. The OCA, while supportive of the effort to create a Northeast RTO, has always maintained that Pennsylvania’s interests lie more to the west and south of PJM than to the north and east. Consequently, the OCA supports the current efforts by PJM and the Midwest ISO to create a single energy market across their regions. A stakeholder meeting relating to these matters was held on February 8, 2002 at FERC. As noted above, the OCA does not anticipate an order in this proceeding until FERC
has issued a Notice of Proposed Rulemaking and resolved the economic assessment issues discussed above in the Standard Market Design proceeding at Docket No. RM01-12. New York ISO and ISO New England have since abandoned efforts to join forces with PJM.

Duquesne Light Company Order No. 2000 RTO Compliance Filing, RT01-13-000. Duquesne Light Company filed an alternative to participation in an RTO. As noted above, the OCA generally prefers that all electric utilities in Pennsylvania join PJM. Consequently, on November 20, 2001 the OCA intervened and filed comments, encouraging Duquesne’s efforts to join PJM West. FERC took no action on this filing when ordering PJM, PJM West, the New York ISO and ISO New England to combine into a single Northeast RTO. Duquesne publicly announced in the early spring of 2002 that it had reached agreement with PJM to join PJM West. The OCA fully supports Duquesne’s decision to join PJM West at the appropriate time and cost.

Allegheny Energy Service Corporation Order No. 2000 RTO Compliance Filing, RT01-10-000, RT01-98-000, ER02-235 and PJM West, ER02-658. On October 16, 2000, Allegheny Energy Service Corporation filed on behalf of Allegheny Power and its affiliates, West Penn Power, the Potomac Edison Company and Monongahela Power Company, a filing to comply with the RTO requirements of Order No. 2000. Essentially, Allegheny proposed to operate its transmission facilities in conjunction with PJM, thus effectively creating PJM West. The OCA intervened and filed comments on November 20, 2000, encouraging Allegheny’s efforts to create PJM West. On March 29, 2002, Allegheny Power filed a settlement of all outstanding issues in this proceeding. The OCA did not oppose this settlement, however comments filed by other parties led the Presiding Administrative Law Judge to reject the settlement as contested and unclear. On May 21, 2002, Allegheny and PJM filed a revised settlement agreement in an effort to resolve the issues raised by the Presiding ALJ. PJM West began formal operations on April 1, 2002 as an integrated part of PJM’s energy markets.

On March 15, 2001, Allegheny Power Company and PJM Interconnection, L.L.C. filed with FERC to create PJM West. This filing extends PJM’s markets west to encompass Allegheny’s service territory and effectively places Allegheny’s transmission facilities under PJM’s control. The OCA intervened in this proceeding on April 20, 2001, supporting the creation of PJM West. The OCA requested that FERC ensure that all elements of the filing comply with the requirements of Order No. 2000. FERC issued an order on July 12, 2001 encouraging Allegheny, as part of PJM West, to participate in a mediation process to combine PJM, PJM West, the New York ISO and the ISO New England into a Northeast RTO. On November 1, 2001, PJM filed revised tariff sheets in Docket No. ER02-235 to implement PJM West. By order dated December 20, 2001, FERC ruled that this filing was premature considering on-going efforts to establish a Northeast RTO. Allegheny Power and PJM sought rehearing of this order. On March 1, 2002, FERC granted rehearing and issued an order approving the operation of PJM West and the provisions of the PJM West Reliability Assurance Agreement. PJM West became operational on April 1, 2002. FERC did set the issue of the transition rate adder and the issue of the penalty for the available capacity deficiency charge for hearing, scheduled to begin on July 22, 2002. A revised settlement offer
Allegheny filed in Docket No. RT01-10 resolves all outstanding issues in this docket. On June 20, 2002, the Presiding Administrative Law Judge certified the settlement to the Commission for approval.

Alliance Companies, *et al.*, EL02-65-000. As noted above in the discussion on the Alliance Companies’ RTO filing, the Alliance Companies have made individual filings noting their intent to join either the Midwest RTO or the PJM ISO. Four companies have proposed to join MISO while the other five have proposed to join PJM. This outcome creates a jagged seam through the Midwest and isolates FirstEnergy and its Pennsylvania affiliate, Penn Power, from other MISO utilities. The OCA filed comments on June 18, 2002 noting its concern over this configuration and expressing its view that it makes more sense for FirstEnergy to join PJM.

On June 25, 2002, FirstEnergy, along with Ameren Service Company and Northern Indiana Public Service Company, filed an application in this docket for the creation of an Independent Transmission Company (ITC) under the MISO umbrella to be known as GridAmerica Three. On May 28, 2002, PJM, AEP and others filed to create GridCo, an ITC proposed to operate under the PJM umbrella. Both Grid America and GridCo plan to use National Grid as the managing member. The OCA submitted comments in both proceedings urging FERC to ensure that RTO deliberations remain predominant in any disputes between these ITCs and RTOs and that the ITCs ultimately formed satisfy the Order No. 2000 independence characteristic. The delegation of RTO responsibilities between the ITC and its umbrella RTO could have significant consequences for consumers and the competitiveness of the retail and wholesale markets in which they participate. As noted above, on July 31, 2002 FERC issued its order generally approving the utilities’ initial selections subject to PJM and MISO creating a single energy market for this combined region, and also approving in general terms the ITC concepts proposed by PJM and MISO.

Atlantic City Electric Co., *et al.* (formerly Baltimore Gas & Electric, *et al.*) v. FERC, Case No. 97-1097. The Transmission Owners whose systems are operated by the PJM ISO, including several Pennsylvania utilities, appealed FERC’s September 29, 2000 final order on rehearing in the proceeding which created PJM as an ISO. The utilities have appealed FERC’s decision that requires the utilities to seek prior FERC approval before withdrawing their facilities from PJM’s operational control. They have also appealed FERC’s decision limiting their rights to file for rate design changes and transferring those filing rights to PJM. The OCA intervened in that appeal on November 22, 2000. On September 17, 2001, the OCA filed with the Maryland Office of Peoples Counsel, the New Jersey Division of Ratepayer Advocate and PJM a joint brief supporting the FERC order. The Court heard oral argument on February 5, 2002. On July 12, 2002, the Court issued its Opinion reversing FERC’s rulings with respect to the Transmission Owners’ rights to file for rate design changes.

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, the OCA, along with the other state consumer advocate offices in PJM, successfully sought the right to vote in PJM stakeholder
meetings. The ability to vote on issues of significance to retail consumer interests further enhanced the OCA’s effectiveness in protecting retail consumer interests in wholesale electricity markets.

The OCA actively participated in the collaborative process that led to many of PJM’s FERC 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 participated with other consumer advocate offices in PJM in reviewing the PJM Market Monitoring Plan. Those efforts identified several areas in which 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 is currently advocating those modifications at the PJM stakeholder level and at FERC within the context of the SMD NOPR.

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.

**Significant PJM Activities**

**PJM Voting Rights.** After a protracted effort to obtain voting rights in PJM’s Members Committee, the OCA is pleased to report that on January 17, 2002, PJM finally recognized the right of the OCA to vote in all PJM committees, except the Reliability Committee which has a different governance process. At the June 27, 2002 meeting of the PJM Reliability Committee, the Committee for the first time recognized the right to vote of stakeholders other than Load Serving Entities (LSEs), including the Pennsylvania Office of Consumer Advocate.

**PJM Market Power Issues.** PJM’s Market Monitoring Unit (MMU) identified several market abuses by various participants in its wholesale energy and capacity markets. In discussing Docket No. ER98-4608, in November, 2001, the MMU published a report prepared at the request of the Pennsylvania Public Utility Commission on the results of its investigation into market behavior resulting in the run-up in capacity prices in the first quarter of 2001. That report concluded that market power was exercised by at least one generator during that period. That entity was PPL EnergyPlus. Over the past year, the MMU has proposed changes to PJM’s market rules to address these abuses. The OCA strongly supported the
efforts of the MMU, supported PJM’s filings at FERC to implement these rule changes and continues to support these changes via participation in PPL’s appeal of the FERC orders approving the rule changes. The OCA, along with other state consumer advocate offices in the PJM region, undertook a study of the structure and authority of the Market Monitoring Unit in PJM in an effort to propose revisions to PJM’s current market monitoring plan that will make the plan a more effective protection program for consumers. That report was published in final form on November 9, 2001 and the OCA has used some of these recommendations in various RTO formation proceedings and market power proceedings pending before FERC, especially the proceedings in Docket No. RM01-12. PJM is in the process of modifying its Market Monitoring Plan to give the Market Monitor better access to plant and fuel data which generators currently assert that they need not divulge. This access and other issues are currently under debate in the Market Monitoring Organization Working Group in which the OCA is closely involved. The OCA anticipates that several competing proposals relating to revamping the market monitoring process in PJM will be debated and voted on at the July Energy Markets Committee meeting, including the proposal jointly developed by the OCA and the Maryland Office of People’s Counsel. This process is currently on hold pending review of the SMD NOPR to determine how that proposed rule may necessitate changes in PJM’s Market Monitoring Plan and the OCA’s comments thereon.

**PJM West.** The OCA participated in PJM’s training program on PJM West market rules on December 17 and 18, 2001 in an effort to ensure that retail consumers in western Pennsylvania are able to benefit from the expansion of PJM’s energy and capacity markets into that region. PJM West became operational on April 1, 2002. Negotiations are on-going to bring Duquesne into PJM West, however as noted above, these negotiations are complicated by the retail rate issues relating to Duquesne’s POLR contract with Orion / Reliant and the ACAP obligations under the PJM West RAA. On May 8, 2002, PJM and American Electric Power announced AEP’s intent to join PJM West upon resolution of certain issues. Expansion of PJM’s markets to the west of Pennsylvania has the potential bring additional competitors into Pennsylvania’s wholesale and retail markets. On May 28, 2002, Commonwealth Edison, an affiliate of PECO Energy serving the Chicago area, and Illinois Power announced their intent to join PJM West. The challenge for the OCA is to participate in this process to ensure that Pennsylvania retail consumers face no adverse effects from this expansion, especially from a reliability and price perspective.

**MISO - PJM - SPP Single Market Forum.** On April 11, 2002, the OCA attended a meeting of stakeholders in PJM, MISO and Southwest Power Pool (SPP) to develop a single market design or a single market that would encompass the regions covered by SPP, the Midwest RTO and PJM and PJM West. The OCA supports this effort to resolve seams at the western edge of PJM’s and PJM West’s borders. Recent announcements by the several former Alliance Companies, including FirstEnergy and its Pennsylvania affiliate, Pennsylvania Power Company, to join MISO, and by other former Alliance Companies to join PJM have increased the importance of successfully completing this process. Thus, the OCA plans to actively participate in the process to help obtain seamless energy trading across the mid-western states and into the mid-Atlantic states. Several sub-groups are currently focused on proposing solutions for business interfaces, seams issues and electronic data interchange. These efforts have taken
on new life considering the recent announcements by the former Alliance Companies to join either PJM or MISO.

**PJM West and ITCs.** On June 25, 2002, PJM posted on its website a Memorandum of Understanding (MOU) Among and Between PJM Interconnection, L.L.C., National Grid, USA, and Participants in the Independent Transmission Company (ITC). Those interested in participating in the ITC in PJM West include AEP, Commonwealth Edison Company and Illinois Power Company, three of the five former Alliance Companies planning to join PJM West. The OCA is actively participating on these issues, both in the FERC proceeding and in the PJM stakeholder process. The delegation of ISO / RTO responsibilities between the ISO / RTO and the ITC can have substantial consequences for consumers and the competitiveness of the retail and wholesale markets in which they participate.

**PJM Board Governance Review Proposal.** At the June 20, 2002 meeting of the Members Committee, PJM unfolded a proposal to revamp the current governance process for the PJM Board of Managers. At the annual meeting of the Members Committee in April, many generation owner stakeholders and several other stakeholders expressed concern over the current method for electing Board members. This proposal is PJM’s response to those concerns. PJM proposes five revisions to the current governance process: 1) election of Board members individually rather than as a slate; 2) term limits of three full, consecutive three-year terms; 3) expansion of the Board by two additional members; 4) change of the Members Committee to an advisory-only process, rather than a required-approval process, for changes to the Operating Agreement, and reducing the supermajority vote requirement to a simple majority vote requirement for certain matters; and 5) establishment of a Board Committee for market monitoring oversight. On July 5, 2002, the OCA, along with other consumer advocate offices in PJM, filed a response to these proposals and to three additional issues on which PJM seeks input: a) stakeholder participation in the Board candidate selection process; b) open Board meetings; and c) the process for Board / stakeholder interaction. Essentially, the OCA is concerned that some of the proposed revision will weaken or compromise the independence of the PJM Board. PJM is often touted as the most successful energy market and ISO / RTO in the nation. The OCA believes that a lot of that success is due to the current governance procedures for the Board which ensure the true independence of the Board from undue influence by market participants. Several of the proposed revisions and the additional issues relating to the openness of the Board selection and meeting process are geared toward providing market participants with greater control over the “responsiveness” of the individual Board members. These changes could thus change the nature of the PJM Board from one of true independence to one “representative” of market participant views. Such a change is inappropriate and inconsistent with the independence criteria for RTOs required in Order No. 2000. This process has been subsumed within the PJM stakeholder committee debates relating to PJM’s compliance with the SMD NOPR.

**PJM Committee Participation**

The OCA participates in the following PJM Committees, Working Groups and User Groups:
a) **Members Committee.** This Committee is composed of all Members, broken into five sectors: Transmission Owners; Generation Owners; Other Suppliers; Distributors and End-Use Customers. Approval of the Members Committee is required for PJM to make any revisions to the Operating Agreement under Section 205 of the Federal Power Act. PJM may still file to revise the Operating Agreement without the Members Committee approval by filing a complaint with FERC under Section 206 of the Federal Power Act. The OCA now has the right to vote in this Committee.

b) **Market Based Capacity / Reliability Task Force.** This task force was comprised of five members from each sector of the Members Committee and charged with the task to develop principles that will govern the restructuring of the capacity market. This process is the first step toward developing a long-term solution to the problem of how to ensure reliability through an appropriate capacity market structure. The OCA was participating in this process, however, the process is on hold until the participants see how the new Joint Capacity Adequacy Group proposes to address the problems.

c) **ICAP User Group.** At the August 30, 2001 meeting, the Members Committee approved the creation of a new User Group initiated by New Power Company and other suppliers to resolve the controversial issue of the appropriate structure of the PJM capacity market. As a result of the work in the User Group, New Power Company submitted a proposed revision to the interval capacity market rules to the November 14, 2001 meeting of the PJM Reliability Committee. The OCA spoke in favor of the need to continue the work of revamping the ICAP market rules and structure, but urged the Reliability Committee not to endorse the New Power proposal due to the adverse impacts of the proposed revisions on reliability in PJM. The Reliability Committee rejected the New Power proposal.

d) **Joint Capacity Adequacy Group.** PJM formed this group as a collaborative stakeholder process with the New York ISO and ISO New England to determine whether it is possible to create either a single capacity market across the Northeast region, or at a minimum, create several capacity markets with common rules and market design. This group is inherently addressing the issue of the proper design for an RTO capacity market considering the problems with existing capacity markets in all three ISOs. The crux of this matter for the OCA is to retain current levels of reliability while reducing overall costs. The current effort is focused on developing a capacity market structure that combines the best elements of the New York and PJM capacity markets.

e) **Demand Side Response Working Group.** Formed as a result of the October 4, 2001 action by the Members Committee, this stakeholder group is responsible for working within the set of standards approved by the Members to draft DSR programs. Significant accomplishments include the Emergency Program and Economic Programs which were filed earlier this year with FERC.
f) **Reliability Committee.** This Committee is charged with responsibility for ensuring the reliability of generation and supply within PJM. All load forecasting, reserve requirements, installed capacity obligations and capacity market issues are within the RAA Reliability Committee. As a result of FERC’s order in PJM’s RTO filing at Docket No. RT01-2-000, PJM revised the governance structure and voting protocol for this committee. PJM filed the required changes on December 31, 2001 at Docket No. ER02-657-000. No party protested these changes, however this matter remains pending before FERC. The OCA now has voting rights in this Committee.

g) **Energy Markets Committee.** This Committee (EMC) addresses problems and flaws related to PJM’s energy markets. Proposals to revise PJM’s rules or to create new markets, for example markets for ancillary services such as Regulation and Spinning Reserves, are developed in user groups and working groups under the oversight of the Energy Markets Committee.

h) **Market Implementation Work Group.** This group addresses various issues related to implementing competitive markets in PJM, including the process for allocating or auctioning FTRs and the issue of cost-capping must run units during constrained periods. Both issues are critical to the competitiveness of the wholesale electric markets in Pennsylvania and the OCA is actively participating in both issues.

i) **Tariff Advisory Committee.** This Committee drafts tariff language and revisions to the various PJM agreements necessary to accomplish the proposals, new programs, new markets and market revisions recommended by various other PJM committees, work groups, subcommittees and user groups. The task of this Committee is to ensure that the language accomplishes the end result sought rather than to address the substantive merits of proposals.

j) **Planning Committee.** In order to address FERC’s new rulemaking proceeding relating to standardization of generation interconnection processes, and in order to address emerging merchant transmission issues, PJM’s Planning Committee has undertaken a new work group to fashion consensus as to how these issues should be addressed in PJM. At least one merchant transmission construction program is currently planned by Transenergie for connection into PJM’s grid in western Pennsylvania via an underwater line across Lake Erie. The Committee reached consensus on a generation interconnection process and filed the proposed process with FERC for approval.

k) **Credit Users Group.** This User Group developed in response to the problems experienced in the wake of the defaults and bankruptcies of Utility.com and Utilimax. These incidents revealed the vulnerability of PJM members whenanother member defaults. The group developed, in coordination with PJM staff, an RFP for a complete review of
PJM credit policies. This review by Deloitte & Touche, recommended revisions to existing credit policies and procedures. OCA has participated in the PJM staff review of current steps and has emphasized the need to have credit rules which do not unreasonably restrict PJM membership and market entry for new retail suppliers. The issue of new credit requirements for Pennsylvania electric utilities is unresolved with current proposals potentially imposing multi-million dollar expenses on these companies.

l) **Reactive Services Working Group.** This Group exists to draft standards and market rules related to reactive services and voltage regulation. Reactive services are those electricity products which stabilize the system in response to irregular usage of energy by electric motors. Voltage control is needed so that power quality is maintained. The pricing of both of these services has not been an issue in the past so that consumer impacts were previously not significant. However, several recent generator filings with FERC have raised the possibility of sharp price increases in both of these services. OCA has attended meetings of the Group and is working with the representatives of large customers to ensure that current rules do not facilitate price increases which can impact costs. The Group continues to grapple with how to balance incentives for production so that adequate reactive services are produced.

m) **Public Interest / Environmental Organizations Users Group (PIEOUG).** This user group is composed of five state consumer advocate offices in the PJM region, including the OCA, and ten environmental and grass-roots consumer organizations such as Citizens for Pennsylvania’s Future. The User Group is an advisory group to the PJM Board of Managers. The Group meets one or more times a month to seek out opportunities for joint positions and strategies related to reliability and energy markets issues. The Group wrote two letters to the PJM Board, one on February 25, 2002 and the second on March 6, 2002, urging the Board to move forward an economic Demand-side program by making a Section 206 filing with FERC regardless of the fact that the Members Committee failed to pass any economic program at its March 4, 2002 meeting. The PIEOUG also met with the Board of Managers at the PJM Annual Meeting of Members on April 24 and 25, 2002 to discuss four issues of importance to PIEOUG members: Load Response, System Planning, Market Monitoring and Capacity Markets. The OCA took the lead on the Market Monitoring and Capacity Market issues and actively participates in this User Group. Most recently, the User Group drafted a letter to the CEO of PJM and to the Board expressing support for retaining a truly independent Board and expressing concern over efforts by certain stakeholders to revamp the Board under the auspices of revamping market monitoring rules. The User Group urged the Board to treat these issues separately.

n) **Market Monitoring Organization Work Group (MMOWG).** At the request of several generators, including Reliant Resources, PJM created this work group to develop proposed changes to PJM’s Market Monitoring Plan. The OCA actively participates in
this Work Group in an effort to ensure that the Market Monitoring Plan proposals strengthen rather than weaken the authority of the PJM Market Monitor. The OCA, in cooperation with the Maryland Office of Peoples Counsel, has developed a proposal for modified governance of market monitoring. This is designed to counterbalance two proposals, sponsored by generation owners, which may have the effect of weakening effective market oversight. The June 5, 2002 MMOWG meeting attempted to finalize a statement reflecting the common understanding of the three competing market monitoring organization models. This will be provided to the EMC on June 19 as an explanatory cover for the models. It is expected that this proposal will come before the Energy Markets Committee at its July 18 meeting. The OCA continues to work with the other PJM region state consumer advocates and with other consumer organizations preserve a structure which ensures independent, effective control over potential market abuse.

The PJM Market Monitor met with stakeholders on May 15 to discuss soon to be implemented fuel cost reporting (eFuels) requirements. Most generators object to this, raising concerns about conflicting contract provisions, security and the lack of need for this information. OCA staff was given the lead in briefing other regional consumer interests on this dispute, reflecting the perception that the objections from the generation owners are not sufficiently substantial to justify preventing the MMU from verifying information which can indicate potential market manipulation. On June 14, 2002, the Market Monitor issued a letter to stakeholders indicating his intent to restrict the collection of cost data to units constructed prior to July 1, 1996. The OCA believes that this limitation, by exempting newer units from submitting such cost information, will limit the ability of the market monitor to effectively assess bids by owners of such units. The OCA is assessing how the arbitrary division in data collection and market oversight between pre 7/1/1996 units and other units can be eliminated.

**Communications Task Force.** This was formed at the request of PJM’s President to develop a regional strategy for informing the public, government and the media about reliability and the potential for demand response.

**Regional Transmission Planning Stakeholder Process (RTPSP).** This working group is responsible for the development of forward-looking solutions to the need for grid expansion. In the future, it is anticipated that transmission lines may be developed by independent companies rather than by the utilities, as is currently the case. Proposed rules for interconnection, cost responsibility, property right assignments where new capacity is created, and PJM authority over what is termed “merchant transmission” is under review. These issues must be resolved in order to create sufficient certainty so that investors will know the potential benefits and risks of taking on these projects. In almost every instance, these projects will be constructed for economic purposes rather than to satisfy reliability requirements. The proposed structure for transmission expansion will emphasize
transmission solutions from the market while establishing a backstop function for PJM should the market fail to address needed system expansion. At the June 2002 meeting, a “backstop” proposal from the PJM staff was reviewed. There is an open question regarding when market forces will be relied on to address expansion needs and when PJM will step in to resolve these resource requirements. The two emerging issues of significance to the OCA are a) the process for the development of merchant transmission projects and b) the issue of expansion of the transmission grid for economic purposes rather than reliability purposes, i.e. to reduce congestion and congestion costs for consumers.

**FERC Electric Cases**

The New Power Company v. PJM Interconnection, L.L.C., EL01-105-000. The New Power Company filed a Complaint against PJM alleging that the existing capacity market structure remains flawed, even after the modifications approved by FERC on June 1, 2001 in Docket No. EL01-63-000. The OCA intervened in this proceeding on August 3, 2001 essentially supporting New Power’s premise that the existing capacity market structure may still be flawed, but disagreeing with New Power’s proposed remedies. The OCA recommended instead that a short term remedy be developed through the PJM stakeholder process, to be implemented on or before June 1, 2002 and that the long-term solution to this problem be addressed as part of the Northeast RTO mediation process. On February 27, 2002, FERC issued an order rejecting the complaint filed by New Power in this docket and dismissing this proceeding. That order sets forth new policy on certain important issues, such as finding that a determination that market power has been exercised does not have to rest solely on a violation of market rules, and finding that the PJM Market Monitoring Plan must be amended to require the Market Monitor to immediately submit a notice report to FERC any time the market Monitor detects the exercise of market power. PJM filed this compliance filing on March 26, 2002. FERC approved this filing by letter order dated May 20, 2002.

PJM Capacity Market Revisions, EL01-63-000 and ER01-1440-000. In January, 2001, the PJM Market Monitor announced that one company participating in PJM’s capacity market was acting in an anti-competitive manner, resulting in excessively high clearing prices in that market. In March, 2001, PJM in Docket No. ER01-1440-000 filed proposed revisions to the rules governing the capacity market so as to alter the manner in which capacity deficiency revenues were distributed and thus eliminate the incentive to engage in the activity described above. Also in March, 2001, PJM in Docket No. EL01-63-000 filed a proposal to comprehensively restructure its capacity market from a daily market to a seasonal market to encourage greater reliability and more competitive pricing within that market. The OCA intervened in both proceedings and strongly supported PJM on all issues. By orders dated May 4, 2001 and June 1, 2001, FERC approved both filings. PPL Utilities has appealed both orders as discussed below. The Order in Docket No. EL01-63 required PJM by June 1, 2002 to file a report either proposing additional comprehensive changes in this market structure, or supporting continuation of the capacity market as revised in that docket. PJM filed that report on May 31, 2002, supporting continuation of the market as greater price stability and reliability has occurred since the inception of the revised market structure on July 1, 2001. On July 3, 2002, PPL filed an intervention and protest to that report. Consequently, on July 18,
2002, the OCA filed an Answer and intervention supporting PJM’s approach. While the OCA continues to believe that even the revised capacity market still contains some flaws, as the market is highly concentrated and vulnerable to new types of potential market power abuses, the revised market does provide greater price stability and reliability. The OCA is continuing to work with stakeholders in PJM and in the SMD NOPR proceeding to explore the development of a more efficient capacity market structure.

PPL EnergyPlus, Inc., ER98-4608-005. On December 17, 2001, PPL EnergyPlus Inc. filed with FERC to renew its market based rate authority. The OCA intervened in this proceeding on January 7, 2002, requesting that FERC require PPL EnergyPlus to undertake a Supply Margin Assessment screen analysis of its potential to exert market power. The OCA noted in its pleading that PPL EnergyPlus is the company noted in the PJM Market Monitor’s November, 2001 report to the Pennsylvania Public Utility Commission as exerting market power in PJM’s capacity market in the first quarter of 2001. The OCA is urging FERC to carefully investigate PPL EnergyPlus’ ability to exert market power in both PJM’s energy and capacity markets considering this past event. This matter is pending before FERC.

PJM Interconnection, L.L.C., Docket No. ER02-1205. On March 1, 2002, PJM filed an application to implement an Emergency Load Response Program that would allow customers to either bid their own generation into PJM’s spot energy market or to shed load in exchange for certain payments during generation emergencies on PJM’s system in order to assist PJM in maintaining reliable service for the system. For the first time, this program included a small customer component that would allow residential customers to participate. The OCA strongly supported this filing in comments filed jointly with other consumer advocate offices in the PJM region. FERC approved this filing by order dated April 24, 2002, but required PJM to implement a sunset date for this program so that the efficacy of the program could be reviewed. PJM made its compliance filing on May 13, 2002, supporting a December 1, 2004 sunset date and requesting that the Emergency Load Response Program be extended to the PJM West region. The OCA supported this filing. By letter order dated June 28, 2002, FERC approved this compliance filing.

PJM Interconnection, L.L.C., Docket No. ER02-1326. On March 15, 2002, PJM also filed an application to implement an Economic Load Response Program that would allow customers to either bid their own generation into PJM’s spot energy market to shed load in exchange for certain payments based not on generation emergencies, but rather based on the price of energy in PJM’s spot market. Typically, this would occur in response to increasing energy prices at periods of peak demand and serves as an effort to keep prices down in the energy market. An economic load response program is a required feature of any competitive market since it allows consumers to avoid market power concerns by refusing to purchase power. For the first time, PJM’s program contains provisions that allow smaller customers such as residential customers to participate. This program is extremely controversial within the industry. The OCA supported this filing in comments we drafted and filed jointly with other consumer advocate offices in the PJM region, but requested certain modifications to make the small customer program more effective. By order dated May 31, 2002, FERC approved the creation of an Economic Load Response Program in PJM, but set limits on the amount of load that could participate in the program.
PJM Interconnection, L.L.C., Docket No. EL01-122-001. FERC issued an Order on PJM’s compliance filing in this docket on May 15, 2002, relating to transmission outage and maintenance procedures. In that order, FERC approved PJM’s proposal to provide the PJM Market Monitor with authority to request from all transmission owners and their affiliates any information deemed necessary by the Market Monitor. FERC further noted that a presumption of reasonableness lies in favor of the Market Monitor’s request given the Market Monitor’s sole responsibility to investigate market problems. In other words, FERC is favoring broad investigative authority for RTO market monitors, an important tool if market monitoring is to be undertaken in a timely and effective manner.

PJM Bilateral Contract Data, EL00-42-000. 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. On March 14, 2002, FERC issued a letter order noting that it had never heard whether PJM, PECO and PP&L had resolved the issues raised in this proceeding and required PJM to file a status report. On March 26, 2002, PJM reported that the matters had been resolved and this matter is still pending before FERC.

State Consumer Advocate Voting Rights, ER02-101-000. On October 15, 2001, PJM filed for approval of additional changes to its Operating Agreement language governing voting rights in its Members Committee for state consumer advocate offices. The OCA, along with the other state consumer advocate offices in PJM, had sought such changes in PJM’s governance structure. On November 6, 2001, the OCA, along with the other state consumer advocate offices in PJM, intervened in this docket in support of this filing. By order dated April 13, 2001, in Docket No. ER01-1372-000, FERC had approved initial language governing state consumer advocate office voting rights in PJM. However, while in the process of applying for voting rights, the OCA determined that the approved process was insufficient to address the state consumer advocate offices’ concerns related to financial obligations. The additional language changes proposed here will address those concerns. On November 29, 2001, FERC approved this filing to become effective December 15, 2001. The OCA requested voting rights in December, 2001. At the January 17, 2001 meeting of the PJM Members Committee, PJM announced that the OCA now officially has the right to vote within the PJM Members Committee.

PPL Utilities, et al. v. FERC, Case Nos. 01-1369 & 01-1370. PPL, a Pennsylvania utility, appealed FERC’s orders in Docket Nos. EL01-63-000 and ER01-1440-000 revising the rules that govern PJM’s capacity markets to eliminate the potential for generators to game those markets. PPL last fall publicly admitted that it is the entity identified by the PJM Market Monitor that gamed the PJM capacity markets in the spring of 2001. It was that incident that gave rise to the market design changes that PJM implemented. These appeals are pending in the District of Columbia Circuit Court of Appeals. The OCA has intervened in these appeals and intends to actively participate in the briefs and oral arguments in support of the FERC orders. PPL filed its brief in this appeal on May 13, 2002. The OCA filed a joint brief with
PJM, the Pennsylvania Commission and Maryland Office of People’s Counsel, supporting FERC on July 24, 2002. The D.C. Circuit has scheduled this appeal for oral argument on November 14, 2002.
NATURAL GAS

Pennsylvania

Base Rate Proceedings

PGW Request For Extraordinary Rate Relief and 2002 General Base Rate Case, Docket No. R-00017034. On February 25, 2002, PGW filed a Petition for Extraordinary Rate Relief Pursuant to Section 1308(e) of the Public Utility Code. Simultaneously, PGW filed a request for a $60 million increase in its base rates. Through its Petition for Extraordinary Rate Relief, PGW sought to have $44 million of its $60 million request implemented on a permanent basis by April 11, 2002. In its Petition, PGW averred that its request was necessary due to notification by Standard and Poor’s that it would downgrade PGW’s outstanding bonds to below investment grade status if it was not awarded permanent relief from the Commission on an immediate basis. The OCA filed an Answer to the Petition and fully participated in the proceeding regarding PGW’s request for extraordinary relief. The OCA filed testimony in response to PGW’s request on March 21, 2002, and hearings on the matter were held on March 26, 2002. In accordance with the procedural schedule adopted in the Extraordinary Relief proceeding, the OCA filed a Memorandum of Law on April 3, 2002. The OCA recommended that a capital surcharge be implemented for the next three years that would produce approximately $18 million per year. The OCA also recommended that the City be required to grant back the $18 million city payment for the next three years. The combination of an $18 million capital surcharge from ratepayers and the grant back of $18 million from the City would allow PGW to pay down its short term debt, thus restoring the Company’s liquidity.

On April 12, 2002, the Commission entered an order that granted PGW an immediate increase in annual revenues of $36 million. The Commission did not condition this rate increase on a grant back of any of the City payment.

The base rate proceeding continued. The OCA filed a formal complaint against the rate increase. A prehearing conference was held on April 16, 2002. At that time a procedural schedule was adopted. Public input hearings were held in early May. On May 29, 2002, the OCA filed its Direct Testimony. In its testimony, the OCA set forth its position that the $36 million of extraordinary rate relief that had already been granted was more than adequate to meet PGW’s operating expenses, and debt service requirements, and to allow it funds to pay down its short term commercial paper in an effort to restore its financial health and flexibility.

Settlement negotiations were held following the filing of the direct testimony. Through these negotiations, the parties were able to resolve these matters. The Settlement, which was filed June 28, 2002, maintained the $36 million in extraordinary rate relief that was granted, but did not allow any further increase. Additionally, the settlement allowed the company to implement a pilot Weather Normalization Adjustment for three years, given its unique circumstances. The settlement also called for the company to project its
paydown of short term debt and to report to the parties in restoring its financial health. Subsequently, on August 8, 2002, the Commission approved the settlement.


In the Interim Rate Proceeding, the Commission had entered an Order on November 22, 2000 which granted an interim increase in base rates of $11 million subject to all of the conditions recommended by OCA. 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 Commission’s November 22 Order which PGW immediately challenged on appeal. The OCA filed an Answer to PGW’s Application on December 18, 2000. The Commission entered an Order on December 20, 2000 denying PGW’s Application. The Commission’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 implement the $11 million interim rate increase due to concerns about several of the conditions imposed by the Commission.

PGW and the Commission’s Law Bureau entered into settlement negotiations which resulted in a “Joint Petition for Full Settlement of Philadelphia Gas Works’ Petition for the Establishment of Interim Rates and Related Appeal” which was filed with the Commission on February 8, 2001. The Joint Petition permitted PGW to increase its customer charge from $8.00 per month to $11.66 per month, which would enable PGW to fully recover the Commission’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 now 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 Commission’s recently completed management audit.

In addition, the Joint Petition requested Commission approval of operational changes in certain gas procurement activities as consistent with PGW’s least cost gas procurement obligation. These activities were designed to allow PGW to better manage its cash obligations until January 2002.

In addition, the City of Philadelphia was also a signatory to the Joint Petition 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 OCA filed comments to the proposed settlement. The Commission entered an Order on February 22, 2001 approving the Joint Petition.

On December 12, 2001, the Company made an Informational Filing and Request to Utilize the Interim Settlement Reserve Account. In that filing, PGW requested authority to retain an additional $17.58 million that was overcollected, or projected to be overcollected, through the GCR mechanism. The $17.58 million was made up of $10.58 million in GCR over-recovery from the 2001 GCR period (September 1, 2000 through August 31, 2002). In addition, the Company had improperly increased its GCR for FY2002 (September 1, 2001 through August 31, 2002) by $7 million for bad debt expense when it filed a quarterly update to its GCR on December 1, 2001. Through the Informational Filing, the Company requested permission to retain the entire $17.58 million. The OCA filed a response to the Company's request on December 18, 2001. In that response, the OCA vigorously opposed the Company's $7 million increase in the 2002 GCR as a violation of the Interim Rates Settlement and the Settlement of the Company's 2002 GCR proceeding. With respect to the remaining $10.58 million in the reserve account, the OCA urged the Commission to carefully review the filing to ensure that the Company's request to retain the funds in the reserve account strictly met the terms of the Interim Rates Settlement. On December 26, 2001, the PUC issued a Secretarial Letter authorizing the Company to retain the $10.58 million in the reserve fund, but disallowing the Company's request to increase its 2002 GCR to recover an additional $7 million for bad debt expense.

**PGW 2001 Base Rate Case, 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 Commission 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 complaint on January 24, 2001. Public Input Hearings were held in Philadelphia on March 28 and 29, 2001. On April 10, 2001, the OCA filed its Direct Testimony in this proceeding. 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 Commission reject PGW’s cash-flow method of rate setting and that rates be set at levels which are just and reasonable. Since PGW consumers had to absorb nearly $250 million in rate
increases in the prior year, the OCA was concerned about the affordability of PGW’s rates if an additional increase was granted. The OCA recommended that PGW’s rate increase be limited to $21.5 million (inclusive of the $11.0 million interim rate increase approved by the Commission). 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 was currently being recovered through base rates should be recovered in the GCR. In turn, electricity expense and bad debt expense which were currently being recovered through the GCR should be recovered through base rates.

Rebuttal and surrebuttal testimony was filed in May, 2001 and hearings were held in May, 2001. Briefs were filed in June, 2001. A Recommended Decision was issued on August 7, 2001 recommending a rate increase of $44 million (inclusive of the $11 million interim rate increase already approved by the Commission). The ALJ agreed with the OCA’s legal analysis that rates for PGW must be just and reasonable. The ALJ also agreed with the OCA’s analysis that PGW’s request based on its interpretation of the cash flow method was unjust and unreasonable. The ALJ recommended a rate increase amount higher than that supported by the OCA. On August 22, 2001, the OCA filed Exceptions to the ALJ’s decision challenging, among other things, the amount of the rate increase and the ALJ’s recommendation to allocate the bulk of the rate increase to residential customers. The OCA also filed Reply Exceptions on August 30, 2001. The Commission entered an Order on October 4, 2001 adopting, for the most part, the Recommended Decision of the ALJ. The Commission also adopted a number of the OCA’s expense adjustments that further reduced the ALJ’s recommendation. The Commission’s determination was to allow the Company to increase its base rates by $39 million (inclusive of the $11 million interim rate increase already approved). Thereafter, the Commission issued an amended Order to correct a mathematical error. In the amended Order, the Commission allowed the Company to increase its base rates by $33 million, inclusive of the $11 million interim rate increase. On October 19, 2001, PGW filed a Petition for Reconsideration of the amended Order.


On January 7, 2002, PGW submitted a compliance filing in the base rate proceeding that was purported to bring the Company's tariff into compliance with the Commission's October 12, 2001 Tentative Order and December 6, 2001 Order that granted PGW a $33.6 million rate increase. Earlier, however, on October 12, 2001, PGW had already made a compliance filing implementing the $39 million rate increase that the PUC had originally approved in its October 4, 2001 Order. When the PUC subsequently revised its $39 million rate increase to $33.6 million in the October 12 Tentative Order, PGW never reduced its rates to that level. Therefore, since October 12, PGW had been collecting rates from its customers at the higher level. In the Company's January 7 compliance filing, PGW made no provision for refunding the amount it overcollected as a result of implementing the $39 million rate increase rather than the $33.6 million rate increase that the Commission allowed. The OCA filed exceptions to the compliance filing,
requesting that PGW be directed to refund the difference between the $39 million and $33.6 million that it has been collecting since October 12, 2001. The OCA also excepted to certain language that PGW inserted into its tariff for Rate MS - Municipal Service. The Company had proposed implementing a $25 per month customer charge for Rate MS. None of the parties opposed it and the PUC approved the new customer charge. However, the Company has indicated in its compliance tariff that it will not charge this rate to Rate MS customers until it is approved by City Council. The OCA filed an exception requesting the Commission to direct PGW to collect the Rate MS customer charge or impute that revenue to its cash flow analysis if it foregoes collection of the charges.

In an Order entered February 21, 2002, the Commission granted the exceptions of the OCA. In addition, the Commission directed PGW to refund to customers the difference between the $39.6 million and $33.6 million that has been billed since December 6, 2001.

On March 8, 2002, the OCA filed a Petition for Reconsideration of the February 21 Order. In its Petition for Reconsideration the OCA sought an order directing PGW to refund the overcollected amount dating back to October 12, 2001, since that was when the Commission reduced the amount of the rate increase from $39 million to $33.6 million. On April 16, 2002, the Commission denied the OCA’s Petition for Reconsideration.

Valley Cities/NUI, Docket No. R-00005810. Valley Cities/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 on November 22, 2000. The Company filed an answer to the OCA’s complaint on December 8, 2000. Informal discovery and settlement negotiations proceeded. A settlement was reached with all parties that called for the expansion of the low-income customer assistance program and revisions of the discounts provided by the program. Additionally, a cost recovery mechanism for the low income program costs and consumer education costs was put into place. The Settlement was approved by the Commission at its May 23, 2002 Public Meeting.

Applications

Joint Application of NUI Corporation, C&T Enterprises, and Valley Energy for approval of 1) transfer of the title to and possession and use of NUI’s tangible and intangible assets to C&T Enterprises then to Valley Energy; (2) approval of NUI to abandon natural gas service to the public in this Commonwealth; and 3) the right of Valley Energy to offer, render, furnish or supply natural gas service to the public within NUI’s existing service territory. Docket No. A-120001F.2000 and A-125100. This Application provides for the sale of NUI’s Pennsylvania division, Valley Cities, that provided natural gas service to 5,000 customers in Bradford County. Valley Cities was being sold to C&T Enterprises, a wholly owned subsidiary of two rural cooperatives, Tri-County Rural Electric Cooperative and Claverack Rural Electric Cooperative. The OCA filed a Protest in this matter on April 23, 2001, seeking to ensure that the sale was in the public interest, provided substantial, affirmative benefits to Valley Cities ratepayers, did not adversely
affect competition in Pennsylvania, and was in accordance with the Public Utility Code. In particular, the OCA identified issues regarding quality of service, provider of last resort obligations, the treatment of rate savings, and the reasonableness of the costs of the acquisition. A settlement was reached with the Company that addressed quality of service issues, provider of last resort obligations, and ratemaking issues regarding the costs to achieve the acquisition. The settlement was approved by the Commission and the transfer was expected to close around May 1, 2002.

**Purchased Gas Cost Cases**

The OCA continued its assessment of gas utilities’ gas purchasing practices during the year pursuant to Section 1307(f) of the Public Utility Code. As noted in last year’s annual report, Pennsylvania’s natural gas customers experienced an unprecedented increase in the cost of natural gas during the winter of 2000-2001. Natural gas prices did recede somewhat during the winter of 2001-2002, however the OCA continues to remain concerned about hardships imposed upon consumers due to fluctuating gas cost rates caused by instability in the wholesale natural gas markets. As a result of continued price volatility in the wholesale gas markets, the OCA’s focus in this year’s purchased gas cost cases continues to be whether Natural Gas Distribution Company (NGDCs) are 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. Reliance on index-based purchases 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 have experienced in the past.

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 and NGDC decisions to renew capacity entitlement or acquire new capacity, especially in light of the Natural Gas Choice and Competition Act and the changing regulatory environment in the industry. 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 analyze subsidization between retail sales customers and transportation customers.
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 between customer groups, the recovery of capacity costs from customers utilizing transportation service, and gas commodity price projections, among other issues.

Miscellaneous Gas Cases and Issues

Proposed Policy Statement Regarding The Collection of Research and Development Funds By Natural Gas Distribution Companies, Docket No. M-00011462. On April 20, 2001, the Commission entered an order seeking comments on a proposed policy statement regarding the collection of research and development funds contributed to the Gas Technology Institute (GTI) by natural gas distribution companies (NGDCs). The Commission proposed to allow the NGDCs to implement a surcharge mechanism under Section 1307(a) to recover these R&D expenses for the next six years. The NGDCs would be permitted to recover 75% of their contribution from customers. The costs were to be allocated to the customer classes based on the benefits to each customer class. The Commission had previously considered a proposal for a surcharge presented by the Pennsylvania Gas Association and rejected that proposed mechanism.

On June 9, 2001, the proposed policy statement was published in the Pennsylvania Bulletin for Comment. The OCA filed Comments opposing the surcharge mechanism. The OCA argued that R&D expenditures by the NGDCs should be treated the same as R&D expenditures by any other utility sector. For all other utilities, recovery of these costs is accomplished through base rates, after review, as a normal business expense. The OCA argued that there was no extraordinary reason to single out these expenses for guaranteed, dollar for dollar recovery. Additionally, the OCA pointed out that the Commission’s sharing mechanism and allocation proposal did not substitute for base rate review and treatment of these costs. At the end of the fiscal year, the matter is pending before the Commission.

Columbia Gas of Pennsylvania Tariff Filing - Supp. No. 22, Docket No. R-00016668. On August 22, 2001, Columbia filed Supp. No. 22 to Tariff Gas - PUC No. 9, with an effective date of October 22, 2001. This revision to the Company’s tariff is designed to modify the Company’s balancing service and Operational Flow Order (OFO) and Operational Matching Order (OMO) provisions. It contained proposals for new optional services, such as a flow order management service and an imbalance trading service. All of these services are applicable to large transportation customers and marketers that serve such customers. The OCA filed a formal complaint in this proceeding to ensure that residential sales and choice customers were not adversely impacted by the proposed revisions. On October 12, 2001, the
Commission entered an Order approving Supp. No. 22, subject to further investigation. The parties to Columbia’s stakeholder group (which includes the OCA) have continued to negotiate the balancing requirements, options and related costs for large transportation customers and their marketers, in a manner that will improve system reliability without increasing gas costs for residential customers. On December 21, 2001, the parties filed a Joint Petition for Settlement that resolved all of the outstanding issues raised by the parties in the proceeding. On January 8, 2002, ALJ Larry Gesoff issued his recommended decision recommending that the Commission approve the Joint Petition for Settlement. On January 29, 2002, the Commission entered an Order approving the settlement.

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). The Commission approved the modifications to Columbia’s CAP program on August 30, 2001.

Equitable Gas Co. - Fixed Rate Sales Service Collaborative, Docket No. R-00016132. In the Company's 2001 Purchased Gas Cost (PGC) proceeding, Equitable proposed to offer a new fixed rate sales service. The Commission rejected the proposal in the context of a PGC proceeding but directed that the parties engage in a collaborative to develop a pilot program to offer fixed rate service. The parties reached an agreement to implement a pilot program to allow Equitable to offer a fixed-rate sales service. A report of the collaborative was filed with the Commission on May 10, 2002. Parties submitted comments to the report on May 16, 2002 and reply comments on May 23, 2002. In its comments, the OCA argued that the FSS rate should be offered to the public on a "price to compare" basis so that an apples to apples comparison could be made by consumers. The OCA also argued that Rate FSS offers should be timed to commence on the same date as the Company’s quarterly update to its purchased gas cost rate. On June 13, 2002, the Commission entered an Order that approved Rate FSS on a pilot basis and adopted the OCA’s position that Rate FSS must be offered on a "price to compare" basis. The Commission rejected the OCA’s recommendation that Rate FSS offers should be timed to coincide with the Company’s quarterly update to its PGC rate.
Gas Rulemakings and Working Groups

NGDC Collaboratives on Operational and Capacity Issues. As part of the Natural Gas Choice and Competition Act, all Pennsylvania Natural Gas Distribution Companies 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.

Federal

FERC Natural Gas Rulemaking Proceedings

Gas Final Rule (Order No. 637), RM98-10-000 & RM98-12-000. All major pipelines filed compliance filings during the summer of 2000. Several of these as discussed below remain pending before FERC for approval. The OCA, along with NASUCA and several other parties appealed various provisions in Order No. 637 on August 21, 2000. The OCA, along with NASUCA and the Ohio Consumers Counsel filed joint briefs with other parties in these appeals on April 6, 2001. Oral argument was heard in November, 2001. On April 5, 2002, the D.C. Circuit Court issued its Opinion in this appeal, essentially upholding most of FERC’s requirements in Order No. 637, but remanding two issues of importance to the OCA: the requirements related to capacity release and state retail choice programs and the required 5 year contract matching term for exercising rights of first refusal to retain long term firm capacity. On May 31, 2002, the Commission issued a notice requesting comment on these remanded issues. The OCA, on behalf of itself, OCC and NASUCA, prepared and filed comments on July 15, 2002, on these two issues, continuing to advocate for a 5 year term matching cap on the Right of First Refusal and requesting elimination of the competitive bidding requirement for capacity released by local gas distribution companies pursuant to state mandatory capacity assignment programs in retail choice states like Pennsylvania, or modification of the waiver conditions.

Rate Ceiling for Capacity Release Transactions, PL02-4-000. On May 30, 2002, FERC issued a Notice of Staff Paper seeking comment on several questions relating to the retention of market based rates for released capacity. As part of Order No. 637, FERC had lifted price caps on released capacity for an experimental two year period which will expire in September, 2002, on the basis that the market for this capacity seemed sufficiently competitive to warrant this approach and that pipeline sales of interruptible and short term firm capacity provide an adequate substitute for release capacity and that the pipeline sales remain rate regulated. The data collected by FERC Staff over the two year experimental period shows that 76% of the release above rate caps that occurred in this period were on three pipelines serving Pennsylvania: Transcontinental Gas Pipe Line Corporation with 183 above cap releases, Texas Eastern
Transmission Corporation with 122 above cap releases and Columbia Gas Transmission Corporation with 101 above cap releases. The Staff Paper also shows that the average above cap release was 59 cents above the rate cap, and that these above-rate cap prices affected below rate cap transactions by increasing those prices on average one to three cents. However, most of the above rate cap prices were still below the basis differential in spot gas prices once transportation was included, meaning that even though the transactions were above the rate cap, they were below the price for available substitute capacity. While FERC had been concerned about marketing affiliates of interstate pipelines abusing the market based rates privileges for released capacity, the evidence demonstrates only a few examples where marketing affiliates were releasing capacity above the rate caps. The OCA and NASUCA had supported the initial proposal to lift price ceilings for this market. On July 15, 2002, the OCA, on behalf of itself and NASUCA, prepared and filed comments in this proceeding supporting continuation of the lifting of price caps on an experimental basis for another two year period. The OCA and NASUCA expressed concern that permanent lifting of the price cap was not wise during the current period of lack of consumer confidence in energy prices, and that the Commission’s revision of its Partial Day Recall Policy discussed below may affect the competitiveness of this capacity release market.

Partial Day Recall Rights, RM96-1-019, RM10-008 and RM98-12-008. On October 12, 2001, FERC issued a Notice of Proposed Rulemaking in the above-captioned dockets proposing to require all pipelines to allow shippers to recall capacity at any intra-day nomination opportunity. Currently, a Gas Industry Standards Board standard, adopted by all pipelines in their existing tariffs, prohibits partial day recall rights. FERC noted in the NOPR that since it adopted that GISB standard, pipeline tariffs have been modified to provide greater flexibility to all shippers to nominate gas flows within a gas day and that the old standard may be inconsistent with current Commission regulations in the wake of Order No. 637. The OCA filed comments in this proceeding on November 19, 2001 supporting the Commission’s proposed rulemaking. Partial day recall rights are critical for Pennsylvania gas distribution companies’ retail choice programs. Many Pennsylvania gas distribution companies release their pipeline capacity to marketers participating in their retail choice programs. Many of these releases are subject to the gas company’s right to recall the pipeline capacity in the event of the default of a marketer. Under current pipeline tariffs, if a marketer participating in a Pennsylvania gas distribution company retail choice program defaults, it could take the company several days to be able to recall the pipeline capacity and use it to serve customers that returned to the company’s provider of last resort service. The NOPR provides greater flexibility for Pennsylvania gas companies to fully satisfy their statutory service obligations. The NOPR is opposed by pipelines and several marketers. By order dated March 11, 2002, FERC issued a Final Order in this proceeding requiring interstate pipelines to allow partial day releases of capacity. Dynegy and Duke Energy Marketing & Trading have sought rehearing of this final rule on the basis that no industry consensus on this issue was developed in GISB. The OCA actively participated in this proceeding as the Dynegy and Duke rehearing requests represents a dangerous precedent as to whether a private industry standards board decision can prevail over FERC’s de novo review of such issues for a determination as to which result better satisfies the statutory public interest mandate. On June 26, 2002, FERC issued an order rejecting these requests for rehearing.
Standards of Conduct for Transmission Providers, RM01-10-000. As noted above, on September 27, 2001, FERC issued a Notice of Proposed Rulemaking proposing to revise its Standards of Conduct governing affiliated relations for both interstate pipelines and electric transmission providers and the OCA worked with NASUCA to develop comments that were submitted in this proceeding on December 20, 2001. As noted above, FERC issued a notice on April 25, 2002 scheduling a technical conference in this proceeding for May 21, 2002 and proposing certain revisions to the NOPR. The OCA participated in a technical conference on this matter on May 21, 2002, urging a broad definition of energy affiliate. As noted above in the Electricity Section, the OCA along with NASUCA submitted Supplemental Comments in this proceeding on June 28, 2002, continuing to urge FERC to apply a broad brush in defining energy affiliates.

**FERC Gas Order No. 637 Proceedings**

Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation, RP00-326-000 and RP00-327-000. The Columbia interstate pipeline companies filed their Compliance Filings pursuant to Order No. 637. These filings sought 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 on July 17, 2000. Columbia Gas Transmission and Columbia Gulf Transmission scheduled several settlement meetings in an attempt to resolve some of the issues raised by parties, including the OCA; however, no settlement was reached. The Columbia Companies filed revised tariffs on July 12, 2001 in an attempt to resolve some of these issues in this proceeding. That filing resolved some, but not all of the issues raised by the OCA, consequently the OCA filed comments in these cases on August 30, 2001 seeking Commission resolution of outstanding issues. This matter is still pending before the Commission.

Tennessee Gas Pipeline Company, RP00-477-000. Tennessee Gas Pipeline Company (Tennessee) made its Compliance Filing pursuant to Order No. 637 seeking approval to implement new balancing services, to provide greater flexibility on receipt and delivery point rights; to provide for segmentation rights, for crediting of penalty revenues; and to clarify criteria for implementing Operational Flow Orders. The OCA intervened in this proceeding on August 24, 2000 and filed comments on this compliance filing on September 14, 2000. Tennessee scheduled several settlement meetings in an attempt to resolve some of the issues raised by parties. On April 2, 2001, Tennessee made a revised filing with FERC which resolves some of the concerns raised by the OCA and other parties. The OCA filed comments supporting approval of the portions of the revised filing resolving the OCA’s concerns and requesting further modifications of those portions of the filing that remain problematic for Pennsylvania consumers. On April 3, 2002, FERC issued an order in this proceeding approving some of the provisions of Tennessee’s compliance filing and requiring Tennessee to make further changes to its filing to comply with Order No. 637. Several parties filed requests for rehearing and this case is still pending before FERC. On June 3, 2002 Tennessee filed a Compliance Filing in this docket. Many parties have protested this compliance filing and the matter remains pending before FERC along with the requests for rehearing.
Equitrans, Inc., RP00-462-000. Equitrans, Inc. (Equitrans) filed its Compliance Filing pursuant to Order No. 637. This filing addressed Order No. 637’s requirements related to new balancing services, flexibility on receipt and delivery point rights; segmentation of capacity for release transactions, penalty provisions, crediting of penalty revenues; Operational Flow Orders, lifting of price caps on short-term capacity release transactions and right of first refusal. The OCA intervened in this proceeding on September 7, 2000 and filed comments on this compliance filing on September 14, 2000. No settlement meetings or technical conferences were held in this proceeding. On May 21, 2002, FERC issued its Order on Compliance with Order Nos. 637, 587-G and 587-L, generally approving Equitrans’ filing subject to certain modifications, including several recommended by the OCA. FERC modifications supported by the OCA include requirements to submit a compliance filing to provide for partial day capacity recall rights, to reinstate pipeline creditworthiness checks of replacement shippers, to allow releases for less than one month, to require continued application of discounts on segmented releases, to modify the imbalance netting and trading provisions so as to make netting and trading of imbalances easier and obtainable prior to the time any imbalance penalties are assessed. However, FERC also ordered Equitrans to make one modification opposed by the OCA, i.e. the requirement to implement segmentation rights on its system. FERC also rejected several modifications sought by the OCA, including modifications relating to penalty provisions, penalty revenue crediting and Right of First Refusal terms and conditions. The OCA decided not to file a rehearing request, however several other parties did file such requests which are now pending before FERC.

Carnegie Interstate Pipeline Company, RP00-473-000. Carnegie Interstate Pipeline Company (CIPCO) filed its Compliance Filing pursuant to Order No. 637. This filing addresses Order No. 637’s requirements related to new balancing services, flexibility on receipt and delivery point rights; segmentation of capacity for release transactions, penalty provisions, crediting of penalty revenues; Operational Flow Orders, lifting of price caps on short-term capacity release transactions and right of first refusal. The OCA intervened in this proceeding on September 7, 2000 and filed comments on this compliance filing on September 14, 2000. FERC has not ruled on this filing nor scheduled any settlement meetings or technical conferences. The OCA notes that Carnegie and Equitrans have filed for approval to merge their systems, and FERC has not yet ruled on the merger proceeding.

Transcontinental Gas Pipe Line Corporation, RP00-481-000. Transcontinental Gas Pipeline Corporation (Transco) filed its Compliance Filing pursuant to Order No. 637. This filing addressed Order No. 637’s requirements related to new balancing services, flexibility on receipt and delivery point rights; segmentation of capacity for release transactions, penalty provisions, crediting of penalty revenues; Operational Flow Orders, lifting of price caps on short-term capacity release transactions and right of first refusal. The OCA intervened in this proceeding on September 7, 2000 and filed comments on this compliance filing on September 14, 2000. Transco scheduled several settlement meetings in an attempt to resolve some of the issues raised by parties. A new filing was then made by Transco. The Commission required Transco to file, by April 19, 2001, additional information explaining how its filings satisfy the Order No. 637 requirements and provided parties 20 days thereafter to file comments. This new filing incorporated many of the compromises reached by the parties,
including the OCA, during settlement discussions. The OCA filed comments on this filing on May 8, 2001. This proceeding has been consolidated for decision with the proceedings at Docket Nos. RP01-236-000 and RP00-553-000 discussed below. By order dated September 27, 2001, FERC generally approved the settlement supported by the OCA and found that Transco had generally complied with the Order Nos. 637 and 587 requirements, but required Transco to make certain additional changes. On February 27, 2002, FERC issued an order rejecting most rehearing requests, and allowing Transco to file tariff sheets to implement a new charge for trading services at the lower rate supported by the OCA.

**Texas Eastern Transmission Corporation, RP00-468-000.** Texas Eastern Transmission Corporation (Texas Eastern) filed its Compliance Filing pursuant to Order No. 637. This filing addressed Order No. 637’s requirements related to new balancing services, flexibility on receipt and delivery point rights; segmentation of capacity for release transactions, penalty provisions, crediting of penalty revenues; Operational Flow Orders, lifting of price caps on short-term capacity release transactions and right of first refusal. The OCA intervened in this proceeding on September 5, 2000 and filed comments on this compliance filing on September 14, 2000. Texas Eastern scheduled several settlement meetings in an attempt to resolve some of the issues raised by parties, however, no settlement was reached. Texas Eastern filed revised tariffs on July 12, 2001 in an attempt to resolve some of these issues in this proceeding. That filing resolved some, but not all of the issues raised by the OCA, consequently the OCA filed comments in these cases on August 30, 2001 seeking Commission resolution of outstanding issues. On February 27, 2002, FERC issued an order generally accepting Texas Eastern’s filing, but requiring certain modifications, including many of the modifications sought by the OCA. Importantly, FERC eliminated restrictions on customer flexibility to use and segment its capacity within a zone and upheld the right of firm customers to exercise partial day recall of released capacity, an issue important to Pennsylvania’s retail gas choice program. The order placed significant limitations on hourly flexibility rights under no-notice service tariffs, and the OCA, along with several other parties, sought rehearing. These requests are pending before FERC. On May 31, 2002, Texas Eastern made a compliance filing in this docket. The OCA intervened in this proceeding on June 12, 2002, protesting the portion of the filing that seeks to continue to implement restrictions on a shippers ability to release capacity within its delivery rate zone.

**Transcontinental Gas Pipe Line Corporation, RP01-236-000.** Transco filed on February 28, 2001 a revised tariff to implement a new computer billing service known as the 1-Line System and new customer services in connection with that new billing service. In that tariff filing, Transco also proposed several new changes to the operation of its system, including proposing new limitations on imbalance netting and trading rights and proposing new penalties and restrictions. The Commission by Order dated March 30, 2001, consolidated this docket with Transco’s existing Order No. 2000 compliance docket and its pending netting and trading docket at RP00-553-000. In the March 30 Order, FERC had required Transco to clearly identify those portions of the consolidated filing that related respectively to Order No. 637, Order No. 587-L and Transco’s proposed 1-Line computer program. The OCA is an intervenor in those two dockets, and consequently by virtue of consolidation became an intervenor in this docket. Transco held settlement meetings with the parties to this proceeding in January and February of 2001. The OCA and
other parties negotiated a settlement to resolve concerns that the 1 Line filing inappropriately restricts customer flexibility in shipping gas on Transco’s system. Transco filed that settlement on April 19, 2001. On September 27, 2001, FERC issued an order ruling on Transco’s compliance with the respective requirements of these orders as well as on the 1-Line issues. Essentially FERC found Transco’s tariffs in compliance with both Order Nos. 637 and 587-L except for a few required modifications. One of those modifications, i.e. that relating to netting of costs from penalty revenues, adopted the OCA’s recommendation that limits the types of costs that can be netted before penalty revenues are flowed through to customers. Numerous rehearing requests have been filed and this matter is pending before FERC. In that order, FERC generally approved the settlement supported by the OCA but required Transco to make certain additional changes as noted in the discussion under Transco Docket No. RP00-481 above. On April 25, 2002, FERC held a conference in this docket to afford Transco an opportunity to present a proposal on its plan to implement its 1Line internet service delivery computer system. This matter is now pending before FERC.

**Dominion Transmission, Inc.,** RP00-344-000. 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 sought 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 sought 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 filed a settlement resolving all issues with FERC in April, 2001. The OCA supported the settlement. FERC approved the settlement by order dated September 12, 2001.

**FERC Gas Rate and Miscellaneous Proceedings**

**Transcontinental Gas Pipe Line Corporation,** RP01-245-000. On March 1, 2001, Transco filed to increase base rates by $228 million annually. The OCA intervened in this proceeding on March 12, 2001 protesting this rate increase. Transco sought a 15.05% return on equity, well above the level authorized recently for other pipelines. In addition, the OCA questioned Transco’s proposed level of labor expense, environmental cost recovery expense and the expense associated with Transco’s new computer system. The OCA also protested the proposed roll-in of costs associated with several new expansion projects, as well as other rate design and cost allocation issues. The OCA filed testimony on November 15, 2001 in this docket challenging most of Transco’s requested rate increase. On January 22, 2002, the OCA filed cross-answering testimony reflecting additional adjustments and further lowering the amount of the rate increase sought by Transco. The OCA supported the settlement of all cost of service issues as that settlement provides for substantial savings in the amount of approximately $152 million annually from the filed-for rates for retail ratepayers across the system, and approximately $18.5 million annually for Pennsylvania ratepayers served off Transco’s pipelines. FERC approved this Settlement by order dated July 23, 2002. The OCA submitted its brief on August 28, 2002, on the rolled-in pricing issues associated with the Mobile Bay, Pocono and Cherokee expansion projects. The OCA opposes rolled-in pricing for...
these projects as such rate treatment distorts price signals related to the cost of expanding pipeline capacity. These issues are still pending before FERC.

**Columbia Gas Transmission Corporation PCB Costs, RP95-408-000.** 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 settled in September, 1998. That settlement 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 provided significant benefits to Pennsylvania consumers of approximately $16 million in savings over that period. FERC approved this settlement by order dated August 2, 1999. Columbia is required by the Settlement to make annual filings to flow through insurance proceeds recovered relating to these remediation costs. The parties are currently negotiating allocation of the refunds associated with those insurance proceeds received by the Columbia Companies as indemnification for these clean-up costs.

**Dominion Transmission, Inc., RP00-632-000.** DTI filed on September 29, 2000 a request to increase rates through its Transportation Cost Adjustment Tracker (TCRA) by $65 million annually in order to recover fuel costs claimed to be unrecovered under other provisions of the tariff. This amount includes $45 million in claimed “non-purchased supply” quantities. DTI’s tariff setting forth the parameters for allowed recoveries under the TCRA does not mention “non-purchased supply”. The OCA intervened and protested this filing on October 13, 2000. While the case was pending before FERC, DTI began settlement negotiations with its customers. FERC held a technical conference on January 11, 2001, and requested that all parties file comments by February 6, 2001 on the issues raised by this proceeding. The OCA planned to file comments requesting that a significant portion of DTI’s requested rate increase be rejected on grounds that DTI engaged in imprudent gas purchasing practices and now seeks to have ratepayers bear the risk of management decisions to wait to replace lost gas until after the gas price spikes of the past few months. DTI filed a settlement in this proceeding on June 22, 2001, resolving all of the OCA’s concerns. The OCA supported the settlement. The settlement provides for a substantial reduction in the rate increase and for DTI to accept the risk of non-purchased supply on a going-forward basis. FERC approved this settlement by order dated September 13, 2001.

**Equitrans, L.P., CP01-396-000.** On July 12, 2001, Equitrans filed an application for approval to spin down its gathering facilities to an unregulated affiliate, Equitable Field Services (EFS) and to declare the operation of the facilities by EFS to be a non-jurisdictional service. The OCA intervened in this proceeding on August 1, 2001 and protested the spin down as proposed. Over 900 retail consumers in Pennsylvania are served directly off these gathering facilities. The OCA seeks by its protest to ensure that these consumers will continue to receive adequate service at reasonable prices after the spin down considering the fact that EFS may not be regulated by FERC. By order dated February 14, 2002, FERC granted Equitrans authority to abandon these facilities as non-FERC jurisdictional gathering facilities, and clarified
that the order provides for the price protection for Pennsylvania retail consumers sought by the OCA. The Commission also clarified that the order does not resolve any issues related to state jurisdiction over the facilities.

**Tennessee Gas Pipeline Company PCB Surcharge Filing, RP91-203-071.** Tennessee filed on May 31, 2002 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 noted 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 remained 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 sought 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, 2002, 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. By order dated June 28, 2002, FERC accepted this filing.

**Equitrans, L.P. and Carnegie Interstate Pipeline Company, Docket No. CP02-233-000.** Equitrans and Carnegie filed an application on May 20, 2002 seeking FERC approval of a transfer of Carnegie’s assets to Equitrans. This proposed merger had already been approved by the Pennsylvania Public Utility Commission for the retail operations and facilities. This application would obtain approval for merger of the interstate pipeline operations and facilities. The OCA intervened in this proceeding on June 14, 2002, generally supporting this filing, but requesting that FERC specifically defer ruling on the rate implications of the filing until Equitrans’ next rate case. This matter remains pending before FERC.

**Consolidated Edison, et al. v. FERC, Case No. 01-1345.** On August 10, 2001, Consolidated Edison, the OCA, PECO Energy Company and Washington Gas Light Company filed a joint appeal in the District of Columbia Circuit Court of Appeals seeking review of FERC’s June, 2001 final order approving rolled-in rates for the Leidy Line portion of Transco’s pipeline system. This appeal stems from FERC Docket Nos. RP97-71-000 and RP95-197-000, two Transco rate cases in which the OCA actively participated in this issue. The OCA filed its joint brief with other petitioners on May 20, 2002. This case is scheduled for oral argument on November 8, 2002.

**Gas Research Funding.** The OCA became aware during January, 2002, that the American Gas Association (AGA) is proposing federal legislation to Congress that would allow local gas distribution companies (LDCs) to create a new entity to fund research for LDCs. The new entity would create a Board composed entirely of chief executive officers from the LDCs to set a budget for funding research programs,
the costs of which would be recovered through mandatory surcharges imposed on retail gas consumers. AGA requested the National Association of Regulatory Utility Commissioners (NARUC) to pass a resolution supporting the proposed federal legislation. The OCA, along with NASUCA and several large industrial consumers and large industrial consumer trade associations, appeared before the NARUC Gas Committee at its Winter 2002 meetings to urge NARUC to reject the proposed resolution. The OCA opposes mandatory surcharge funding of gas research as an unwarranted departure from traditional rate base treatment for this routine operation and maintenance expense and an unnecessary increase in rates for consumers. NARUC passed the resolution. On April 16, 2002, the OCA along with the Executive Director of NASUCA met with House staff members, AGA, the Gas Technology Institute, the Independent Producers Association of America (IPAA) and the Process Gas Consumers Group (PGC) in an effort to determine whether compromise is possible on this issue. The OCA believes that any surcharge or funding mechanism should fall on those making the executive decisions, i.e. the local gas distribution companies and that such companies could then seek recovery of any expenditures in the same manner as other routine operating and maintenance expenses, i.e. through base rate cases. The OCA anticipates working with NASUCA, IPAA, PGC and other allies in opposing the proposed legislation at Congress. On June 25, 2002, the OCA learned that the Pipeline Safety legislation was proceeding without the amendments proposed for funding gas research programs. The OCA will continue to monitor this progress to ensure that this amendment does not arise later in the passage of this bill or in the passage of other legislation.
TELECOMMUNICATIONS

Pennsylvania

Chapter 30 Review. During this Fiscal Year, the Pennsylvania General Assembly began its review of the Pennsylvania telecommunications law, Chapter 30 of the Public Utility Code, which expires by its own terms on December 31, 2003. The Senate Committee on Communications and High Technology, chaired by Senator Corman, held a hearing regarding the original intent and provisions of Chapter 30 on June 17, 2002. Sonny Popowsky testified at the hearing and plans to testify concerning Chapter 30 issues at future legislative hearings. The OCA has conducted research on these questions and will develop information for further review.

Verizon Pa. Network Modernization Plan, Docket No. P-00930715. On May 15, 2002, the PUC issued a report reviewing Verizon’s Network Modernization Plan (NMP) Biennial Update filed in 2000. The PUC found that Verizon had revised its original plans to offer 45 Mbps bidirectional in 1994 when the original order was entered. The PUC determined that the 2000 NMP Update now only offered a 1.5 Mbps service in one direction, such as DSL. The PUC ruled that Verizon could not alter the NMP without authorization, must revise the NMP filed, that 1.5 Mbps DSL does not satisfy the Ch. 30 requirements and Verizon must more aggressively deploy DSL in rural areas.

Verizon filed a Petition for Reconsideration arguing that it had not changed its NMP, it was authorized to make the filing as revised, and that the PUC should reconsider its determination as to what service satisfied the Ch. 30 requirements. On June 11, 2002, the OCA filed an Answer to the Verizon Petition. The OCA argued that Verizon had no authority to change unilaterally its original network modernization proposal and the PUC should reaffirm its Order. OCA also complained that the Petition had not been properly served on all parties. The PUC granted the Petition subject to further review.

Verizon North (GTE) Chapter 30 Case, Docket No. P-00001854. Verizon North (VN), formerly GTE, filed its second Chapter 30 Petition in this case. GTE’s first Chapter 30 Petition was rejected by the Commission. This case concerns how the company’s rates will be set and what network modernization plans they will have for the next 15 years. The OCA filed a complaint and was challenging many aspects of the case, including the overall ratemaking formula, the potential increases to basic residential service rates and the company’s lack of commitment to network modernization. In particular, OCA supported two large customers in Schuylkill County, Guilford Mills and the Pine Grove School District, in their effort to get affordable high speed data and video conferencing service to their facilities.

On May 31, 2001, the ALJ issued a Recommended Decision rejecting the Verizon North plan. The ALJ accepted many of the arguments made by the OCA and others that Verizon North had made no network modernization commitments in its Chapter 30 Plan and that the Plan must be rejected. The Company filed Exceptions to the ALJ’s ruling and the OCA filed Reply Exceptions on July 2, 2001.
On July 26, 2001 the PUC issued a decision in the case. The PUC modified other aspects of the Chapter 30 Plan, e.g. the PUC adopted an inflation offset of 2.5%. The Company had proposed a 2.0% offset, and the OCA had advocated for a 6.5% offset.

The PUC also ruled that the Verizon-North Network Modernization Plan (NMP) was inconsistent with Chapter 30 requirements. The PUC adopted many of the arguments advanced by the OCA. The PUC allowed Verizon North 120 days to revise its NMP.

Verizon-North filed a revised NMP Plan that stated that VN will offer data services rather than its affiliate. The OCA filed its response on December 6, 2001. The OCA explained that there was a need to develop broadband services in the rural portions of its service territory, the schedule proposed was not sufficiently rapid, it was not assured that the prices would be reasonable, and the PUC should solicit public comment on the plan.

On April 11, 2002, the PUC accepted the VN NMP. The PUC rejected many of the OCA arguments. The PUC rejected the complaint of a school district and industrial customer concerning ISDN services as it considered such issues not relevant in a Chapter 30 network modernization plan. The PUC did not require Verizon North to deploy broadband more rapidly than other smaller telephone companies.

Re: Performance Measures Remedies, Docket No. M-00011468. In this proceeding, the OCA and other parties argued that the PUC should create a system by which Verizon would track the accuracy of the consumer information listed in the Verizon directories. An earlier recommended decision had rejected this approach and further required the PUC to not require any metrics unless the same metrics had been accepted by the New York Commission.

On June 24, 2002, the PUC issued a Tentative Order that affirmed the OCA on all issues raised. The PUC approved the directory metrics in question, rejected the attempt to require New York approval first, rejected the ALJ’s procedural concerns about using the evidence offered on metrics, and encouraged the parties to better develop the related penalties for directory metrics. This will allow closer supervision of the accuracy of directory listings. This has been a major problem for consumers that are listed incorrectly. It has also negatively affected the CLECs involved and harmed competitive efforts.

The OCA will continue to advocate in favor of directory metrics before the PUC so that consumers that choose competitive local service will be assured of accurate listings in the telephone directory.

MCI v. Verizon Pa., Docket C-00015149. The OCA has participated in this case in order to determine how Verizon Pa. and other telecommunications companies will establish and apply a local service freeze in order to avoid local slamming. The OCA has filed comments in this case and participated in extensive collaboratives on this issue. The OCA has advocated that consumers should have an option to freeze these local service providers, and has suggested other ways in which consumers can easily lift the freeze if they
wish to do so - particularly by being able to call a Verizon service representative in evening hours. It now appears that the PUC will consider this issue through other telecom collaboratives.

Investigation to Develop Price to Compare for Telephone Companies, Docket No. M-00011580. On November 9, 2001, the PUC issued a tentative order that would have required all local telephone companies to report a standard price to compare. This would have facilitated shopping by consumers on the basis of such pricing information.

The OCA filed its Comments on December 18, 2001 in support of using a price to compare. OCA proposed some modifications to the PUC proposal so that: 1) the bill must clearly disclose the amount that you must pay in order to maintain local service, 2) telephone companies must consistently advertise the same amount so that there are no hidden charges, and 3) telephone companies should report these prices so that the OCA could do a form of a shopping guide.

On April 23, 2002, the PUC entered an Order that reversed many of its proposals concerning the creation of a price to compare. The PUC noted that the telephone companies generally opposed any attempts to develop a “standard offer” or price to compare as too difficult based on the variety of rates offered by service and location. Although the PUC noted the OCA’s general support for the development of a price to compare tool, the PUC declined to pursue it. Instead, the PUC directed its Office of Communication to develop and disseminate to consumers a checklist for shopping for telco services and other consumer education materials. The PUC affirmed that the existing regulatory obligation that local exchange companies must “explain and give the price of the least expensive type of single party service” as a consumer protection. The PUC directed that the order be published in the Pennsylvania Bulletin and distributed to all jurisdictional carriers.

Collaboratives to develop proposals on changing local service providers, how to handle customer information, quality of service, and the abandonment process, Docket Nos. M-00011582, Folders 1-4. On December 4, 2001, the PUC initiated these actions in four interrelated dockets and entered different Orders. The OCA filed Comments in these proceedings on January 11, 2002.

The OCA made proposals in each of these areas. Among the highlights of OCA’s proposals were the following:

- Retail service quality has declined and the PUC should revise its regulations in order to monitor and correct these problems.
- Customers should receive notice of all change in service terms before they are effective.
- The bill should explain what part of the charges a consumer must pay in order to retain local service.
- Telephone companies should provide information to consumers so that they could better shift service to another carrier in the event of an abandonment of service.
The PUC entered orders on April 23, 2002 adopting as final, revised Interim Guidelines on each of the four topics. In the matter of Customer Information, the PUC requested further review in the collaborative as to how to offer various types of customer information on the bills. The PUC also emphasized that it would rely on the disclosure statement provided by telcos at the time a customer initiates service or upon request of the customer to communicate some of these details. The PUC did adopt some revisions advocated by the OCA to proposed definitions and the content of disclosure statements related to customers’ rights to rescind requests for services or, in response to notice of increase in rates.

In the matter of Changing Local Service Providers, the PUC adopted some of the OCA’s recommendations for changes to proposed definitions and clarified that other existing definitions related to the suspension or termination of service are incorporated in the Interim Guidelines. The PUC agreed with the OCA that a Local Service Provider (LSP) could only refuse to migrate a customer to a new LSP if the customer’s service had been terminated and not simply because accounts were still due. The PUC declined to adopt the OCA’s recommendation that Pennsylvania guidelines should incorporate the FCC’s anti-slamming rules and the PUC’s own anti-slamming policy as stated in a prior Secretarial Letter. The PUC agreed with OCA that in principle, Local Service Provider Freezes should be removable in a prompt fashion but deferred a more detailed examination of freeze related issues to the previously commenced Local Service Provider Freeze collaborative as discussed above.

Regarding proposed Service Quality Guidelines, the PUC did not accept OCA’s position that the proceeding should be expanded to address the Commission’s current regulations regarding retail service quality. On the issue of responsibility for porting of numbers, the PUC affirmed OCA’s position that customers retain the right to have their telephone numbers ported unless their local service is terminated. The PUC agreed with OCA that the guidelines should emphasize that LSPs who use the facilities of an underlying carrier have a duty to resolve customer quality of service problems with the underlying carrier on behalf of the customer. The PUC declined to adopt OCA’s recommendation that LSPs disclose to the customers the address or circuit identification information regarding how their service is physically connected. OCA commented that such information would be useful in the event the current LSP abruptly ceases to be in business. The PUC agreed to reverse its original plan that after a customer is involuntary migrated to a new LSP, that the new LSP could implement an LSP freeze if the customer previously had one in place. Instead, the PUC agreed with OCA that the customer would have to affirmatively request that the new LSP implement a freeze.

The PUC also adopted Interim Guidelines Establishing An LSP Abandonment Process. While the PUC agreed with the OCA that a bond or surety requirement should apply, the PUC postponed these discussions to the collaborative. Similarly, the PUC deferred discussion of how circuit identification information might be shared before any abandonment occurs to the collaborative. The PUC Order did not address OCA’s concern that a clear provider of last resort obligation should be resolved. The OCA has continued to attend and participate in collaboratives on these issues.
Access Reform, Docket No. M-00021596. In late 2001, the PUC staff requested Sprint and the Rural Telephone Company Coalition (RTCC) to send to the PUC a plan for reducing access charges. On April 15, 2002 two different plans were filed by incumbent local exchange carriers. The OCA is concerned with these plans to the extent that they would increase local rates. The OCA will continue to review and discuss these proposals in order to determine how access rates may be reduced while maintaining reasonably priced and affordable local service rates.

AT&T v. Verizon North, Docket No. C-20027195. On March 20, 2002, AT&T filed a complaint against Verizon North (VN) access charges and proposed that those rates must be reduced. OCA intervened in that case on April 10, 2002. VN answered the AT&T complaint and argued that the complaint was in conflict with a prior settlement that required VN to file in December 2002 to revise access charges and that any access charge issues should be resolved in a recently created collaborative instead. This complaint was then dismissed and the issue sent to a collaborative on access issues.

On June 17, 2002, the OCA filed Reply Exceptions to that ruling and argued that the PUC should not dismiss a complaint simply because a collaborative may also discuss the same issue. The OCA is generally concerned about raising local rates in order to reduce access charges.

Competitive Safeguard Proposed Rulemaking Order, Docket No. L-00990141. On May 20, 2002, the OCA submitted Comments to the PUC regarding the competitive safeguards Proposed Rulemaking Order issued on January 29, 2002. The OCA supported the establishment of competitive safeguards in the competitive provision of local telephone service. However, the OCA suggested that the proposed safeguards should be modified so that: 1) existing safeguards are not superseded unless they are inconsistent with the new safeguards; 2) the safeguards should recognize the diverse nature of local exchange telephone companies including those which offer data services; 3) the accounting and auditing procedures should define retail services and additional wholesale services; 4) the safeguards should further prevent discrimination of UNE provisioning; 5) the advertising and marketing section of the safeguards should reference the Pennsylvania Unfair Trade Practices and Consumer Protection Law; and 6) that the mandatory term “shall” should be used instead of the permissive word “may” so that it is clear that these safeguards are not optional.

Small Telephone Company Rate Filings. In April and May 2002, the OCA received and reviewed 15 rate filings made by small telephone companies subject to regulation under individual Chapter 30 Plans. The filings propose that the increases take effect on July 1, 2002.

OCA filed a notice of intervention in each proceeding. Most of the rate rebalancings proposed some decrease to access rates and increase to basic local service rates to offset the revenue loss from access. The requested increases related to changes in inflation ranged from $0.10 to $0.17 per line per month.

Specifically, Buffalo Valley Telephone Company, Conestoga Telephone Company, Denver & Ephrata Telephone and Telegraph Company (d/b/a D&E Communications), and Ironton Telephone Company filed requests to rebalance rates on a revenue neutral basis and to increase basic local service rates to account for changes in inflation as measured by each telco’s Price Stability Index. ALLTEL of Pennsylvania, Inc. filed to rebalance rates on a revenue neutral basis, to roll touchtone service into basic service rates, and to increase basic service rates to account for inflation. The five individual Frontier local exchange companies filed proposals to rebalance rates on a revenue neutral basis. Ironton proposed to rebalance rates by both reducing access rates and retail local toll rates, offset by increases to basic local service rates and some non-recurring charges.

OCA’s prior settlement of the D&E/Buffalo Valley/Conestoga merger case imposed a cap on the amount of increase it would request in 2002, providing for more gradual increases in basic local service rates than those telcos’ might otherwise have sought.

ALLTEL and OCA entered into a settlement agreement on May 16, 2002. The agreement supports the PUC allowing the rate changes, including the roll-in of touchtone into rates. ALLTEL has agreed to provide consumers with notice of the availability of Lifeline and Link-Up services for low income customers.

The OCA has also generally entered into settlements in these cases that reduced the residential rate increases requested.

Rate Center Consolidation, Docket No. M-00011452. On February 8, 2001, the PUC opened a proceeding to study the possibility of rate center consolidation (RCC). This would have the effect of requiring a smaller number of phone numbers that CLECs must take in order to compete in Pennsylvania, and could reduce the growth in area codes. The OCA cooperated with other affected parties and studied the potential for Rate Center Consolidation (RCC). The OCA, along with other affected parties, advocated that a more beneficial way to resolve the inefficient use of area codes was to implement thousand block pooling in all area codes in Pennsylvania - particularly in the 570 and 717 area codes that were not scheduled for thousand block pooling at that time. Thousand block pooling would also avoid some potential rate increases that RCC might produce.

On June 22 and 29, 2001, the OCA filed comments indicating that voluntary 1000 number block pooling would be a quicker and less costly method to preserve the 717 and 570 area codes. The OCA also worked with Rep. Keith McCall, who filed similar comments, on this issue as well.
Relief Plan for 717 Area Code, Docket No. P-00961071F0003. On September 5, 2001, the PUC entered an Order that requested comments concerning area code relief for the 717 area code. The industry had recommended an overlay area code when the present 717 should exhaust.

The OCA filed Comments on November 13, 2001. The OCA explained that an additional area code should be added only when it was absolutely certain that an additional area code would be needed. OCA advocated that no additional area code should be authorized at the time, particularly given the initiation of pooling at the present time. OCA advocated that the PUC should also examine the large number of telephone numbers that are not assigned for use in the 717 area code.

Financial Reporting Requirements, Docket No. L-00010153. On June 28, 2001, the PUC adopted a proposed rulemaking in order to review the information that must be filed by Local Exchange Carriers, i.e. ILECs and CLECs or LECs. The Order raised a number of questions concerning whether certain reports still needed to be filed.

The OCA attended a number of collaboratives on these issues and agreed to the reduction of material necessary to be filed. On October 9, 2001, the OCA also filed Comments in the proceeding concerning the collaborative report. The OCA Comments made opposed the following points: 1) the widespread classification of LEC reported information as proprietary as the public would no longer have access to this important information; 2) restricting legislative access to this information based on the "need to know such information"; 3) allowing automatic approval of any claims to restrict further information. OCA also objected because the collaborative had not taken any action to require information concerning where ILECs and CLECs offer service. The OCA advocated that this information would be important as consumers sought to determine where CLECs offer service. On December 4, 2001, the PUC entered an Order that approved the collaboration report and rejected the OCA comments.

Federal

Application by Verizon Pennsylvania, Inc. to Offer InterLATA Long Distance Service in Pennsylvania, CC Docket No. 01-138. On July 11, 2001, the OCA filed Comments with the FCC concerning Verizon’s request to offer long distance service in Pennsylvania. The OCA explained that certain issues must be resolved before Verizon would be permitted to offer long distance service in Pennsylvania.

The OCA explained that: 1) Verizon must offer to CLECs all of the loop qualification information to which Verizon Pennsylvania has access and develop a metric as to the accuracy of this information; 2) Verizon must produce white page listings for CLECs with the same level of accuracy that it offers to its retail customers and develop a metric to measure such accuracy; and 3) Verizon must commit to not seeking to overturn the Pa. PUC’s fundamental regulatory authority to implement and maintain self-effectuating metric remedies. The OCA set forth information concerning each of these issues as it had been developed in Pennsylvania proceedings concerning Verizon’s long distance application. The OCA believed that it was
necessary to resolve these competitive issues before Verizon should be permitted to offer long distance service.

On September 19, 2001, the FCC approved the Verizon application.

**CALLS Access Reform**, CC Docket No. 96-45. When the FCC increased the Subscriber Line Charge for all customers, it also promised to look at the cost of the telephone company lines in order to make sure that the Subscriber Line Charge was not set at a rate higher than the cost of those lines.

The OCA assisted in preparing a study of this issue that was filed at the FCC. According to that study, consumers will be required to pay more than their line cost by $1.8 billion in 2003 if a proposal by the FCC is adopted. The study found that the current $5.00 per month Subscriber Line Charge (SLC) already overcharges consumers by $641 million when cost computations are fairly done. A proposal to raise the SLC to $6.50 in 2003 would result in consumers overpaying for the cost of the local loop by $1.8 billion.

On June 5, 2002, the FCC issued an Order that rejected the cost study submitted by NASUCA and, accordingly, allowed the residential SLC to increase.

**Numbering Reform**, CC Docket No. 99-200. On March 14, 2002, the FCC issued its Third Further Notice of Proposed Rulemaking in this proceeding in order to review further potential changes in how telephone numbers are used.

On May 6, 2002, the OCA filed comments on behalf of NASUCA that would support requiring Thousands Block Pooling through a Metropolitan Statistical Area whether or not the local carrier has been requested to offer Local Number Portability. Pooling allows numbers to be used more effectively and allows the better conservation of area codes. NASUCA will also likely support the use of a new designation of Combined MSAs to determine where pooling is required as used by the Census Bureau. CMSAs encompass a much larger geographic area and would more accurately reflect residential commuting patterns.

**McCall Petition Concerning Numbering Conservation Matters**, NSD File No. L-01-113. Rep. McCall had sought delegation of FCC numbering authority so that thousands block number pooling could be initiated in the 570 area code. The OCA filed Comments on October 23, 2001 requesting that the McCall Petition be held in abeyance given actions taken by the PUC in an attempt to implement thousands block number pooling.

**D.C. Circuit Court Appeal of Numbering Orders**, 02-1127. On April 15, 2002, Sprint Corporation and Qwest Corporation each separately filed appeals to the United States Court of Appeals for the District of Columbia Circuit alleging that three of the FCC’s recent Orders regarding numbering issues were arbitrary and capricious or otherwise in violation of the Telecommunications Act of 1996. The issues raised include whether the FCC can delegate to state commissions certain numbering ability and to what extent carriers
can recover their costs of implementing numbering procedures. The OCA submitted a Petition to Intervene in the consolidated proceeding on May 15, 2002 on behalf of NASUCA.

**FCC Review of Unbundling Obligations**, CC Docket No. 01-338. The FCC is reviewing the extent to which Incumbent Local Exchange Carriers, such as Verizon Pennsylvania, Inc., will be required to unbundle portions of its network for use by other competitive telephone companies. OCA prepared and filed comments in this proceeding on April 5, 2002. Other consumer advocate offices joined in those comments.

The OCA argued that the FCC should not further limit the Unbundled Network Elements (UNEs) that companies must offer to competitors. Limiting those options will likely reduce the amount of local competition in Pennsylvania, particularly for the residential customers. We also advocated that the FCC should continue to allow the PUC to make its own determinations as to what UNEs are required in Pennsylvania. The PUC is in a much better position to consider these issues and the amount of unbundling necessary in Pennsylvania.

**Universal Service Joint Board**, CC Docket No. 96-45 concerning USF contributions. On April 22, 2002, NASUCA filed Comments on contributions and the OCA assisted in the preparation of those comments. The FCC has proposed to change the way in which consumers are charged for the cost of the carrier's contribution to universal service. In the past, carriers have charged their customers as much as 10% of their interstate services for contribution to universal service. As these percentage charges have increased, some in the industry have proposed that this contribution to move toward a flat fee. NASUCA filed comments disputing that this is an appropriate way to charge for universal service. NASUCA is concerned that this fee will be particularly hard on consumers who make very few long distance calls. We have also offered, as another alternative, that a flat rate surcharge could be acceptable if it were guaranteed that the level of surcharge would not change for residential lines for a certain period of time.

**Universal Service Joint Board**, CC Docket No. 96-45. The FCC has also created a proceeding to consider whether the FCC should revise the eligibility for Lifeline enrollment. NASUCA has filed comments advocating, inter alia, that the FCC should allow consumers to enroll in the Lifeline program if they have a low income, regardless of whether they are enrolled in any public assistance programs. OCA has also participated in meetings with members of the Universal Service Joint Board in order to make these points.

**Provision of Directory Listing Information Under the Communications Act of 1934**, CC Docket No. 99-273. On April 1, 2002, the OCA filed FCC Comments in this proceeding. The FCC had proposed that companies, other than the local exchange carrier from which the subscriber purchases local service, should be able to compete to be designated as the carrier to provide directory service. Presently, many ILECs provide this 411 service to consumers at regulated rates. These rates limit the prices charged, allow the consumer two directory calls at no charge, and offer other discounts to the handicapped. The OCA was concerned that competition where the service is regulated may deprive consumers of these benefits where they may inadvertently lose the benefits of regulated rates. The OCA
explained that the FCC should not override the regulatory benefits created through state regulation through competitive presubscription for services.

OCA suggested, however, that where there was no price regulation of such services, it would be appropriate to allow 411 competitive presubscription. This would give consumers greater choice concerning their directory assistance provider.

In the matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33. On May 3, 2002, the OCA filed comments concerning the FCC's proposal to redefine high speed Internet access over the telecommunications network as an information service, rather than a telecommunications service.

Redefining the nature of this service will likely reduce the amount of competition in the telecommunications area for this service. Presently, the ILECs must offer their equipment to competitors in order to offer competitive services in this area. Redefining this service as an information service would likely eliminate this competitive opportunity.

The OCA filed Comments along with 7 other NASUCA offices from Maine, Maryland, Ohio, California, Connecticut and New Hampshire. In these Comments, the OCA advocated that wireline broadband Internet access services should not be declared an information service because such a determination would rewrite TA-96 and would limit the FCC’s ability to achieve important Congressional and FCC goals. The OCA also argued that such a classification would inhibit the unbundling of network elements thus making competition more difficult and also remove basic public protections and state commission authority. The OCA also submitted an alternative method of allocating the cost of wireline broadband Internet access services between intrastate and interstate services. Finally, the OCA cautioned that a reclassification of wireline broadband Internet access services would jeopardize existing universal service funding obligations and thus jeopardize the universal service system. The OCA filed similar Reply Comments on July 1, 2002.

Establishing Rules Governing Informal Complaints Filed By Consumers, FCC 02-32. The OCA submitted Comments to the FCC on behalf of NASUCA on May 16, 2002, supporting the FCC’s decision to establish and modify its procedures by which consumers file informal complaints. However, the OCA also suggested the following modifications to those procedures: 1) consumers should not be required to contact the regulated entity before filing a complaint with the FCC; 2) the FCC should assist in serving the informal complaint; 3) a complaint should not be rejected for technical reasons; 4) companies should respond to the complaint within 30 days; 5) the FCC’s complaint process should be coordinated with state commissions; 6) the content of the complaints should be confidential but the general subject matter should be public; and 7) informal complaints should be given ex parte status so as to expedite their resolution.

UNE Rate Appeal (Verizon v. FCC, Nos. 00-511, 00-555, 00-587, 00-590 and 00-602). The United States Supreme Court agreed to hear appeals by Verizon and other local telephone companies from the
Eighth Circuit 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.

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

On May 13, 2002, the United States Supreme Court issued its decision in this matter and reversed the Eighth Circuit’s decision to vacate the FCC’s pricing methods for UNE’s. The Supreme Court upheld the FCC rules intended to foster competition in the provision of local telephone service by allowing competitors to lease UNEs at lower rates and require ILECs to bundle certain network elements. The Supreme Court also upheld its prior decisions including Duquesne v. Barasch which held, among other things, that a pricing methodology cannot be considered an unconstitutional “taking” under the 5th Amendment based on the methodology alone but the overall impact of the actual resulting rates must be considered as well.
WATER

Base Rate Increase Proceedings

Philadelphia Suburban Water Company, Docket No. R-000016750. Philadelphia Suburban Water Company and nine other affiliated operating subsidiaries of Philadelphia Suburban Corporation filed for an increase to base revenues of approximately 14% or $28 million. The OCA filed a Formal Complaint against the increase, conducted extensive discovery, and submitted direct testimony on the subjects of Accounting, Rate of Return, Depreciation and Cost of Service. Three public input hearings were held in February 2002, followed by technical hearings in April 2002. The OCA filed main and reply briefs in support of its litigation position that the Company should receive, rather than a $28 million increase, a rate decrease of approximately $700,000. The Recommended Decision of Administrative Law Judge Chestnut of June 6, 2002, would have permitted only an increase of approximately $15 million in lieu of the $28 million request and acceptance of a number of the OCA’s proposals and adjustments. The Final Order of the Commission, however, permitted an increase of $21.2 million or 10.19%, thus granting in part and denying in part the parties’ Exceptions.

Pennsylvania-American Water Co., Docket No. R-00016339. PAWC filed for a base rate increase of approximately $30 million on April 27, 2001. The OCA filed a Formal Complaint challenging the increase and served five sets of discovery on the Company. Public input hearings were convened throughout the Company’s service territory in Kingston, Tobyhanna, Camp Hill, Hickory, Butler and Clarion, Pa. In August 2001, the OCA submitted written testimonies by five expert witnesses on the following subjects: Accounting, Depreciation, Rate of Return, Cost of Service/Rate Design and Low Income Programs. The OCA’s overall recommendation was for a proposed decrease in rates of approximately $1.8 million, inclusive of adjustments to many expense claims and non-rate proposals to improve the Company’s low income program. The Company’s rebuttal case and the OCA’s surrebuttal case was filed, followed by technical evidentiary hearings on September 17 - 20, 2001. A Recommended Decision by Administrative Law Judge Michael A. Nemec was issued in December 2001 recommending that the Company be granted an increase of $16.7 million, or approximately 5%. Exceptions and Reply Exceptions were filed by the parties by December 31, 2001. On January 25, 2002, the Commission entered an Opinion and Order in this case granting the Company an increase of $24.7 million, or approximately 8.7%. Low income issues were referred to a collaborative process, which was continuing at the conclusion of the fiscal year.

York Water Company, Docket No. R-00016236. York had filed for a $2 million increase in base rates in March 2001. In June 2001, the OCA served its written Direct Testimony relevant to Revenue Requirement, 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, for example, a reduction to the proposed residential customer charge and a modification of the volumetric blocks are modified to promote conservation policy to a greater extent. A public input hearing was held in York, Pa. in July 2001 and technical evidentiary hearings were scheduled in Harrisburg in August 2001. However, settlement negotiations were productive and the parties
submitted a Joint Petition for Settlement on August 22, 2001, proposing an increase of $1.2 million rather than the $2.1 million originally requested by the Company. In addition, the settlement called for a more moderate change in the customer charges for the Residential class and a stay-out until December 2002. By Order of August 31, 2001, the PUC adopted the Recommended Decision of Administrative Law Judge Weismandel approving the Joint Petition for Settlement in full.

Emporium Water Company, Docket No. R-00005050. As discussed in last year’s Report, on March 31, 2000 Emporium 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 their PURTA taxes separately through a tax adjustment surcharge. The OCA opposed the Petition, but the Commission approved a Motion on October 13, 2000, allowing the request. Other issues in the case remained under litigation, 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. The OCA filed a Petition for Reconsideration with the Commission regarding the PUC’s failure to address the objections of OCA and the Office of Trial Staff that the Company had improperly disclosed information from confidential mediation negotiations in making its request to the Commission for a separate tax filing. That petition was denied by the Commission. The OCA also filed a Complaint against the Company’s state tax filing on the ground that the request was above the amount that the Company was entitled to receive. On December 29, 2000, the ALJ issued a Recommended Decision granting the Company only $21,856 of its proposed increase 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 only $33,371 (5.16%). Emporium filed an appeal with Commonwealth Court. Emporium’s appeal contended that the overall rate of return was inadequate and that the level of rate case expense was inadequate. OCA intervened in Emporium’s appeal. Emporium and the Commission Law Bureau entered into a proposed settlement of the appeal that gave the Company an additional $24,000 per year and reversed the PUC’s holding on the capital structure and rate case expense issues in the March, 2001 Order. The OCA opposed the proposed settlement and 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 filed a Petition for Review in Commonwealth Court opposing the procedure used by the PUC in settling a case on appeal and the substance of the PUC’s June, 2001 Order. In October, 2001, the OCA filed a brief supporting its Petition and the Borough of Emporium filed an amicus brief supporting the OCA. Emporium Water and the PUC filed briefs, and OCA filed a reply brief. OCA also filed a motion for oral argument en banc, rather than a panel. The OCA’s motion was granted. Oral argument was held before the Court on June 12, 2002. As of the end of the fiscal year, the case was pending before Commonwealth Court.

City of Lancaster-Sewer, Docket No. R-00005109. Lancaster filed for a base rate increase of $349,970 (46%). OCA intervened. A stipulation among the City, OCA and Lancaster Township was submitted to the ALJ. 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 resulted in a revenue requirement that was less than under the proposed stipulation. Exceptions and reply exceptions were filed by the City and OTS. The PUC entered an order adopting the ALJ’s recommendations. The City appealed the PUC’s order to Commonwealth Court based on the PUC’s allowed rate of return, capital structure recommendations and the allowance of a normalized level of rate case expense. On February 22, 2002, Commonwealth Court found that the Commission’s rate case expense determination was not based on substantial evidence and remanded the case to the PUC for a determination of the proper level of actual rate case expense prudently incurred. The remanded proceeding was assigned to the OALJ for an expedited proceeding.

Jackson Sewer Corporation, Docket No. R-00005997. Jackson Sewer filed for an increase in its rates on November 22, 2000. Specifically, Jackson Sewer sought 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. The Company filed a Petition for Extraordinary Relief asking the PUC to approve an immediate increase to $700 per year to allow the Company to pay the Jackson Township Sewer Authority for providing service to the customers. OCA filed an answer suggesting certain safeguards that should be added if the PUC granted the request, including an escrow account to ensure that the monies paid were 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 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 and reply briefs on July 9. The OCA’s position was that customers should pay no more than $700 per year because it represents a full retail rate. In the alternative, the OCA recommended that customers pay no more than $69 in addition to the Authority rate. On July 26, 2001, ALJ Cohen issued his recommended decision, denying the OCA’s primary position. Regarding the OCA’s alternative position, ALJ Cohen adopted many of the OCA’s adjustments, although not all of them, to reach a recommended additional revenue per customer of $13.09 per month or $157.12 per year. Exceptions and Reply Exceptions were filed by the Company and OCA. The PUC entered an Order on September 28, 2001. The Order allowed Jackson to charge a $700 per year treatment surcharge, institute base rates of $158 per year and recover retroactive costs of $408 per customer, billed by the Authority from September, 2000 through March 2001. The PUC also reversed many of the ALJ’s recommendations adopting OCA adjustments. The OCA and state representative Steven Nickol jointly sought reconsideration and clarification. On November 13, 2001, the PUC denied the OCA’s Petition.

Columbia Water Company, Docket No. R-00016423. Columbia filed for a base rate increase of $553,456 (23.7%) on May 25, 2001. The OCA filed a formal complaint on June 14, 2001. Columbia Water serves approximately 7,596 customers in portions of Lancaster County. After a series of mediation sessions and discussions, on October 17, 2001, the parties filed a settlement with the ALJ, providing for a base rate increase of no more than $290,000, a reduction in the Company’s PennVest surcharge, and a
stay-out for filing of its next base rate case until April 30, 2003. On November 6, 2001, the ALJ recommended adoption of the proposed settlement. The PUC approved the settlement on December 5, 2001.

**City of Lancaster-Water, Docket Nos. R-00016114.** On February 5, 2001, the City filed for a base rate increase of $999,989, or 15.46%. The OCA filed a formal complaint. The parties filed a settlement agreement, covering the base rate case, on June 15, 2001. The settlement provided for a revenue increase of no more than $905,000, phased-in 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 filed testimony on the tapping fee tariff and a hearing was held on it and the proposed settlement on July 2, 2001. Subsequently, the parties were able to reach a settlement of the tapping fee tariff. On August 6, 2001, the ALJ issued a Recommended Decision approving the settlement, recognizing that the tapping fee issue was limited in scope to the circumstances presented in the case. The PUC entered an order on September 5, 2001 adopting the Recommended Decision.

**Imperial Point Water Service Company, Docket No. R-00016291.** Imperial Point filed for a base rate increase of $55,000 (60.2%) on April 2, 2001. The OCA filed a formal complaint on May 30, 2001. The parties conducted several mediation sessions and arrived at a settlement. Under the terms of the proposed settlement, the Company would receive additional annual revenues of $22,500, or 23.9% increase. The ALJ issued a Recommended Decision on August 29, 2001 recommending approval of the settlement without modification. On September 26, 2001, the PUC entered an order approving the Settlement.

**Tri-Valley (El-Do Division), Docket No. R-00005505.** On July 28, 2000, Tri-Valley filed for an increase of $6,564 (17.78%). The OCA filed a formal complaint on September 27, 2000. The case proceeded to mediation. The Company, OCA and OTS filed a settlement on August 3, 2001. It provided for a additional revenue of $4,234 or 11.47%. No comments were filed in opposition to the settlement. The ALJ issued a Recommended Decision on August 29, 2001 recommending approval of the settlement, without modification. On September 26, 2001, the PUC approved the settlement.

**Audubon Water Company, Docket No. R-00027104.** Audubon Water Company filed for a base rate increase of $416,757 (34%) on January 16, 2002. OCA filed a formal complaint on March 13, 2002. Following a public input hearing on May 13, 2002, the OCA, OTS, and the Company entered settlement discussions. As of the end of the fiscal year, the parties were continuing settlement discussions.

**Petition of Little Washington Wastewater Company, Docket No. P-00021939.** In December, 2001, Little Washington Wastewater Company filed a petition with the PUC seeking to convert its existing metered rates to flat rates in a division of its wastewater service territory. Although the proposal would not result in an overall revenue increase to the Company, it would result in significant increases to some customers while others would experience significant decreases. The Petition was the result of negotiations with homeowners in this division. One of the customers of the division filed a formal complaint. OCA intervened
in March, 2002. As of the end of the fiscal year, the parties continued to investigate whether settlement is possible.

Applications & Related Proceedings

Pennsylvania American Water Company/Thames Water Aqua Holdings/RWE AG, A-212285F0096, A-230072F004. PAWC filed an application with the PUC in December 2001, requesting approval of the acquisition of PAWC and American Water Works by Thames, an English water and sewer company, which is owned by a German utility holding company, RWE AG. The OCA filed a timely Protest, urging that the acquisition only be approved if the Commission can find that substantial affirmative benefits would be generated for Pennsylvania consumers. Among the issues which the OCA addressed were rate stability, service quality, watershed protection, main line extensions and low income protections. A protest was also filed by PAWC’s union employees and by Citizens for Pennsylvania’s Future. A Petition to Intervene was filed by the Center for Economic Opportunity (CEO) on behalf of low income customers in the Scranton/Wilkes-Barre area, which was denied by the ALJ as untimely. Both CEO and the OCA filed Exceptions to the Initial Decision denying CEO’s Petition; the Commission entered an Order denying those Exceptions in May 2002. Two Public Input hearings were held in PAWC’s Northeast service territory, Wilkes-Barre, PA on April 24, 2002. Many citizens from the region availed themselves of the opportunity to testify as to their views about the change in ownership of American Waterworks and their concern about the need for continuing vigilance over the area’s watershed lands, the need for improved low-income programs and the need for rate stability.

The OCA submitted Direct Testimony advocating approval of the transaction by the PUC only in conjunction with certain conditions designed to shield Pennsylvania ratepayers from potentially increased management, financial, regulatory and service quality risks resulting from the transaction. OCA also advocated that the savings resulting from the transaction be shared with the ratepayers in the form of a $10 million rate reduction and a period of rate stability, or, in the alternative, enhanced low-income or other programs of equivalent value. OCA concluded that, otherwise, the Joint Applicants could not show that substantial public benefits would result from the transaction and that ratepayers would be better off if the transaction were not approved.

Main and Reply Briefs were filed by all active parties in June 2002. The Initial Decision of ALJ Weisman del issued on June 21, 2002, recommending that eight of the twenty conditions proposed by the OCA be adopted into the Commission’s final order. The ALJ rejected the OCA’s proposed rate reduction and freeze for a two-year period after the merger. At the conclusion of the fiscal year, the OCA was preparing to file Exceptions to the Initial Decision.

Pennsylvania American Water Company/Coatesville Acquisition, Docket No. A-212285F0071. In 2000, PAWC had 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. Protests 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). The OCA filed testimony and hearings were held. In late 2000, a settlement was reached among all parties except PSWC through which PAWC 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 that these contributions would not be charged to PAWC customers. The PUC approved the settlement over PSWC’s protest and an appeal was filed by Philadelphia Suburban to the Commonwealth Court of Pennsylvania at Docket No. 616 C.D. 2001. The OCA filed a Notice of Intervention in March 2001. Through the course of the next year, appellate briefs were submitted, oral argument was held and, as of the end of the fiscal year, the parties were awaiting a decision from the Court.

Application of PAWC to Acquire LP Water and Sewer Company, Docket No. A-212285F0077. PAWC sought PUC authority to acquire LP’s utility assets. A protest was filed by a customer. OCA filed an intervention to monitor as well as address the remaining refunds due to LP’s customers. On November 29, 2001, the parties presented a settlement to the ALJ for his consideration. The settlement preserved ratemaking issues, such as acquisition adjustments until a future case, and it provided for the payment of LP’s remaining refund obligation upon closing of the PAWC/LP agreement. In January, 2002, the ALJ approved the settlement. The PUC approved the application on February 22, 2002. Prior to closing, PAWC and LP provided a final accounting of the refunds owed to customers showing that the full amount of the remaining refund obligation has been returned to customers.

Application of D’s Water Company, Docket No. A-210103. On August 10, 2001, D’s Water Company filed an Application seeking a Certificate of Public Convenience authorizing DWC to provide water service, as a public utility, to the existing apartment building and residential customers. Also on August 10, 2001, DWC filed a tariff seeking Commission approval of “initial” rates that would increase the Company’s annual revenues by $38,097, or 400%, over revenues at present rates. D’s Water Company serves six apartment buildings and eighteen single family residences in the Borough of Palmerton, Carbon County. The current owners purchased D’s Water Company in 1976 and have operated the system since that time.

The OCA filed a Protest against the Application and a Formal Complaint in the rate case proceeding on September 17, 2001. The rate case was not assigned a separate docket number and was incorporated into the Application docket. Twelve customers filed Formal Complaints against the proposed rate increase. On October 1, 2001, DWC served revised schedules to its rate filing, which raised the proposed rate increase to $39,357. In rebuttal testimony, DWC reduced its proposed rate increase to $36,224. On February 21, 2002, DWC filed a tariff supplement, which extended the effective date of the proposed rate increase to September 10, 2002.

The OCA participated in a public input hearing in the service territory on April 15, 2002 and filed its Direct testimony on May 1, 2002 and presented oral Surrebuttal at the Evidentiary Hearing on May 15, 2002. Main and Reply Briefs were filed on June 14, 2002 and June 18, 2002, respectively.
The OCA recommended that, if the PUC grants a Certificate to provide service, the Company’s claims for rate base, rate of return, revenues at present rates and expenses must be adjusted to reflect proper ratemaking and Commission precedent. The rate increase supported by the evidence of record is $10,730. Further, the OCA recommended that DWC refund the rates collected for the past four years, in which customers have paid untariffed, unlawful rates, or $35,886 through credits on their bills over a period of five years, or $7,173 per year.

As of the end of the fiscal year, OCA was waiting for an Initial Decision from ALJ Lovenwirth.
CONSUMER COMPLAINT PROCEEDINGS

Introduction

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

Telephone - Service Quality and Extended Area Service Cases
(Local Calling)

Norton v. Bell Atlantic, Docket Nos. C-00992980, et al. Approximately 1,100 customers in the Mount Gretna community in Lebanon County sought Extended Area Service (EAS) to Elizabethtown, Hershey and Hummelstown. Ten Formal Complaints were filed by Mount Gretna residents. Public and technical evidentiary hearings had concluded by February 2001. Main and Reply Briefs were filed and an Initial Decision was issued by Administrative Law Judge Debra Paist in September 2001. The Initial Decision recommended that EAS be implemented on the Hershey route, which was the route supported by OCA testimony. Exceptions were filed and the Commission issued its Opinion and Order adopting the Initial Decision of ALJ Paist and rejecting the Verizon Exceptions. The PUC concluded that the traffic data between Mount Gretna and Hershey as presented by the OCA, the extensive community of interest testimony, the nominal costs to the Company and the economic effects on the community of continuing without toll-free calling to Hershey all weighed in favor of granting EAS to Hershey. Thus, the PUC ordered Verizon to implement EAS from Mount Gretna to Hershey within 120 days or by July 26, 2002.

Kish v. Alltel, Docket No. C-00981534. A group of five hundred residential and five business customers in Colver, PA, Cambria County, alleged inadequate service and sought Extended Area Service to several neighboring exchanges. A Notice of Intervention was filed by OCA and a lengthy discovery period ensued. The procedural schedule called for hearings in November 2001; however, in August 2001, settlement negotiations proved successful and ALLTEL agreed to poll the Colver customers to determine the level of interest in EAS to the Barnesboro, Carrolltown, Nanty Glo, South Fork and Johnstown exchanges in exchange for a monthly increase of $2.86. The Commission approved the settlement and ballots were mailed to the Colver customers in January 2002. The polling period ended on March 27, 2002 and the results were overwhelmingly in favor of the change. On April 19, 2002, a Secretarial letter issued reporting that 86.83% of the Colver customers had voted and, of that percentage, 98.44% voted in favor of EAS to the five new exchanges. ALLTEL was therefore required to implement EAS by August 28, 2002.

Bell of Pa., Docket No. C-00992839. Complainant was a non-published number subscriber whose number was allegedly released by Bell of Pa. to a telemarketing affiliate. Complainant also raised other customer service issues unique to her personal situation. The OCA filed a Notice of Intervention in June 2000 in order to represent the interests of non-published number subscribers generally in preventing
disclosures of telephone numbers to telemarketers and others who would use them to commercial advantage. OCA and Verizon were able to reach an agreement and submitted a proposed settlement to address the generic privacy issues raised in this complaint. A hearing was held on the March 13, 2001 regarding the settlement and additional issues raised in the individual’s complaint. The Initial Decision sustaining the Formal Complaint and approving the Joint Petition for Settlement submitted by Verizon PA and the OCA was recommended to be approved without modification. The Commission specifically found that the terms of the settlement agreement were in the public interest because, once implemented, they will serve to protect customers who have non-published numbers from receiving unwanted solicitations. Among the terms of the settlement are weekly “scrubbing” (elimination of names of those customers who wish not to be solicited by telephone or mail) of all telemarketing and direct mail lists by Verizon and modification of the text of the Company’s “Welcome Letter” to new customers to provide clearer information about the Company’s privacy policy. The Commission’s Final Order was entered in March 2002.

Thomas v. Verizon, Docket No. C-00004254. Complainants Harry and Loretta Thomas sought Extended Area Service from Bath, PA to the Easton exchange in Northampton County. The public evidentiary hearings were in March 2001 in the service territory. Approximately twenty-six of the nearly sixty persons in attendance offered testimony concerning the community’s need for toll-free service to Easton and the high costs of current service to meet day-to-day calling needs. Residential, business and government entities were represented, including the Bath Chief of Police. Technical evidentiary hearings concluded in August 2001. Following main and reply briefs by the active parties in October 2001, an Initial Decision in favor of the Company was issued in February 2002. The OCA filed Exceptions to that Initial Decision on March 7, 2002 and the Company followed with Reply Exceptions. At the conclusion of the fiscal year, the parties were awaiting an Opinion and Order from the Commission.

Bubner v. Verizon North, Inc., Docket No. C-00004308. Complainant Marjorie Bubner filed a Formal Complaint asserting that the community of Hooversville, PA, Somerset County, experiences inadequate service due to the lack of toll-free calling to Somerset, the county seat. The OCA filed a Notice of Intervention in January 2001 in support of the requested remedy, Extended Area Service from Hooversville to the Somerset exchange. Evidentiary hearings in the service territory were conducted in May 2001 with over sixty customers attending and fifteen testifying. Various residential, business, governmental and organizational representatives testified to the community need to call Somerset on a day-to-day basis for health, business and personal reasons. The OCA submitted Direct Testimony in August 2001 and the Company submitted its testimony in September 2001. Technical evidentiary hearings were convened in Pittsburgh on February 8, 2002. The parties submitted Main Briefs on May 1, 2002 and Reply Briefs on May 16, 2002. The parties were awaiting the ALJ’s Initial Decision at the conclusion of the fiscal year.

Thomas Goode, et al. v. United Telephone Co. of PA., Docket Nos. C-00004250, et al. The OCA filed a Notice of Intervention in this Formal Complaint case, through which Mr. Goode and several other residents of Tuscarora Heights requested a modification of the boundary between the United McConnellsburg and St. Thomas exchanges. Two public hearings were convened on October 3, 2001 in Peters Township where approximately sixteen of the 88 Tuscarora Heights/Cowans Village customers
offered testimony in support of the boundary change. Expert testimony was filed by the OCA and the Company concerning the boundary change. The parties reopened settlement discussions. An agreement in principle was reached among the OCA, the Consumer Complainants and the Company. At the end of the fiscal year, the parties were preparing to submit a Petition for Settlement to the Administrative Law Judge.

**Briggs v. Commonwealth Telephone Co.** Docket No. C-00014669. Dennis Briggs, a resident of Huntingdon Mills, Luzerne County, and several hundred petitioners, submitted a Formal Complaint seeking EAS from Huntington Mills to neighboring Commonwealth exchanges, including Wilkes-Barre, Berwick and Nanticoke. Hearings were held in the service territory on August 8, 2001 which were attended by approximately one hundred persons, with nearly thirty persons testifying. Representatives of the municipality, the fire department, area businesses and many residential customers testified to the needs of the community to be able to telephone neighboring exchanges without incurring high toll charges. Expert testimony by the OCA was submitted on October 5, 2001 and technical evidentiary hearings were held in Scranton PA on November 5, 2001 for the purpose of cross-examination of the witnesses. Briefing was completed on January 22, 2002. The parties received the Initial Decision of ALJ Lovenwirth recommending that the Formal Complaint of Mr. Briggs be denied and the OCA filed Exceptions to that Initial Decision on July 1, 2002.

**Loretta Dusack v. Verizon PA.** Docket No. C-00004033. Mrs. Dusack and approximately 110 other Mine 42 residents in Somerset County requested that the local exchange boundary of the Windber exchange be moved so that all Mine 42 residents would be located with Verizon North’s Beaverdale exchange. The community of Mine 42 had been divided by the Windber/Beaverdale exchange line, resulting in burdensome toll charges to make calls to local businesses, friends and family members. The OCA intervened in this Complaint case on June 12, 2001. Following the technical hearings on July 9, 2001, the OCA, the Complainant and the Company engaged in settlement negotiations which were successful. A Joint Petition for Settlement was approved which required the Company to poll the Mine 42 customers to determine whether 70% of the customers were in favor of the boundary change. Ballots were sent in December 2001. The polling was successful and on May 26, 2002, the Company implemented the boundary change.

**Frank LaGrotta and Danielle Fogel v. Verizon North and Verizon PA, et. al.** Docket Nos. C-00015427, et al. The Complainants, including State Representative LaGrotta, sought EAS from the Princeton exchange (near New Castle, PA in Lawrence County) to several neighboring exchanges: Ellwood City, Wampum, New Wilmington/Pulaski and Plain Grove. The OCA intervened on October 26, 2001 and participated in hearings in New Castle on November 1, 2001 which were attended by approximately seventy-five customers. Approximately twenty-five customers offered testimony in support of EAS. As a result of those hearings, the OCA narrowed the focus of its intervention to EAS to the Princeton to Ellwood City route. The parties engaged in successful settlement discussions from mid to late January, 2002.
The resulting settlement agreement provided for a poll of the Princeton residents owing to the fact that EAS on the Princeton to Ellwood City route would increase the rate band of the Princeton customers. If the Princeton customers were to have voted in favor of the EAS, those customers would be able to call Ellwood City as a local call, and the basic monthly rate of those customers would have increased by 97 cents under the tariff in place at that time. The settlement agreement was recommended by Administrative Law Judge John H. Corbett, Jr., to be approved by the Commission. On March 22, 2002, the PUC adopted the decision of the Administrative Law Judge approving the settlement. Verizon mailed ballots to the Princeton customers on May 2, 2002 and the polling period ended on May 31, 2002.

The poll of the Princeton customers was unsuccessful, in part due to some procedural errors in the polling. Fortuitously, however, on April 30, 2002, Verizon filed a new tariff with a number of changes, including to the various “rate bands” that determine the monthly charge for particular exchanges depending upon how many access lines are available to them. Under the new tariff which was expected to take effect in July 2002, the Princeton customers would experience no increase in their monthly rate, even with the addition of the Ellwood City exchange to their local calling area. Thus, no poll would be required under the terms of the new tariff. In light of this change, the parties were negotiating an amendment to the Joint Petition for Settlement at the end of the fiscal year.

Irwin A. Popowsky and Donna Dennis v. Verizon North, Inc., Docket No. C-20026687, et al. After investigation into calling traffic data, and communication with Formal Complainant Donna G. Dennis, the Consumer Advocate filed a Formal Complaint on January 7, 2002, seeking extended area service from the Wesley, Pa. exchange (which is in both Venango and Green Counties) to the Franklin, Pa. exchange, Venango County. Ms. Dennis, of Wesley, Pa. had filed her Complaint in December 2001. The OCA moved to consolidate the two Complaints and served the first round of discovery requests in February 2002. Following brief negotiations, a Joint Petition For Settlement was filed. The Initial Decision of the ALJ issued on May 17, 2002 recommending approval of the settlement, which calls for a poll of the Wesley exchange customers to determine whether a majority are in favor of toll-free calling to the Franklin exchange.

Verizon later filed a new tariff expected to be effective in July 2002, which modifies the rate bands and charges to its customers. The parties were discussing an appropriate course of action at the conclusion of the fiscal year.

Warner & Golden v. Bell Atlantic, Docket Nos. C-981878, et al. The Portage community sought EAS to Altoona, Ebensburg, Hollidaysburg, Johnstown and South Fork. The Initial Decision had issued July 27, 2000 recommending Extended Area Service to Ebensburg, Johnstown and South Fork. On January 26, 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. Polling for the new calling areas concluded April 30, 2001 and a Secretarial letter issued requiring that Extended Area Service be implemented within ninety days. As a result, the Portage community as a whole will experience as much as $500,000 annually in Verizon toll charge savings. The Company requested a sixty-day extension of time.
within which to implement EAS. Both the Complainant and the OCA opposed this request. By Order of August 30, 2001, the PUC denied Verizon’s request for an extension requiring EAS implementation to be complete by October 9, 2001. On October 9, 2001, the OCA was served with Verizon’s revised tariff pages indicating that the expansion to Portage’s local calling area to include Johnstown, South Fork and Ebensburg had been accomplished.

Ferguson v. CEI, Docket No. C-20027384. This is a complaint brought by a consumer in the Sprint territory, Howard exchange, whose call is blocked to his granddaughter in the State College exchange, because his granddaughter is using a CLEC. The OCA intervened in this case on June 27, 2002. The OCA will assist the consumer in this proceeding so that his calls to the CLEC will go through just as if his granddaughter was being served by Verizon PA, the ILEC in the area.

Electric Consumer Complaint Cases

Viozzi v. Allegheny Energy, C-20027225. Mr. Viozzi was required to pay over $8500 in order to get electric service to his Potter County home. Once service was connected, the Company advised that he would be required to pay a minimum bill of $64.56 per month for five years (in addition to other charges), even if his usage did not justify it. The OCA is looking into whether the pertinent provisions of the Company’s tariff are being properly interpreted and applied and whether they are fair and equitable as applied to Mr. Viozzi.

Colton v. Penelec, Docket No. C-20016363. Mr. Colton and his neighbors have experienced a poor level of reliability in 2000 and 2001. The history includes nineteen sustained outages, all but one longer than one hour, plus an unknown number of momentary outages. The suspected cause is the aged distribution system; however, the OCA is looking into the complaint further with the assistance of an electrical engineering expert. Informal discovery is in progress.

Hovemeyer v. GPU Energy, Informal Complaint No. 1060664. Mr. Hovemeyer and twenty-six of his Bucks County neighbors (both homeowners and landowners) have been trying to get electric service to their area for several years. GPU has requested contributions in aid of construction of $71,009, even though fourteen other property owners would become permanent residents if electric service were available. (Mr. Hovemeyer currently resides full-time in the unserved area and has a generator.) The OCA is investigating the situation and will attempt to assist the Hovemeyer group in obtaining electric service at the lowest reasonable cost.

Water Cases

Balla v. Redstone Water Co., Docket No. C-00992270. On November 8, 2000, the ALJ issued an Initial Decision sustaining complaints of inadequate service in favor of the Complainants and OCA. 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 most important 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
Commonwealth Court was held on September 12, 2001. A three-judge panel of the Commonwealth
Court issued an opinion on October 30, 2001, which vacated in part and reversed in part the PUC Order
sustaining the Complaints. The Court’s Order stated that the PUC has no jurisdiction over issues of water
quality for regulated public utilities, because jurisdiction is vested exclusively with the DEP. On November
13, 2001, the OCA filed an Application for Reargument of the case, as did the Public Utility Commission.
The Pennsylvania Department of Environmental Protection submitted an amicus brief supporting the
positions of the OCA and the PUC that the case should be reargued in light of a very recent case decided
by the Commonwealth Court en banc which, if applied, would have led to the conclusion that the PUC’s
Order should be affirmed. The case, Harrisburg Taxicab v. Pa. P.U.C., 2252 C.D. 2000, was decided
on October 25, 2001, only five days before the panel’s decision in the Redstone case. The case holds that
when two agencies have jurisdiction over the same entity, their regulations should be read in harmony,
rather than as vesting exclusive jurisdiction in one over the other.

On January 9, 2002, the Commonwealth Court entered an Order granting the Applications for Reargument
and withdrawing the October 30, 2001 opinion and Order. The OCA and PUC filed briefs in support of
the PUC’s Order on January 29, 2002. The Pennsylvania DEP and the Pennsylvania Chapter of the
National Association of Water Companies filed amicus briefs in support. The case was listed for argument
before the Court en banc on April 10, 2002. In advance of the scheduled argument, the parties
commenced settlement discussions and the oral argument was postponed. The Court required a status
report by June 1, 2002.

The parties submitted status reports to the Court reporting that the DEP had agreed to fund the study
required by the PUC; however, they had been unable to reach a settlement. The Commonwealth Court
scheduled oral argument on June 13, 2002 for the purpose of determining whether a further continuance
should be granted. At the request of the PUC and the OCA, the Court remanded the Order for the limited
purpose of modifying the dates in the Order within thirty days, while retaining jurisdiction. Upon
modification, the appeal will be recertified to the Court and the stay lifted. The case is to be scheduled for
argument in September 2002.

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 in obtaining public water service from Pennsylvania-
American to their neighborhood in Hanover Township, Washington County for residential and fire
protection purposes. The OCA and its water engineering consultant conducted a site visit and discovery is in progress. The matter has been assigned to a PUC mediator. Mediation has been postponed while the parties participated in informal discovery and settlement discussions.

Cindy Parks, Rick Minutello and the Consumer Advocate v. Pennsylvania-American Water Co., Docket No. C-00015377. The OCA intervened in this main extension case on June 14, 2001. Approximately thirteen hundred Hickory Pa, Washington County residents are in need of water service. The residents currently obtain water for household purposes from wells, cisterns or springs which are generally untested sources. The OCA submitted expert testimony by a water engineer and a regulatory analyst in support of the Complaints on November 30, 2001. Settlement discussions ensued which were continuing at the conclusion of the fiscal year.

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 and reasonable. The PUC also gave the Company additional time, to September 20, 2001, to meter its system 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 to be formal complaints. On January 18, 2001, formal complaints were filed by the complainants. 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 provided for an annual revenue increase of $41,410. Roulet also 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. The ALJ approved the settlement on July 19, 2001. The PUC approved the settlement on August 10, 2001.

Gas and Electric Consumer/Marketer Issues

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). The OCA filed an Answer to this Petition opposing any shortening of the regulatory notice period to three days, as this would have afforded insufficient time to select a new generation provider and thus does not promote customer choice. The OCA also opposed release of the marketer’s $250,000 bond until the PUC has evaluated all of the circumstances of Utility.com’s abandonment of service and withdrawal from the market. The OCA also filed a Petition for Order to Restrict the Release of Bond and to Provide Other Appropriate Relief on January 31, 2001. The Petition alleged that customers were deprived of savings that they would have experienced had Utility.com complied with these 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 could be 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 are resolved. Utility.com filed a motion to require PECO to disclose usage data so that final bills can 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 on April 2, 2001. The Commission ordered hearings on the OCA’s complaint, and several utilities intervened and filed formal complaints which were joined with the OCA’s. In addition, OCA participated in the Utility.com creditors’ committee in order to represent Pennsylvania consumers’ interests. The PUC ordered customer usage data to be provided by PECO. The ALJ required briefs on the proper disposition of the bond proceeds. 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 by May 16, 2001. In addition, Utility.com established a $200,000 escrow account for the purpose of repaying customer refunds and other claims.

Utility.com has now 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 Light Co. and Allegheny Power. An additional $55,000 was set aside for refunds to customers of the remaining distribution utilities, thus bringing the total refunds recovered by the OCA on behalf of Pennsylvania Utility.com customers to $125,000.

In addition, the OCA filed four Affidavits and two Memoranda of Law in support of the former Utility.com customers’ lost savings claims. Final billing was accomplished for all customers by June 2001. The OCA contended that customers should also be reimbursed for savings they lost due to the departure of Utility.com without adequate notice. The calculation of the Pennsylvania customers lost savings claims was approximately $650,000. This information was submitted to the PUC through affidavit. The ALJ rendered an Initial Decision to which the OCA took Exception and the Commission subsequently sustained the Exception and ordered that first priority to the bond proceeds should be afforded the Department of Revenue. The OCA submitted a Proof of Claim with substantiation of lost savings in the amount of $668,371 to the insolvent’s estate manager through the California General Assignment process on August 14, 2001. Final Proofs of Claim totaling an additional $4,499.34 were submitted for all known additional refund claimants by the September 6, 2001 deadline for submission of claims against the estate. These additional claims were resolved in the customers’ favor and the final refund checks were sent by the OCA directly to the former customers.

In December 2001, the OCA received the first interim disbursement to Pennsylvania lost savings claimants in the amount of just over $100,000 which was placed in an interest-bearing escrow account. The OCA continues to participate on behalf of the former Utility.com customers of Pennsylvania as a member of the Creditors Committee; however, at the conclusion of the fiscal year, a date for the final disbursements from the insolvent estate could not be projected due to ongoing litigation between several California creditors and the estate manager.
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 filed a Notice of Intervention and Protest in these dockets on behalf of the customers who may lose their natural gas service. The OCA has investigated 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 on January 29, 2001; additional discovery and discussions ensued. The OCA moved to join Columbia Gas as a necessary party and the motion was granted by ALJ Corbett. A procedural schedule was established for this case. NFGD submitted amended testimony on September 10, Columbia submitted testimony on October 26, and the OCA and Complainants submitted testimony on November 16. Hearings were conducted on December 11, 2001 in Pittsburgh. Main Briefs were filed on February 26, 2002 and Reply Briefs were filed on March 13, 2002. An Initial Decision was issued by the ALJ on April 23, 2002, recommending that the Applicant be required to pay the sum of $3,375 to the Walters and $4,100 to the Marshalls to defray the cost of converting to an alternative fuel source.

The OCA filed Exceptions to the Initial Decision on May 13, 2002. The OCA and the customers also reopened negotiations with the Companies which proved successful and will, if approved, allow for reasonable affordable alternative energy service to both of the customers.

Marconi v. Gasco, Inc., Docket No. C-20016646 and Gasco, Inc. v. Pa. PUC, Docket Nos. C-20016215 and C-20016552. Gasco, Inc. has filed complaints with the PUC challenging the PUC’s modifications to Gasco’s 2001 GCR filings. The OCA intervened in the Company’s complaint proceedings. In addition, more than 150 formal complaints have been filed by customers in the Kane division. The complaints allege high rates and service and billing issues. The Company’s motion to consolidate the customer complaints has been granted by the PUC. The OCA has intervened in the customer complaint proceeding as well. A hearing was held in the service territory in June, 2002 to hear testimony from customer complainants. On June 20, 2002, 22 customers testified in support of their complaints, addressing issues such as billing, service, and rates.
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:

• 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.

• Prepared quarterly charts disclosing the numbers and percentages of residential customers that have switched from their local natural gas distribution company to another supplier. This information is available on the OCA website.

• 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.
• Produced a monthly statewide shopping guide for residential natural gas customers. It is similar to the electric shopping guide in that it explains how to shop for a gas supplier. It also includes charts with pricing information for both the natural gas distribution company and for any competitive suppliers serving in their territory. To date, four natural gas distribution companies have competitive suppliers. The gas guide is a big hit item on our website and is distributed widely throughout the state.

• 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 four roundtable workshops, in Pittsburgh, Sayre, Brookville and Chester educating over 450 consumers, government agency representatives, and community leaders on utility and aging issues. We have continued planning for a statewide conference to be held in September 2002, in Somerset.

• Appeared in several media events, including radio and TV. Participated in numerous interviews for radio and newspapers. Participated in an educational event, sponsored by NBC 10 in Philadelphia, where we gave tips on how to reduce long distance and local telephone bills. Case studies were presented as part of their nightly news broadcast. We also had staff at a large shopping mall in Philadelphia where customers brought their phone bills and were given advice on ways to save money.

• Issued 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 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 telecommunications choice, electricity choice, and natural gas choice including TV, radio and print advertising, brochures and other educational materials.

• Served on the Consumer Protection and Education Committee of the National Association of State Utility Consumer Advocates and helped to
finalize the DOE report on each state’s educational programs relating to electric choice. The report will be used nationally for evaluation purposes and to assist those states just beginning the electric restructuring process.

- Reviewed and provided input on 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 evolving telecommunications and water issues.

- 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 OCA 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 telephone’s extended area service process and changes in energy suppliers’ services.

- Worked with PECO Energy in developing a semi-annual bill insert containing current information from our Residential Electric Shopping Guide.

- Monitored and 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.

We continue to serve as a board member on the Council on Utility Choice which meets bimonthly, and is currently beginning a statewide education program for telecommunications issues and choice.

We attend monthly meetings of the PUC’s Consumer Advisory Council. Issues discussed at these meetings are often of interest to the public, or will affect the public in some way.
OCA serves on the Board of Directors for the Energy, Utility and Aging Consortium. This is a statewide group of representatives from utilities, government and social service organizations which together strive to address the issues of and share information with older consumers. In 2001 the Consortium hosted roundtable events in York, Williamsport, Wilkes-Barre and Sayre. We were highly involved with the preparation for and participation in the Jefferson County educational roundtable event, held on May 15, 2002 in Brookville PA and the one held at Widener University on June 5, 2002.

**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>7-2-01</td>
<td>Senator Don White’s Senior Fair</td>
<td>Punxsutawney, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
<td>7-9-01</td>
<td>Mid Atlantic Conference of Regulatory Utility Commissioners</td>
<td>White Sulphur Springs, WV</td>
<td>Utility Restructuring Work in Progress-Lessons Learned Thus Far</td>
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<td>7-11-01</td>
<td>Mid Atlantic Conference of Regulatory Utility Commissioners</td>
<td>White Sulphur Springs, WV</td>
<td>Price Spikes in Energy and the Effect on Consumers</td>
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<td>7-20-01</td>
<td>PREA Summer Meeting</td>
<td>State College, PA</td>
<td>Consumer Advocate Report</td>
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<td>8-8-01</td>
<td>Pennsylvania Newsmakers TV and cable TV show</td>
<td>Harrisburg, PA</td>
<td>electric competition and telecommunications competition</td>
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<tr>
<td>8-8-01</td>
<td>Testimony before the PA House of Representatives’ Subcommittee on Telecommunications for the House Consumer Affairs Committee</td>
<td>Jim Thorpe, PA</td>
<td>Area Code Depletion</td>
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<tr>
<td>8-20-01</td>
<td>THEOS Group</td>
<td>York, PA</td>
<td>Office and Utility Issues</td>
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<tr>
<td>9-13-01</td>
<td>Senator Thompson’s Senior Expo</td>
<td>Malvern, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
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<tr>
<td>9-21-01</td>
<td>Be UtilityWise Roundtable Event</td>
<td>Pittsburgh, PA</td>
<td>Spoke on PA Utility Service in a Time of Transition</td>
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<tr>
<td>9-27-01</td>
<td>Energy, Utilities and Aging Consortium Roundtable Event</td>
<td>Sayre, PA</td>
<td>Moderated event, and presented gas and electric updates to roundtable participants.</td>
</tr>
<tr>
<td>10-4-01</td>
<td>Senator Jubilierer’s Senior Expo</td>
<td>Altoona, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
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<td>10-4-01</td>
<td>Testimony before the Senate Environmental Resources and Energy Committee</td>
<td>Philadelphia, PA</td>
<td>Natural gas issues</td>
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<td>10-12-01</td>
<td>Tri-Region “Be UtilityWise” Roundtable Event</td>
<td>Harrisburg, PA</td>
<td>Presentation on Consumer Protections/Scams in the utility arena</td>
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<tr>
<td>10-19-01</td>
<td>Testimony at FERC</td>
<td>Washington, DC</td>
<td>Market Monitoring</td>
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<td>10-22-01</td>
<td>University of Maryland</td>
<td>College Park, MD</td>
<td>Electric Restructuring</td>
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<td>10-24-01</td>
<td>Council on Aging Conference</td>
<td>Camp Hill, PA</td>
<td>Protecting Older Pennsylvanians</td>
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<td>10-26-01</td>
<td>Representative Lita Cohen’s Senior Expo</td>
<td>Narberth, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
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<td>10-31-01</td>
<td>Testimony before the House Consumer Affairs Committee</td>
<td>Harrisburg, PA</td>
<td>Renewable Energy Initiatives</td>
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<td>11-8-01</td>
<td>Energy Services Conference Energy Coordinating Agency</td>
<td>Philadelphia, PA</td>
<td>Energy Pricing</td>
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<td>11-9-01</td>
<td>Representative Stevenson’s Senior Expo</td>
<td>Mt. Lebanon, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
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<td>11-14-01</td>
<td>NARUC/NASUCA Annual Meeting</td>
<td>Philadelphia, PA</td>
<td>The Value of Water Service-What Ratepayers Need to Know</td>
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<td>11-27-01</td>
<td>Testimony before the House Judiciary Committee</td>
<td>Harrisburg, PA</td>
<td>House Resolution 100</td>
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<td>Energy Prices</td>
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<td>11-29-01</td>
<td>Senator Kitchen Town Meeting</td>
<td>Philadelphia, PA</td>
<td>Office and Utility Low</td>
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<td>Income Programs</td>
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<tr>
<td>11-30-01</td>
<td>The Energy Bar Association</td>
<td>Washington D.C.</td>
<td>End of the Road for Retail?</td>
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<tr>
<td>12-7-01</td>
<td>Pennsylvania Bar Institute</td>
<td>Mechanicsburg, PA</td>
<td>Public Utility Update -</td>
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<td>12-7-01</td>
<td>Pennsylvania Bar Institute</td>
<td>Mechanicsburg, PA</td>
<td>Public Utility Update -</td>
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<td>telecom</td>
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<tr>
<td>12-18-01</td>
<td>Representative Jewell Williams Senior</td>
<td>Philadelphia, PA</td>
<td>Staffed booth, answer</td>
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<tr>
<td></td>
<td>Holiday Celebration</td>
<td></td>
<td>questions</td>
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<tr>
<td>1-29-02</td>
<td>NBC-10</td>
<td>Philadelphia, PA</td>
<td>developed program on how</td>
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<td>to save money on long</td>
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<td>distance phone bills</td>
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<tr>
<td>2-7-02</td>
<td>OAG Consumer Help Fair</td>
<td>Harrisburg, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>2-9-02</td>
<td>NBC-10 How to Lower Your Telephone Bills</td>
<td>Franklin Mills Mall, Philadelphia, PA</td>
<td>answered consumers questions about their phone bills and made suggestions to lower overall charges</td>
</tr>
<tr>
<td>3-25-02</td>
<td>Mechanicsburg Senior Center</td>
<td>Mechanicsburg, PA</td>
<td>OCA &amp; Utility Issues</td>
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<tr>
<td>4-4-02</td>
<td>Representative’s Mundy &amp; Eachus and the Area Agency on Aging</td>
<td>Luzerne, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>4-23-02</td>
<td>Representative Jewell Williams Community Action Forum</td>
<td>Philadelphia, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>4-30-02</td>
<td>Wyoming Valley Real Estate Investors Association</td>
<td>Wilkes-Barre, PA</td>
<td>OCA and our involvement in the PAWC rate cases</td>
</tr>
<tr>
<td>Date</td>
<td>Event Description</td>
<td>Location</td>
<td>Description</td>
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<tr>
<td>5-15-02</td>
<td>Jefferson County Roundtable Event sponsored by the Energy Utilities &amp; Aging Consortium</td>
<td>Brookville, PA</td>
<td>Moderated the event and presented telephone issues of interest to roundtable participants</td>
</tr>
<tr>
<td>5-16-02</td>
<td>Representative Jewell William’s Senior Expo Extravaganza</td>
<td>Philadelphia, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>5-30-02</td>
<td>Senator Greenleaf’s Senior Citizens Expo</td>
<td>Ft. Washington, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>5-30-02</td>
<td>National Council on Competition and the Electric Industry</td>
<td>Valley Forge, PA</td>
<td>Mid-Course Review</td>
</tr>
<tr>
<td>6-5-02</td>
<td>Delaware County Roundtable Event sponsored by the Energy, Utilities and Aging Consortium</td>
<td>Chester, PA</td>
<td>Presented telephone issues of interest and moderated event</td>
</tr>
<tr>
<td>6-6-02</td>
<td>Senator Tim Murphy’s Senior Expo</td>
<td>Castle Shannon, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>6-13-02</td>
<td>Senator Robert Tomlinson’s Senior Expo</td>
<td>Feasterville, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>6-14-02</td>
<td>Representative Elinor Taylor’s Senior Expo</td>
<td>West Chester, PA</td>
<td>Staffed an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
<td>6-24-02</td>
<td>National Fuel Funds Network Conference</td>
<td>Ft. Lauderdale, FL</td>
<td>The World’s Changed. What’s This Mean for Low-Income Advocates?</td>
</tr>
<tr>
<td>6-26-02</td>
<td>National Low Income Energy Consortium Conference</td>
<td>Ft. Lauderdale, FL</td>
<td>The regulator’s role in serving low-income consumers</td>
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<tr>
<td>6-25-02</td>
<td>National Low Income Energy Consortium Conference</td>
<td>Ft. Lauderdale, FL</td>
<td>Educating Seniors–Can we Talk?</td>
</tr>
<tr>
<td>6-25-02</td>
<td>National Low Income Energy Consortium Conference</td>
<td>Ft. Lauderdale, FL</td>
<td>Prognosis on Energy Prices</td>
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</tbody>
</table>
In April, 2000, the OCA implemented a toll free number for Pennsylvania’s utility consumers - 800-684-6560. As noted in the last two annual reports, 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 8 AM 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 2001-2002, we had a total of 21,374 consumer contacts in the Call Center, including requests for shopping guides, phone calls, letters and e-mail.

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

- The OCA assisted a service fraternity with a billing issue with its gas company. The company had been erroneously billing the fraternity for service at an address they have not occupied since June, 1998. Despite the fraternity’s numerous letters to the company, explaining why they were refusing to pay, the company sent the fraternity a shut off notice in the beginning of May, 2002. As a result, the fraternity contacted the OCA. The OCA contacted the company to investigate this complaint. Upon investigation, the company determined that the fraternity was billed in error and calculated a refund of $6,750. In addition, the company discovered that the fraternity does not have service at their current address. They are working with organization’s account specialist to open the chapter’s new account. The company has also assured the fraternity that their payment history and credit record will not be affected, as they used their right to refuse payment as a last resort to get the problem solved. The OCA is continuing to track this complaint until the fraternity receives their refund and their new service begins.

- We also assisted a customer who received a long distance bill for over $500 on her computer line. She didn’t even realize that her service for that number had a long distance company assigned to it, and had no idea how she could have toll charges associated with it. The company insisted that calls had been made and told the customer that she was responsible for the bill. She contacted our office and we were able to determine that calls were made from the computer line by a minor child. The company finally agreed to credit her account for the full amount of the charges.

- We assisted a man who was being billed by two different long distance carriers. It seems that one long distance company had not been cancelled when he switched to another. He had been charged for minimum usage, taxes, etc., since 1999. We were able to cancel the prior service and get him a refund of $185.43.
• We received a call from a woman who owned a double house, which was occupied by her family on one side and the other side was currently unoccupied. Her water bills were averaging $19 for the unoccupied side, until she suddenly received a bill for $242. Since no one was living in the house she contacted the company to ask them to check for leaks, but none were found. She refused to pay the bill until the company could show her the basis for such a high bill. The company was never able to give her an explanation and after nine months she became extremely aggravated at the billing that kept showing up every month. We contacted the company on her behalf and they agreed that there was no explanation and therefore they decided to correct the bill and reduced it to $19.

• We also assisted a man who contacted us on behalf of his daughter who was away at college. She and her roommate had sent their payment to the electric company for a month of electric service, however when they received their next bill their payment was not credited to their account. The electric company told her that they had not received the payment. She then called her bank and had them fax a copy of her cancelled check to the electric company. The company told her that they could not apply the payment because they could not read all of the numbers on the back of the check. She was told by the bank that the numbers were not clear on the original check either. We were successful in getting the electric company to apply the payment and credit her for all late payment charges.

• We also assisted a man who had signed up for dsl service that never worked for him. Although he complained to the provider nothing was done to correct the situation and he continued to receive a bill for the service each month even though he could not use it. A year later, he was very frustrated and came to us for help. We contacted the provider, cancelled his service at his request, and got him a refund for the entire year he had the service.

• We were contacted by a consumer who had received her monthly long distance bill and was unpleasantly surprised by the amount of the bill. The bill was for more than $900 compared to her normal monthly long distance bill of $150. The customer was unaware that her calling card rate had been increased from 10 cents per minute without any surcharge to 69 cents per minute with a $1.25 surcharge per call. We were able to work with the long distance provider to get the customer a credit to reflect her calls at the lower rate.

• A lady contacted our office on behalf of her 83 year old mother. Her mother was without heat for several days. The gas company had turned off the pilot light, saying there was a problem with her furnace. They told her that it would be fifteen days until they could come back to look at her furnace. The customer was using her stove to keep warm and her daughter was very worried about her. We contacted the company to explain the severity of the situation and they sent a repairman out to turn her pilot light back on. They also scheduled a day to return and replace her furnace.
We received an urgent call from a laboratory who was in the middle of critical trials, when their electricity suddenly went out. Every time they tried to call the electric company they received a busy signal, even on the emergency line. They called us to see if there was anything we could do to assist. We called our contact at the electric company to request an emergency resolution and within five minutes, there was a work crew at the scene and the problem was immediately resolved.
SERVICE 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 and Chairman of the Electric Committee of NASUCA. Senior Assistant Consumer Advocates Denise Goulet and Stephen Keene serve 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 represents small consumers on the Board of Directors of the North American Energy Standards Board. He also serves on the Keystone Energy Board and 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. Assistant Consumer Advocate Joel Cheskis serves as NASUCA’s alternate. Senior Assistant Consumer Advocate Christine M. Hoover is the NASUCA representative to the American Water Works Association Public Interest Advisory Forum and serves as its Vice-Chair. 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 continues to represent consumer interests in issues related to water systems. She serves 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 and Assistant Consumer Advocate Christy Appleby participate in the PUC’s Demand Side Working Group.

The OCA staff has also shared its expertise with other state agencies, consumers, and industry representatives at conferences and training programs. Grace Cunningham serves on the Board of Directors of the Energy, Utilities and Aging Consortium. The Consortium plans, promotes and sponsors educational events statewide.
OCA STAFF

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Consumer Advocate

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

Mary M. Gillette
Director of Administration

Robert Robinson
Information Technology

Senior Assistant Consumer Advocates

Jayne M. Hontz
Computer Systems Analyst

Jane K. Long
Information Officer

Assistant Consumer Advocates

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

George Bibikos
Legal Intern

Marilyn J. Kraus
Senior Regulatory Analyst

Judy A. Miller

Margaret A. Shelley
Kim M. Yetter
Clerical Staff

Cammie A. Shoen
Legal Assistant

Daniel W. Griffiths
Senior Public Policy Research Analyst

Susan J. Henry
Consumer Liaison

Heather S. Reider
Assistant Consumer Liaison

Grace C. Cunningham
Consumer Education Coordinator

Bonnie Hoffner
Sheri R. Steigleman
Kevin R. Yiengst
Consumer Service Representatives
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