Annual Report

of the

Pennsylvania
Office of Consumer Advocate

Fiscal Year 2004-2005

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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 Fiscal Year 2004-2005.

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

The utility industry continues to change, 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 rate cases, many small rate 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 several 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 unregulated entities. During the last fiscal year, for example, the OCA represented Pennsylvania consumers in the New York State bankruptcy proceeding involving CashPoint, a bill collection service. As a result, Pennsylvania customers were assured that utility payments made to CashPoint were credited to their utility accounts. In addition, as a result of OCA’s involvement in the Utility.com proceeding, Pennsylvania customers have received refunds totaling $125,000 and will be receiving additional payments of $200,000. 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. 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. During the last fiscal year, there were numerous legislative changes impacting utility consumers that require great attention, including the passage of legislation on renewable energy resources, utility payment arrangements and terminations, and telecommunications rates and network deployment.

In the electric industry, the OCA continues to be involved in the implementation of the Pennsylvania electric restructuring program. The OCA’s primary focus has been to ensure that all Pennsylvania consumers are benefited through the strict enforcement of rate caps and other protections that were included in Pennsylvania’s landmark 1996 Electric Choice Act. The OCA has also sought to ensure that customers continue to be protected even after rate caps expire through the development of stable, reasonably priced “provider of last resort” service. The OCA also has continued to support efforts to protect 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, including intervening in bankruptcy proceedings of energy suppliers. The OCA also is committed to ensuring reliable electric service for Pennsylvania consumers.

In natural gas, the OCA continued to address the implementation of the Natural Gas Choice legislation 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. As in the electric industry, the OCA seeks to ensure that consumers continue to have access to a reasonably priced “supplier of last resort” service from their regulated natural gas distribution company. The OCA also participates in proceedings at the FERC that involve the major interstate pipelines that serve Pennsylvania’s retail gas distribution companies.

In telecommunications, the OCA has participated in a number of major merger proceedings as well as cases involving telephone 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 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 better reflect their local community of interest. The OCA was involved in the legislative review of Chapter 30 of the Public Utility Code. During the fiscal year, the OCA was able to resolve issues related to “modem hijacking” experienced by consumers and as a result, was also able to procure refunds totaling $115,000, as well as set up procedures designed to avoid the billing
problems that were experienced by these consumers.

In the water industry, the OCA continues to represent consumers in 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 nearly 30,000 consumer contacts in Fiscal Year 2004-2005. The establishment 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 about how to shop for utility service. 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 Consumer Advocate, Consumer Liaison, 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 served 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 74,000 visits and nearly 2 million hits on its website in the last fiscal year. Shopping guides and pricing charts have been the most requested pages and downloaded files from the OCA website. The OCA also provides advice to consumers on how to deal with rising natural gas bills through conservation and low income energy assistance.

The OCA looks forward to meeting its new and ongoing 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 changing 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 2004-2005.
ELECTRIC
Pennsylvania

PECO Energy Company

Application for Approval of the Merger of Public Service Enterprise Group Inc. with and into
2005, PECO Energy Company (PECO) and Public Service Electric and Gas Company filed an
Application for Approval of the Merger of Public Service Enterprise Group Incorporated (PSEG)
with and into Exelon Corporation. Pursuant to the terms of the Agreement of Merger, PSEG will
merge with and into Exelon Corporation and end the separate corporate existence of PSEG.
Each PSEG shareholder will be entitled to receive 1.225 shares of Exelon corporate stock for
each PSEG share held. Following the merger, the existing shareholders of Exelon will represent
approximately 68% and the former shareholders of PSEG will represent approximately 32% of
the shareholders of the post-merger Exelon. In support of the merger application, PECO and
PSEG filed testimony addressing the benefits of the merger for Pennsylvania consumers,
estimating regulated operations savings from the merger, and analyzing market concentration
and the effects of the merger on retail competition in the electric and natural gas markets. PECO
has asked the Commission to either find that approval of the merger is not required by the
Pennsylvania Public Utility Commission, or, if the Commission concludes that approval is
necessary, to find that the merger should be approved.

The OCA filed a Protest in Pennsylvania to ensure that there are affirmative benefits from the
merger for Pennsylvania consumers, to ensure that service in Pennsylvania remains safe,
adequate and reliable, to ensure that there are not negative impacts on retail competition in
electric or gas in Pennsylvania, and to ensure that Pennsylvania ratepayers are properly
protected from the effects of the corporate changes.

In the Pennsylvania case, the OCA filed direct testimony on June 28, 2005. In its testimony, the
OCA presented its position regarding the protections and affirmative benefits that were
necessary for Pennsylvania consumers. Of significance, the OCA proposed that PECO provide
$200 million in rate reductions between 2006 and 2010 as a means of sharing merger benefits,
that it commit to improved reliability and customer service, that it improve its low income
programs, that it adhere to certain corporate protections necessary to protect PECO electric and
gas distribution operations, and that it commit to limiting job loss in Pennsylvania as a result of
the merger. The OCA also provided a market power mitigation plan for the Commission's
consideration so as to protect Pennsylvania consumers’ access to viable wholesale and retail
markets and proposed a protection regarding any significant changes in PECO’s gas purchasing
practices that might result from the proposed merger. The Company filed rebuttal testimony
objecting to most of the OCA’s proposed conditions. On August 26, the OCA filed surrebuttal
testimony continuing to support the protections and benefits that the OCA recommended as
necessary to find that the merger meets the legal standards in Pennsylvania for merger approval.
At the rebuttal phase of the case, two Commissioners issued a series of directed questions regarding the potential for furthering economic development as a result of the merger and the potential for combining the gas operations of the Philadelphia Gas Works with PECO and PSEG. The OCA also provided testimony on these directed questions. The OCA discussed the manner in which its recommendations would benefit economic development and identified economic development programs in other states that could provide some guidance for further use of merger benefits. As to the Philadelphia Gas Works, the OCA identified the large number of issues that needed to be addressed regarding any combination of PGW with PECO or PSEG.

Following the filing of surrebuttal testimony and supplemental testimony on the directed questions, many of the major parties were able to reach a settlement of the issues in the proceeding. The settlement provides for approval of the merger subject to certain terms and conditions. The settlement contains several key provisions that were forwarded by the OCA. Specifically, following consummation of the merger, PECO has agreed to reduce its distribution rates by $120 million over a four year period. In addition, PECO has agreed to extend its transmission and distribution rate cap through 2010. PECO has also agreed to the implementation of a Reliability and Customer Service Quality of Service Plan designed to maintain and improve reliability and customer service over the levels committed to in PECO’s 2000 Unicom Merger Settlement.

The settlement also provides for significant improvements in PECO’s universal service programs, including an increase in the monthly usage levels eligible for a discount for low income customers in the CAP. PECO has also agreed to provide additional funding to local agencies that provide assistance to low income customers. There will be $2 million provided over four years for energy assistance grants and an additional $500,000 over four years to agencies providing outreach services. PECO will also increase its spending on outreach efforts by $1.2 million over four years to target and enroll more needy customers.

PECO has also agreed to provide $27.2 million in funding between 2007 and 2010 to renewable energy, energy efficiency and economic development efforts. Of the $27.2 million, PECO will provide $12 million to the Pennsylvania Energy Development Authority (PEDA) for the purpose of funding renewable energy, energy efficiency and energy conservation projects with emphasis on energy conservation projects of benefit to the PECO service territory. Of the $12 million, $500,000 will be set aside for Low Income Usage Reduction Programs in PECO’s service territory. Also as part of the $27.2 million, PECO will provide $8 million to PEDA to be used for energy-related economic development projects and initiatives of benefit to PECO’s service territory. Finally, PECO will provide $7.2 million to continue funding of the Sustainable Development Fund.

The settlement also provides a number of commitments and protections. First, there are workforce protections for many of the key staffing positions affecting reliability and customer service. PECO will not reduce these workforce positions as a result of the merger by more than the number of reductions already identified. Second, there are a number of corporate structure protections to ensure that PECO customers are not exposed to risks of affiliated businesses not regulated by the Commission and to allow for proper Commission oversight of operations. Third,
there are commitments to a continued corporate presence in the Philadelphia area including continuation of historic levels of charitable giving.

As to the issues regarding market power, PECO agreed to provide reports so that the Commission can monitor the PJM wholesale markets. The signatory parties retained their rights to participate in the on-going proceedings at FERC regarding market power mitigation plans. Additionally, certain non-signatory parties were continuing to litigate the market power issues at the PUC. Similarly, the issues raised by PGW regarding market power in the natural gas markets were continuing to be litigated by PGW and PECO. Finally, the settlement provides for a separate fact-finding investigation regarding the consolidation of PGW operations into the natural gas operations of Exelon.

The settlement, along with the litigated issues of market power, are now pending before the PUC.

**PPL Electric Utilities, Inc.**

*PPL Base Rate Case, R-00049255.* As discussed in last year’s Annual Report, on March 29, 2004, PPL Electric Utilities, Inc. filed a base rate case, seeking to increase distribution operating revenues by $164.4 million. This case represents the first distribution only base rate case filed by a major electric utility in Pennsylvania, and the first electric base rate case since the restructuring of the electric industry. Additionally, PPL is seeking to increase its transmission service charges by $57.2 million. On April 12, 2004, the OCA filed a complaint against PPL’s proposed request.

The OCA filed its Direct Testimony on June 29, 2004 challenging many aspects of the Company’s request. The OCA recommended a distribution rate increase of $115.1 million rather than the Company’s request of $164.4 million. The OCA’s recommendation was based on numerous adjustments to the Company’s claimed revenues, expenses and rate base, as well as a recommendation that the Company be awarded a 9.5% return on equity as opposed to the Company’s requested 11.5% return on equity. The OCA also opposed the Company’s request to implement a Distribution System Improvement Charge (DSIC) that would allow the Company to increase rates between base rate cases for distribution plant additions. Other aspects of the Company’s proposal that the OCA opposed include its proposal to increase its residential customer charge and to include the first 200 kwh of usage in that charge. The OCA also made recommendations for improvements in PPL’s universal service programs for low income customers.

The OCA also filed Rebuttal and Surrebuttal Testimony of its witnesses supporting its position. Evidentiary hearings were held in early August. On September 2, 2004, the OCA filed its Main Brief in this matter. In its Main Brief, the OCA supported its final position that the Company was entitled to a distribution rate increase of $115.2 million. The OCA’s final position was based on numerous adjustments to revenues, expenses and rate base, many of which the Company agreed to during the course of the proceeding, and the OCA’s recommended return on equity of 9.5%. The OCA also continued its opposition to the DSIC on both legal and policy grounds. The OCA supported its other positions, including its proposed allocation of the rate increase among the customer classes, its proposed rate design for residential customers and its proposed
improvements to the universal service programs. The OCA filed its Reply Brief on September 13, 2004.

On October 22, 2004, the Office of Administrative Law Judge issued the Recommended Decision of the presiding Administrative Law Judge (ALJ). The ALJ recommended that the Company be allowed a $130 million increase in annual revenues. Included in the ALJ’s recommendation was a return on equity of 10.25%. The ALJ recommended that the rate increase be spread among the various rate classes as proposed by the Company and the OCA. The ALJ also recommended that the Company’s proposal to implement a DSIC be rejected. Exceptions were filed on November 12, 2004 and Reply Exceptions were filed on November 22, 2004.

On December 22, 2004, the Commission entered its Final Order awarding PPL an increase of $137.1 million. In reaching this result, the Commission accepted several OCA adjustments that had been agreed to by the Company, and further adopted several adjustments sponsored by the OCA, OTS and PPLICA that reduced the Company’s request by $5.4 million. The total effect of the adjustments proposed by the OCA and accepted by either PPL or the Commission reduced the Company’s request by $12.2 million. The Commission also awarded the Company a return on equity of 10.7%, which further reduced the Company’s request. The Commission adopted the spread of the rate increase to the various customer classes that was supported by the OCA and adopted the OCA’s proposed rate design for the residential class. In addition, the Commission rejected PPL’s request for a DSIC.

Upon review of the Commission’s decision, the OCA determined to file an appeal of the Commission’s allowance of the deferred storm damage costs from Hurricane Isabel. The OCA filed a Petition for Review on that issue with the Commonwealth Court. The OSBA also filed an appeal of the Commission’s decision regarding the allocation of the rate increase to the customer classes. The PP&L Industrial Customer Alliance (PPLICA) filed an appeal challenging the Commission’s adoption of PPL’s transmission service charge and the Commission’s decision to continue funding of the Sustainable Energy Fund for an additional two years. The appeals were consolidated. This case is pending before Commonwealth Court.

Petition of PPL To Defer for Accounting Purposes and Financial Reporting Purposes Certain Losses Associated With Ice Storms And to Amortize Such Losses, Docket No. P-00052148. On February 11, 2005, PPL Electric filed a Petition requesting authority to defer, for accounting and financial reporting purposes, expenses that it incurred as a result of a series of ice storms that hit its service territory in January 2005. PPL requested permission to defer these costs and seek recovery of the costs in its next base rate case. The OCA filed an Answer to the Petition on March 3, 2005 opposing the requested deferral. The OCA argued that the Company had just been permitted to increase rates and received an allowance for storm damage as well as a return for risk. The OCA also argued that there has been no showing that the storms or the losses were extraordinary. On August 26, 2005, the Commission entered an Order allowing the deferral of the costs subject to certain conditions. The Commission explicitly stated that future cost recovery was not decided by its Order.

Duquesne Light Company
Petition of Duquesne Light Company For Approval of Post-Transition POLR Service, P-00032071. As discussed in last year's Annual Report, on December 9, 2003, Duquesne Light Company filed a Petition for approval of its plan to meet its provider of last resort (POLR) obligation for the period of January 1, 2005 through December 31, 2010. Under the plan, Duquesne would meet its obligation to residential customers and small commercial customers at specified rates through a series of power purchase agreements and generation plant purchases that would be made by its affiliate, Duquesne Power. The proposed rates for residential and small commercial customers represented an approximate 11.5% increase in the generation portion of the rate in 2005 and an additional 9.3% increase in the generation rate in 2008. For large customers, Duquesne was offering a choice of a one year fixed price service or an hourly price service. To serve the residential and small commercial load, Duquesne Power proposed to purchase the 436 MW Sunbury Generating Station and to secure power purchase contracts of varying lengths for the remainder of the load. For the large industrial customers, Duquesne proposed to conduct an auction for suppliers to serve this load. On December 23, 2003, the OCA filed an Answer to the Petition raising numerous issues that must be addressed regarding this proposal.

The OCA generally supported a fixed price POLR service for residential customers and Duquesne’s general strategy for meeting its POLR obligation on an interim basis. The OCA’s analysis found that the rates Duquesne sought to charge may be somewhat overstated, and that the prices in the later years should be subject to a market test closer to the time that the rates were to be implemented. The OCA and the Company conducted negotiations to resolve the modest differences between the Company’s position and the OCA’s position. Through these negotiations, the OCA and the Company were able to resolve their differences and enter into a Stipulation (OCA/Duquesne Stipulation). Under the Stipulation, the Company agreed to meet its provider of last resort obligation to residential customers for the period of 2005 through 2010 through the provision of stable, specified rates over two three-year terms. For the first term, from 2005 through 2007, Duquesne was to serve residential customers at an average residential generation price of 6.24¢/kwh. For the second three-year term, from 2008 through 2010, Duquesne was to serve residential customers at a generation price bounded by a floor price of 6.24¢/kwh and a ceiling price of 6.86¢/kwh. The Company agreed to include renewable and other environmentally beneficial resources as part of its portfolio and it agreed to include demand side response programs as part of its service. The Company also agreed to cap its distribution rates until January 1, 2008 and to narrow the circumstances where it could request any increase in these agreed upon prices. On May 26, 2004, the ALJ issued his Recommended Decision. In his R.D., the ALJ recommended that the Commission adopt the POLR III Plan as set forth in the OCA/Duquesne Stipulation for residential customers. For commercial customers, the ALJ recommended adoption of the OSBA/Duquesne Stipulation and for industrial customers, the ALJ recommended adoption of the stipulation between the industrial customers and Duquesne.

The Commission ruled on this matter at its August 19, 2004 Public Meeting. In its Order, the Commission rejected several key components of the Small Customer Plan. The Commission shortened the term of the POLR Plan from six years to three years and removed the switching rules. The Commission also did not approve the distribution rate cap extension or the renewable and environmentally beneficial energy resources portfolio requirements. These fundamental
changes removed some of the key benefits of the Plan. The Commission did direct Duquesne to meet its POLR obligation for a 3 year period at the price contained in the Plan for the first three years.

Duquesne filed a Petition for Reconsideration of the Commission’s Order, and sought alternative relief if it must serve under the Commission’s Order. As an alternative, Duquesne requested a 3 mill/kwh increase in the price for the 2005 through 2007 time frame. The OCA estimated the impact of this request to be about a $70 million increase to small customers over the three year term. The OCA filed an Answer to Duquesne’s Petition on September 7, 2004. In its Answer, the OCA supported the request for reconsideration but opposed the request to increase rates if Duquesne must serve under the Commission’s plan. Constellation also filed a Petition for Reconsideration asking the Commission to implement an auction process whereby Duquesne would secure power for small customers for a 17-month term. The OCA filed an Answer opposing Constellation’s Petition. At its Public Meeting of September 30, 2004, the Commission denied the Duquesne Petition and the Constellation Petition concerning the Small Customer POLR III Plan. Duquesne was directed to implement the POLR III Plan set forth in the Commission Order. Duquesne has now implemented that Plan.

Duquesne Light Company Request For A Transmission Surcharge, Docket No. R-00050662. Duquesne Light Company filed a tariff supplement seeking to implement a surcharge for the recovery of transmission charges referred to as SECA charges. SECA is the Seams Elimination Cost Adjustment that has been proposed at FERC by several utilities to recover transmission revenues that the utilities allege they will lose as a result of integrating their operations into PJM. FERC has approved these charges subject to refund. Given Duquesne’s location near the “seam” or edge of PJM, it will be both be assessed charges and be able to assess charges to others. The net effect is a cost increase to Duquesne. Duquesne seeks to flow these costs through to ratepayers through an automatic adjustment clause. At the end of the Fiscal Year, the OCA was in the process of preparing a complaint.

Metropolitan Edison Company, Pennsylvania Electric Company, Penn Power (FirstEnergy)

Petition of Metropolitan Edison Company and Pennsylvania Electric Company For Declaratory Order Regarding The Ownership of Alternative Energy Credits Associated With Qualifying Facilities, Docket No. P-00052149. On February 22, 2005, Met-Ed and Penelec filed a Petition for Declaratory Order to resolve a controversy that has developed over the ownership of alternative energy credits created by Act 213 of 2004, the Alternative Energy Portfolio Standard, from generation of Qualifying Facilities (QFs or NUGs) under contract with the Companies. Under a 1978 federal law known as PURPA, Met-Ed and Penelec were required to enter into long-term contracts at avoided cost with generating facilities that had certain environmental attributes. Ratepayers were required to pay the full cost of these contracts. When the electric industry restructured, it was found that the prices contained in these contracts were far in excess of market prices. This resulted in a significant amount of stranded cost, which ratepayers are required to pay. Under the Alternative Energy Portfolio Standards Act, electric distribution companies are required to purchase a certain amount of energy from alternative generating sources. Much of the QF generation that ratepayers are paying for through stranded cost
qualifies as an alternative energy source. The QFs have taken the position that the alternative
energy credits associated with the generation is owned by the QF and the QF can sell the credits
to whomever it wants. Met-Ed and Penelec have taken the position that the credits belong to the
purchaser of the generation, Met-Ed and Penelec, and must be used to benefit their ratepayers.
Importantly, Met-Ed and Penelec were required to enter long term contracts with the QFs at
special pricing because of the very environmental attributes that the QFs now seek to sell
independent of the contract with the Companies.

The OCA filed an Answer supporting the position of Met-Ed and Penelec on April 20, 2005. At
the end of the Fiscal Year, the matter had been assigned to the Office of Administrative Law
Judge to establish a procedural schedule for hearings.

Investigation Regarding the Metropolitan Edison Company, Pennsylvania Electric Company and
16, 2004, the Commission initiated an investigation into the level of service reliability provided by
Metropolitan Edison Company (Met-Ed), Pennsylvania Electric Company (Penelec), and
Pennsylvania Power Company (Penn Power) (collectively FirstEnergy or the Companies).
Based on the Commission’s review of reliability data provided by the Companies, the
Commission was concerned that the companies may not be meeting the relevant reliability
standards regarding the frequency and duration of service outages. The Commission was
concerned that one or more of the Companies service reliability performance had deteriorated to
a point below the level of service reliability that existed prior to restructuring. The Commission
sought to investigate the following areas: underlying causes of the outages, adequacy of
inspection and maintenance cycles, tree-trimming activities and contracts, changes to
budgeted/actual capital and operating expenditures in prior years, emergency call out
procedures and acceptance rates, hiring/contracting practices for line workers, and other factors,
practices and policies that affect service reliability. The Commission also sought
recommendations for corrective actions if service reliability had deteriorated below the level
required by the Public Utility Code. The Commission specifically directed that the investigation
not consider civil fines and penalties. The OCA intervened in the matter and actively participated
in the investigation. The OCA retained expert witnesses to assist the Office in the investigation.
During the first two weeks of April, 2004 the Commission conducted a series of public input
hearings in the Companies’ service territories. Public Input hearings were held in Dillsburg, York,
Lebanon, Reading, Easton, Sharpsville, Erie, Dubois, and Altoona. The OCA attended all of
these Public Input hearings.

On June 21, 2004, the OCA filed the testimony of two expert witnesses. In its testimony, the
OCA reviewed the Companies’ reliability performance, its operations and maintenance practices
related to reliability, its planning for reliability, vegetation management practices, its management
incentive compensation, its storm planning, and many other aspects of the Companies’
operations related to reliability. The OCA demonstrated that the Companies’ performance had
deteriorated and made several recommendations designed to begin to restore service quality.
The OCA recommended that the Companies develop an action plan that comprehensively
addresses needed reliability improvements, including improvements or changes in the areas of
general planning criteria; capital spending; operation and maintenance spending; vegetation
management; inspection of facilities; replacement criteria for facilities and equipment; staffing
levels; service center locations; management compensation related to reliability; and interactions with customers through its automated outage management systems. The Company filed Rebuttal testimony, and hearings were held the first week of August, 2004. Following the hearings, the parties engaged in settlement negotiations to attempt to resolve these matters. On September 30, 2004, the parties signed a unanimous settlement agreement that provided numerous commitments on the part of FirstEnergy to improve service reliability for all customers. Among the agreements of the parties were commitments by FirstEnergy to improve performance by specified percentages over its 2003 performance, commitment to an appropriate level of spending on transmission and distribution operations, changes in inspection and maintenance practices directed toward addressing major outage causes and improving system reliability, remediation efforts on an on-going basis for the worst performing circuits, enhanced communication with and accountability to local communities, customers and emergency responders, and improved Call Center performance. The Settlement also contained a detailed monitoring and review process as well as an expedited enforcement process for any failures of the Companies to meet the requirements of the Settlement. On October 13, 2004, the Administrative Law Judge approved the Settlement, and the Commission approved the Settlement at its Public Meeting on November 4, 2004. Throughout Fiscal Year 2004-2005, the OCA worked with the Company and other parties to implement the Settlement Agreement.

Petition of FirstEnergy To Amend Its Benchmarks And Standards, Docket No. P-00042115. During the pendency of the FirstEnergy Reliability Investigation, FirstEnergy filed a Petition requesting to amend the reliability performance benchmarks and standards with which it must comply. FirstEnergy sought to reflect significantly worse reliability performance than what is currently required by the Commission. FirstEnergy argued that the data relied upon by the Commission to establish those standards was likely inaccurate. FirstEnergy based this conclusion on its reliability data since the installation of a new outage management system. The data collected under the new system has shown a decline in FirstEnergy’s reliability performance from its historic data. The OCA filed an Answer opposing the late consolidation of the matter into the on-going investigation and arguing that FirstEnergy had failed to demonstrate that the decline in its reliability performance indicators was related solely to the change in data collection methodologies. The OCA argued that if the Commission entertained a change at all, it should set the matter for separate hearings. The Commission has now set the matter for hearings, and a procedural schedule was established for the litigation of this case over the Spring and Summer of 2005. The OCA filed its direct testimony on July 1, 2005. In its testimony, the OCA reviewed the Companies’ evidence and concluded that there was insufficient support to adjust the benchmarks and standards at this time. At the end of the Fiscal Year, the parties continued to discuss these matters.

Joint Application of GPU Energy and FirstEnergy for Approval of Merger, Docket Nos. A-110300F.095 and A-110400F.040. As reported in the past several Annual Reports, GPU Inc., the owner of two major Pennsylvania electric utilities (Met Ed and Penelec) announced that it would 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 was 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 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 OCA took the position in hearings that the merger should only be approved if certain conditions were met. Specifically, the OCA tied approval of the merger to a commitment to meet the generation rate cap through 2010; an extension of the transmission and 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.

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, 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, 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 generation 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 was 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 filed a brief in support of the Commission’s Order on October 17, 2001.

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.

On April 2, 2003, the Commission issued a Secretarial Letter initiating proceedings to address the remand by the Commonwealth Court. The OCA’s Comments were filed on June 2, 2003. The OCA argued that those provisions of the Stipulation that are not contrary to the Court’s Order should be preserved. The OCA’s position was that a properly modified Stipulation can then serve as a basis for resolving these matters.

Other parties argued that the Companies must present a calculation of merger savings and that the issue of merger savings must again be fully litigated.

On October 2, 2003, the Commission issued its Implementation Order regarding the Commonwealth Court Remand. In that Order, the Commission directed Met-Ed and Penelec to restate all stranded cost balances and POLR costs as if the Settlement Stipulation had not gone into effect. This entailed the reversal of numerous accounting entries made during the period of time that the settlement was in effect. The Commission made clear that the Companies must restate the stranded cost balance to account for all changes implemented as part of the settlement. The Companies filed a Petition for Review of the Commission’s October 2, 2003 Order and the October 17, 2003 Reconsideration Order. The OCA has intervened in the appeal.

In the remanded merger proceeding on merger savings issue, the parties entered into settlement negotiations. These negotiations were delayed during the course of the Commission’s Investigation into FirstEnergy’s Reliability. Negotiations resumed the first week in October 2004 and continued during Fiscal Year 2004-2005. In the interim, the Company filed their Main Brief in the Commonwealth Court regarding their challenge to Commission Order requesting them to restate the stranded cost balances as a result of the Commonwealth Court’s Order. The OCA filed its Main Brief for the Commonwealth Court in Support of the Commission’s Order. At the end of the Fiscal Year, this case continues at both the appeal level and the Commission level.

Petition of Metropolitan Edison and Pennsylvania Electric Company for Authority to Modify Certain Accounting Procedures, Docket No. P-00052143. On January 11, 2005, Metropolitan Edison Company and Pennsylvania Electric Company filed a Petition for Authority to Modify Certain Accounting Procedures. Through this Petition, Met-Ed and Penelec requested authorization to defer, for accounting and financial reporting purposes, certain electric transmission charges as approved by the Federal Energy Regulatory Commission (FERC) beginning on January 1, 2005. The deferral is estimated to be about $40-$50 million for each Company. The Companies state that the ratemaking issues will be addressed in a separate
ratemaking proceeding anticipated to be filed later this year. In that case, the Companies plan to seek recovery of the deferred transmission costs. The OCA filed an Answer requesting that the Commission deny the Petition of Met-Ed and Penelec because, among other things, approval of deferred accounting treatment requires that the Commission provide “reasonable assurance of recovery” of such costs. At the end of the Fiscal Year, this matter was pending before the Commission.

Petition of Pennsylvania Power Company Seeking Specific Determination Allowing Certain Nuclear and Fossil Assets to Be Eligible Facilities So As To Be Transferred, Docket Nos. P-0052165, P-00052166, G-00051111, G-00051112. On May 19, 2005, the Pennsylvania Power Company (“Penn Power”) filed two Petitions seeking a determination allowing certain nuclear assets and fossil assets to be eligible facilities pursuant to Section 32 of the Public Utility Holding Company Act of 1935. At the same time, Penn Power filed an Affiliated Interest Agreement between Penn Power and FirstEnergy Nuclear Generation Corporation regarding the transfer of the nuclear assets, and an Affiliated Interest Agreement between Penn Power and FirstEnergy Generation Corporation regarding the transfer of the fossil generation assets. Through these filings, Penn Power sought to transfer all of its generating assets to its affiliates, thus completing the structural separation of its generation assets from its transmission and distribution assets. The OCA filed an Answer seeking the following protections of ratepayers: 1) ratepayers should not incur any tax effects from the spin off or transfer transactions; 2) ratepayers should not be required to pay or fund any transactions costs; 3) ratepayers should be held harmless from any capital structure and cost of capital effects that may result from these financial transactions; and 4) that ratepayers obligations regarding nuclear decommissioning costs should remain as specified in the Commission’s Order regarding Penn Power’s Restructuring Plan and its further Order approving the Joint Petition for Full Settlement of Penn Power’s Restructuring Plan and Related Court Proceedings. Application of Pennsylvania Power Company for Approval of Restructuring Plan Under Section 2806 of the Public Utility Code, Docket No. R-00974149 (Restructuring Order entered July 22, 1998) and (Tentative Order on Settlement entered April 1, 1999). The Commission issued an Order granting the Petitions subject to the conditions and protections requested by the OCA.

West Penn Power Company

Petition of West Penn Power Company For Issuance Of A Second Supplement To Its Previous Qualified Rate Order, R-00039022. West Penn Power Company filed a request for the issuance of a second supplemental Qualified Rate Order (QRO) to securitize the remaining portion of West Penn’s stranded cost and to securitize other costs. Under West Penn’s proposal, stranded cost recovery would be extended for up to four years without any rate cap protection for consumers. Additionally, the Company’s plan for the use of the proceeds was unclear. The OCA filed an Answer on December 15, 2003. The OCA argued that the Company’s request should be modified. Specifically, the OCA argued that a rate cap extension that matches the extended period of stranded cost recovery was necessary and that the proceeds must be used to benefit West Penn ratepayers and not other affiliates of West Penn.

The parties engaged in settlement negotiations in an attempt to resolve these matters. Through this process, the parties were able to reach a settlement. Under the Settlement, West Penn
agreed to provide generation rate cap protection for customers for an additional two years, through 2010, at specified rate levels and to extend its distribution rate cap for two years. West Penn will be permitted to securitize and recover its remaining stranded cost through 2010 and it will be permitted to increase its generation rates in 2007 in a manner consistent with two prior existing rate increases that are slated for 2006 and 2008. Through this Settlement, West Penn will be able to recover its stranded costs but ratepayers will be afforded rate protections during the time periods of this recovery. The Settlement was submitted to the ALJ and the parties to West Penn’s prior Restructuring Settlement. The Settlement was also published for Comment. Comments or Petitions to Intervene were filed by Citizen Power, Inc., Reliant Energy, Inc. and Constellation Power Source, Inc. and Constellation NewEnergy, Inc. A further prehearing conference was held on December 14, 2004.

The original parties were able to reach a settlement with Citizen Power and Constellation to resolve the issues they raised. In addition to the provisions discussed above, West Penn agreed to conduct an auction to obtain its wholesale supply for the 2009 and 2010 time frame. If the auction provides a price lower than the shopping credit specified in the settlement, the benefit will be flowed back to all customers through a special bill credit. West Penn also agreed to certain changes to its net metering rules and its low income usage reduction program to better serve residential customers. The settlement was recommended for approval by the Administrative Law Judge and the Commission approved the settlement at its Public Meeting of April 21, 2005.

Petition of Allegheny Energy d/b/a West Penn Power Company for Amendment of Its Benchmarks and Standards, Docket No. M-00991220. Following the Commission’s Order in the generic rulemaking, West Penn Power filed a Petition seeking a further amendment to its reliability benchmarks and standards that would reduce its reliability performance requirements. West Penn argued that the data that it provided to the Commission which formed the basis of the original benchmarks was incomplete and unreliable. West Penn argued that more recent data suggested that reduction in its reliability performance expectations is necessary. The OCA filed an Answer and Notice of Intervention arguing against this proposal, particularly without evidentiary hearings. The Commission set the matter for hearings. The OCA retained expert witnesses to assist it in this matter.

Settlement negotiations were conducted over the course of several months. The parties were able to reach a settlement of this matter. Under the settlement, amended benchmarks were established for the Company that are consistent with its historic performance. The Company also agreed to various changes and improvements in maintenance practices to address various causes of outages on its system and to completion of a workforce study to help determine appropriate staffing levels. Agreement was also reached with the Pennsylvania Rural Electric Cooperative Association (PREA) regarding maintenance of transmission lines serving PREA customers and restoration priorities for the various lines. The settlement was approved by the Administrative Law Judge. At the end of the Fiscal Year, the matter was pending before the Commission.

Pike County Light & Power Company
Pike County Petition For Implementation Of POLR Plan For 2006, Docket No. P-00052168. On May 31, 2005, Pike County Light & Power Company filed a plan to provide service to its provider of last resort customers beginning in 2006 when its current rate settlement ends. Pike, which is a subsidiary of the New York based Orange & Rockland and Consolidated Edison, is part of the New York ISO. Pike proposed a system of financial hedges and swaps as a means of meeting its obligation. Pike did not estimate any rates for its service. The OCA filed an Answer to Pike’s Petition calling for a thorough review and analysis of the proposal. At the end of the Fiscal Year, this matter was pending before the Commission.

Request of Pike County Light & Power Company for Amendment of its Benchmarks and Standards, Docket No. M-00991220. Pike County Light & Power Company also requested an amendment to the reliability benchmarks and standards established by the Commission in its generic Order for Pike. Pike argued that the data utilized to establish its benchmarks and standards was insufficient to provide a statistically valid representation of its reliability performance. The OCA retained expert witnesses to assist in a review of Pike’s claims. The OCA filed its Direct Testimony on February 16, 2005. In its testimony, the OCA agreed that the Commission should consider some amendment to Pike’s historic performance benchmarks given its small size and the configuration of its system. The OCA recommended benchmarks based on the Company’s 10-year historic performance. The OCA opposed any further loosening of the performance standards for the Company.

The parties engaged in settlement negotiations and a settlement was reached. Under the settlement, amended benchmarks and standards were agreed upon based on the OCA’s testimony. These benchmarks and standards reflect the 10-year historic performance of the company. The settlement was approved by the Administrative Law Judge. At the end of the Fiscal Year, the matter was pending before the Commission.

Wellsboro Electric Company

Wellsboro Base Rate Filing, Docket No. R-00049313. On July 30, 2004, Wellsboro Electric Company filed for an increase in its distribution revenues of $689,340. If granted in full, this would be a 7.6% increase in overall annual revenues for the Company. For residential customers, the Company proposed an overall increase of about 9%. A typical residential customer using 500 kwh of electricity would see their monthly bill increase from $44.68 to $48.81, or by $4.13 under the Company’s proposal. The OCA filed a complaint in this proceeding and retained a team of expert witnesses to review the Company’s request. The OCA filed Direct Testimony of three expert witnesses on December 10, 2004. The OCA recommended a rate increase of $123,936 based on several adjustments to rate base and expense claims of the Company and recommended a return on equity of 9%. The OCA also recommended that the Company’s allocation of the rate increase to the various customer classes on an equal percentage basis be accepted. The parties engaged in settlement negotiations in an attempt to resolve this matter. The parties were able to reach a settlement. Under the settlement, the Company received an increase of $425,000 to go into effect no sooner than April 1, 2005. The Company also agreed that if its new substation project was not completed by April 1, it would not put the full rate increase into effect until the project was completed. The Company further agreed that it would not file for another rate increase for at least one year from the
effective date of new rates. The settlement was approved by the Commission on March 23, 2005.

Other Cases

Customer Information to be Maintained and Provided by Electric Distribution Companies to Electric Generation Suppliers, Docket No. M-00041819. On September 4, 2004, the Commission’s Tentative Order regarding Customer Information to be Maintained and Provided by Electric Distribution Companies to Electric Generation Suppliers was published in the Pennsylvania Bulletin. Through this Tentative Order, the Commission sought Comments on continuing the obligation of electric distribution companies to make available customer information to electric generation suppliers. The OCA filed Comments urging the Commission to determine whether any renewed requirement is justified, particularly for residential customers in service territories where there is currently little or no residential marketing. If justified, the OCA stated that the Commission must ensure that proper customer consent to the release of confidential information is obtained and that proper protections regarding access to and use of the lists are in place. As for cost recovery, the OCA stated that, if cost recovery from ratepayers is considered, it should be done through appropriate base rate proceedings. This matter remained pending before the Commission at the end of the Fiscal Year.

Implementation of Act 201 of 2004 (Chapter 14), Docket No. M-00041802. On December 14, 2004, Act 201 became effective. Act 201 provides new statutory requirements for customer deposits; termination of customers, including winter termination; payment agreements; reconnection of customers; and other customer-service related matters. Act 201 substantially modifies the existing consumer protection rules for customers of electric, natural gas, and water utilities in Pennsylvania. The Commission initiated a Roundtable to discuss the various implementation issues that arise from the Act. The OCA participated in the Roundtable. The OCA also filed Comments discussing some of the key implementation issues in more detail. In particular, the OCA sought a fair and orderly implementation of the provisions of Chapter 14 in order to protect the health, safety and due process rights of Pennsylvania consumers. Some of the key issues the OCA addressed were the impact of Chapter 14 on pending complaints, the proper interpretation of the term payment agreement in Chapter 14, and the need for complete and understandable termination notices, particularly for winter terminations.

The Commission issued its first Implementation Order providing its interpretation of the Act. Contrary to the OCA’s interpretation of the Act that the Commission was authorized to provide customers with one payment agreement, the Commission concluded that it no longer had the authority to order a payment agreement if a customer had entered into a previous payment arrangement with the utility. The Commission did not address the termination notice issues in its Implementation Order, but it did direct each utility to file a compliance plan by the middle of April detailing its procedures for complying with the new Act. The Commission scheduled a second Roundtable for July 1, 2005 and the OCA anticipates working on these issues throughout Fiscal Year 2005-2006.

Advanced Energy Portfolio Standard ("AEPS"). Under the AEPS, entities supplying electric generation service to retail electric customers in Pennsylvania will be required to provide a certain percentage of the energy sold to their customers from advanced energy sources such as solar photovoltaic or other solar energy source, wind power resources, large scale hydropower facilities, low-impact hydropower resources, geothermal sources, biomass energy facilities, biologically derived methane gas facilities, fuel cells, coal mine methane, waste coal facilities, municipal solid waste facilities, distributed generation, demand side management, and other resources enumerated in the Act. The Act provides for the phase-in of the specific portfolio requirements so that by the fifteenth year after enactment, 18% of the energy sold to Pennsylvania retail consumers comes from the enumerated resources. Under Act 213, the Commission is required to establish regulations, policies and procedures to ensure that Act 213 is fully implemented.

During Fiscal Year 2004-2005, the OCA participated in Technical Conferences and provided Comments addressing issues regarding recovery of the costs of complying with the Act. The OCA recommended that the Commission establish processes to ensure that the costs are reasonable before they are passed through to ratepayers. The OCA also addressed an issue regarding the ownership of the alternative energy credits produced from Qualifying Facilities under PURPA. The OCA has taken the position that since ratepayers are paying billions of dollars in stranded costs associated with these QF contracts due to the mandatory purchase requirements of PURPA, that the alternative energy credits must be used to the benefit of the ratepayers paying the stranded cost. PURPA required utilities to enter into these long term contracts above market prices because of the renewable attributes from their generation. The OCA argued that ratepayers should not be asked to pay yet again for these same attributes. The Commission is in the process of establishing Working Groups to consider all of the implementation issues.

The OCA continued to participate in the Working Groups and filed a number of comments on issues identified by the Working Groups and the Commission. The OCA has filed comments addressing the energy efficiency provisions of the Act, net metering standards, interconnection standards, and the implementation of the banking provisions. The OCA will continue to work on these issues throughout Fiscal Year 2005-2006.

Protective Order Requests For Annual Reliability Reports, Docket No. L-00030161. Five electric utilities sought Protective Orders from the Commission to restrict the release of information to the public regarding their annual reliability performance. The information that the electric utilities sought to be deemed protected concern the comparison of budgeted to actual expenditures on reliability-related tasks and the progress on completing reliability related projects throughout the year. The OCA filed an Answer opposing these requests. The information that the EDCs seek to keep from the public is the type of information that is commonly reviewed in base rate cases and it is information necessary to determine if sufficient attention is being given to reliability related matters. The EDCs have argued that this information could be competitively sensitive, but the OCA has noted the distribution systems remain fully regulated, and that the reliability of the distribution system is a matter of great public importance. At the end of Fiscal Year 2004-2005, the Commission had not yet ruled on these requests.
Rulemakings

Provider of Last Resort Regulations, Docket No. L-00040169. On December 16, 2004, the Commission issued a Proposed Rulemaking Order to formally commence the rulemaking process to define the obligation of electric distribution companies pursuant to 66 Pa.C.S. §2807(e)(3) to serve retail customers at the conclusion of the transition period. The Proposed Rulemaking Order followed the Commission’s Provider of Last Resort Roundtable where the Commission solicited comments from the various stakeholders regarding the design of the POLR service. Under the Commission’s proposed regulations, the Electric Distribution Company (EDC) is the POLR unless the EDC petitions to be relieved of the obligation or the Commission determines the EDC should be relieved of the obligation. As the POLR, the EDC is responsible for the reliable provision of default service to all customers who are not receiving generation service from an alternative supplier and must continue the universal service programs in effect in the service territory. The POLR must submit a default service implementation plan that has a minimum term of 12 months and proposes a fair, transparent and non-discriminatory competitive procurement process for the supply. Recovery of the costs of POLR supply can be through either a non-reconcilable charge that includes all reasonable costs of supply, a customer charge that includes costs for billing, collections, reasonable return and administrative costs, and a reconcilable charge for any purchases to meet the Alternative Energy Portfolio Standards. For residential customers, the EDC must include a fixed rate option.

On April 27, 2005, the OCA provided detailed comments on the Commission’s proposed regulations. In its Comments, the OCA supported the regulations that establish the EDC as the POLR and require each EDC to submit a plan for procuring the necessary resources to meet its obligations from the competitive markets. The OCA strongly recommended that the EDC’s default service implementation plan contain a diverse portfolio of products, including short term and long term contracts with a variety of resources and that the plan cover a longer time period. The OCA recognized that the POLR price may change annually as various components of the purchasing plan are implemented. The OCA opposed the proposed cost recovery mechanisms in that the mechanisms were confusing, included costs that were not reasonably a part of the POLR rate, and would result in more expensive and less efficient procurement processes. The OCA provided recommendations for modifications to the regulations and a marked up version of the regulations showing these modifications.

The OCA filed Reply Comments on June 27, 2005. In its Reply Comments, the OCA reiterated the need for reliable electric service at stable, affordable rates. The OCA urged the Commission to reject proposals by other parties that would result in volatile prices for residential customers or would unnecessarily add costs to default service. At the end of Fiscal Year 2004-2005, the matter remains pending before the Commission.

Advanced Notice of Proposed Rulemaking Pertaining To Inspection and Maintenance Standards, Docket No. L-00040167. The Commission issued its Advanced Notice of Proposed Rulemaking to establish inspection and maintenance standards for distribution facilities, including such things as vegetation management practices, pole inspection cycles, transmission and distribution line inspections, substation inspection and maintenance standards, and transformer inspection and maintenance standards. The OCA retained experts to assist it in the preparation of Comments.
On February 9, 2005, the OCA filed Comments. In its Comments, the OCA proposed a number of minimum inspection and maintenance standards for electric facilities and equipment that are critical to reliability. For example, the OCA recommended minimum inspection cycles for certain facilities such as transmission and distribution lines, substations, and electric poles. The OCA also recommended time frames for remedying deficiencies that are found during any inspection of critical facilities. The OCA also filed Reply Comments. In its Reply Comments, the OCA continued to support the adoption of standards as being necessary to comply with the Public Utility Code. The matter remains pending at the Commission as the end of the Fiscal Year.

Advanced Notice of Proposed Rulemaking Regarding Small Generation Interconnection Standards and Procedures, Docket No. L-00040168. The Commission initiated an Advanced Notice of Proposed Rulemaking to consider standardizing the way in which small generation connects to the distribution grid. Through the rulemaking, the Commission sought to 1) eliminate unnecessary barriers to entry in the distributed generation market; 2) promote distributed generation in order to provide peak demand responsiveness; 3) enhance grid reliability; 4) increase transparency in the interconnection process; 5) create uniformity in procedures; and 6) lower the overall cost of locating and placing distributed generation across the Commonwealth. The OCA has been an active participant in the Commission’s Interconnection Working Group.

On February 2, 2005, the OCA filed Comments addressing the issues raised by the Commission. The OCA set forth some general principles that should be reflected in any regulations or guidelines developed by the Commission. Among the principles recommended by the OCA were establishing clear, understandable, uniform interconnection requirements, providing for accessible information about the requirements, providing specific response times when requests are made for interconnection, establishing pre-certification lists of equipment, and establishing the size of generation that qualifies for use of the uniform interconnection standards. At the end of the Fiscal Year, the matter remained pending before the Commission.

Other Energy Matters

Sustainable Energy Funds. The OCA serves on the statewide board that works with each EDC’s sustainable energy fund. In December of 2004, Governor Ed Rendell signed into law Act 213 of 2004 establishing Alternative Energy Portfolio Standards for electric distribution companies and electric generation suppliers serving retail electric customers in Pennsylvania. Under the Act, failure to meet the standards will result in compliance payments. These compliance payments are directed to the statewide Pennsylvania Sustainable Energy Board to be made available to the regional funds under procedures and guidelines approved by the Board. The Board began work on these issues in 2005. Work on these issues is expected to continue throughout Fiscal Year 2005-2006.

Testimony Regarding Appliance Efficiency Standards Proposed Under SB 901 and HB 2035. Consumer Advocate Sonny Popowsky testified on proposed state appliance efficiency standards at the request of the Senate and House Committees on Environmental Resources and Energy. The Senate testimony on December 10, 2003 and the House testimony on December 17, 2003 expressed strong support for conservation generally and appliance efficiency standards...
specifically as measures that can help moderate electricity prices and enhance grid reliability. In response to concerns about the economic infeasibility of single state standards, the Consumer Advocate proposed that standards be established but that enforcement only begin when a sufficiently large portion of surrounding states had also adopted standards. With legislation that mirrors Pennsylvania’s pending in most Mid-Atlantic and New England states, this proposal would allow each regional state to move forward but without fragmenting markets.
Federal

FERC Electric Cases

Application for Approval of the Merger of Public Service Enterprise Group Inc. with and into Exelon Corporation, FERC Docket No. EC05-43-000. Also on February 4, 2005, PECO and PSEG filed an Application for approval of the merger with the Federal Energy Regulatory Commission (FERC). The Application at FERC also addresses issues regarding market concentration in the wholesale markets and proposes a mitigation plan. PECO and PSEG seek approval of the merger pursuant to the FERC Merger Guidelines. The OCA retained expert witnesses to assist in the review of the FERC Application. The OCA anticipates that it will file a Protest at FERC by the April 11, 2005 deadline to ensure that the proposed merger meets the FERC Merger Guidelines and to ensure that there is no adverse effect on the operation of the wholesale markets. The OCA anticipates that the market concentration issues, and the proposed market power mitigation plan, will be key issues at FERC. The OCA filed its Protest on April 11, 2005. In its Protest, the OCA raised numerous concerns with the market power analysis and the proposed mitigation plan.

On May 9, 2005, PECO and PSEG filed a supplemental mitigation proposal at FERC. PECO and PSEG stated that they would implement the supplemental mitigation plan only if FERC approved the merger without hearing. Also, on May 24, 2005, the PJM Market Monitoring Unit issued a Report on the proposed market power mitigation plan. The PJM MMU concluded that the plan was insufficiently detailed to fully determine if market power was effectively mitigated. On May 27, 2005, the OCA filed a further Protest at FERC regarding the supplemental mitigation plan. In its further Protest, the OCA noted the PJM MMU Report and requested that FERC set the matter for hearings.

At its June 30, 2005 Public Meeting, FERC approved the merger as amended by PECO’s supplemental mitigation plan. In its Order, FERC rejected the Protests of all parties as well as the PJM Market Monitoring Unit concerns regarding the proposed mitigation plan. In its Order, FERC required that upon completion of the divestiture, Exelon file a compliance plan demonstrating its compliance with the Order and presenting a further analysis of the effectiveness of the actual divestiture. The OCA and many other parties filed requests for rehearing with FERC. Those rehearing requests are currently being considered by FERC.

Transmission Incentives, PL03-1-000. As discussed in last year’s Annual Report, on January 15, 2003, FERC issued a notice seeking comment on a proposed Policy Statement relating to regulatory incentives to be provided to owners of transmission facilities. The intent of this proposed Policy Statement is to provide increases to authorized rates of return on equity for transmission owners as incentives to undertake certain actions. The proposed Policy Statement would provide transmission owners with the following incentives: a) a 50 basis point increase on equity return for joining an RTO, or already having joined an RTO; b) a 150 basis point increase on equity return for joining an Independent Transmission Company (ITC); and c) a 100 basis point increase on equity return for undertaking new investment in transmission facilities. The OCA submitted comments on behalf of itself and NASUCA on March 13, 2003, vigorously opposing this proposed Policy Statement on the basis that the incentives are unreasonable, and
may unnecessarily increase consumer rates since FERC is not proposing to first determine whether these utilities are already over-earning their authorized returns on equity. In Fiscal Year 2004-2005, FERC conducted periodic Technical Conferences on this matter. The recent passage of the Energy Policy Act of 2005 may impact this Policy Statement in Fiscal Year 2005-2006.

Electric and Gas Price Indices, Docket No. PL03-3-000: As discussed in last year’s Annual Report, in January, 2003, FERC announced its intent to initiate an investigation into the accuracy of the data reported by market participants to trade publications and to NYMEX related to forward prices for natural gas. Investigations by FERC into manipulation of wholesale electricity markets in California in 2000 and 2001 led to the discovery that several market participants had also manipulated prices in natural gas markets by deliberately reporting higher prices for forward contracts than were actually paid. The OCA assisted in the drafting of two NASUCA Gas Committee resolutions urging FERC and other appropriate federal and state agencies to investigate this matter and to determine the extent to which any inappropriate activities in reporting prices to these indices has resulted in excessive and unreasonable natural gas or electricity prices. The OCA and NASUCA filed comments on June 20, 2003, urging FERC to adopt mandatory reporting requirements for data providers, including requirements for mandatory provision of counter-party data. We also supported a central collection agency for this data, with FERC oversight. FERC issued it order approving a voluntary system of regulation of natural gas and electricity price indices on July 24, 2003. The OCA, on behalf of NASUCA, filed a request for clarification on August 22, 2003. On September 17, 2003, the OCA submitted supplemental comments in this docket on behalf of itself and NASUCA, urging FERC to collect information related to market participant compliance with the reporting guidelines. By order dated December 12, 2003, FERC rejected NASUCA’s request for rehearing. On November 19, 2004, FERC issued an order in this proceeding citing steady improvement in the number of transactions reported and increased confidence in published price indices for electricity and natural gas. FERC listed 10 publishers whose indices may be reliably used as part of Commission-approved tariffs, and indicated that it will continue to monitor wholesale price formation to make sure there is accurate, reliable and transparent market price information.

Initiation of Rulemaking Proceeding on Market Based Rates and Notice of Technical Conference Re Market Based Rates for Public Utilities, RM04-7: As discussed in last year’s Annual Report, on April 14, 2004, FERC initiated a new rulemaking to analyze the adequacy of its current four prong test to assess market power in market based rate application proceedings, including the adequacy of the interim generation market power screens discussed above. FERC held a technical conference in this docket seeking comment on a more permanent final rule relating to generator market power screens. The OCA and NASUCA filed supplemental comments in these dockets on June 30, 2004, urging FERC once again to adopt a supply curve analysis as part of a pivotal supplier screen for generation market power, and urging FERC to reject requests by generators to mandate competitive supply procurement guidelines for all utility purchases, including utility purchases to serve retail consumers. NASUCA and OCA submit that these retail consumer issues are beyond FERC’s jurisdiction and properly lay within state jurisdiction. On December 7, 2004, FERC held an additional technical conference in this docket on vertical market power and barriers to entry issues. The OCA attended that conference, and filed supplemental comments on these issues on behalf of itself and NASUCA on January 21, 2005.
as requested by FERC. The OCA attended additional technical conferences held by FERC on January 27 and 28, 2005, presenting comments on behalf of the OCA on generation market power and affiliated abuse issues. At the end of Fiscal Year 2004-2005, the matter remains pending before FERC.

**Standards of Conduct for Transmission Providers, RM01-10-000:** As discussed in last year’s Annual Report, 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, along with the West Virginia Consumer Advocate Division, on behalf of NASUCA, urged 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. After passage of the Sarbanes - Oxley Act in 2002 reforming accountability and reporting requirements for corporations, many interstate pipelines and electric utilities filed supplemental comments in this docket arguing that FERC’s proposed standards of conduct would conflict with the new statutory requirements. The OCA, along with NASUCA, filed comments on June 13, 2003, recommending that there is no conflict between the proposed rule and the Sarbanes - Oxley Act, and urging FERC to continue with its proposed course of action to expeditiously issue strong affiliate standards rules in this docket. On November 25, 2003, FERC issued a Final Rule in this docket strengthening its affiliate standards of conduct rules and adopting most of the recommendations suggested by NASUCA and the OCA. On February 20, 2004, the OCA on behalf of NASUCA joined in a letter filed by a number of industry participants urging FERC to stay the course with the Final Rule. On April 16, 2004, FERC issued its order on rehearing essentially affirming its Final Rule in this proceeding, but requiring certain modification. On December 21, 2004, FERC issued a third order on rehearing, Order No. 2004-C, granting the local gas distribution companies’ request to exempt on-system sales from the Energy Affiliate definition, but denying rehearing for local electric distribution companies to exempt native load transactions from the operation of the rule. The OCA and NASUCA intervened in appeals filed by other parties so as to support FERC in defending the Final Rule.

**Midwest ISO and PJM Interconnection, L.L.C., EL02-111-000 and American Electric Power, et al., EL03-212-000:** As discussed in last year’s Annual Report, FERC initiated this docket to resolve rate pancaking concerns for energy transactions between the Midwest ISO markets and PJM markets. The purpose of this docket is to investigate the elimination of Through and Out Rates for transactions that cross the seam between these two regional entities. Transactions that crossed this border had to pay transmission rates in both the Midwest ISO and in PJM. FERC also initiated Docket No. ER03-212 as an offshoot of Docket Nos. EL02-65 and EL02-111
to extend the investigation into the reasonableness of RTOR charges to the Midwestern utilities seeking to join PJM, i.e. American Electric Power, Commonwealth Edison and Dayton Power & Light, collectively known as the New PJM Companies.

The OCA intervened on October 8, 2002 and filed testimony on December 10, 2002 recommending that FERC not eliminate the Through and Out rates at this time. On March 31, 2003, the Presiding Judge issued his Initial Decision in this docket essentially adopting the position advocated by the OCA that the Through and Out rates should not be eliminated at this time. On July 24, 2003, FERC issued an order in this proceeding overturning the Presiding Judge’s ruling relating to the elimination of through and out rates between PJM and MISO and upholding the Judge’s decision to allow a Seams Elimination Cost Adjustment charge to recover revenues previously recovered by the through and out rates.

On January 16, 2004, FERC set this matter before a Settlement Judge in an attempt to encourage the parties to settle this case. The OCA actively participated in those proceedings. By order dated March 19, 2004, FERC approved a procedural settlement in EL02-111 and EL03-212 that would leave the RTOR charges in place through December 1, 2004 while the parties negotiated a permanent rate solution in an effort to avoid the transitional SECA charges from taking effect. The parties have proposed four alternative solutions to regional transmission rates which will be discussed at a settlement meeting on July 12, 2004. The OCA joined with a group of other stakeholders in PJM and MISO to support a plan that would provide for regionalization of new facilities and license plate rate treatment of existing facilities within the combined super-region. To ease the transition to license plate rates for the New PJM Companies for existing facilities, that proposal would provide for payments totaling $108 million over 3.5 years. Payments from PJM Companies would be made from expiring charges, thus avoiding the necessity of implementing any increases in transmission rates in PJM zones.

The parties filed this proposal with the Commission on October 1, 2004. FERC added two new docket numbers to this case, Docket No. ER05-6-000 and EL04-135-000. The OCA filed comments supporting the license plate rate approach and opposing the regionalization of existing facilities proposed by AEP, Commonwealth Edison, Allegheny Power and others. FERC issued its order on these filings on November 18, 2004, adopting the Unified Plan Proponents proposal for license plate rates as a long term solution, but requiring a SECA payment totaling over $330 million for AEP alone. The OCA, along with every other party in the case, filed requests for rehearing on December 1, 2004 and December 20, 2004, attempting to reverse the SECA portion of the decision.

On January 7, 2005, the OCA intervened in the SECA compliance filings made by the PJM, New PJM and MISO utilities. By order issued February 10, 2005, FERC set these matters for hearing. Procedural schedules and issue lists for hearings have been developed. Throughout the spring of 2005, discovery and the filing of testimony by the Companies proceeded. Litigation in these matters was on-going at the end of the Fiscal Year.

Allegheny Power Systems, et al., ER04-156-006, PJM Interconnection, L.L.C., ER05-513-000, and Baltimore Gas & Electric Company et al., ER05-515-000: Pursuant to a Settlement in ER04-156-000 PJM and the PJM Transmission Owners (TOs) filed a series of new cases seeking
approval to continue in place the existing license plate rate design of these companies; implement options for the TOs to either retain existing stated rates, implement a surcharge and a surcharge revenue crediting mechanism or implement formula rates to recover the costs associated with investment in new transmission facilities under Schedule 12 of the PJM Tariff. The OCA filed interventions, comments and protests in these dockets on February 22, 2005. The OCA supports the retention of license plate rates, but opposes the surcharge revenue crediting mechanism and formula rate proposals. This matter was being litigated before FERC at the end of the Fiscal Year.

FirstEnergy Operating Companies and American Transmission Systems, Inc., AC05-7-000: On November 1, 2004, FirstEnergy on behalf of its transmission subsidiary, American Transmission System, Inc., filed with FERC for approval of deferred accounting treatment for the vegetation management improvements it is required to undertake in response to FERC’s requirements to improve such practices in the wake of the August 14, 2003 blackout that affected the entire Northeastern United States. FirstEnergy’s failure to manage vegetation was a proximate cause of that blackout. The OCA intervened in this case on December 13, 2004, protesting deferred accounting treatment for these expenses for accounting purposes because FirstEnergy and ATSI failed to demonstrate they would experience an actual loss in net income if such approval is not granted, and because FirstEnergy and ATSI may have been imprudent in managing vegetation on their systems. FERC issued an Order approving the deferred accounting. FERC indicated that it would not address other issues until a claim for recovery is made. The OCA determined that it would not pursue further action.

PJM

PJM Market Power Issues

PJM filed revised rules with FERC in the fall of 2003 governing payments to utilities in load pockets whose energy bids are cost capped due to market power concerns provides sufficient incentive to ensure that these units continue to operate. That filing reflected consensus on an interim solution that would provide generators operating Reliability Must Run (RMR) units that are cost capped more than 80% of the time to request additional payments of $40 above the current cost capping method of marginal cost plus 10%. The interim solution also allows RMR units cost capped 50% of the time, but less than 80% of the time to seek additional payments of $20 above the current capped price. Several of the plants eligible for these payments are in Pennsylvania. The OCA endorsed the proposal because the data available to the OCA indicated that these plants were not realizing sufficient revenues under current market conditions to maintain the plants and the units were required for reliability purposes. The OCA intervened in this proceeding and supported the retention of marginal cost plus 10% mitigation ceilings where non-scarcity conditions exist and the implementation of a local market auction for load pockets where scarcity conditions exist or are forecasted to exist within the near future. This proposal properly provides appropriate price signals for new investment where scarcity exists while protecting consumers from market power where non-scarcity conditions exist. FERC approved this proposal in May, 2004, but requiring PJM to file a long-term solution for mitigating frequently capped units and to revise its proposed generation retirement policy to develop a method for compensating units that seek to retire but are needed for reliability.
PJM filed on November 2, 2004 a proposal to convert the interim solution for frequently mitigated units into a longer term solution, as well as to propose a method for compensating units that seek to retire but are needed for reliability. The OCA actively participated in that process and intervened in this case in support of PJM’s filing. Several parties opposed the filing because they believe that PJM’s proposed compensation rules fail to send a price signal that reflects scarcity. Those concerns have no merit as PJM does not forecast scarcity conditions prior to 2011. The OCA continues to support broadening rather than weakening PJM’s existing cost capping rules, including broadening the rules so that they apply to all generation units, not just those built prior to July 1, 1996 as provided for in the existing rules. By order dated January 25, 2005 FERC generally approved PJM’s proposed revisions to its local market power mitigation rules, and approved a frequently mitigated units policy and a generation retirement policy.

**PJM West and PJM South**

As discussed in last year’s Annual Report, PJM West became operational on April 1, 2002. On October 1, 2004, PJM integrated AEP and Dayton Power & Light into PJM West, thus expanding PJM’s markets significantly. PJM integrated Duquesne Light Company on January 1, 2005 into PJM West. On May 1, 2005, Dominion Virginia Power was integrated into PJM as PJM South.

**PJM Committee Participation**

The OCA participates in the following PJM Committees, Working Groups and User Groups:

- Demand Side Response Working Group
- Reliability Committee
- Electricity Markets Committee (formerly Energy Markets Committee)
- Market Implementation Committee (MIC), formerly Market Implementation Work Group (MIWG)
- Tariff Advisory Committee
- Planning Committee
- Credit Users Group
- Reactive Services Working Group
- Public Interest / Environmental Organizations Users Group (PIEOUG)
- Market Monitoring Organization Work Group
- Market Monitoring Advisory Committee
- Communications Task Force
- Regional Transmission Planning Stakeholder Process (RTPSP)
- Economic Planning Implementation Stakeholder Process (EPIISP)
- Generation Attributes Tracking System Working Group
- Behind the Meter Generation Working Group
NATURAL GAS

Pennsylvania

Base Rate Proceedings

Pa. P.U.C. v. Philadelphia Gas Works, Docket No. M-00021612 and P-00032061. As discussed in last year’s Annual Report, on July 1, 2002, Philadelphia Gas Works (PGW) filed its Restructuring Plan pursuant to Section 2212(h) of the Natural Gas Choice and Competition Act. The Gas Choice Act provides for the restructuring of Natural Gas Distribution Company (NGDC) services so as to give Pennsylvania’s natural gas customers choice in the provider of their natural gas supply services. Pursuant to the Gas Choice Act, the PUC was required to review the restructuring plans filed by all Pennsylvania NGDCs and hold open evidentiary hearings before entering an order that accepts, modifies or rejects each of the proposed plans.

In addition, through this Restructuring Proceeding, PGW was required to convert its existing information technology, accounting, billing, collection, gas purchasing and other operating systems and procedures to comply with the requirements of the Public Utility Code and Commission Rules and Regulations. In addition to examining the issues concerning the unbundling of PGW’s rates and customer choice program design, the OCA also examined whether PGW’s proposed tariff and practices were in compliance with the Commissions Regulations at Chapter 56 (Standards and Billing Practices for Residential Utility Service) and Chapter 59 (Gas Service). During this proceeding, the OCA also examined the Company’s revisions to its low-income programs, senior citizen discount and consumer education plan.

Prior to filing Main Briefs, the parties were able to enter into a series of stipulations that settled many of the contested issues in the proceeding. These included stipulations on PGW’s compliance with Chapter 59, universal service program design issues, restructuring cost recovery, and customer choice program design issues. The agreement on Chapter 59 compliance issues addressed compliance with the Commission’s regulations on meter testing and change-out, leak surveys and AMR meter reading. This settlement was submitted to the Commission for approval as a Petition for Interlocutory Review and Answer to a Material Question filed by PGW on December 13, 2002.

On January 27, 2003, the Commission entered an Order approving the Settlement. The remaining stipulations on the universal service program design, restructuring cost recover and customer choice program design issues were submitted with the Main Briefs. On February 18, 2003, the Office of Administrative Law Judge issued the Recommended Decision (R.D.) of ALJ Turner. The ALJ’s R.D. adopted many of the OCA’s arguments in this proceeding and recommended approval of the remaining stipulations. On February 25, 2003, the parties filed exceptions to the ALJ’s R.D.

On March 21, 2003, the Commission adopted an Order that adopted many of the OCA’s recommendations. Specifically, the Commission rejected PGW’s claim to recover $35 million in Preprogram Arrearages from its CRP Program. The Commission also adopted the OCA’s
recommendation that universal service costs be allocated to all customer classes. With respect to universal service program design issues, the Commission approved the Company’s request to temporary eliminate its excess usage charge and LIHEAP make-up charges. The Commission also adopted many of the OCA’s recommendations on unbundling. With respect to tariff issues and Chapter 56 compliance, the Commission agreed with the OCA position that PGW’s proposed tariff was not compliant with Chapter 56 and the requirements of the Act. The Commission specifically stated that any tariff provisions that were not compliant with Chapter 56 on September 30, 2003 were void. The Commission also recommended approval of the OCA’s position on consumer education and miscellaneous consumer protection issues. The Commission also approved, without modification, the various stipulations that the parties submitted. On April 15, 2003, the OCA filed a Petition for Reconsideration and Clarifications. Specifically, the OCA’s Petition sought clarification of the Company’s proposed unbundling of its Gas Cost Rate (GCR).

Subsequently, as part of a comprehensive settlement of issues in the Company’s annual 1307(f) proceeding, the parties reached an agreement on the storage and balancing costs issue that was presented in the OCA’s Petition for Reconsideration. That agreement was approved by the Commission in an Order entered August 27, 2003. On June 30, 2003, the Commission entered an Order denying the OCA’s Petition for Reconsideration on the Chapter 56 issue and the universal service cost offset issue.

CEPA appealed the Commission’s March 31 Restructuring Order and the June 30 Order on Reconsideration regarding the Commission’s decision on the Chapter 56 issues and maintenance of existing consumer protections in accordance with the Gas Choice Act. The OCA filed an amicus brief in support of CEPA’s appeal. On April 26, 2004, the Commonwealth Court entered an Order that quashed the appeal on the ground that the Commission’s Order was not final since these issues could again be considered in the compliance phase of the Restructuring Proceeding.

As to the compliance phase, on May 15, 2003, PGW submitted its compliance tariff and associated compliance materials. On June 16, 2003, the OCA filed its comments and exceptions to PGW’s compliance filing. Those exceptions raised issues primarily directed at specific language in PGW’s tariff that was not in conformance with Chapter 56 or the Commission’s March 31 Order. On July 2, 2003, PGW filed its reply to the OCA’s exceptions. In its reply, PGW accepted many of the proposals raised by the OCA in its exceptions. On October 10, 2003, the Commission entered an Order finding that several provisions or PGW’s compliance tariff did not comply with Chapter 56 and directed PGW to make tariff modifications consistent with the March 31 Restructuring Order and the October 10 Compliance Order.

On October 27, 2003, PGW filed a Petition for Reconsideration claiming that the October 10 Compliance Order violated the Company’s due process rights and sought additional reconsideration of several tariff provisions. On November 6, 2003, the OCA filed an Answer to PGW’s Petition for Reconsideration. In its Answer, the OCA supported the Commission’s findings in the October 10 Compliance Order and submitted that PGW’s due process rights were not violated. The Petition for Reconsideration remains pending before the Commission. PGW and CEPA also appealed the Commission’s October 10 Compliance Order to the
Commonwealth Court. PGW, CEPA and the Commission entered into a stipulation to remand this matter to the Commission for further consideration of the issues raised in the appeal. The two remaining outstanding issues involved PGW's proposal to impose a residential field visit charge and the Company's proposed requirement that customers must pay civil judgments relating to PGW balances as a condition of service restoration. These issues were consolidated into the Investigation into Financial and Collections Issues regarding the Philadelphia Gas Works that the Commission instituted in an Order entered on June 2, 2004. On August 13, 2004, the Recommended Decision of ALJ Rainey was issued that recommended that (1) the residential field visit charge be approved, and (2) PGW's proposal that customers pay civil judgments related to PGW balances as a condition for restoration of service be rejected. On October 27, 2004, the Commission entered an Order that rejected the proposed residential field visit charge and also rejected PGW's proposal that customers pay civil judgments (or enter into payment arrangements to satisfy such amounts) prior to restoration of service.

Petition for Rescission and Amendment of Philadelphia Gas Works (Senior Citizens Discount Program), Docket Nos. M-00021612 and P-00032061. As discussed in last year's Annual Report, on July 7, 2003, PGW filed a Petition for Rescission and Amendment of the Commission’s March 31, 2003 Restructuring Order in Docket No. M-00021612, specifically regarding the Senior Citizen Discount (SCD). In the March 31 Order, the Commission approved a proposal by PGW to close the SCD program to new applicants. Those customers currently receiving the SCD would be grandfathered and continue to receive the discount. In its Petition for Rescission and Amendment, PGW sought to continue the SCD on a needs-tested basis, with senior citizens at or below 250% of poverty eligible for the discount. The OCA filed an Answer to PGW's Petition on July 21, 2003. On December 19, 2003, PGW filed a Tariff Supplement, which became effective on one day's notice, putting the means tested SCD in effect on an interim basis, pending final decision by the Commission. However, on January 7, 2004, the Commission issued a Secretarial Letter rejecting the proposed tariff supplement. On January 8, 2004, PGW, OSBA and CEPA filed a Stipulation and Settlement in the SCD Petition proceeding. The proposed settlement provided for an implementation of a means-tested SCD. Under the terms of the proposed settlement, a 20% discount SCD is available to new applicants, 65 years of age or older, whose household income is at or below 250% of the federal poverty level. The OCA filed a statement supporting approval of the proposed settlement. On January 13, 2004, a hearing was held in Philadelphia where testimony was taken from interested parties on the proposed settlement.

The ALJ issued her Recommended Decision on February 24, 2004, recommending approval of the proposed settlement. At the Public Meeting of April 15, 2004, the Commission passed the Motion of Chairman Terrance J. Fitzpatrick. That Motion held in abeyance the proposed settlement, pending a development of issues set forth by the Commissioner’s Motion. The vote was 4-1 with Commissioner Thomas dissenting. The Motion set forth eight (8) issues that the Commission wanted developed on the record in this proceeding before determining whether it would approve the proposed settlement. Those issues included, whether any other Pennsylvania NGDCs have SCDs, and the cost of providing low-income assistance to customers that are above 150% of FPL, and the burden on other customers of having to fund such a program. On June 2, 2004, the Commission entered an Order that consolidated this proceeding with several other pending proceedings involving PGW and opened an investigation of PGW's
financial condition and collection activities. Evidentiary hearings were held in Philadelphia on June 6 and 7, 2004. On August 13, 2004, the Recommended Decision of ALJ Rainey was issued that recommended that the proposed means-tested SCD be approved. However, on October 27, 2004, the Commission entered an Order that rejected the proposed means-tested SCD.

**Pa.P.U.C. v. National Fuel Gas Distribution Company**, Docket No. R-00049656. On September 15, 2004, National Fuel Gas Distribution Company (NFGD) filed a proposed tariff seeking an increase in annual base rate revenues of $22.7 million. In addition to the proposed base rate increase, the Company sought to implement an uncollectible expense tracker mechanism, a Distribution System Improvement Charge (DSIC) and continuation of its pension expense tracker mechanism. The OCA filed a formal complaint against NFGD’s filing on September 29, 2004 averring that NFGD’s requested rate increase, its proposed tariff changes, and its current tariff, are, or may be, unjust, unreasonable, unduly discriminatory and otherwise contrary to the law and sound ratemaking principles. The Commission also requested that certain issues pertaining to the CashPoint bankruptcy, and the effect on NFGD customers that utilized CashPoint to make payments, be consolidated with the base rate proceeding.

The OCA recommended a distribution rate increase of $7 million rather than the Company’s request of $22.7 million. The OCA’s recommendation was based on numerous adjustments to the Company’s claimed revenues, expenses and rate base, as well as a recommendation that the Company be awarded an 8.5% return on equity as opposed to the Company’s requested 11.875% return on equity. The OCA also recommended that the Company’s proposed DSIC and uncollectible expense tracking mechanism be rejected. The OCA also recommended that a larger share of any authorized rate increase be allocated to non-residential rate classes.

With respect to the issues involving CashPoint, in December 2004 the Company sent letters to all of its customers that made utility payments to CashPoint informing them that NFGD would credit those customers’ accounts with the CashPoint payments if the customers would assign to NFGD any claim that those customers may have against CashPoint in the bankruptcy proceeding or at the Pennsylvania Department of Banking.

The parties met on several occasions in-person and telephonically to discuss settlement. These negotiations led to an agreement in principle that resolved all of the contested issues in the case. The proposed settlement provided NFGD with the authority to increase its base rates by $12.0 million in lieu of the increase of $22.7 million that the Company had sought. Other important features of the proposed settlement included: NFGD will withdraw its proposals for a distribution system improvement charge and uncollectibles tracker mechanism. The Company also agreed to credit all customers for amounts paid to CashPoint, regardless of whether the customer executed an assignment of claims. The proposed settlement also provided for a stay-out with the Company prohibited from filing another base rate case before May 31, 2006. The proposed settlement was submitted to the ALJ on February 15, 2005. On March 9, 2005, the ALJ issued his Recommended Decision. The ALJ recommended approval of the proposed settlement. On March 23, 2005, the Commission approved the settlement.
Pike County Light & Power, Docket No. R-00049884. On October 4, 2004, Pike County Light & Power (Pike County) filed a proposed tariff seeking an increase in annual gas base rate revenues of $166,700. The OCA filed a formal complaint against Pike County’s filing on November 1, 2004 averring that the Company’s requested rate increase, its proposed tariff changes, and its current tariff, are, or may be, unjust, unreasonable, unduly discriminatory and otherwise contrary to the law and sound ratemaking principles. The OCA filed Direct Testimony on January 18, 2005 and Rebuttal Testimony on February 18, 2005, setting forth its recommendations in this case. Throughout the proceeding, the parties engaged in settlement negotiations that resulted in an agreement in principle to resolve all contested issues in the case. Pursuant to the agreement, the Company would be allowed to increase its base rate revenues by $124,000 annually. The agreement also simplified the Company’s rate design and prohibited the Company from seeking another base rate increase for at least fifteen months after the effective date of the new rates. On March 23, 2005, a proposed settlement was submitted to the ALJ. On May 23, 2005, the Commission entered an order approving the settlement.

Pa. P.U.C. v. Valley Energy, Inc., Docket No. R-00049345. On June 30, 2004, Valley Energy filed a base rate case seeking to increase annual gas operating revenues by $538,134. This represented an increase in rates of approximately 17%. The OCA filed a complaint against Valley Energy’s filing on August 11, 2004. The OCA filed Direct Testimony in accordance with the procedural schedule recommending that rates be reduced by $39,000. The OCA’s recommendation was based on several adjustments to the Company’s expense claims and a 9% return on equity. The OCA also supported the Company’s allocation of the rate increase to the various rate classes on an equal percentage basis. Further testimony was filed in December and evidentiary hearings were held December 15 and 16, 2004.

Following the hearings, the parties were able to reach a settlement of the revenue requirement issues in the case. Under the settlement, Valley will be permitted to increase its distribution rates by $235,000. Valley has agreed that it will not file for a base rate case for one year from the effective date of the $235,000 increase. The parties were not able to resolve issues regarding the allocation of the rate increase. The OCA supported the Company’s proposal to allocate the rate increase on an equal percentage basis across all rate classes. Main Briefs were filed by OCA, OSBA and the Company on January 21, 2005. Reply Briefs were filed by OCA and OSBA on January 31, 2005. On February 24, 2005, the ALJ issued her Recommended Decision. The ALJ recommended approval of the proposed settlement, but rejected the Company’s proposed across-the-board allocation of the rate increase. The OCA filed Exceptions to the ALJ’s R.D. on March 16, 2005 and the OSBA filed Reply Exceptions on March 28, 2005.

At its Public Meeting of April 21, 2005, the Commission ruled on this matter. The Commission upheld the ALJ’s decision that approved the settlement, but rejected the Company’s proposed across-the-board allocation of the rate increase. The Commission accepted the argument of the OSBA that, despite the fact that there was no cost of service study examining any costs incurred by the Company, the costs for the Company’s universal service programs would be isolated out and charged directly to residential customers. This results in a larger share of the rate increase being paid by residential customers.

Purchased Gas Cost (PGC) 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. 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 continued 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. In particular, the OCA stressed the importance of hedging the purchases of natural gas supplies for injection into storage. With increased volatility in gas prices during the injection season, it is essential that NGDCs apply risk management strategies to injection season purchases in order to reduce price volatility. 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 included 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.
The OCA participated in the following purchased gas cost cases during Fiscal Year 2004-05:

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<tr>
<th>Gas Company</th>
<th>2004 PGC Docket</th>
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<td>Columbia Gas</td>
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<td>Dominion Peoples</td>
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<td>National Fuel Gas Distribution Corp.</td>
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<td>PECO Energy Co. - Gas</td>
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<td>PPL Utilities, Inc.</td>
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**Miscellaneous Gas Cases and Issues**

Investigation into Financial and Collections Issues Regarding the Philadelphia Gas Works, Docket Nos. P-00042090, R-00049157, M-00021612 and P-00032061. As discussed in last year's Annual Report, on March 1, 2004, PGW filed a Petition to Establish a Cash Receipts Reconciliation Clause (CRRC)(Docket No. P-00042090). In this Petition, PGW sought to implement a first of its kind mechanism to reconcile actual uncollectible expense to the allowance for uncollectible expense that the Company claims that it recovers through base rates. Initially, PGW proposed that the CRRC recover $47 million in additional revenues. The $47 million was made up of two components: (1) $35.2 million for a projected shortfall in cash receipts for FY2005 and (2) $11.4 million representing a three-year amortization of a $34.3 million claimed shortfall in cash receipts for FY2004. The total of these two components equaled an initial proposed CRRC of $46.7 million. The initial CRRC surcharge level would be $0.7947/Mcf. The OCA filed an Answer to PGW’s Petition on March 22, 2004, opposing implementation of such a surcharge mechanism.

The OCA filed its Direct Testimony in the consolidated proceedings on April 15, 2004. The OCA’s testimony opposed implementation of a CRRC surcharge. The testimony also raised several issues regarding PGW’s gas procurement activities, including the need to do additional hedging to reduce gas cost volatility and the operation of PGW’s LNG facilities.

Several public Input hearings were held in Philadelphia. At these hearings, the public expressed overwhelming opposition to the imposition of the CRRC. In addition to the Public Input hearings, technical hearings in these two consolidated matters were held May 11, 2004 in Philadelphia.
Thereafter, in an Order entered June 2, 2004, the Commission consolidated the CRRC Petition with several other pending matters involving PGW and opened an investigation into PGW's financial condition, its collection practices, its universal service programs, and its means-tested senior discount program. The June 2 Order also directed that the record on the CRRC be certified to the Commission without a recommended decision for an immediate decision by the Commission.

On June 16, 2004, PGW filed a Petition for Limited Waiver or Modification of PUC Chapter 56 Rules and Administrative Interpretations. In accordance with the Commission’s June 2 Order, this Petition was consolidated into the PGW Investigation. The Petition sought a host of waivers of specific Chapter 56 rules relating to termination of service for non-payment, payment arrangements and security deposits.


On August 11, 2004, the ALJ issued his Recommended Decision on the remaining consolidated issues in the Investigation Proceeding. The ALJ recommended that PGW’s request for waivers of Chapter 56 regulations be denied. He directed the Company to undertake a cost/benefit analysis of the OCA’s alternative recommendations to determine whether they are cost effective and would enhance the Company’s collections. The ALJ also recommended that the Company’s proposal to impose a field visit charge be approved, but recommended rejection of the Company’s tariff language that judgments and liens must be paid prior to restoration of service at a property that has been terminated. Finally, the ALJ recommended that the Company’s proposed means-tested Senior Citizen Discount be approved.

PGW, OSBA and Action Alliance, et.al. filed exceptions to the Recommended Decision. No reply exceptions were permitted. On October 27, 2004, the Commission entered an Order that rejected the bulk of PGW’s requested Chapter 56 waivers. The Commission’s Order also directed PGW to file a Universal Service study and report by December 31, 2005.

Petition of Philadelphia Gas Works for Declaratory Judgment or Alternatively Waiver of PUC Regulations to Permit Continued Consolidated Billing of Inappropriate Request for Service Charge, Docket No. P-00052152. On February 25, 2005, Philadelphia Gas Works filed a Petition for Declaratory Judgment or Alternatively Waiver of PUC Regulations to Permit Continued Consolidated Billing of Inappropriate Request for Service Charge. In its Petition, PGW requested that its Inappropriate Request for Service Charge (IRSC), which is assessed when a customer reports a non-existent gas leak in order to obtain appliance repair service, be deemed a basic service charge. In the alternative, PGW sought waiver of 52 Pa. Code § 56.13 to permit PGW to continue to bill for the IRSC on the same bill as its basic natural gas service. The OCA filed an Answer objecting to the request to treat the IRSC as a basic service charge, but did not oppose the Company’s request for a temporary waiver.
In Re NFG Distribution Co.’s Temporary Operational Takeover of Nido’s Ltd, t/d/b/a Kaylor Gas Distribution, Docket No. M-0031781 and Application for Approval of Abandonment of Service by Kaylor Gas, Docket No. A-120007-F2001. On November 26, 2003, the Commission issued an Emergency Order in the above-captioned proceeding, ratified at Public Meeting of December 4, 2003, directing National Fuel Gas Distribution Company (NFGD) to temporarily take over the operation of Nido’s Ltd., Inc. t/d/b/a Kaylor Gas Distribution (Kaylor or Kaylor Gas) for the purpose of remedying documented safety problems on Kaylor’s system. NFGD filed a request for an emergency hearing, and a hearing was scheduled for December 17, 2003. At the hearing, NFGD, Kaylor and the Commission’s Law Bureau Prosecutorial Staff submitted a Stipulation and Settlement. Under the Stipulation and Settlement, operational control of the Kaylor Gas system is to be returned to Kaylor Gas, thus relieving NFGD of temporary operational control. Kaylor agreed, among other things, to operate the system consistent with PUC requirements, perform all billing and collection functions, deposit all revenue received in an escrow account, pay all bills rendered by NFGD and T.W. Phillips, cooperate with NFGD on all issues, and provide 24/7 phone contact for the Commission, NFGD and customers. NFGD agreed to enter into an arrangement to provide continuing assistance, and to complete numerous activities designed to restore safe operations. NFGD also is permitted authority to recover any unpaid costs for natural gas from NFGD ratepayers through NFGD’s Section 1307(f) mechanism. NFGD is also permitted to request recovery of other unpaid costs through a tariff rider. The Stipulation and Settlement were approved by the Administrative Law Judge and Exceptions to the Recommended Decision are due on January 2, 2004.

The OCA filed a Notice of Intervention in this proceeding, and in the pending Application for Abandonment of Service at Docket No. A-120007F2001 on December 23, 2003. The OCA received the ALJ’s Recommended Decision approving the Settlement on December 29, 2003. On December 31, 2003, the OCA filed Exceptions to the Recommended Decision. In its Exceptions, the OCA raised the following issues: (1) whether proposed provisions of the settlement that place the costs of serving Kaylor Gas customers on NFGD may not provide adequate compensation to NFGD and its customers for these costs; (2) whether it is possible to determine whether all safety issues have been resolved, without the detailed arrangements between the companies for the provision of continued assistance; and (3) that the Commission should ensure that all parties expeditiously begin work on alternative proposals to address the Kaylor Gas situation. On January 6, 2004, NFGD filed Replies to OCA’s Exceptions. The Company has now indicated to the parties and the ALJ that it is in the process of selling the Company. Once the terms and conditions of the sale are finalized, the Company will file a new abandonment application seeking Commission approval of the sale and transfer of the Company to the new owner. The ALJ has suspended the procedural schedule in this matter at the request of the parties.

In a related matter, on November 2, 2004, TWP filed a complaint and Petition for Hearing to Request Modification of Emergency Order requesting permission to terminate TWP’s wholesale natural gas service to Nido’s due to the accumulation of a large past-due balance and Nido’s failure to pay T.W. Phillips for past-due balances as well as current bills. In re: T.W. Phillips Gas and Oil Company’s Proposed Termination of Wholesale Gas Service to Nido’s Ltd. t/d/b/a Shadyside Gas, Docket No. M-00031764. A hearing was held on February 15, 2005, at which time Nido’s Vice-President testified about the various problems Nido’s was experiencing with
uncollectibles and its ability to pay T.W. Phillips for wholesale gas service. The OCA intervened in this proceeding and filed a Main Brief on March 17, 2005 urging the Commission to ensure that Nido’s customers are not left without service and the Nido’s is taking all necessary steps to collect accounts receivables, maximize Nido’s revenues, and to make payments to T.W. Phillips for wholesale gas purchases and past-due balances. That complaint is still pending before the Commission.

On April 12, 2005, Nido’s filed an Amendment to the Application for Abandonment of Service for Kaylor Gas (Kaylor Amendment). On the same date, Nido’s filed an Application for Abandonment of the Shadyside Gas operations (Shadyside Application). The Kaylor Amendment and Shadyside Application both aver that all gas utility operations are being transferred to Orwell Natural Gas Company, an Ohio utility. The OCA filed a Notice of Intervention in both application proceedings to ensure that the interests of the customers of Kaylor Gas and Shadyside Gas are protected.

Petition of Columbia Gas of Pennsylvania Requesting Approval Of Consensus Agreement To Establish Ongoing Funding Mechanism For The Customer Assistance Program, Docket No. P-00032057. In conjunction with Columbia’s restructuring proceeding, Columbia expanded its customer assistance program (CAP) to meet the needs of low income customers in its service territory. The CAP assists low income customers who are having trouble paying their gas bills by providing the customer an affordable, monthly bill. The CAP allows the customer to retain gas service, thus lowering the costs of termination and collection, and it requires the customer to make an affordable payment, thus reducing uncollectible expense for the NGDC. Columbia expanded its program to serve 22,000 customers as required by the restructuring settlement, but as gas prices continued to increase, the need for the program grew. Columbia proposed to further expand the program to meet the growing need if it could recover a portion of the costs through an adjustment to rates that reflected the changes in the cost to the program from the changes in gas prices. The company, the OCA, the Office of Trial Staff, the Office of Small Business Advocate and the industrial customers’ representative met on several occasions and reached an agreement for a new CAP Rider. Under the Agreement, Columbia was permitted to further expand its program and establish a rider to recover the difference between the current residential rate and the CAP customer payments. The Company was permitted to adjust the rate on a quarterly basis to reflect changes in the cost of gas, the primary source of the billing difference. The Company agreed to recover other program costs within its existing distribution rates and to extend its distribution rate cap through July 1, 2005.

The Consensus Agreement was submitted to the Commission and a notice was sent to customers explaining the rate change. Based on current gas costs and projected participation levels, distribution rates were expected to increase by 3.184/ccf after elimination of another temporary rider that was removed by the consensus agreement. The Commission received several hundred complaints from customers objecting to the proposed rate increase. The Commission referred the matter to the Office of Administrative Law Judge for hearing on the complaints. Hearings were held September 21, 2004. On December 29, 2004, the ALJ issued a Recommended Decision that recommended approval of the Petition. On February 8, 2005, the Commission entered an Order approving the Petition.
Pa.P.U.C. v. Columbia Gas of Pennsylvania, Inc., Docket No. R-00049783. On September 1, 2004, Columbia Gas of Pennsylvania, Inc. (Columbia) filed a tariff supplement proposing to introduce two new sales services to its customers, Price Protection Service (PPS) and Optional Sales Service (OSS). The tariff filing also proposed several other miscellaneous changes to its tariff language to update and clarify the rules, terms and conditions of service offered by the Company. PPS is a fixed-rate sales service that will be offered to residential and small commercial customers. OSS is a fixed-rate sales service that will be offered to large commercial and industrial customers. On December 14, 2004, the OCA filed a complaint against the proposed tariff supplement and the proposed new fixed-price sales services averring that Columbia’s proposed tariff changes are, or may be, unjust, unreasonable, unduly discriminatory and otherwise contrary to the law and sound ratemaking principles. On February 3, 2005, the Commission entered an Order suspending the tariff supplement until August 4, 2005. At the request of the Company and the parties, the suspension period was extended until November 4, 2005 by the Commission. The OCA engaged in extensive negotiations with other parties about the Company’s proposed fixed-price sales services. On April 13, 2005, the Company submitted its Direct Testimony in support of its tariff proposal. The OCA filed Direct Testimony on May 26, 2005 that generally supported the implementation of a fixed-rate pilot program with various restrictions and consumer safeguards. Columbia filed Rebuttal Testimony on June 23, 2005. At the end of the Fiscal Year, this case was pending before the PUC.

Peoples Independent Producers Group v. Dominion Peoples, Docket No. C-20054393 and Petition for Emergency Order of Peoples Independent Producers Group, Docket No. P-00052162. On April 21, 2005, Peoples Independent Producers Group (PIPG) filed a Formal Complaint against Dominion Peoples objecting to Dominion Peoples’ enforcement of new contractual water vapor standards on local natural gas producers and imposition of what PIPG alleges is a non-tariffed, unjust, unreasonable and unduly discriminatory production enhancement fee. On the same date, PIPG also filed a Petition for Emergency Order requesting that the Commission issue an Emergency Order prohibiting Dominion Peoples from implementing the proposed new water vapor standards and enjoining Dominion Peoples from shutting in any local production wells or requiring producers to pay a production enhancement fee. The OCA filed a Notice of Intervention in this proceeding on April 29, 2005. On the same date, the Commission entered an Order granting the Petition for Emergency Order in part. The Commission’s Order established a limited stay of the proposed new water vapor standards and enjoined Dominion Peoples from shutting in any local production for a period of 30 days. An Emergency Hearing was held on May 18, 2005 to address PIPG’s Petition for an Emergency Order. The OCA attended the hearing but did not present any testimony. On May 23, 2005, the ALJ issued an Emergency Order staying Dominion Peoples’ enforcement of the new water vapor standards until resolution of the underlying complaint proceeding. The Commission ratified that Emergency Order in a Secretarial Letter issued June 13, 2005. The OCA will continue to monitor this proceeding to ensure that Dominion Peoples’ customers are not harmed and that locally produced gas remains available to serve Pennsylvania natural gas customers.

Natural Gas Distribution Companies Universal Service Task Force. Pursuant to Section 2203(10) of the Natural Gas Choice and Competition Act, the Commission was required to convene a Task Force to review universal service programs and their funding. The task force issues a Report to the Commission each December 31st setting forth its recommendations. If the
Report contains recommendations regarding the use of general State revenue as a funding source, the Report is also forwarded to the General Assembly. The OCA serves as a member of this Task Force along with representatives from the Natural Gas Distribution Companies, various community-based groups, the Pennsylvania Utility Law Project, and Community Legal Services. The Commission’s Bureau of Consumer Services acts as the facilitator. The Annual Report of the Task Force reviewed the growing participation in the universal service programs, the growing need for these services, and the level of funding currently provided by ratepayers. In light of the increases in energy costs, rising layoffs, and growing number of payment troubled customers, the Report called for a meaningful appropriation of state funds as an essential step in protecting the utility service of Pennsylvania’s most vulnerable citizens. The Report was forwarded to the General Assembly. The Office of Consumer Advocate representative was elected as the co-chair for the Task Force for 2003 and 2004.
Federal

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 expansions 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. Transco filed a settlement on April 12, 2002. The OCA supported the settlement of all cost of service issues as that settlement provided 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. However, cost allocation and rate design issues were tried during July, 2002. The OCA submitted its Initial Brief on August 28, 2002, and its Reply Brief on September 17, 2002, on the rolled-in v. incremental pricing issues associated with the Mobile Bay, Pocono and Cherokee expansion projects. The OCA opposed rolled-in pricing for these projects as such rate treatment distorts price signals related to the cost of expanding pipeline capacity. On December 3, 2002, the Presiding Administrative Law Judge issued his Initial Decision rejecting roll-in of the Pocono, Cherokee and Mobile Bay expansion facilities as recommended by the OCA. On March 26, 2004, FERC issued its order on exceptions, upholding The ALJ’s order relating to the Pocono and Cherokee facilities, but overturning The ALJ’s decision relating to the Mobile Bay facilities. On April 26, 2004, the OCA filed a Request for Rehearing on the Mobile Bay issue. This matter remains pending before FERC.

Equitrans, LP., Docket No. RP04-97-000. On December 1, 2003, Equitrans filed a request to increase rates and revenues by $25 million, or more than 56% annually. Equitable Gas Company, a Pennsylvania company, comprises over 80% of the load on Equitrans’ system and would see increased rates of $21 million or more annually. The OCA intervened in this proceeding on December 11, 2003 protesting this rate increase. By order dated December 31, 2003, FERC rejected the rate filing, and suspended the tariff issues until June 1, 2004. FERC also carved out the lost base expense issue, denying rate recovery and initiating a new proceeding to investigate the reasons for the loss of over 9 Bcf of gas from three Equitrans’ storage fields. FERC held a technical conference in this case on February 2, 2004. On June 29, 2004, FERC issued an order in this docket rejecting the settlement and setting the storage and security tracker issues for hearing in Equitrans’ pending rate case at Docket No. RP04-203 discussed below. On March 9, 2004, FERC issued an order consolidating this proceeding with the proceeding at Docket No. RP05-203-000 discussed below. It is expected that the OCA will file its direct testimony in September 2005 and technical evidentiary hearings will be held in December 2005.
Equitrans, LP., Docket No. RP04-203-000. On March 1, 2004, Equitrans filed a new rate case seeking to increase rates by $17 million, or 50%, annually. On March 12, 2004, the OCA intervened in this proceeding protesting this rate increase. On March 31, 2004, the Commission issued an order suspending the rate increase and set this matter for hearing. The procedural schedule in this proceeding has been held in abeyance pending the issuance of a Commission order in a certificate proceeding in which Equitrans seek to refunctionalize certain transmission facilities as gathering facilities. By orders dated November 23, 2004, FERC rejected the rehearing requests in these dockets, and granted approval for the refunctionalization of transmission to gathering facilities. On March 9, 2004, FERC issued an order consolidating this proceeding with the proceeding at Docket No. RP05-164-000. It is expected that the OCA will file its direct testimony in September 2005 and technical evidentiary hearings will be held in December 2005.

Equitrans, LP., CP05-18-000. FERC carved the lost base gas issue out of the RP04-97 rate case and set it for technical conference in this newly initiated docket. The OCA attended that technical conference. At this time, Equitrans has not asked for recovery of the lost gas as an expense item in the new rate case pending at Docket No. RP04-203-000. However, Equitrans has sought to increase its storage retainage rates substantially and the OCA is investigating whether there is any link between these retainage factors and the lost base gas issue.

Equitrans, LP, RP05-164-000. Equitrans filed to implement a single gathering rate for three categories of gathering facilities: a) transmission facilities refunctionalized as gathering in CP04-76; b) facilities reacquired from its affiliate Equitable Fields services located; and c) new facilities formerly owned by CNG Transmission Corporation known as the Hastings facilities. The OCA intervened in this proceeding and protested Equitrans' filing on February 22, 2005. The OCA is concerned that Equitrans has already recovered 53% of the costs of the facilities reacquired from its affiliate in a prior rate case, but has not reflected this stranded cost treatment as an adjustment to rates in this case.

Gas Final Rule (Order No. 637), RM98-10-000 & RM98-12-000. On April 5, 2002, the D.C. Circuit Court issued its Opinion on appeal of this Final Rule, 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 30, 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. On October 31, 2002, FERC issued an Order on Remand on the ROFR rights issue, eliminating the term cap, thus exposing LDCs to the risk of either losing their historic pipeline capacity or paying effective rates for that capacity that may exceed the pipelines' maximum tariff rates. On December 2, 2002, the OCA, along with NASUCA and several other parties, filed a request for rehearing advocating continued application of the 5 year term cap in order to protect consumers from the pipelines' ability to exert market power in negotiating contract renewals. On January 29, 2004,
FERC rejected our request for rehearing. The OCA, on behalf of NASUCA, filed an appeal of this order on March 24, 2004. Several other parties also appealed, including the National Association of Regulatory Utility Commissioners and the American Gas Association. These matters are pending before the DC Circuit Court of Appeal awaiting a briefing schedule. The Case is docketed as Case No. 04-1094, AGA v. FERC. The OCA jointly drafted with several other parties briefs filed with the Court on December 7, 2004. On March 8, 2004, the OCA jointly filed a reply brief. The case is scheduled for oral argument in the fall of 2005.

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. The OCA participated in a technical conference on this matter on May 21, 2002, urging a broad definition of energy affiliate. 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. Several utilities have argued to FERC that the proposed rule is inconsistent with The Sarbanes - Oxley Act to reform accountability and reporting in corporate entities. The OCA, along with NASUCA, filed comments on June 13, 2003, recommending that there is no conflict between the proposed rule and The Sarbanes - Oxley Act, and urging FERC to continue with its proposed course of action to expeditiously issue strong affiliate standards rules in this docket. On November 25, 2003, FERC issued a Final Rule in this docket strengthening its affiliate standards of conduct and adopting many of the suggestions made by NASUCA and the OCA. However, on December 29, 2003, the OCA sought clarification with respect to several of the definitions for Energy Affiliate. The OCA and NASUCA sponsored a letter to FERC with other industry stakeholders supporting the Final Rule. On April 16, 2004, FERC issued an order on rehearing generally affirming the final rule, but requiring certain modifications. The OCA and NASUCA decided not to appeal this order as FERC rejected all rehearing requests seeking to weaken the final rule, and granted NASUCA’s requests for clarification, thus further strengthening the final rule. The OCA and NASUCA intervened in appeals filed by other pipelines so as to support the Final Rule issued by FERC. On August 2, 2004, FERC issued Order No. 2004-B on rehearing, continuing to essentially uphold these rules. On December 21, 2004, FERC issued a third order on rehearing, Order No. 2004-C, granting the local gas distribution companies’ request to exempt on-system sales from the Energy Affiliate definition, but denying rehearing for local electric distribution companies to exempt native load transactions from the operation of the rule.

Negotiated Rates Notice of Request for Comments, PL02-6-000. On July 17, 2002, FERC issued a Notice of Request for Comments seeking input from various stakeholders in the industry on FERC’s Negotiated Rates Policy Statement. That Policy Statement was initially adopted in 1996, authorizing pipelines to individually negotiate rates with shippers. The OCA opposed that policy then and continued to oppose the policy as it serves no purpose other than to discriminate among types of shippers, allowing those with competitive leverage such as large shippers, to obtain better rate deals than are provided for in pipeline tariffs. In the Notice, FERC noted that in some recent cases pipelines have used that authority in a discriminatory manner to withhold capacity under otherwise applicable recourse rates in an effort to force shippers into negotiated rate contracts at prices significantly in excess of maximum pipeline tariff recourse rates. FERC
sought comment on whether to abandon the policy, or impose limits on pipeline actions to obtain
rates above maximum tariff rates. The OCA is not aware of any Pennsylvania LDC that has
been able to benefit from this policy statement. On September 23, 2002, the OCA filed
comments on behalf of itself, the West Virginia Consumer Advocate Division and Maryland Office
of Peoples Counsel urging FERC to abandon the negotiated rates policy, or to limit the types of
negotiated rate transactions that can be accomplished thereunder. We also urged FERC to
adopt an absolute ban on cross-subsidies between negotiated rates and recourse rates. On July
24, 2003, FERC issued an order in this proceeding modifying its negotiated rate policy by
prohibiting negotiated rate transactions based on pricing differentials. Several parties have
sought rehearing of this issue and the matter remains pending before FERC.

**Policy for Selective Discounting By Natural gas Pipelines, RM05-2-000 and RM97-7-000.** On
November 22, 2004, FERC issued a Notice of Inquiry: *Policy for Selective Discounting By
Natural Gas Pipelines*. In this NOI, the Commission sought comment on its policy of allowing
pipelines to discount transportation services and to seek discount adjustments in base rate cases
so as to fully recover their costs associated with these discounts. The Commission further
sought comment on whether its policy should distinguish among the reasons for providing
discounts, as well as the burden of proof to ascribe to various types of transactions. The OCA,
as part of the National Association of State Utility Consumer Advocates, submitted comments
urging the Commission to terminate the discount adjustment policy for competition with released
capacity and pipeline expansion projects required to be priced incrementally under the 1999
Incremental Pricing Policy Statement. NASUCA further urged that the Commission impose a
heavy burden on pipelines to justify discount adjustments for discounts given for all other
reasons, including gas-on-gas competition by requiring pipelines to present evidence of net,
concrete consumer benefits. The comments also included recommendations for additional
modifications to the Commission’s discount adjustment policy.

**Electric and Gas Price Indices, Docket No. PL03-3-000.** In January, 2003, FERC announced its
intent to initiate an investigation into the accuracy of the data reported by market participants to
trade publications and to NYMEX related to forward prices for natural gas. Investigations by
FERC into manipulation of wholesale electricity markets in California in 2000 and 2001 led to the
discovery that several market participants had also manipulated prices in natural gas markets by
deliberately reporting higher prices for forward contracts than were actually paid. FERC held a
public conference on April 24, 2003, to investigate the extent and geographic range of the
reporting inaccuracies. The OCA assisted in the drafting of two NASUCA Gas Committee
resolutions urging FERC and other appropriate federal and state agencies to investigate this
matter and to determine the extent to which any inappropriate activities in reporting prices to
these indices resulted in excessive and unreasonable natural gas or electricity prices. The OCA
also investigated supporting potential efforts to obtain federal legislation that would provide
FERC authority to require gas producers and marketers to file quarterly reports on contract
prices that is similar to the authority FERC exercises under the Federal Power Act with respect to
market based rates for electric generators. The OCA and NASUCA filed comments on June 20,
2003, urging FERC to adopt mandatory reporting requirements for data providers, including
requirements for mandatory provision of counter-party data. We also supported a central
collection agency for this data, with FERC oversight. FERC issued an order approving a
voluntary system of regulation of natural gas and electricity price indices on July 24, 2003. The
OCA, on behalf of NASUCA, filed a request for clarification on August 22, 2003. The OCA, on behalf of itself and NASUCA, also filed supplemental comments on September 17, 2003 with FERC supporting efforts by FERC to collect information relating to market participant compliance with the voluntary reporting requirements. Since NASUCA and the OCA had supported mandatory reporting requirements, and since FERC elected to implement voluntary reporting requirements under the assumption that a voluntary approach would encourage more entities to comply, NASUCA and the OCA thought it imperative that FERC monitor whether the voluntary system achieves FERC’s goal of transparency, accuracy and liquidity in price indices reporting. On November 4, 2003, FERC held a technical conference to inquire into the status of compliance with the voluntary guidelines. Several large gas producers testified that the liquidity and transparency of price reporting had improved substantially since the issuance of the guidelines, however end use consumer representatives remained concerned with the accuracy of reported prices. On December 12, 2003, FERC issued an order on rehearing rejecting NASUCA’s and the OCA’s request. FERC held a technical conference in this proceeding on June 25, 2004 to assess whether voluntary compliance with the policy statement has resulted in sufficient improvements in the liquidity and transparency of the price indices, or whether mandatory compliance is warranted. Most parties expressed dramatic improvement in the transparency and liquidity of the price indices and in their confidence in the accuracy of the reported prices as a result of the Commission’s actions in this proceeding. While the parties did not recommend that FERC mandate reporting by all entities, they did suggest that FERC continue to vigilantly monitor these matters. On November 19, 2004, FERC issued an order in this proceeding citing steady improvement in the number of transactions reported and increased confidence in published price indices for electricity and natural gas. FERC listed 10 publishers whose indices may be reliably used as part of Commission-approved tariffs, and indicated that it will continue to monitor wholesale price formation to make sure there is accurate, reliable and transparent market price information.

Amendments to Blanket Sales Certificates, RM03-10-000. On June 26, 2003, FERC sought comments on proposed revisions to its regulation of pipelines and natural gas marketer sales for resale of natural gas in order to prohibit anti-competitive and manipulative practices and to provide for disgorgement of any profits earned through such behavior. On August 8, 2003, the OCA submitted comments in this proceeding on behalf of itself and NASUCA essentially supporting the proposed regulations. On November 17, 2003, FERC issued an order essentially adopting the proposed regulations and many of the OCA’s and NASUCA’s positions. However, NASUCA and the OCA filed a request for rehearing on December 17, 2003, of several provisions, including FERC’s failure to adopt monetary remedies in addition to disgorgement, FERC’s definition of wash trades and FERC’s decision to adopt an intent standard in the rule prohibiting market manipulation. FERC issued its order on rehearing rejecting all requests on May 19, 2004. The OCA and NASUCA have decided not to appeal this order, but plan to intervene in appeals filed by other pipelines so as to support the Final Rule issued by FERC.
TELECOMMUNICATIONS

Pennsylvania

Chapter 30 Review. As reported in last year’s Annual Report, during the last two Fiscal Years, the Pennsylvania General Assembly reviewed the Pennsylvania telecommunications law, Chapter 30 of the Public Utility Code, which expired by its own terms on December 31, 2003. The Senate Committee on Communications and High Technology and the House Committee on Consumer Affairs, held hearings concerning Chapter 30 at which the Consumer Advocate, Sonny Popowsky, testified on several occasions. In his testimony, Mr. Popowsky urged that Chapter 30 should be continued, but with modifications to make it more responsive to the needs of Pennsylvania consumers. The OCA’s twin goals during the debate were to ensure the protection of basic universal telephone service at affordable prices for every Pennsylvanian, while at the same time accelerating the availability of advanced high-speed telecommunications services throughout every urban, suburban, and rural community in the Commonwealth.

Mr. Popowsky proposed five modifications that he said were necessary to improve upon the current legislative framework contained in Chapter 30. Specifically, he urged that new telecommunications legislation should contain 1) strict protections against large basic service rate increases, 2) expansion of enrollment in the federally funded Lifeline program that provides rate discounts of up to $100 per year to low-income Pennsylvania telephone customers, 3) improvements in telephone service quality, 4) a statewide inventory of high speed telecommunications service, and 5) more rapid and focused deployment of high speed broadband service to underserved communities throughout all areas of Pennsylvania.

Despite some action in both the House and Senate, both houses did not agree upon any legislative revision to Chapter 30 in 2003. As a result, Chapter 30 sunsetsed on December 31, 2003. The OCA continued its efforts to ensure that any legislation would protect basic service while also providing greater access to broadband service throughout the Commonwealth.

On September 15, 2004, the Senate Committee held a hearing on VoIP issues. The consensus of many of the parties was that e911 service needs to be required from VoIP services and H.B. 30 should not be interpreted to deregulate existing telephone services.

On November 30, 2004, the issue was resolved when Gov. Rendell signed House Bill 30 or Act 183 into law. The revised law made a number of changes. These changes included additional protection for basic services as well as some greater acceleration of broadband network deployment. The final bill no longer restricted Lifeline customers from purchasing additional telephone services under the various types of Lifeline 150 plans. It created a form of automatic notification whereby the Department of Public Welfare will notify recipients whenever they enroll in programs, which would qualify them for Lifeline eligibility. OCA has now had further discussions with DPW and the local telephone companies concerning how they may implement these legal changes.
Furthermore, sections in HB 30 that would have removed from state regulation all services that used Internet Protocol (VoIP) to deliver telephone calls were deleted from the final version as passed. OCA had opposed these sections as defining VoIP too broadly and potentially deregulating basic local service offered by the Incumbent LECs.

OCA will review revised Chapter 30 plans that ILECs are required to file under Act 183.

Filing and Reporting Requirements on Local Exchange Carriers, Docket No. M-00041857. The PUC issued an order on April 15, 2005 that proposed revisions in the filings made by telephone companies under Act 183. The OCA filed Comments in response to that Order on May 3, 2005. The OCA argued that the PUC should maintain the Lifeline Tracking Reports consistent with the revised Lifeline rules in Act 183, LECs should file information with the PUC, as proposed by the FCC, in order to make certain that federal universal service funds are properly used, clarify portions of its order concerning its authority over cramming and slamming, and continue to require reports concerning service quality.

On June 2, 2005, the OCA filed additional comments and focused particularly on the need to continue requiring Lifeline reports. The OCA explained and documented how the PUC has considered Lifeline reports in the past as a type of “universal service report,” thereby qualifying as a required report pursuant to § 66 Pa.C.S. 3015(e)(5). The PUC has also made recent changes to Lifeline eligibility and it would make sense to continue to monitor enrollment to consider the effect of these changes. OCA also noted how telephone subscription has declined from a high of 98.0% in 2002 to 94.3% in March 2005. Because of this decline, it is also important to track Lifeline enrollment. As of the end of the Fiscal Year, this case is pending before the Commission.

AT&T Communications of Pennsylvania, LLC v. Verizon North Inc. and Verizon Pennsylvania Inc., Docket No. C-20027195. As discussed in last year’s Annual Report, on December 30, 2002, Verizon PA and Verizon North filed an access reform petition. Under the Petition, Verizon North would reduce the access charges that are paid by long distance companies, but increase the rates charged to Verizon PA and Verizon North basic service customers. This is modeled after a settlement filed by Sprint and a coalition of smaller companies titled the Rural Telephone Company Coalition. The OCA joined in the RTCC settlement and that settlement allows for the RTCC to raise their local rates up to an $18.00 cap, and continues to require increases above that level to come from a Universal Service Fund.

The OCA filed comments on February 14, 2003 and opposed the Verizon Petition. Hearings were held before Administrative Law Judge Cynthia Fordham on August 25 and 26, 2003. The OCA was actively involved in these hearings presenting a witness and conducting cross examination of witnesses presented by other parties.

Verizon and OCA presented a settlement proposal in this case. Such a settlement would have reduced Verizon North’s high access rates to Verizon Pa. levels and increase residential and business rates by less than $1.00 per line per month. On November 18, 2003, ALJ Fordham released a Recommended Decision that generally accepted the Verizon/OCA proposed
settlement. This would be beneficial inasmuch as it would avoid the higher local rates proposed by other parties in this case.

OCA and Verizon were also able to reach a further settlement with OSBA on this issue. On February 26, 2004 OCA filed a revised settlement in this case. The general effect is to reduce the amount of rate increases necessary to fund the access reductions by approximately $15 million. Given this and other safeguards offered to the OSBA, OSBA supported the settlement.

On July 28, 2004, the PUC issued an Order adopting the rates set in the Petition for Resolution as discussed above. This has had the effect of reducing the Verizon North access rates to the level of Verizon Pennsylvania. It will also result in some increased local rates by a comparable amount. The Order also contained a requirement that the litigation should continue in the case in order to determine certain unresolved issues in the proceeding concerning access rates. Specifically, those policy issues identified by the Commission included the following: (1) a recommendation of the “next steps” for access reform (July 28, 2004 Order at 16); (2) a recommendation on whether access charges should be reduced “to cost” (id. at 18); and (3) a recommendation on the elimination of the carrier charge (id. at 20).

On August 9, 2004, Verizon filed for Reconsideration of the Order. Verizon proposed that further litigation should only take place in a separate proceeding and the current proceeding should be closed given the resolution of the rate issues in that case. On August 19, 2004, OCA filed a response that supported Verizon concerning the closure of the current case. However, OCA disagreed with Verizon that the next access proceeding should consider the access charges of all Pennsylvania companies. OCA suggested that the next access proceeding should continue to be concerned with the access issues of Verizon.

On November 23, 2004, the PUC entered an order that rejected the Verizon petition for reconsideration and affirmed its earlier order. On January 18, 2005, the PUC issued an order resolving additional questions raised by parties in the proceeding. The PUC denied the request of IXCs to require retroactive access reductions. Further hearings would be required before any other access reductions may be ordered. The PUC accepted the OCA request that changes being considered at the FCC concerning InterCarrier Compensation must be reviewed in order to determine what effect this may have on the PUC’s proposal to consider these requests.

On June 8, 2005, the OCA filed extensive direct testimony in this proceeding. OCA argued against any immediate further reduction in access charges and increases in local rates, but offered in the alternative the potential for applying on a Pennsylvania basis a plan similar to that proposed by NASUCA that would gradually reduce Verizon access charges over a five year period.

The testimony documented that residential rates are not subsidized, the carrier charge is an efficient mechanism to recover a small portion of loop costs that long distance companies use, access reductions have not benefited residential customers through lower toll rates and will not benefit competition, and the current FCC Intercarrier Compensation proceeding provides additional reasons for waiting on further state access reductions. This case was pending before the Commission at the end of the Fiscal Year.
Investigation Regarding Intrastate Access Charges and IntraLATA Toll Rates of Rural Carriers, and the Pennsylvania Universal Service Fund, Docket No. I-00040105. In a similar Order issued on December 20, 2004, the PUC is also considering revising the intrastate access of the non-Verizon or rural telephone companies. The OCA has agreed to a settlement with Sprint and the Rural Telecommunications Carrier Coalition (RTCC) that resulted in local rate increases in order to reduce access charges. This method also preserved an $18 charge limit on tariffed local exchange service by allowing ILECs that receive funds from the Pennsylvania USF to further withdraw funds to avoid charges above $18. The PUC was considering whether this type of USF should continue or be modified. It will also consider what additional access reductions are appropriate.

On May 23, 2005, the OCA, RTCC, and Office of Trial Staff filed a Motion to defer this investigation until after the FCC has ruled on intercarrier compensation issues. The Motion emphasized that changes in a state order on intrastate access charges will likely be required as a result of any FCC order, and the Pennsylvania rural companies will likely benefit through additional funding resulting from FCC action. On August 30, 2005, the PUC stayed this proceeding for a period of one year and agreed with many of the comments made by the OCA as to why this proceeding should be delayed pending the outcome of the FCC Intercarrier Compensation proceeding. OCA submits that such a delay will avoid large local rate increases that might have otherwise been necessary to fund such access reductions.

Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements, Docket No. I-00030099. As discussed in last year’s Annual Report, on August 30, 2003, the FCC released its Triennial Review Order (TRO) that required all states to consider the continued availability of unbundled local switching to competitors. This would have the effect of removing an important Unbundled Network Element (UNE) such that competitors will find it more difficult to offer competitive alternatives. Particularly, the OCA was concerned that residential mass market customers may lose much of the local competition that they now enjoy. Under the FCC’s TRO, if the PUC finds a number of CLEC switches that were used to offer service to mass market (or residential) customers, then it may find that Verizon switching need no longer be offered to CLECs as a UNE within each market. This would mean that a CLEC would no longer be impaired if such UNE switching is not offered by Verizon. The PUC would have had to define and analyze each market in Pennsylvania in order to determine whether the requisite number of CLEC switches serving mass market customers exist in order to find such impairment.

On October 3, 2003, the PUC released its order in the above captioned proceeding that initiated its own proceeding under the requirements of the TRO. On October 24, 2003, Verizon filed its Petition to the PUC proposing to remove UNE switching from the mass market customer. The OCA reviewed all network information in order to determine the existence of CLEC switches so as to find whether the FCC switching triggers have been met. The OCA defined the requisite market in which such trigger analyses needed to take place. The OCA plans reviewed Pennsylvania geography and the necessary information about telecommunications services offered and requisite prices in order to accomplish such an analysis.
The OCA also considered whether it was feasible for CLECs to continue to use Verizon loops with the CLECs’ own switches to offer local service in the mass market. On January 7, 2004, the OCA filed its responsive testimony. OCA argued that Verizon has not met the requirement to demonstrate that UNE switching should be removed from the residential mass market competitors in any area in Pennsylvania for the reasons noted above.

The OCA presented its witnesses and testimony in this proceeding. OCA demonstrated that Verizon had not met the requirements of the TRO so as to terminate the UNE switching and UNE Platform elements anywhere in Pennsylvania. OCA contested Verizon’s definition of the mass market. The OCA filed its Main Brief February 17, 2004 and Reply Brief on March 1, 2004. Most importantly, on March 2, 2004, the D.C. Circuit Court of Appeals overturned most of the FCC TRO order that the OCA had sought to apply in the PUC litigation. In particular, the Court rejected the FCC determination to allow state PUCs the opportunity to make determinations concerning UNE impairment and ruled that such decisions may only be made by the FCC.

Further, on May 28, 2004 in this proceeding, the PUC issued another order in response to Verizon’s petition for reconsideration. The PUC had earlier ruled that, even if Verizon was not required to unbundle loops to large business customers under the terms of the TRO, it may continue to have a requirement to unbundle under other federal and state law. The OCA had supported such a position. The PUC reaffirmed that position and refused to allow Verizon to withdraw its interconnection rates for large business customers.

On June 16, 2004, Verizon filed a Petition to close this proceeding. Verizon stated that the FCC will write new rules detailing how to resolve these issues and so this proceeding initiated under the old rules should be closed. The OCA answered this Petition and explained that the record evidence in this proceeding is important and may be useful in a later proceeding concerning UNEs and competition in the Verizon territory.

On June 23, 2004, ALJ Schnierle issued a Summary of the Record Evidence in this proceeding. This was designed to indicate the ALJ’s view of the essentials of the contested proceeding and indicate his judgment on certain issues. Overall, the summary was positive to the OCA on many points. Particularly, the ALJ explained that much of the Verizon information in the proceeding was inadequate to demonstrate the level of competition in the residential market. The ALJ cited many of the problems with this evidence that the OCA had noted in its briefs.

On August 22, 2004, the FCC issued its Interim Order in response to the DC Circuit rejection of the Triennial rules. This issue has proposed to basically freeze UNE rates for a 6 month period and then allow some increases in such rates following that time period. The FCC also suggested that parties could file with the FCC summaries of the facts developed by the states in their own state proceedings. The OCA has filed comments with the FCC explaining what unbundling is appropriate in Pennsylvania in light of local conditions.

On February 4, 2005, the FCC released its order in this proceeding. As anticipated, the FCC eliminated existing UNE switching within one year. This means that the FCC will phase out the UNE Platform (UNE-P) by which most residential consumers are served in Pennsylvania.
will probably result in CLECs terminating their competitive services to many residential customers. Some CLECs have also begun agreeing with Verizon on alternative commercial agreements. Generally, these commercial agreements result in higher UNE pricing. It seems likely that many residential customers will no longer be served under these arrangements.

Verizon Pennsylvania 216 Tariff, Docket No. R-00050319. In a related case, Chairman Holland proposed a Motion on March 23, 2005 that would approve the Verizon 216 Tariff. This tariff purports to implement the FCC UNE rules noted above. The Motion would also reverse the PUC ruling in the Global Order to apply the UNE-P under independent state authority. The PUC issued an order incorporating these changes on April 14, 2005.

ALJ Colwell also began a proceeding to rule upon this change in the Global Order. OCA intervened and filed Comments on April 20, 2005, attended a hearing on April 27, 2005, and filed a Main Brief on May 4, 2005 opposing the limitation of unbundling as developed by the PUC in the 1999 Global Order. On May 16, 2005, ALJ Colwell issued a Recommended Decision that rejected OCA’s arguments that the PUC retained state law authority to require network unbundling and that Section 271 of the Telecommunications Act of 1996 continued to require some unbundling. OCA filed Exceptions on May 20, 2005.

On June 10, 2005, the PUC issued its final Order in this proceeding and largely allowed Verizon to file its proposed tariffs and reduce or eliminate many of the UNE services that companies had used to offer competition in the residential market. OCA was successful in convincing the PUC to reaffirm its earlier determination in the Global Order that it had state authority to order wholesale unbundling, but it declined to apply it in this Order. Also, the PUC recognized that Verizon was required to continue unbundling UNEs under Section 271, but noted that the FCC had enforcement authority in this area. The PUC explained that it might bring a complaint to the FCC pursuant to Section 271 to require unbundling, but would not do so at this time.

Development of an Efficient Loop Migration Process, Docket No. M-00031754. In a related proceeding, the OCA filed testimony on December 23, 2004 concerning how Verizon should develop a way in which CLECs that have previously used the UNE-P could now make a transition to using their own switches that are connected to the Verizon loops. The OCA is concerned that as the UNE-P may be terminated or repriced at higher rates that large numbers of residential customers may have their CLEC service migrated from the Verizon to the CLEC switch.

OCA’s testimony raised concerns that allowing Verizon to take 26 days to migrate CLEC service from the Verizon to the CLEC switch may unreasonably delay this process and frustrate consumers that wish to establish new service. The testimony also proposed that the PUC should require Verizon to follow through on its offer that it would continue to allow CLECs to use a UNE-P like service during this transition period. Further, the testimony opposed Verizon’s attempt to raise charges for the loop migration process above those that had earlier been developed by the PUC in a recent proceeding.

The OCA was able to agree on a process settlement with the other parties. This obligates Verizon to notify OCA whenever it appears that a CLEC migration of customer service is not
planned and it will be necessary to plan for customer loss of service if they do not migrate from the CLECs.

On May 5, 2005, ALJ Chestnut approved the settlement of this proceeding and recommended it for approval by the PUC. The ALJ continues to consider the other issues raised in the case, as of the end of the Fiscal Year.

**Frontier Companies’ 2004 Rate Rebalancing Filings, Docket Nos. R-00040106-R-00040110.** On November 24, 2004, Frontier Communications of Oswayo River, LLC, Frontier Communications of Canton, LLC, Frontier Communications of Lakewood, LLC, Frontier Communications of Pennsylvania, LLC, and Frontier Communications of Breezewood, LLC, each made several filings with the Commission regarding various issues that impact their basic local service rates. These filings included an increase in basic local service rates to offset reductions in intrastate access charges, changes reflecting the reduction in the Company's inflation offset in its Price Stability Mechanism and changes to reflect the Company’s previously banked State Tax Adjustment Surcharge and Price Stability Index. The overall result of these filings was a revenue increase for Frontier, an increase in basic local service rates, and a reduction in access charges.

On December 9, 2004, the OCA formally intervened into the proceedings to protect the interests of Frontier’s local telephone consumers and ensure that the various filings comply with the relevant Commission Orders and all other applicable laws. The OCA also filed Comments in response to the filings pursuant to the procedural schedule established by Frontier's Chapter 30 plan governing these types of filings. In the OCA Comments, the OCA stated that an initial review of some of the filings revealed that the increase in basic residential local service rates may not comply with the relevant Commission Orders or may otherwise not be just and reasonable. More specifically, the OCA stated that Frontier's filings may not conform to the $18 rate cap established for basic local rates and may include increases in basic local service rates that are larger than permitted. Additionally, the Frontier filings did not sufficiently and clearly define or support the impact on rates due to the reduction in the Company's inflation offset. On December 13, 2004, the OCA also filed Formal Complaints in each of these proceedings, again, as required by the procedural schedule established in Frontier’s Chapter 30 plans advocating on behalf of essentially the same issues.

The OCA subsequently entered into extensive settlement discussions with the Companies regarding these filings. The OCA negotiated a revised set of rate increases whereby no rate would exceed the limit of $18. Frontier filed this proposed rate revision and the OCA offered to withdraw its complaint if the PUC accepted this change. On March 4, 2005, the Commission accepted this settlement and the revised rates were placed into effect.

**Petition of Verizon North Inc. For Waiver of Certain Provisions of the Commission’s State Tax Adjustment Surcharge Regulations, Docket No. P-00042118.** On June 21, 2004, Verizon North filed its Petition, seeking PUC approval to change how it calculates the amount of refunds to pass to consumers, which result from reductions in capital stock tax rate. The Company asked for both expedited relief and retroactive relief to September 1, 2003. Verizon North had omitted to recalculate the STAS for that prior year.
The OCA filed an Answer opposing the Company’s request for relief. The OCA subsequently was convinced that there was some merit to the Company’s claim that unique circumstances justified some form of relief. The OCA, Company and OTS engaged in settlement negotiations, which resulted in a Settlement Agreement.

Per the Settlement, Verizon North’s annual refund obligation due to decreases in the capital stock tax rate will be capped at $2.358 million, the estimated amount of capital stock tax expense built into base rates at present. Verizon North had sought to reduce its refund obligation for the current STAS period by $1.57 million. Instead, the cap would reduce Verizon’s present annual refund obligation by only $277,000. Thus, the consumers will benefit in rates by $1.29 million in the first year of the settlement in comparison with Verizon’s claim in the case.

Ratepayers further benefited since Verizon North agreed to forgo retroactive application of the cap. The cap will not commence until April 1, 2005, so ratepayers will not have to pay back any amount of refunds received through March 31, 2005 under the current STAS rate. The Settlement also includes an amount for interest on refunds related to the September 2003 to August 2004 STAS period. The parties submitted the Settlement Agreement to the presiding ALJ for review and approval on December 7, 2004. On December 28, 2004, the presiding ALJ issued his decision recommending that the PUC approve the settlement agreement in its entirety. The PUC has adopted and approved this settlement on February 7, 2005.

Joint Application of SBC and AT&T for Merger Approval, Docket Nos. A-311163F0006, A-310213F0008 and A-310258F0005. On February 28, 2005, SBC and AT&T applied to the PUC for approval of a proposed merger between these companies. The OCA was concerned about the potential loss of competition from AT&T as a result of this merger. The OCA filed its protest on April 4, 2005 and contended that the merger would reduce competition and fail to offer affirmative benefits to consumers.

On June 23, 2005 the OCA filed its Direct Testimony. In its testimony, the OCA emphasized the impact on competition in the telecommunications industry if this merger is approved. Ultimately, the OCA argued that the applicants had not met their burden of proving that the proposed merger will meet the applicable standards established by law that are required for the merger to be approved. As such, the OCA recommended that the Commission deny the merger. The OCA further argued that, if the Commission were to approve the merger, it should only do so if the companies were willing to make a strong commitment to compete for residential customers in Pennsylvania. In the alternative, if the merged company did not make such a commitment, the OCA recommended that the merged company should then be required to transfer their Pennsylvania assets to a competitive carrier who is willing to make such a commitment to compete. Without any such commitments, the OCA argued that the merger should be denied. As of the end of the Fiscal Year, this case was pending before the Public Utility Commission.

Joint Application of Verizon and MCI for Merger Approval, A-310401F0006. On March 7, 2005, Verizon and MCI applied to the PUC for approval of a proposed merger between these companies. The OCA is concerned about the potential loss of competition from MCI as a result of this merger. This is particularly important as MCI had been the leading competitor against
Verizon in the residential market. The OCA filed a protest on April 25, 2005 noting the loss of competition and merger financial benefits that the companies will enjoy as a result of this merger.

In addition, on August 19, 2005, Verizon filed a Motion to Strike various testimonies, including that of Sen. Mary Jo White. The OCA filed an Answer to this Motion on August 30, 2005. Notably, OCA asserted that Sen. White had standing to raise these arguments in this proceeding and legal authority to request that the Commission direct Verizon to more rapidly commit to meeting its broadband requirements under Act 183. ALJ Rainey rejected the Motion to Strike all types of testimony on September 9, 2005, including that of Sen. White.

OCA completed presenting testimony in this proceeding and advocated in favor of a five year rate freeze, the Verizon requirement to provide stand alone DSL to all of its customers, acceleration of universal broadband deployment, service quality monitoring, and potential divestiture of duplicative assets. OCA filed its Main Brief on October 4, 2005.

Lifeline and Link-Up Programs, Docket No. M-00051871. This proceeding began with an OCA Settlement of a Petition of Frontier Companies for Modification of Offset, Docket No. P-00951005. As a part of that settlement, the Frontier companies allowed consumers to qualify for Lifeline service based solely upon having incomes at 150% of the Federal Poverty Level. This allows poor families to qualify for benefits even if they are not participating in government assistance programs. Further, Lifeline consumers would be permitted to purchase 2 vertical services in comparison with purchasing 1 service at the present time. (This last provision was also included in Act 183 and was no longer necessary in the Frontier settlement.)

On September 3, 2004, the PUC entered an Order accepting most of the settlement but rejecting the portion that would have allowed the purchase of 2 vertical services. Instead, the PUC asked its staff to do a study of the Lifeline issues. The Lifeline issues included the question of allowing customers to enroll in Lifeline whenever they were at or below 150% of the federal poverty level.

On September 16, 2004, many telephone companies filed answers to a number of questions posed by staff. Many of these answers did not oppose allowing Lifeline customers to purchase more than one vertical service.

On March 8, 2005, the PUC issued its order in the above proceeding. The PUC tentatively accepted the idea that it would allow enrollment at 135% of the federal poverty level. The OCA had advocated in favor of income-based enrollment. This income eligible enrollment is also consistent with the recommendation of the FCC.

The PUC also proposed allowing customers to enroll in Lifeline whenever their children participate in the National School Lunch Program. On April 12, 2005, the OCA filed Comments in this proceeding supporting the PUC’s proposal to allow consumers to enroll in Lifeline if they have household incomes at 135% of the federal poverty level, but are not enrolled in other public assistance programs. OCA also supported the PUC’s proposed change to allow consumers to enroll in Lifeline where a child in the home participates in the National School Lunch (NSL) program.
On May 23, 2005, the PUC issued its Order in this proceeding. The PUC adopted the OCA proposals applying the 135% of the federal poverty level and the NSL program as eligibility criteria. The PUC did not grant the telephone companies any additional rate increases for the potential increase in costs related to the expansion of the eligibility criteria. The PUC also expressed concern in the Order with the low level of Lifeline enrollment in Pennsylvania.

Denver and Ephrata PSI/SPI Rate Change, Docket No. P-00050522. On May 31, 2005, Denver and Ephrata Telephone and Telegraph Co. filed its inflation based increase under Act 183. This would generally increase rates by $.47 per line per month.

Notably, this also represented a reduction of $27,708 annually as a result of a negotiated resolution of an earlier rate filing made by D&E on December 30, 2004. D&E had filed a number of increases and reductions in rates on various services. OCA reviewed this reduction and noted that it did not appear to be revenue neutral as the Chapter 30 rules required. As a result, the OCA negotiated with D&E and D&E agreed to track the resulting rate revenue changes flowing from the rate revisions. As a result, the $27,708 revenue reduction was included in that filing and this amount was subtracted from the revenue increase claimed in the current rate filing in the present proceeding.

Generic Investigation Regarding Virtual NXX Codes, Docket No. I-00020093. As discussed in last year’s Annual Report, on October 8, 2002, the PUC had initiated an investigation of assigning telephone numbers to a customer in an area where the customer is not physically located, i.e. virtual NXX codes. The OCA filed Comments on November 18, 2002.

The OCA explained in those Comments that it was concerned with the proliferation of NXX codes in Pennsylvania and the effect that this may have on the addition of further area codes in Pennsylvania. However, the OCA cautioned that the best way to meet this concern was not to prohibit the use of virtual NXX codes. OCA explained that prohibiting virtual NXX codes may inhibit competitors’ opportunity to expand local calling areas to the benefit of consumers. The use of virtual NXX codes also appears quite similar to the incumbents’ offering of foreign exchange service, which has been an accepted telephone service for many years. Further, such a prohibition may be difficult to enforce. OCA participated in a presentation to the Commission staff on February 26, 2003 summarizing these points. OCA filed similar Reply Comments on March 13, 2003.

On February 9, 2004, ALJ Debra Paist filed her Investigation Report. ALJ Paist cited with approval many of the arguments made by the OCA in this proceeding. ALJ Paist generally reiterated many of the arguments posed without recommending specific actions. However, ALJ Paist reported favorably on many of the OCA proposals and did not favorably report on various proposals made by ILECs concerning discrimination against those using VNXX codes.

On May 19, 2004, the PUC issued an Order in this case. The PUC indicated that it would receive further recommendations from the Law Bureau on this issue and would later issue an order concerning other policy changes that it might require.
On April 18, 2005, the OCA filed Further Comments in this proceeding and continued to advocate that the PUC had received no further authority to restrict this practice through Act 183 and that it would be appropriate for the PUC to wait for the FCC ruling on these practices in the context of the FCC Intercarrier Compensation proceeding. As of the end of the Fiscal Year, this case was pending before the Commission.

Rulemaking Re Changing Local Service Providers, Docket No. L-00030163. On March 18, 2004, the OCA filed the last set of comments concerning how consumers would be able to lift a local service freeze. The local freeze allowed consumers to freeze their selection of their local service provider so that no change can be made without authorization of the customer. It is a useful safeguard to avoid slamming. However, lifting the freeze has been difficult given the procedures that Verizon has applied. These latest comments followed years of debate on this issue where the OCA has complained about the difficulty that consumers have encountered in removing the freeze.

OCA has argued that Verizon should allow a consumer to use a Letter of Agency (LOA) that would authorize a competitive LEC to lift such a freeze on the consumer's behalf. Verizon has argued that the use of such an LOA is not authorized. OCA has continued to argue that the use of an LOA is an appropriate mechanism to lift a freeze so that the consumer does not need to be involved in contacting Verizon to authorize such a change.

OCA also complained that the PUC's prior Order of October 3, 2003 seemed to intend to authorize the use of the LOA, but in other instances seemed to contradict such an approach. OCA advocated that the PUC should resolve this ambiguity in favor of the LOA.

OCA also argued that Verizon should maintain customer service representatives available to take telephone calls after 6:00 PM so that a consumer would be able to lift a freeze during evening hours. Verizon has opposed this and offered a web based mechanism as a replacement. OCA has complained that such a web based Internet page is difficult to locate, is difficult to use, and consumers are reluctant to use internet applications to make such important changes.

On June 5, 2005, the PUC issued its final order in this rulemaking. The PUC in the latest order resolved questions concerning the LOA and clearly authorized its use. The PUC did not require Verizon to offer evening hours for consumers to remove the local freeze.

Assistance to consumer attempting to port telephone number from Vonage to Comcast. In early March 2005, as a part of our routine review of materials filed with the Federal Communications Commission, we learned that a Pennsylvania consumer alleged that the broadband-based telephone company Vonage had refused her request to port her telephone number to Comcast digital telephone. The OCA investigated, identified and contacted the consumer and verified the consumer's allegations. The OCA then began working to assist the consumer in her attempt to exercise competitive choice among telephone service providers. On March 25, 2005, the OCA was successful in obtaining relief for this consumer, allowing her to migrate to Comcast Digital Telephone service using her existing telephone number.
Vonage is not a certificated utility in Pennsylvania. The federal courts have determined that Vonage and other similar services are "information services" under the Communications Act of 1996, and thus, are not subject to state utility regulation. In addition, Vonage does not provide primary access to its services via the PSTN. Instead, Vonage provides telephone service by riding on a consumer’s existing broadband Internet service. Vonage does, however, use telephone numbers assigned by NANPA, and allows consumers to "port" their number to Vonage should a customer wish to become a Vonage customer. Through its participation in the North American Numbering Council, the OCA understands that, while some VoIP companies would obtain numbers by porting-in, they were not so eager to port numbers out in the process of losing a customer to a competing service. Through its work in representing the interest of Pennsylvania telephone consumers in competitive choice among certificated local telephone service providers, the OCA has experience dealing with number porting issues.

In this instance, this consumer wished to migrate from Vonage to Comcast Digital Telephone, a certificated utility. The Consumer attempted to migrate several times on her own, contacting both Vonage and Comcast, yet she was unsuccessful in having Vonage port her existing telephone number to Comcast. The Consumer contacted the FCC because she was under the belief that she could not obtain help at the state level, though her complaint to the FCC did not produce results. In response to her complaint to the FCC, the OCA contacted Vonage counsel and the company representatives that participate in numbering-related industry forums in which the OCA also participates. Upon making these contacts on the customer's behalf, Vonage quickly agreed to port the customer's number.

As a follow-up to this consumer’s complaint, the OCA is developing points of contact with Vonage personnel responsible for number porting, and will otherwise seek to assist consumers wishing to take advantage of new technologies and competitors in the voice services market.

Assistance to Disabled Consumers attempting to maintain CapTel Captioning Service, Docket No. M-00900239F0008. The PUC had begun a trial of the CapTel captioning service. This is a technology that allows consumers that have some hearing loss to be able to read conversations on the CapTel device in order to, essentially, have a normal conversation without the need to rely on the more difficult mechanism of having a Telecom Relay Service (TRS) operator intercept the call and type the calling information to the disabled consumer. Some affected consumers contacted the OCA as they were concerned that they would lose the CapTel service after the trial was completed as the PUC had stated that they intended to do. These consumers were concerned because this type of service was better than TRS service, but the PUC had advised that the PUC would no longer support this service after the trial was concluded and the consumers would lose the benefits of CapTel.

The OCA contacted the PUC staff in May 2005 that were involved in this process and advocated that they continue to support the CapTel service so that those now using the service could continue to do so as the PUC considered offering this service more widely. On May 25, 2005, the PUC issued a revised letter that announced that they would continue to support those consumers now using CapTel so that they would not lose the benefit of this service.

Buffalo Valley Telephone Co, Docket No. P-00032032, Conestoga Telephone & Telegraph Co., Docket No. P-00032033, Denver & Ephrata Telephone & Telegraph, Docket No. P-00032034,
North Pittsburgh Telephone Co., Docket No. P-00032038, ALLTEL Pennsylvania, Inc. Docket No. P-00981423, P-00032047. On April 30, 2003 these telephone companies filed requests seeking to delay rate reductions because of non-payment of certain intrastate access charges as an exogenous event.

On July 22, 2004 the OCA settled with each of these companies. The settlements did not allow the companies to recover their costs related to the MCI and WorldCom lost revenues. Instead, the settlements allowed the companies to recover their revenues lost by wireless changes in access rates caused by certain FCC rulemakings and thereby delay certain rate reductions.

The settlement also contained a provision concerning lifeline service to low-income consumers. This would allow consumers to qualify for lifeline based only upon income at 150% of the federal poverty level and purchase an unlimited number of vertical services. The PUC accepted the first lifeline provision, but rejected the second concerning vertical services in its Order issued on October 22, 2004. Optional services purchased by lifeline customers were subsequently permitted by Act 183.
Federal

Triennial Review Order, CC Docket No. 01-338. As discussed in last year’s Annual Report, on August 21, 2003, the FCC released a 576 page order known as the Triennial Review Order. In it, the FCC revisited policy and regulatory decisions concerning implementation of the local competition provisions of the 1996 Telecom Act. The Triennial Review Order established a new policy framework for addressing the question of what portions of the incumbent’s network must be made available for purchase at wholesale rates by competitors and new entrants. The FCC delegated certain factfinding duties to the states.

In particular, the Order determined that switching for mass market customers would still be impaired if the Incumbents switching was not offered as an Unbundled Network Element. However, if it could be demonstrated in state proceedings that CLECs offer service to mass market customers through their own switching, then switching to mass market customers need no longer be offered as a UNE. The OCA was concerned that terminating switching UNEs could result in a significant loss of competition in the residential markets.

The OCA joined with NASUCA in filing one of many appeals from this Order with the DC Circuit Court of Appeals. This appeal focused on whether the FCC could order the states to try to "cure" impairment once it is found. The Court dismissed the NASUCA appeal for lack of standing. The Court was also very critical concerning many of the FCC findings concerning the extent to which CLECs should be permitted to continue to use UNEs.

OCA filed further comments in this proceeding on October 4 and 19, 2004. OCA generally argued there is insufficient competition so as to justify the termination of the use of the UNE Platform throughout Pennsylvania. On February 4, 2005, the FCC released its Order on Remand in this proceeding. The FCC reversed its prior position regarding the UNE Platform. In particular, the FCC adopted a 12-month plan for competing carriers to transition away from the use of the UNE Platform. As such, after the one-year period has elapsed, competitive carriers will no longer be able to lease switching facilities from incumbents to provide competing local telephone service at Commission regulated rates. As the OCA noted in its Comments in this proceeding, competition for residential local telephone service in Pennsylvania will be drastically undercut as a result. A number of parties appealed this Order. As of the end of the Fiscal Year, this case was pending before the D. C. Circuit.

Universal Service Joint Board. CC Docket No. 96-45 concerning Lifeline eligibility. As discussed in last year’s Annual Report, 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.

The Joint Board has issued its recommended decision, adopting many of the OCA/NASUCA positions regarding income eligibility, enrollment, and optional service restoration. OCA contributed to comments and reply comments on the Joint Board Recommended Decision filed
by NASUCA. Comments were filed August 18, 2003 and reply comments on September 2, 2003.

On April 29, 2004, the FCC released its Lifeline Order for further comment. The FCC generally endorsed the determinations of the Joint Board. The FCC allowed lifeline recipients to qualify for assistance based upon having an income at 135% of the federal poverty level under the federal default program. The FCC further noticed for comment the question of raising this level to 150% of that income guideline. The FCC accepted and encouraged the use of automatic enrollment by states. It further tightened the certification and verification of eligibility in order to tighten enrollment. It encouraged the states to do greater outreach and opposed restrictions on lifeline customer purchases of optional services.

On August 23, 2004, OCA filed comments on behalf of NASUCA that advocated an increase in the income eligibility threshold to 150% of poverty in reply to the FCC’s further rulemaking. OCA and Ohio Consumers Counsel sponsored the expert affidavit of Roger D. Colton in support of the NASUCA Comments. The OCA filed Reply Comments on behalf of NASUCA on October 4, 2004. As of the end of the Fiscal Year, this case was pending before the FCC.

In the matter of Appropriate Framework for Broadband Access to the Internet over Wireline Facilities, CC Docket No. 02-33. As discussed in last year’s Annual Report, 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.

OCA contended that redefining this service as an information 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 like cable modem access 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. The FCC stated that it would take up many of these issues in a general Notice of Proposed Rulemaking regarding various Voice Over Internet Protocol issues.

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On September 23, 2005, the FCC issued its order in this proceeding and ruled that DSL services would no longer be considered as common carrier services under Title II of the Communications Act. This will remove many regulatory requirements under FCC authority.

Petition of the Verizon Telephone Companies for Forbearance under 47 U.S.C. § 160(c) from Title II and Computer Inquiry Rules with Respect to Their Broadband Services, Docket No. 04-440. On December 22, 2004, Verizon filed a petition with the FCC to eliminate all Title II Common Carrier requirements concerning its broadband services. OCA is concerned that this may effectively restrict the open access that consumers currently enjoy on the Internet.

The ability to access content of one’s choice and broadly use Internet applications is an important benefit of Internet use. If the Verizon petition is granted, this opportunity may be restricted. This may take place particularly with regard to the consumers’ ability to access VoIP competing telephone service providers over their broadband connections.

OCA filed comments on behalf of NASUCA on February 8, 2005 and Reply Comments on March 10, 2005 to preserve these policies of network neutrality or nondiscrimination for consumers. As of the end of the Fiscal Year, this case was pending before the FCC.

Developing a Unified Intercarrier Compensation Regime, Docket No. CC Docket No. 01-92. On December 14 and 17, 2004, the OCA made filings on behalf of NASUCA in this proceeding in response to a filing made by the Intercarrier Compensation Forum (ICF). The OCA also made presentations to the Wireline Competition Bureau and four of the Commissioner’s offices at the FCC on December 16, 2004.

Generally, the OCA responded to the ICF proposal and explained that it was not necessary to eliminate all intercarrier compensation rates by state and federal authorities, a phased reduction over a number of years were more appropriate and the FCC should not preempt state jurisdictions concerning intrastate access charges. OCA advocated that it was more appropriate to use the existing ratemaking and universal service mechanisms in place of new surcharges that would be placed upon consumer bills.

On March 3, 2005, the FCC issued its Notice concerning Intercarrier Compensation. NASUCA filed its Comments on May 23, 2005. NASUCA advocated for a phase down, but not elimination, of Intercarrier Compensation. The FCC should not attempt to preempt state authority over intrastate access charges. Carriers could recover lost revenues through existing mechanisms without requiring rate increases. The FCC is presently considering these and other Intercarrier Compensation options.

IP-Enabled Services, WC Docket No. 04-36. The OCA, as part of NASUCA, filed extensive comments with the FCC concerning IP enabled services or Voice Over Internet Protocol (VOIP) services on May 28, 2005. NASUCA did not advocate that such VOIP services should be subject to economic regulation by the FCC. However, NASUCA advocated that many other consumer protections should be offered for VOIP services. Such services can be considered as telecommunications services and in many cases are sold as such. VOIP should offer e911 as do other services. Privacy protections should also be maintained - including Caller ID blocking. It is
particularly important that, as established incumbents, such as Verizon, convert their existing services to Internet Protocol, that those services not be totally deregulated as a result.

*E911 Requirements for IP-Enabled Service Providers*, WC Docket No. 05-196. On June 3, 2005, the FCC issued an order in this docket that would require IP service providers to provide e911 service within 120 days of publication. As noted above, NASUCA has requested that VoIP providers should offer e911 service.

The OCA will work with NASUCA to draft comments in this proceeding. NASUCA will support the FCC recommendation and advocate that the authority to require such service provision is best determined as a matter of Title II common carrier jurisdictional authority.
WATER

Base Rate Proceedings

City of Bethlehem, Docket No. R-00050680. On June 29, 2005, City of Bethlehem filed for additional annual revenues of $884,633, or 14.3%, from its 12,898 customers outside its City limits. The proposed revenue increase for customers within the City is $1,477,876. The City proposes to increase the customer charge from $6.50/month to $7.48/month, 15%, and the volumetric charge from $3.060/thousand gallons to $3.519/thousand gallons. Under the City’s proposal, the bill for a residential customer using 5,000 gallons per month will increase from $34.80 to $40.04. The OCA filed a complaint against the proposed increase on July 21, 2005. At the end of the Fiscal Year, this case was pending before the PUC.

Newtown Artesian Water Co., Docket No. R-00050529, Docket No. P-00052161. On June 30, 2005, Newtown Artesian Water Company filed a request with the PUC to raise rates charged to customers for water service and requested an opportunity to earn an additional $662,318 (15.5% increase) in annual revenues. If the Company’s request is granted, rates for the average residential customer using 16,000 gallons of water per quarter would increase from $70.58 to $84.09, or by 19.4%. Rates for the average residential customer using 15,000 gallons of water in the Indian Rock Rate Area would increase from $87.00 to $97.36 per quarter, or by 10.65%. The OCA filed a Formal Complaint on July 25, 2005.

In the rate filing, the Company attempts to use deferral cost accounting and amortization for several abandoned development and expansion projects. The Company had petitioned for Commission approval for this deferral cost accounting at Docket No. P-00052161. The OCA filed an answer in that proceeding requesting that the PUC reject the Petition because Commission approval of the Petition would constitute impermissible single-issue and retroactive ratemaking. A prehearing conference and two mediation sessions have been held to date. At the end of the Fiscal Year, this case was pending before the PUC.

Clean Treatment Sewage Company, Docket No. R-00038688. As discussed in last year's Annual Report, on August 28, 2003, Clean Treatment Sewage Company filed for an increase in annual revenues of $65,754, or 15.65%. The Company serves 1,141 customers, comprised of 352 usage and 789 availability, in Pike County. The Company is proposing to increase usage rates from $58.47 to $73.47 per month, or 25.6%. It is proposing to increase availability rates from $23.25 to $38.25 per month, or 64.5%. The Company also proposes to eliminate 444 availability lots. The OCA filed a formal complaint. The case has been in mediation since the Commission suspended it on October 30, 2003. Public input hearings were held on February 25, 2004. The parties continued negotiations and on March 16 reached an agreement in principle. On May 6, 2004, the active parties submitted a Joint Petition for Settlement. The petition proposed an increase of no more than $15,500 in Step 1 and $15,500 in Step 2. The Company agreed to study its infiltration and inflow problems as well as other operational issues. Under the agreement the Company agreed not to file for another rate increase for 18 months from the date of Commission approval of the agreement. On July 7, 2004, the ALJ recommended adoption of the settlement, and on August 10, 2004, the Commission adopted the Recommended Decision.
Buck Hill Water Company, Docket No. R-00038471. On June 4, 2004, Buck Hill Water Company filed a request to increase its base rates by $153,495 (50.2%). The OCA filed a formal complaint on July 30, 2004. A public input hearing was held on November 18. On December 20, 2004, the active parties submitted a proposed settlement to the ALJ. The settlement provides for a revenue increase of $53,500 instead of $153,495 proposed by Buck Hill. An average residential customer would be charged $185.64 per quarter, rather than $247.84 per quarter as proposed by the Company. This represents about a 22% increase for an average customer rather than 63%. In addition, the Company will not be able to file another rate increase request for at least one year following Commission approval of the new rates. The Company also agreed to investigate the costs and benefits of reducing or eliminating the need for winter bleeding of its distribution system. The Company also agreed to meet with its customers within 60 days of its next rate filing to answer questions and provide customers the opportunity to receive more detailed information about the filing. On January 25, 2005, the ALJ issued a Recommended Decision. He found the settlement to be in the public interest and recommended approval of it in its entirety. On March 3, 2005, the PUC approved the settlement.

City of Lancaster – Sewer, Docket No. R-00049862. On November 15, 2004, the City of Lancaster – Sewer filed for a rate increase of $650,465, or 54.5%. The OCA filed a formal complaint on December 9, 2004. The OCA filed testimony on March 30 addressing accounting issues and an issue related to the allocation of costs for the City’s combined storm water and wastewater lines. The OCA’s position was that the Lancaster rate increase request should be denied based on all of the OCA accounting adjustments and using the overall rate of return awarded by the PUC in the Sewer Fund’s last rate increase request. Hearings were held on April 12 and 13, 2005. Main Briefs were filed on May 5, 2005. The ALJ’s Recommended Decision was issued on June 28, 2005. The ALJ adopted most of the OCA’s adjustments to the City’s allocation of costs for combined water and wastewater lines. In addition, the ALJ adopted most of the OCA’s accounting adjustments. Overall, the ALJ recommended an increase of no more than $83,026 in additional base rate revenues. On August 26, 2005, the Commission entered an Order adopting the ALJ’s recommendations. The City has filed an appeal and the OCA has intervened to support the PUC’s Order. As of the end of the Fiscal Year, the appeal is pending before Commonwealth Court.

Little Washington Wastewater Co., d/b/a/ Suburban Wastewater Co., Docket Nos. R-00040189, R-00040191, R-00040192. On December 30, 2004, Little Washington Wastewater Company, d/b/a Suburban Wastewater filed rate increase requests for customers in three divisions, East Bradford, Little Washington, and Plumsock. On February 9, 2005, the OCA filed formal complaints in all three divisions. The OCA reviewed formal and informal discovery relating to the filings and developed a rate design proposal for each division. Under the Company’s original proposal, the increases for customers would have ranged from 50% to 94% in Little Washington, from 85% to -21% in East Bradford and from 147% to -4% in Plumsock. The OCA’s recommended rate design smooths the increase more evenly over customers and moves the increase for the average user closer to the proposed overall revenue increase for the division. On May 6, 2005, the parties filed a settlement petition in each rate proceeding. The proposed settlement modified the rate designs proposed by the company so that the customer charge is lower and the overall rate design is more usage based. The ALJ issued a Recommended
Decision on June 2, 2005. On June 23, 2005 the PUC entered an order approving all three settlements.

**Columbia Water Company**, R-00049409. As discussed in last year’s Annual Report, on April 29, 2004, Columbia Water filed a request to increase its base rates by $466,376 (16.67%). The impact on a residential customer using 4,000 gallons per month would have been an increase from $25.62 to $29.02 per month. Columbia Water serves 8,073 customers in Lancaster County. The OCA filed a formal complaint on May 26, 2004. On September 22, 2004, the Company, OTS and OCA filed a Joint Petition for Settlement. The parties’ settlement would increase annual revenues by $336,000 (12%). A residential customer using 4,000 gallons per month would see an increase from $25.62 to $27.96 (9.1%) per month. The Company agreed to stay out from filing another base rate case until 16 months from Commission approval of this settlement. In addition, no part of the increased revenues in this proceeding are attributable to the Company’s claim for an acquisition adjustment or deferred state income tax claim. On October 21, 2004, the ALJ recommended approval of the proposed Settlement. On November 19, 2004, the PUC entered an order approving the Settlement.

**Franklin Manor Utilities, Ltd.,** Docket No. R-00050435. On December 31, 2004, Franklin Manor filed a request to increase its annual wastewater revenues by $24,179, or 28.66%. The company serves 185 customers in South Franklin Township, Washington County. The impact on a residential customer would be an increase from $22 to $29 per month. There appear to be service issues related to the treatment plant. The OCA filed a formal complaint in June, 2005. As of the end of the Fiscal Year, this case was pending before the PUC.

**Wonderview Water Company**, Docket No. R-00050659. On June 6, 2005, Wonderview Water filed a request to increase its annual revenues by $13,745, or 23.08%. Under the Company’s present rates, the average residential customer would see an increase from $33.32 to $41.01 per month. The Company serves 150 residential customers in a portion of Main and Catawissa Townships, Columbia County. The OCA filed a formal complaint on August 5, 2005. As of the end of the Fiscal Year, this case was pending before the PUC.

**Glendale Yearound Sewer Company**, Docket No. R-00050607. On June 30, 2005, Glendale Yearound Sewer Company filed a request to increase its annual base rate revenues by $90,302, or 38.92%. Under the Company’s proposal, the proposed rates would increase from $62.70 to $87.06 per quarter for the average residential customer. The Company serves 1,364 customers in portions of White and Chest Townships, Cambria County. The OCA filed a formal complaint on August 5, 2005. As of the end of the Fiscal Year, this case was pending before the PUC.

**Pocono Waterworks Company, Inc.,** Docket No. R-00050673. On June 30, 2005, Pocono Waterworks filed a request to increase its annual base rate revenues by $18,370, or 28.93%. Under the Company’s request, rates would increase from a per fixture flat rate to about $50 per month. The Company serves 171 customers in Hamlin, Salem Township, Wayne County. The OCA filed a formal complaint on August 30, 2005. As of the end of the Fiscal Year, this case was pending before the PUC.

**Emporium Water Company**, Docket No. R-00005050. As discussed in previous Annual Reports, Emporium filed for a base rate increase of $259,937 (40.2%). On December 29, 2000, the ALJ
issued a Recommended Decision granting the Company only $21,856 of its proposed increased request. Most significantly, the ALJ agreed with the OCA and OTS that the Company could only charge customers the actual 1% cost of its taxpayer-subsidized PennVest debt, rather than use a hypothetical capital structure that would allow the Company to earn an equity return of 9 to 12 percent on those funds. On March 9, 2001, the PUC entered an order granting Emporium an increase of only $33,371 (5.16%). Emporium filed an appeal with Commonwealth Court. Emporium’s appeal contended that the overall rate of return is inadequate and that the level of rate case expense is inadequate. OCA intervened. Emporium and the Commission Law Bureau entered into a proposed settlement of the appeal that would give the company an additional $24,000 per year and rule in the company’s favor regarding certain capital structure issues. The OCA filed comments in opposition to the Settlement, as did the PUC’s OTS. The PUC approved the Settlement of the Appeal in an order entered on June 21, 2001. The OCA filed a Petition for Review in Commonwealth Court. On July 17, 2002, Commonwealth Court reversed the PUC’s June 2001 order finding that when the Commission seeks to exercise its authority pursuant to Section 703(g), 66 Pa.C.S. § 703(g) and amend or rescind a prior order, that the PUC is essentially embarking on a new adjudication. So, according to the Court, the appropriate "opportunity to be heard" required by Section 703(g) must be a hearing not the paper comment process which the PUC afforded the OCA and other parties in this case. On July 31, 2002, the PUC applied for reargument and/or Clarification. The PUC asked the Court to amend its decision because of an alleged inconsistency between the Order and the PUC’s interpretation of the Public Utility Code. The OCA filed an Answer in Opposition on August 16, 2002. On September 19, 2002, the Commonwealth Court rejected the PUC’s application for reargument. On October 21, 2002, the PUC and Emporium filed separate Petitions for Allowance of Appeal with the Pennsylvania Supreme Court. The OCA filed briefs in opposition on November 4, 2002. On April 1, the Pennsylvania Supreme Court denied the PUC’s Petition for Allowance of Appeal.

On July 1, 2003, Emporium filed a Petition for Relief with the PUC. The Company asked the Commission to find that the rates currently in effect, which are the result of the illegal and vacated June 2001 PUC Order, be deemed in compliance with the March 2001 Order, which Commonwealth Court ruled should be reinstated. The OCA filed an Answer in Opposition on August 4, 2003. On September 8, 2003, the PUC denied the Company’s petition for relief and instructed the Company to file tariff supplements containing the rates approved in the March, 2001 order. The PUC also instructed the Company to file a refund plan within 30 days of its order. On September 23, 2003, the Company filed a Petition for Reconsideration. Emporium subsequently filed a Petition for Review of the PUC’s order. The OCA intervened. On March 26, 2004, Emporium filed its refund plan with the PUC. On September 9, 2004, Commonwealth Court heard oral argument on Emporium’s appeal from the Commission order denying Emporium’s Petition for Relief and requiring Emporium to file the refund plan. On October 5, 2004, Commonwealth Court affirmed the PUC’s order denying Emporium’s Petition for Relief and ordering the Company to submit a refund plan. Emporium did not file any Petition for Allowance of Appeal with the Pennsylvania Supreme Court. The OCA will continue to monitor the refunds.

Miscellaneous Rate Proceedings

Petition of Pennsylvania-American Water Company For Approval To Implement A Tariff Supplement Establishing A Collection System Improvement Charge (CSIC), Docket No. R-
0027982.  As discussed in last year’s Annual Report, on November 26, 2002, PAWC filed a Petition to implement a surcharge of up to 5% to apply only to its wastewater customers. The purpose of the surcharge was to enable the Company to collect the costs of infrastructure improvements from customers between rate cases, as they are able to do for water customers since the Distribution System Improvement Charge was approved in 1996. On December 10, the OCA filed a Formal Complaint against this proposed tariff change, asserting that there is no statutory authority for this CSIC. In contrast, the General Assembly amended the Public Utility Code in 1996 specifically to permit such a charge for water companies.

The OCA filed an Answer to the Petition asserting that the proposal should be denied because it would constitute impermissible single-issue ratemaking and would violate the rule against retroactive ratemaking. The OCA argued further that the Company has not shown that the increase it proposed was just and reasonable. The PUC suspended the filing on January 15, 2003.

The OCA argued in brief that the General Assembly has permitted only water utilities, not wastewater utilities, to apply surcharges to recover return and depreciation on replacement plant placed into service between rate cases. The Pennsylvania Industrial Energy Coalition (PIEC) case decided by the Commonwealth Court and affirmed by the Supreme Court specified that capital costs associated with new plant should not be collected through surcharges and that Section 1307 of the Code should not be used to disassemble the traditional ratemaking process. PAWC had not proved that investment in wastewater plant needed to be done on an accelerated basis, nor that any regulatory requirements had changed. Two of the systems acquired by PAWC are not aged and the third was acquired in 2001. The PUC affirmed that acquisition in part based upon PAWC’s statements that it had the financial strength and expertise to raise the capital necessary to fund the acquisition of the [CCA] water and wastewater assets, and make system improvements as required on an ongoing basis.

In a Recommended Decision issued July 2, 2003, the ALJ disagreed with the idea that the PUC had insufficient statutory authority to permit the requested surcharge for wastewater systems and recommended approval of the CSIC. A Final PUC Order issued on November 7, 2003 accepting the ALJ’s recommendation to permit the surcharge. The OCA filed a Petition for Review with the Commonwealth Court on November 13, 2003.

Oral argument before the Commonwealth Court was heard on June 9, 2004. The Court heard reargument en banc on November 3, 2004.

On March 14, 2005, the Commonwealth Court issued its Opinion, authored by Judge Hannah Leavitt, in favor of the Consumer Advocate. The majority of the Court concluded that the CSIC was not an appropriate method under the Public Utility Code for a utility to recover capital costs such as those incurred for infrastructure replacements. The Court contrasted surcharges, which allow for dollar-for-dollar recovery of expenses outside of the normal ratemaking process, with the concept of using the test year to establish just and reasonable base rates. The Court majority reasoned that the effect of the CSIC charge was to change a single line item in the base rate to account for expenses attributable to capital investment, while ignoring other components.
Permitting such a surcharge would violate the matching principle embedded in the test year concept established by 66 Pa. C.S. §315.

The Court rejected the Company’s argument that Section 1307(a) of the Code provides sufficient authority to the PUC to permit the surcharge. The Commonwealth Court’s Pennsylvania Industrial Energy Coalition decision had distinguished 1307(a) from 1308, stating that it was not to be used to recover capital costs. Section 1315 of the Code prevented recovery of physical facilities through a surcharge, because there was no opportunity in the proposed surcharge process for the plant to be shown to be “used and useful” prior to including the costs in rates. The Court further reasoned that the enactment of Section 1307(g), which permits only water companies to recover infrastructure costs through surcharges, was a clear indication that Section 1307(a) was not broad enough to permit such surcharges for other utilities. Otherwise, 1307(g) would be rendered “mere surplusage” contrary to the rules of statutory construction.

Finally, the Court concluded that any increase in rates that affects 5% of the customers and is in excess of 3% constitutes a general rate increase pursuant to Section 1308(d). Because the surcharge could have increased rates by as much as 5%, it would constitute a general rate increase and could not be implemented without the due process hearings required by 1308(d).

On April 13, 2005, the PUC and PAWC filed Petitions for Allowance of Appeal before the Pennsylvania Supreme Court in Docket Nos. 315 MAL 2005 and 316 MAL 2005, respectively. The Commonwealth Court’s Order is stayed pending action on the PUC’s Petition by the PA Supreme Court. On April 27, 2005, the OCA filed Briefs in Opposition to each of the Petitions, arguing that the PUC and PAWC had not met their burdens of showing “special and important reasons” warranting review of the Commonwealth Court’s Order denying the CSIC. The Petitions were still pending as of the end of the Fiscal Year.

Popowsky v. Pennsylvania-American Water Company – Wastewater Division, Docket No. C-20042816. The OCA filed a Formal Complaint against the three tariffs submitted by the Wastewater Division pursuant to the PUC Order approving Collection System Improvement Charges (CSIC) on March 1, 2004. This was done in order to specifically preserve the customers’ right to refunds of the surcharge amounts in the event that the Commonwealth Court reversed the PUC Order approving the CSIC. The OCA requested that the Formal Complaint be stayed pending the outcome of the appeal.

Petition of the Newtown Artesian Water Company, Docket No. P-00052161. On May 2, 2005, the OCA filed an answer to Newtown Artesian Water Company’s (NAWC’s) April 12, 2005 Petition in which NAWC requested Commission approval to use deferral cost accounting and amortization for certain abandoned development and service territory expansion projects. In its Answer, the OCA argued that Commission approval of the Petition would constitute impermissible single-issue ratemaking, undermine the goals of administrative efficiency, and that the issue should instead be decided in the context of the routine in-depth examination that a rate proceeding provides. The OCA argued that Commission approval of the Petition would constitute retroactive ratemaking to the extent that NAWC sought to have future ratepayers pay for costs of abandoned projects that are not associated with current service. Lastly, the OCA argued that the traditional basis for a PUC grant of deferral accounting does not exist in that
deferred accounting typically is granted in cases where the costs are associated with plant that goes into commercial operation before the end of the test year; however, in this case, the projects are abandoned and will never become commercially operable. The OCA requested that the Commission reject and deny NAWC’s Petition. As of the end of the Fiscal Year this case was pending before the Commission.
Applications and Other Proceedings

Hidden Valley Utility Services, Docket Nos. A-210117 and A-230101. As discussed in last year's Annual Report, on February 17, 2004, Hidden Valley Utility Services filed applications seeking initial certificates of public convenience to provide water and wastewater service in a portion of Jefferson Township, Somerset County. Hidden Valley currently serves 1,068 residential and 18 commercial customers. The proposed rates, for a residential customer using 5,000 gallons per month, were $42.15 for water and $96 for sewer. On March 19, 2004, the OCA filed protests, as did OTS. Two customers also filed protests. Subsequently, following extensive informal and formal discovery and numerous mediations, the parties were able to reach an agreement in principle. The settlement agreement and accompanying statements in support were filed in March, 2005. On May 27, 2005, the ALJ issued a recommended decision. He recommended that the settlement petition be adopted. The settlement reflects OCA’s issues regarding service, rates and refunds. It requires the applicant to undertake numerous distribution system improvements, address water quality issues caused by iron and manganese levels in the water, conduct leak detection and reduce water loss, provide reports on main replacement, flushing, and water loss, file an affiliated interest agreement. The settlement petition also provided for overall revenues of $575,000, or a 22.4% reduction from the total annual revenues proposed by the applicant, and about 18.5% above what the customers currently pay. Under the settlement rates, customers using 5,000 gallons of water per month would pay $116.55 per quarter for water and $234 per quarter for wastewater. The settlement also provided for refunds to customers. The refunds were necessary because Hidden Valley provided water and wastewater service for compensation prior to receiving its certificates of public convenience and approved tariffs from the PUC. Under the settlement, Hidden Valley must refund $96 to each customer. The settlement also contains a stay out provision preventing Hidden Valley from filing any rate increase for 18 months following the entry date of a PUC order approving the settlement. On July 18, 2005, the PUC entered an Order approving the Settlement.

Meadowcrest Water Company, Inc./Aqua Pennsylvania, Inc., Docket Nos. A-210104F0054 and A-211880F2000. On November 5, 2004, Meadowcrest Water Company, Inc. (Meadowcrest) and Aqua Pennsylvania, Inc. (AP) filed a Joint Application requesting that the PUC approve: (1) AP’s acquisition of Meadowcrest; (2) AP’s right to begin providing water service to a portion of Kingston Township in Luzerne County; and (3) Meadowcrest’s abandonment of public water service within Kingston Township. On December 20, 2004, the OCA filed a Notice of Intervention. Rate shock was one concern of the OCA, because if the applications were approved as filed, a result could be a substantial increase in rates from Meadowcrest's current rates to AP’s Main Division rates. Another concern was Meadowcrest’s failure to undertake all of the service quality improvements which the PUC ordered in February 2003 by approving the terms of a December 2002 settlement reached by the OCA, Meadowcrest, and the PUC’s Office of Trial Staff, in Meadowcrest’s last base rate case (Pa. P.U.C. v. Meadowcrest, R-00027553). On January 6, 2005, Meadowcrest and AP submitted responses to interrogatories of the PUC’s Bureau of Fixed Utilities. The responses adequately addressed some, but not all, of the OCA’s concerns. The OCA has discussed its concerns with Meadowcrest and AP, and anticipates that further discussions will ensue. At the end of the Fiscal Year this case was pending before the PUC.
CS Water & Sewer/ Aqua Pennsylvania and Little Washington Wastewater Company, Docket No. A-2300240F0023, A-230067F2000. On January 12, 2005, CS Water & Sewer Co. (CS) and Aqua Pennsylvania (Aqua) filed a Joint Application requesting approval of the acquisition of CS Water and Sewer assets by Aqua. The OCA filed a protest on February 14, 2005 because of concerns with the proposed rates, installation of the meters and other issues contained in the PUC's Order entered in the last CS rate case (Pa. P.U.C. v. CS Water & Sewer Co., Docket No. R-00027523). During the negotiations in this case, progress was made on meter installations so that 98% of the customers are now metered. In the Settlement reached by the parties, Aqua agreed to a more gradual transition to metered rates and Aqua’s rate tariff. Aqua also agreed to undertake certain improvements and meet with the customers on a regular basis. As of the end of the Fiscal Year this case was pending before the PUC.

Application of Three Lane Utilities, Inc., Docket No. A-210116. On October 24, 2003, Three Lane Utilities, Inc. filed an Application for a Certificate of Public Convenience to Provide Water Service (Application). Three Lane provided water service to 96 residential customers in a portion of Westfall Township, Pike County. The Company has not charged for water service while its Application was pending before the PUC. In January and February 2005, 23 individual Protests were filed by Three Lane customers, one of which included the signatures of approximately 85 customers, opposing the level of the proposed rates and the proposal to implement fixed (rather than metered) rates and criticizing the Company's boil water advisory policies.

On March 9, 2005, Three Lane filed a Petition for Emergency Order or Alternatively for Interim Emergency Relief on March 9, 2005. The Petition sought one of two alternative remedies: PUC approval of the rates proposed in the application or PUC approval to abandon service. The OCA intervened in the proceeding on March 17, 2005 and participated in a hearing regarding Interim Emergency Relief on March 18, 2005. The OCA opposed the proposed remedies as inconsistent with Pennsylvania law. On March 21, 2005, the ALJ issued an Interim Emergency Order denying the Petition and certifying the Material Question to the PUC for Review.

The OCA, OTS and Company agreed to request an extension of the deadline for filing briefs on the Material Question until May 2, 2005, while the parties attempt to resolve the underlying Application case.

During the month of April, the OCA spoke with the majority of customer complainants and gathered information regarding the customers' concerns regarding the proposed rates, metering, water pressure and boil water advisories. In addition, the OCA's consulting engineer toured the Three Lane facilities and provided photographs and an analysis of the condition of the system. The parties exchanged settlement proposals and the OCA and Company reached a settlement addressing each of the OCA's concerns, which was filed with the PUC on April 27, 2005. On April 29, 2005, the OTS filed a letter stating that it did not oppose the settlement. On May 25, 2005, the ALJ issued a decision recommending approval of the settlement. On June 23, 2005 the PUC voted to approve the settlement. The OCA worked with the company to send a letter to the customers explaining that the application was approved and explaining steps the company would be taking to comply with the settlement.
Application of Pennsylvania-American Water Company, Docket No. A-230073F0009. On February 1, 2005, Pennsylvania-American Water Company (PAWC) filed an application for approval of (1) the transfer, by sale, of substantially all of the Clarion Area Authority’s assets, properties and rights related to its wastewater system to PAWC, and (2) the right of PAWC to begin to offer or furnish wastewater service to the public in all of Clarion Borough and portions of the Townships of Clarion and Monroe, Clarion County, Pennsylvania, and (3) the right of PAWC to assume certain Clarion Area Authority contracts. On March 14, 2005, the OCA filed a Notice of Intervention to prevent PAWC from collecting a Collection System Improvement Charge (CSIC), from Clarion Area Authority customers. In PAWC’s Application, PAWC proposed implementing CSIC to recover PAWC investment in certain infrastructure. The OCA, however, noted that the Pennsylvania Commonwealth Court has ruled that such charge cannot be collected by an automatic rate adjustment under Section 1307 of the Public Utility Code. As a result of the OCA’s intervention, PAWC agreed to revise its Application to remove its request to implement CSIC in the applied-for service area. In turn, the OCA agreed to withdraw its Notice of Intervention in the application proceeding. The OCA and PAWC executed a Stipulation of Settlement Agreement and on April 28, 2005, PAWC filed with the Commission a request to amend its application to remove the statement that PAWC will implement a CSIC at the time of closing.

Rulemakings and Petitions


After addressing comments from the IRRC, the OCA and others, the PUC issued the final form regulation on March 2, 2005.

Petition of Aqua Pennsylvania, Inc. for a Statement of Policy on Water and Wastewater Acquisitions, P-00052155. On March 11, 2005, Aqua PA filed a Petition seeking the issuance of a Statement of Policy concerning depreciated original cost information for acquired systems. Over the past two years, Aqua PA had been meeting with Commission staff to discuss acquisition-related issues and had amicably resolved most of them. The purpose of the Statement of Policy was to memorialize existing understandings and to resolve remaining issues.

The Proposed Statement would encourage the following:

- The assets of the acquired company to be booked at original cost when first devoted to public service, less accrued depreciation, if the original cost is ascertainable.
- Preparation of an original cost study within six months of the closing.
- The acquiring utility to request from the seller for inclusion in the study records relating to contributions in aid of construction and original cost documents.
- The Commission not to deny an application for lack of or incomplete records.
The OCA was concerned that certain provisions of the Proposed Policy Statement may not be consistent with pertinent provisions of the Public Utility Code, especially 66 Pa.C.S. § 1328. On May 6, 2005, the OCA filed comments opposing the proposed policy statement. Comments in opposition were also filed by NAWC-PA chapter, and the Municipal Authorities Association. Aqua-PA filed reply comments. The matter was still pending as of the end of the Fiscal Year.
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)

Modem Hijacking Complaints. Docket No. C-20043754; F-01653427; Docket No. C-20043774; Docket No. F-01600063. The OCA filed interventions in these four Formal Complaint cases. The cases present similar facts, all alleging that Verizon has billed for and is attempting to collect on behalf of its affiliate, Verizon Long Distance, disputed international toll charges that resulted from a phenomenon now know as “modem highjacking.” The Complainants alleged that the charges relate to calls to little-known locations such as Tuvalu, Sao Tome and the Cook Islands, for example, and the per-minute rates are as much as $8.00. The charges appeared to result from the download of an automatic dialer from certain internet sites. Unbeknownst to the customer, the dialer causes the modem to place calls to obscure locations at very high rates and the customer only becomes aware of this occurrence when the next phone bill is received.

On March 9, 2005, the OCA, Verizon PA and Verizon North entered into a Settlement Agreement that called for refunds or credits to the four above-named complainants and to anyone else who contested or paid such charges on their Verizon Long Distance bills. Even customers who accepted re-rated (discounted) bills rather than file complaints received credits for the amounts that they paid to Verizon. If a customer no longer has the bill on which the charges appeared, Verizon would assist in retrieving bills and retains up to four years of customer records. The Agreement was submitted to the Public Utility Commission as an informational filing and the parties did not seek PUC approval of the Agreement.

Verizon has provided information periodically on the number of refunds and credits given to customers and former customers pursuant to the settlement. The OCA continues to monitor the compliance information to ensure that eligible consumers have received the full amount of the refunds they are entitled to pursuant to the settlement. To date, over 1,100 consumers have received a total of nearly $115,000 in refunds and credits.

Due in part to the investigation that led to this settlement, the OCA initiated in January 2005 an ad hoc network of federal and state regulatory and law enforcement entities that are interested in the consumer problems associated with modern hijacking.

Mary Harvey, et al. v. Commonwealth Telephone Company, Docket No. C-20026959. As discussed in last year’s Annual Report, in February 2002, Ms. Harvey filed a Formal Complaint seeking Extended Area Service for her exchange, Warren Center, to the Towanda, Sayre and Little Meadows exchanges. Her Formal Complaint attached a petition bearing the signatures of
165 other Commonwealth customers in support of a larger local calling area. The OCA intervened in the case and engaged in discovery to develop the facts necessary to support the Formal Complaint. The OCA’s motion to join MCI, Sprint, AT&T, Qwest, and Commonwealth Long Distance was granted. After receipt of the final round of discovery responses, the OCA explored the potential for amicable settlement of the case and an agreement in principle was reached. The parties submitted a written settlement agreement to the ALJ for approval. The settlement would require Commonwealth Telephone to implement a block of time calling plan for the Warren Center customers, which would allow thirty minutes of calling to Towanda for a flat rate of $2.25 and 30% off the usual tariff rate for any additional minutes.

On June 16, 2005, the Commission entered a Final Order approving the ALJ’s May 25, 2005 Initial Decision finding the settlement to be in the public interest and requiring it to be implemented without modification.

William Botti, et al. v. Verizon PA and Verizon North, Docket No. C-20030153 and C-20030263. As discussed in last year’s Annual Report, Mr. Botti and seven other Verizon PA customers, including the Township of Saint Clair in Westmoreland County, filed a Formal Complaint seeking Extended Area Service from the New Florence exchange to the Seward exchange, also in Westmoreland County, but in the adjacent LATA. The Formal Complaints were consolidated and the OCA intervened and proceeded with discovery to seek the facts needed to assist the Complainants in meeting the burden of proof. In order to procure the necessary traffic data, the OCA has moved to join AT&T, MCI, Sprint and Global Crossing who serve the New Florence exchange.

Hearings in New Florence were held on March 17, 2003 for the purpose of receiving testimony from the Complainants and other witnesses in support of the existence of a community of interest between the residents of New Florence and Seward and of the economic effects of the small local calling area on the New Florence community.

The OCA served written Direct Testimony on June 22, 2004 in accordance with the procedural schedule approved by the ALJ. After service of OCA testimony, however, the Companies agreed to a settlement with the Complainants and the OCA. The settlement was approved by the ALJ and the Commission. Verizon North conducted a poll of its Seward customers to determine whether a majority are in favor of implementation of EAS to the New Florence exchange for a monthly charge of $1.00 per month for a period of two years.

Verizon sent the ballots to its customers on March 1, 2005. On May 11, 2005, the Secretary issued the letter reporting that 58.88% of the 1639 Seward customers had voted and that 56.27% of the votes were in favor of EAS to New Florence. The Company is required to implement one-way EAS from Seward to New Florence with a four-month period, or by about August 11, 2005.

Popowsky v. Commonwealth Telephone Company, Docket No. C-20043751. On September 23, 2004, the Consumer Advocate submitted a Formal Complaint on behalf of the Commonwealth customers of the Uhlerstown exchange, Bucks County, alleging inadequate service. The local calling area for Uhlerstown is small and excluded a substantial part of the Uhlerstown community
of interest, specifically Doylestown. The OCA sought to have Doylestown included in the Uhlerstown local calling area to help reduce the toll bills of the Uhlerstown customers. Public hearings were held on May 7, 2005 at which approximately thirty residential customers and public officials testified to the effect of the small local calling area, exclusive of Doylestown and Plumsteadville.

Pursuant to the OCA’s motion, the ALJ ordered eleven IXCs joined as parties to the proceeding, so that full and complete traffic data on the subject route could be procured through discovery. The OCA prepared and served Direct Testimony on May 20, 2005 which incorporated the aggregated traffic data on the Uhlerstown to Doylestown route and which recommended that a poll be conducted in order to determine whether the customers were in favor of the change. The matter was still pending as of the end of the Fiscal Year.

**Popowsky v. Verizon PA**, Docket No. C-20044108. The Consumer Advocate filed this Formal Complaint on behalf of Verizon North customers in the Loyalsock exchange. Currently those customers may call toll-free only to customers in the Trout Run and Williamsport exchanges. In the Complaint, the OCA alleged that the Loyalsock exchange customers’ local calling area is unreasonably small, and therefore inadequate, because it excluded the Muncy exchange -- a significant portion of the Loyalsock community of interest. In particular, traffic data submitted to the Commission and made available to the OCA indicated that substantial numbers of Loyalsock exchange consumers frequently call many businesses and residences in the Muncy exchange, which is currently a toll call.

The OCA submitted two sets of discovery, one to Verizon North and one to Alltel, following which Verizon made a settlement offer which was accepted. The parties entered into and submitted a settlement agreement to the PUC that calls for Verizon PA to implement EAS to Muncy at no additional charge.

**Verizon North, Inc.,** Docket No. C-20042544. This case involved a complaint against Verizon North challenging the company’s policy of denying vertical services to Lifeline program participants. The Complainant is a disabled person who lives by herself and requires Caller ID and Call Waiting so that she can deal with medical and other emergencies and because she has been the victim of harassing phone calls in the past. The Complainant agreed to withdraw her complaint without prejudice in light of the staff report ordered by the Commission in response to a Frontier case that also involved Lifeline issues. She agreed to do so pending the outcome of the staff report. That report, and the complaint, however, became moot when Act 183 of 2004 was signed into law and became effective. This Act lifted any restrictions on a Lifeline customer’s ability to purchase vertical services, which was what she had sought by filing her complaint.

**Popowsky v. Verizon Pennsylvania, Inc.,** Docket No. C-20028373. As discussed in last year's Annual Report, the OCA filed its complaint on August 23, 2002. The Consumer Advocate sought Extended Area Service for the 1100 residents of the Smock exchange, in Fayette County, to the exchanges of Connellsville, New Salem, Republic and Belle Vernon. Hearings were held in Smock, Pa, on March 25, 2003, and approximately 100 consumers attended, twenty of them offering testimony.
An amicable resolution of the quality of service issues presented was reached, as all issues were
dealt with by Verizon. OCA completed discovery and submitted Direct Testimony on the EAS

After deliberation, OCA and Verizon reached a settlement. A settlement agreement was
approved by the ALJ and by the Commission. Within 120 days, Verizon was required to expand
the existing the “Hometown Plus” Optional Calling Plan by making Connellsville, the most
popular adjacent toll exchange, an additional choice for Hometown Plus customers in the Smock
exchange.

Irwin A. Popowsky, Office of Consumer Advocate v. Verizon North Inc., Docket No. C-
20030681. In this proceeding, the OCA had brought a complaint contending that the Verizon
North tariff that restricted the purchase of vertical service by consumers was illegal. This was
particularly the case concerning consumers with disabilities. On August 19, 2004, the PUC
issued an order. The Order dismissed the OCA case, but offered that it would commence a
study in order to determine whether the PUC should change the Pennsylvania lifeline program in
light of the recent FCC lifeline order. The issue became moot when the General Assembly
passed Act 183, which eliminated any restrictions on the optional services to which Lifeline
customers can subscribe.

**Electric Consumer Complaint Cases**

Robert Lawrence v. Met-Ed (First Energy), Docket No. C-20028394. As discussed in last year’s
Annual Report, Mr. Lawrence filed a Formal Complaint on August 28, 2002 with the PUC alleging
frequent lengthy electric outages, apparently unrelated to weather conditions. Complaints to the
Company have been to no avail. The OCA reviewed Mr. Lawrence’s complaints and submitted a

A settlement of this case requiring quality of service measures to avoid repetitive future outages
was executed and submitted to the PUC. The Law Bureau of the PUC submitted Exceptions to
the Initial Decision of ALJ Nguyen approving the settlement. The Law Bureau argues that the
settlement may violate Section 1502 of the Public Utility Code, because it calls for an
unreasonable advantage in favor of the Complainant and, concomitantly, undue prejudice to
other customers who do not have the benefit of the settlement terms. Both the OCA and
FirstEnergy submitted Reply Exceptions arguing that the settlement provisions are intended only
to bring Mr. Lawrence’s service quality up to the “safe, adequate and reasonable” level that is
required by Section 1501 of the Code B not to enhance his service to the disadvantage of other
FirstEnergy customers.

The Commission issued an Order denying the Law Bureau’s Exceptions and approving the
settlement without modification on May 9, 2005.

Leaman v. Met-Ed., Docket No. C-20032218. As discussed in last year’s Annual Report, Mr.
Leaman of Wrightsville, PA, filed a Formal Complaint with a petition attached bearing the
signatures of nearly thirty of his neighbors. The Complaint alleged a ten-year long history of
recurrent and lengthy outages. The Complaint alleged that the outages put families in jeopardy by rendering water, sewer, heat, telephone and security systems inoperable and cause food to be lost through spoilage. The OCA intervened in December, 2003. The Company moved to dismiss, as a prior Formal Complaint with similar allegations from a previous time period was still pending. The OCA answered the motion, asserting that it should be denied.

Settlement discussions among the Complainant, the Company and the OCA ensued. As of March 2004, the Company had added to its previous efforts to resolve the Leaman group’s reliability concerns and believed that they were resolved. The OCA and the Complainant agreed to stay the case while monitoring the results of the Company’s efforts. Outages recurred through the summer months, however, and the case resumed.

The OCA served expert Direct Testimony on October 5, 2004 and, prior to the submission of Company testimony, the Company extended a settlement offer which the OCA and the Complainant found acceptable. A written settlement agreement has been executed and a certificate of satisfaction has been filed with the Commission.

PPL, Docket No. C-20043836. A resident of White Haven, PA, experienced a period of exceptionally high electric bills from April 2003 through July 2003. Despite repeated efforts, he was unable to resolve the matter with PPL and filed a Formal Complaint seeking relief from the aberrant bills. He alleges that, during that period, he made no changes in his usage of electricity in his small home, which he heats with propane and wood. The OCA has intervened to attempt to assist the customer in resolving his high-bill dispute with PPL.

The parties were able to reach an amicable settlement of the case and, as a result, the customer withdrew his Formal Complaint.

PECO, Docket No. F-01655067. A PECO customer experienced a period of estimated bills followed by unusually high actual bills. She had reason to believe that her meter was faulty and needed to be certified or replaced. The Consumer Advocate submitted a Notice of Intervention in order to ensure that this Complainant was heard and to assist her in seeking a fair resolution of her complaint.

The settlement offer made by PECO to resolve all of the issues was acceptable to the customer and the OCA. The Formal Complaint was withdrawn in August 2005.

Gas Consumer Complaint Cases

GASCO, Docket No. C-20039507, et al. and M-00031722. On January 15, 2003, Gasco Distribution Systems, Inc. – Kane Division (Gasco or Company) filed a proposed interim gas cost rate increase to be effective February 1, 2003, seeking to increase rates by $0.9016/Mcf. The OCA filed a Formal Complaint on February 14, 2004 after review of Gasco’s purchased gas cost rate filing. Twenty-eight Kane Division customers also filed Formal Complaints. The OCA’s Formal Complaint was docketed at C-20039507. By Secretarial letter dated February 25, 2003, the Public Utility Commission (PUC or Commission) authorized the proposed gas cost rate (GCR) to become effective for service rendered on and after February 1, 2003, stating that the
Commission’s authorization of the GCR did not dismiss the OCA’s Formal Complaint and assigning that complaint to the Administrative Law Judge for hearings.

On August 1, 2003, Gasco filed a second proposed gas cost rate increase with its annual GCR filing at Docket No. M-00031722, to be effective September 1, 2003. Here, Gasco sought a rate increase of $3.7148/Mcf. After review of the filing, the OCA and 66 Kane Division customers filed Formal Complaints against Gasco. The OCA’s Formal Complaint was docketed at C-20031083. By Secretarial letter dated August 25, 2003, the PUC authorized the proposed annual GCR to become effective for service rendered on and after September 1, 2003. On January 8, 2004, this matter was assigned to Administrative Law Judge Larry Gesoff.

On Motion of Gasco and by Order of Administrative Law Judge Gesoff dated March 3, 2004, the 96 complaints docketed with the Commission were consolidated under the above-captioned docket number for purposes of disposition.

On November 24, 2004, the Joint Settlement Petition addressing Gasco’s 2003 interim and annual gas cost rates was filed. The Joint Petition addressed five issues: line loss and pipe replacement, accuracy of reported sales volumes, gas price hedging, accounting and GCR filings.

First, to address the OCA’s concerns about gas leaks, for the next three years, Gasco agreed to provide the OCA with detailed information that will enable us to track and monitor Gasco’s repair and replacement of mains. With this information, we can ensure that Gasco is meeting its statutory requirement to provide safe gas service and minimizing the costs due to gas lost from the system.

Second, the Company currently estimates its future gas requirements based on the prior one year of actual gas sales. In response to the OCA’s concerns about this manner of forecasting, Gasco will average multiple years of prior monthly sales, taking into consideration the monthly temperature variations for each year. Additionally, for the next few years, the Company will determine how much gas it will need for the coldest expected day of the upcoming year. These actions will help to ensure that Gasco has enough gas to meet the needs of its customers on that design day and, at the same time will, prevent the Company from incurring excess capacity costs by having more gas than is necessary to serve customers.

Third, most gas companies in the Commonwealth “hedge” their gas purchases to stabilize the gas costs paid by customers. Specifically, the companies spread their gas purchases over the year rather than purchasing all of their requirements in the month of use. This benefits customers by reducing the impact of volatile gas costs and thereby stabilizing bills. Under the terms of the Settlement, Gasco will develop a proposed hedging program and the OCA will have an opportunity to review and offer comment on the program before it is filed with the Commission at the time of the Company’s next GCR filing.

Fourth, in August 2002 and September 2003, the Commission directed the Company to implement recommendations made by its Bureau of Audits pursuant to its review of Gasco’s gas cost rates for the calendar years 1999-2001 and the fiscal year ended June 30, 2002. Those
recommendations included the refund and credit of more than $1 million due to overcharges and overstated gas costs. The OCA believed that it was in the interest of the customers and the Company for the Bureau of Audits to continue its regular review of Gasco’s gas costs and their recovery of those gas costs. As part of the Settlement, the OCA and Gasco jointly requested that if, in its review of Gasco’s calendar years 2002 and 2003, the Bureau of Audits identifies errors in the Company’s gas costs and related gas cost rates amounting to more than $20,000, the PUC direct the Bureau of Audits to review the Company’s gas cost rates in each of the two subsequent calendar years.

Fifth, the Company’s GCR filings do not currently include a table showing the changes in base rates and bill impact for average residential customers. The filings also do not include the volume of gas flowing on Gasco’s system each month. This information helps the OCA, regulators and customers to better and more easily evaluate the Company’s proposed gas cost rates and the affect on customers’ bills. Gasco agreed to include this information with all future GCR filings.

The proposed Settlement addressed the concerns raised by customers that the proposed rates be investigated and that Gasco did not adequately repair leaks. Overall, the affirmative steps required by the Joint Settlement Petition would increase and facilitate oversight of the Company and bring Gasco’s practices more in line with those of other regulated utilities, with the intended result of reducing and stabilizing gas costs and ensuring the safe and adequate supply of gas to customers. In addition, the Joint Petition eliminated the need for litigation between the OCA and Gasco. The ALJ recommended adoption of the Settlement on January 13, 2005. On March 13, 2005 the PUC entered an Order adopting the Recommended Decision.

OCA v. Gasco Distribution Systems, Inc., Docket No. M-00041813. On August 18, 2004, the OCA filed a Formal Complaint against Gasco Distribution Systems, Inc. - Kane Division's 2004 annual gas cost rate (GCR) filing, which proposed rates to be effective September 1, 2004. Gasco proposed to set the GCR at $1.2535 per Mcf with a base cost of gas of $8.1550. This was a net increase of $0.7068 from the existing GCR of $2.1717 with a base cost of gas of $6.5300 per Mcf. The OCA was concerned about Gasco’s procurement practices, particularly, supply forecasting, hedging and accounting. The OCA is currently waiting for the Company to respond to the outstanding discovery requests before finalizing its recommendations.

Water Consumer Complaint Cases

Morra v. PAWC, Docket No. C-00014733. As discussed in last year’s Annual Report, 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.

Main Briefs and Reply Briefs were submitted on June 24 and July 7, 2003 respectively. The OCA requested that PAWC be required to provide service to the McCracken Hill community to alleviate the health and safety problems associated with the inadequate and contaminated water supplies. The Initial Decision issued on October 14, 2003; the OCA submitted exceptions on November 3, 2003. The PUC entered an Order denying the exceptions. The OCA filed a
Petition for Review of the Order with the Commonwealth Court on February 13, 2004. A stay of this appeal was granted pending a decision on the Parks v. PUC Petition for Allowance of Appeal to the Supreme Court, 725 MAL 2004, which was granted on February 11, 2005. A status report requesting continuation of the stay was submitted to the Commonwealth Court on November 24, 2004 and another on March 31, 2005.

Cindy Parks v. Pennsylvania-American Water Co., Docket No. C-00015377. The OCA intervened in this main extension case on June 14, 2001. Approximately thirteen hundred Hickory Pa, Washington County residents are in need of water service. The residents currently obtain water for household purposes from wells, cisterns or springs. Public Hearings were convened in Mount Pleasant Township on September 9, 2002 during which a total of sixty-two witnesses testified. The hearings were attended by over three hundred people. Main Briefs were filed on February 10, and Reply Briefs were filed on February 19, 2003. On April 30, 2003, the ALJ filed an Initial Decision rejecting the OCA position and the consumer complaints. The OCA filed Exceptions to that Initial Decision on May 20, 2003.

On August 7, 2003, the Commission issued its Opinion and Order on the matter denying the OCA’s Exceptions and adopting the ALJ’s Initial Decision effectively dismissing the three Complaints filed in the matter. Among other things, the Commission held that the public need argument raised by the OCA does not invalidate the Commission’s main extension regulations which govern this case. The Commission also rejected the OCA’s customer numbers as too speculative. On September 5, 2003, the OCA filed a Petition for Review with the Commonwealth Court in response to the Commission’s August 7, 2003 Order. Consistent with the briefing schedule issued by the Commonwealth Court, the OCA submitted the Brief of Petitioner on November 26, 2003.

The OCA argued that the Parks Order is inconsistent with appellate law requiring main extensions for ordinary utility service without mandatory capital contributions by service applicants; that the failure to require service without service applicant contributions was an error of law in light of the overwhelming evidence of public need; that the regulations are unlawful as applied in the case, as they do not require consideration of public need nor of the overall effect on the utility’s operation of providing the service without service applicant contributions, and that the Order is unsupported by substantial evidence.

Oral argument was heard on March 31, 2004. The Court issued a 5-2 decision in favor of the PUC and PAWC on July 11, 2004. The Court majority determined that the PUC’s regulations were reasonable and that the PUC’s opinion and order should be affirmed. A minority of two, President Judge Colins and Judge Smith-Ribner, accepted the OCA’s position that the regulation was unreasonable in application because it worked to deprive an entire community of a potable source of water. The minority would have reversed and remanded the Order for this reason.

On August 12, 2004, the OCA filed a Petition for Allowance of Appeal to the Pennsylvania Supreme Court. The OCA urged the Court to grant the Petition and to hear the appeal (1) because the issue of whether the PUC’s regulation was properly applied consistent with Section 1501 of the Public Utility Code is a question of first impression in Pennsylvania and (2) because access to a supply of water that meets the standards set forth in the federal and state Safe
Drinking Water Acts is an issue of public importance and essential to the public safety and welfare.

On February 11, 2005, the Pennsylvania Supreme Court granted the OCA Petition for Allowance of Appeal. The OCA filed its Main Brief and Reproduced Record on March 28, 2005. On April 27, 2005, the PUC and PAWC filed their Main Briefs. The OCA’s Reply Brief was filed on May 11, 2005. Oral argument was heard on May 16, 2005. The parties are now awaiting a decision by the Court.

Collier Township v. PAWC, Docket No. C-20016207. Collier Township filed a Formal Complaint against Pennsylvania-American Water Co. on September 4, 2001, seeking service to approximately forty families within its municipal boundaries. While the majority of the Township currently receives service from PAWC, several areas have an inadequate natural supply and various types of contamination in that supply. Families are dependent on cisterns and hauled water, which is extremely expensive in comparison to utility service. The OCA intervened on October 31, 2001. Public Hearings were convened on August 27 and thirty witnesses testified in support of the public need for water utility service. Main Briefs were filed in March 25, 2003 and the parties filed Reply Briefs on April 11, 2003. ALJ Porterfield issued his Initial Decision recommending dismissal of the Township’s Formal Complaint. The OCA filed its Exceptions to the Initial Decision on February 17, 2004; the Company filed its Reply Exceptions on February 27, 2004.

The ALJ issued an Initial Decision dismissing the Complaint for water service; the OCA filed Exceptions. The PUC denied the Exceptions and adopted the ALJ’s Initial Decision. The OCA filed a Petition for Review with the Commonwealth Court on May 28, 2004. A stay of this appeal has been granted pending a decision on the Parks v. PUC Petition for Allowance of Appeal to the Supreme Court, 725 MAL 2004, which was granted. The OCA submitted another status report requesting continuation of the stay on March 28, 2005. On March 28, 2005, the OCA assisted Collier Township’s filing of an amicus brief in support of the OCA’s position to bring affordable and reliable public water service to the Complainants in the related Pennsylvania Supreme Court case, Parks v. PUC.

Ford v. PAWC, Docket No. C-20027587. Cheryl Ford filed a Formal Complaint seeking water service from PAWC. The OCA filed a Notice of Intervention on August 2, 2002 in order to assist Ms. Ford and eight other families in Burgettstown, Washington County, PA to obtain water service at the lowest reasonable cost. An initial mediation session on April 28, 2003 resulted in an agreement in principle, pursuant to which PAWC would provide service to the Complainants and seven other households, without requiring customer contributions, by the end of 2003. The Company received approval for an amendment to its PennVest loan to enable it to provide service to the Ford group and, according to a recent status report, the main extension has been installed and is ready for customers to connect.

On June 20, 2005, the Complainants served their Notice of Withdrawal of the Formal Complaint, as they are now all receiving public water service.
Keith A. Tomkins, et al. v United Water of Pennsylvania, Docket Nos. C-20043414 et al. On or around October 4, 2004, Mr. Tomkins and 33 other United Water of Pennsylvania (United) customers in Dallas, Luzerne County, Pennsylvania, filed Formal Complaints with the PUC, describing problems related to United’s water quality, outages, customer service, maintenance, and lack of adequate notice and responsiveness. The OCA intervened on December 8, 2004 and conducted extensive interviews with the complainants. OCA’s engineering consultant assisted the OCA in evaluating the information obtained in this case. On March 10, 2005, Complainants presented testimony in support of their complaints. On May 12, 2005, the OCA served the written direct testimony of two expert witnesses that addressed the cause of dirty water complaints and recommend improvements to water service, customer notice, and responsiveness by United to customer complaints. Hearings were held on June 28, 2005 for the purpose of cross-examination of both the Company’s and the OCA’s expert witnesses. At the end of the Fiscal Year this case was pending before the PUC.

Balla v. Redstone Water Co., Docket No. C-00992270. As discussed in last year’s Annual Report, on November 8, 2000, the ALJ issued an Initial Decision recommending 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 had to submit the study and an implementation plan to the Commission for review and approval. 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 15, 2001. The OCA submitted its brief to the court on June 28, 2001. Oral argument before the 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 had 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. In that case, the Court held 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 was recertified to the Court and the stay lifted. The case was scheduled for argument on September 11, 2002; however, Redstone withdrew its appeal and the argument was cancelled. The OCA continued to monitor the progress of the engineering feasibility study which was due to be completed in November 2002. On December 5, 2002 the PUC voted in favor of granting an extension of time to complete the study. The engineering feasibility study has now been submitted to the PUC, the DEP and the OCA. The OCA filed Comments with the PUC on the study contending that the study was not in compliance with the PUC Order. The Company submitted Reply Comments to the Commission. The Company submitted additional materials to attempt to show that it complied with the PUC Order and the terms of the grant agreement with PaDEP. The OCA submitted supplemental comments on the additional materials and has submitted petitions to both PUC and DEP requesting that action be taken to require compliance with the PUC Order and the Safe Drinking Water Acts.

On December 16, 2004, Chairman Wendell F. Holland moved that Redstone take immediate steps within sixty days of a Final Order to implement certain conditions stated in the Order by filing with PennVest to obtain funding to make the improvements described in its engineering report or, in the alternative, to divest by selling the system to a viable entity. Chairman Holland gave substantial weight to the Petitions that had been submitted by Redstone customers in June 2003 seeking further action by the PUC and the DEP against Redstone, asserting that their bills were still high and the service had not improved. All told, over 50% of the customers had expressed dissatisfaction with the water and service quality.

The Motion resulted in an order offering Redstone one of two options: (1) to adopt Alternative 3, the permanent tie-in to the Tri-County Joint Water Authority in order to achieve the most economical and effective method to ensure that the water received by Redstone’s customers meets quality and pressure standards, or 2) to sell the system at a reasonable price to a viable entity having the requisite technical, financial and managerial expertise to provide a permanent solution to the customers’ longstanding complaints.

The Motion passed unanimously. A Tentative Opinion and Order calling for comments by interested parties issued on March 2, 2005. The OCA, Redstone, the DEP and thirty-three customers of Redstone submitted comments, with all but Redstone in support of the PUC Order. The Final Order issued on June 28, 2005, containing virtually the same provisions proposed in the December 2004 Motion and contained within the Tentative Opinion and Order.

On July 27, 2005, Redstone filed a Petition for Review of the Order with the Commonwealth Court, asserting that the PUC has no jurisdiction to issue the relief embodied in the June 28, 2005 Final Order that required either a tie-in to a neighboring system or divestiture to a viable
entity within 180 days of the date of the Order. The Company also asserted that the Final Order was not supported by substantial evidence.

The OCA submitted its intervention in this second appeal on July 29, 2005. Status reports are to be submitted every sixty days to the PUC, the OCA and the customers. At this time the matter is still pending.
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). As discussed in last year’s Annual Report, OCA filed an Answer to this Petition opposing any shortening of the regulatory notice period to three days, as this affords 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 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.

Subsequent to the filing of its Petition for Waiver, Utility.com abandoned many of its customers, contrary to the regulations governing the orderly withdrawal of a supplier from the market, terms of the Supplier Tariff and contrary to its Terms of Service with its customers. The OCA 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 is made. The PUC granted the OCA’s Motions and ordered that the bond not be released unless and until all complaints surrounding the departure from the generation market are resolved. 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 OCA served discovery on all of the utilities in order to obtain sufficient information to substantiate the residential customers’ lost savings claims. In addition, Utility.com established a $200,000 escrow account for the purpose of repaying customer refunds and other claims.

Utility.com 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 at that time 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. The OCA contended that customers should 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 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.

In August 2003, the OCA received a dividend check from the general assignee in the amount of $80,204.60 toward the former Utility.com customers lost savings claim, filed by the OCA on their
behalf. In June 2004, an additional check was received for approximately $16,000. This brought the total lost savings payments thus far to $197,107. Together with the prior refunds of $125,081, the total amount recovered for Pennsylvania customers to date is $322,188.

With the general assignment now concluding, the OCA is preparing to update its information and to send pro-rated checks to approximately 20,000 former Utility.com customers from the escrow fund, with a current balance of over $204,000.

The OCA has procured updated customer name and address information from the six utilities whose customers were purchasing generation from utility.com at the time of its bankruptcy. After a published request for bids, a contract has been finalized for the purpose of sending the customers a pro rata share of the pay-out received on the proofs of claims filed in the California general assignment proceeding.

### Bankruptcy Proceedings

CashPoint Network Services, Inc., United States Bankruptcy Court, SDNY, Docket No. 04-REG-12771. As discussed in last year’s Annual Report, CashPoint was a licensed money transmitter in Pennsylvania, among other states. On April 22, 2004, Consolidated Edison of New York and four other major creditors filed an involuntary bankruptcy petition against CashPoint. Two Pennsylvania utilities, PPL and UGI, had written agreements with CashPoint to operate as the money transmitter for utility bill payment locations in supermarkets and other retail establishments; FirstEnergy, Columbia Gas, PECO, National Fuel did not have written agreements, but accepted payments from locations utilizing CashPoint as an intermediary.

On April 23, 2004, the Department of Banking suspended CashPoint’s license to operate in Pennsylvania and notified all known agents to discontinue accepting payments from customers on its behalf. Soon thereafter, utility customers began to receive utility bills which did not reflect payments for the prior month that they had paid at a CashPoint location.

The Trustee in Bankruptcy appointed for CashPoint filed a Motion to Require CashPoint Agents and Others To Act, essentially requesting a directive from U.S. Bankruptcy Judge Robert E. Gerber to the Agents to (1) turn over the checks and other funds in their possession to the named or designated creditors or (2) if cash or checks had been deposited into an account and commingled, to turn those funds, along with records of customer payments over to the Trustee for disposition.

The OCA filed a Limited Objection to the Motion, arguing that some Pennsylvania utility Payees were threatening termination against customers whose payments had been made at a CashPoint location and not received by the utility. The OCA argued that it would be inequitable for utility Payees to receive the benefit of the turnover order when, in fact, some customers were being held responsible for the untransmitted payments. The OCA requested that, as a condition of receiving the benefit of the Order, the Payees be required to cease or refrain from collection or termination action against their customers. At the conclusion of a hearing on May 11, 2004, Judge Gerber stated that, while he could not grant the specific relief requested because many who would be subject to such a condition were not parties to the proceeding, he could exercise
his general supervisory powers to request that all potential Payees submit statements advising whether they would voluntarily refrain from collection or termination actions against customers whose payments were not transmitted to the utility as intended.

PPL, UGI, Verizon, Sprint, Pennsylvania-American Water Company, Allegheny Energy, Duquesne Light Co., and FirstEnergy submitted statements in response to Judge Gerber’s Order advising that they would not hold customers responsible for untransmitted payments, so long as the customer had a receipt showing that the payment had been made. PECO Energy filed a Motion to Contest Jurisdiction in response to the Order; the OCA filed a response on June 11, 2004 and the two parties were able to agree to a proposed order permitting PECO to reserve all rights to raise the jurisdictional issue in the future.

The PUC received over 300 informal complaints from customers who used CashPoint payment locations and whose payments had not been received by the utility companies named above. The OCA received 55 contacts regarding Cashpoint and all of these callers also were referred to the PUC.

On September 13, 2004, the OCA submitted Proof of Claim Forms to the United States Bankruptcy Court on behalf of PECO and National Fuel Gas Distribution customers. Those two utilities had not yet committed to apply permanent credits to their customers’ accounts to reflect the untransmitted CashPoint payments. The OCA reserved all rights to raise other legal issues associated with customers’ funds, such as constructive trust.

On October 21, 2004, PECO contacted the OCA to report that the Company had decided to apply permanent credits to their CashPoint customers’ accounts, so long as the customer assigned PECO all rights to their claims against the CashPoint bond and in the bankruptcy proceeding. The OCA is cooperating with PECO in notifying the customers and seeking agreements to transfer the claims.

In early December 2004, counsel for National Fuel Gas contacted OCA to report that the Company had decided to apply permanent credits to their CashPoint customers’ accounts, as PECO had done several months earlier. Thus, all Pennsylvania utilities honored their customers' payments to CashPoint, as OCA had advocated.

CashPoint PUC Investigation, Docket No. M-00041805. By Order of June 4, 2004, the PUC initiated an investigation to examine the facts and circumstances surrounding the bankruptcy of CashPoint Network Services, Inc. and its impact on Pennsylvania consumers. The Order requires utilities whose customers used CashPoint payment agents to provide answers to six requests for information. First, the utility is to provide a detailed description of the nature of the utility’s relationship with CashPoint; second, a notice whether the utility has filed a letter consistent with the order of the bankruptcy court judge; third, a list of all other entities used by the utilities’ customers to make payments; fourth, an estimate of the number of customers affected and the dollar amounts lost as a result of untransmitted payments; fifth, a description of how the payments are processed; sixth, a description of the company efforts to educate and notify customers about payment vendors authorized to accept payments. The OCA has received the submissions of all of the utilities that responded and has reviewed and evaluated them.
Investigations

In Re: Identity Theft, Docket No. M-00041811. Pursuant to a Motion by Commissioner Wendell F. Holland, the Commission initiated an investigation into the growing problem of identity theft as it has affected the utility industry. The Order called for all utilities to respond to a variety of questions under seal and for any other interested party to submit comments within twenty days of publication of the Order. Following publication of the Order, the OCA submitted a notice of intervention and a motion for a protective order so that the information submitted under seal would be accessible to the OCA and its expert. The matter was still pending as of the end of the Fiscal Year.
CONSUMER AND LEGISLATIVE OUTREACH

Testimony, Presentations and Speaking Engagements

Consumer Advocate Sonny Popowsky and others members of the OCA Staff participated in the following public forums during the last Fiscal Year:

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
<th>Location</th>
<th>Description</th>
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<tbody>
<tr>
<td>7-9-04</td>
<td>Senator Joe Scarnati Expo</td>
<td>Punxsutawney, PA</td>
<td>Staff an exhibitor's booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>7-14-04</td>
<td>Aging Consortium Roundtable Event</td>
<td>Warren, PA</td>
<td>Educational Roundtable on How to Save $ on Phone Bills</td>
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<tr>
<td>7-22-04</td>
<td>UtilityChoice/WHTM Phone Event</td>
<td>York Galleria Mall</td>
<td>How to Save $ on Phone Bills</td>
</tr>
<tr>
<td>7-29-04</td>
<td>Representative Dave Reed Expo</td>
<td>Indiana, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>8-5-04</td>
<td>Senator Jake Corman Expo</td>
<td>Mifflintown, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>8-17-04</td>
<td>Representative Mario Scavello Expo</td>
<td>Tannersville, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
<td>8-24-04</td>
<td>Representative Todd Eachus Expo</td>
<td>Hazelton, PA</td>
<td>Staff an exhibitor's booth, answer questions and distribute materials</td>
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<tr>
<td>9-8-04</td>
<td>Senator Don White’s Expo</td>
<td>West Kittanning, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
<td>9-14-04</td>
<td>Representative Brett Feese Expo</td>
<td>Muncy, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
<td>9-15-04</td>
<td>Testimony before the Senate Communications and High Technology Committee</td>
<td>Pottstown, PA</td>
<td>Gave testimony regarding Voice Over Internet Protocol</td>
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<tr>
<td>9-16-04</td>
<td>&quot;WGAL On Your Side&quot; Telephone Bill Review Event</td>
<td>York, PA</td>
<td>Review consumers’ bills and offer savings advice</td>
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<td></td>
<td>&quot;York Fairgrounds&quot;</td>
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<tr>
<td>9-21 to 22-04</td>
<td>Energy Utilities and Aging Consortium Conference</td>
<td>Grantville, PA</td>
<td>Facilitate sessions at conference</td>
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<tr>
<td>Date</td>
<td>Event Details</td>
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| 9-21 to 22-04 | 9-22 to 22-04  
Energy Utilities and Aging Consortium Conference  
Grantville, PA  
Present session on water issues |
| 9-21 to 22-04 | 9-22 to 22-04  
Energy Utilities and Aging Consortium Conference  
Grantville, PA  
Present issues on VOIP |
| 9-21 to 22-04 | 9-22 to 22-04  
Energy Utilities and Aging Consortium Conference  
Grantville, PA  
Participate in Town Meeting |
Upper Moreland Township, PA  
Staff an exhibitor’s booth, answer questions and distribute materials |
| 9-23-04     | AAA & Rep. Timothy Solobay Senior Expo  
Washington, PA  
Staff an exhibitor's booth, answer questions and distribute materials |
| 10-1-04     | Rep. Melissa Murphy Weber’s Senior Expo  
Conshohocken, PA  
Staff an exhibitor’s booth, answer questions and distribute materials |
| 10-7-04     | Tri-County Area Chamber of Commerce Senior Jubilee  
Pottstown, PA  
Staff an exhibitor’s booth, answer questions and distribute materials |
Montgomery County, PA  
Staff an exhibitor’s booth, answer questions and distribute materials |
| 10-14-04    | Rep. Preston Focus on Phones Event  
Homewood, PA  
Present info, review consumers’ phone bills and suggest savings |
| 10-15-04    | Senator Mary Jo White’s Student Government Seminar  
Clarion University Oil City, PA  
Present at panel discussion |
| 10-18-04    | Representative Elinor Taylor’s Senior Expo  
West Chester, PA  
Staff an exhibitor’s booth, answer questions and distribute materials |
| 10-18-04    | Utility Choice Focus on Phones Event  
Cheltenham, PA  
Review consumers’ phone bills and suggest ways to save. |
| 10-21-04    | Representative Mark Mustio’s Senior Expo  
Moon Township, PA  
Staff an exhibitor’s booth, answer questions and distribute materials |
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<tr>
<th>Date</th>
<th>Event</th>
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<th>Description</th>
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<tr>
<td>10-28-04</td>
<td>Senator Robert Tomlinson’s Senior Expo</td>
<td>Bristol, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<tr>
<td>11-4-04</td>
<td>Be UtilityWise Roundtable</td>
<td>Berks County, PA</td>
<td>Present info, review consumers’ phone bills and suggest savings</td>
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<td>11-12-04</td>
<td>Public Interest Advocacy Centre Annual Dinner</td>
<td>Ottawa, Ontario, Canada</td>
<td>Keynote Speaker Ensuring reasonable, affordable utility service for all consumers</td>
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<tr>
<td>1-20-05</td>
<td>Train the AARP Trainers</td>
<td>AARP Office Harrisburg, PA</td>
<td>Train officers on how to save $ on telephone bills</td>
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<tr>
<td>1-25-05</td>
<td>National Association of Regulatory Utility Commissioners (NARUC) meeting</td>
<td>Carnegie Mellon University, PA</td>
<td>The Natural Gas Crisis: Finding Clean Solutions</td>
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<td>1-27-05</td>
<td>PA Bar Institute, Public Utility Law Conference</td>
<td>Harrisburg, PA</td>
<td>Provider of Last Resort</td>
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<td>2-5-05</td>
<td>Wiley Center Conference</td>
<td>Providence, RI</td>
<td>Affordable Energy Programs</td>
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<td>2-9-05</td>
<td>OAG Help Fair</td>
<td>Strawberry Square Harrisburg, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<td>2-10-05</td>
<td>OAG Help Fair</td>
<td>Philadelphia, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<td>2-10-05</td>
<td>Pennsylvania Telephone Association Conference</td>
<td>Harrisburg, PA</td>
<td>What does the new Chapter 30 mean?</td>
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<td>2-16-05</td>
<td>OAG Help Fair</td>
<td>Parkway Center Pittsburgh, PA</td>
<td>Staff an exhibitor’s booth, answer questions and distribute materials</td>
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<td>2-25-05</td>
<td>House Democratic Policy Committee</td>
<td>Philadelphia, PA</td>
<td>Natural Gas Prices and Act 201 of 2004</td>
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<td>3-8-05</td>
<td>United States Senate Energy and Natural Resources Committee</td>
<td>Washington, DC</td>
<td>Testimony regarding Diversification of Power Generation Resources</td>
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<td>3-17-05</td>
<td>PA Campaign for Affordable Health Care</td>
<td>Harrisburg, PA</td>
<td>Chapter 14 new rules and impact on consumers</td>
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<td>Date</td>
<td>Event Description</td>
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<td>Notes</td>
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<tr>
<td>3-21-05</td>
<td>New Mexico State University Return of Rate Cases</td>
<td>New Mexico</td>
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<tr>
<td>4-14-05</td>
<td>Electric Power Supply Association Presentation on Energy Consumers Satisfaction (NASUCA)</td>
<td>Washington, DC</td>
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<td>4-14-05</td>
<td>Senator Bob Regola’s Senior Citizen Expo Staff an exhibitor’s booth, answer questions and distribute materials/Review consumers’ phone bills and suggest savings</td>
<td>Greensburg, PA</td>
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<tr>
<td>4-20-05</td>
<td>Allegheny County Development Task Force Attended conference on future development, including utility service</td>
<td>Pittsburgh, PA</td>
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<td>4-21-05</td>
<td>Carnegie Mellon Electricity Industry Center Presentation on Preserving Basic Utility Service in a Market-Driven World</td>
<td>Pittsburgh, PA</td>
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<td>4-22-05</td>
<td>Senator Joe Conti’s Senior Citizen Expo Staff an exhibitor’s booth, answer questions and distribute materials/Review consumers’ phone bills and suggest savings</td>
<td>Fairless Hills, PA</td>
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<tr>
<td>5-5-05</td>
<td>Energy, Utilities and Aging Consortium Present session on telephone issues/Review consumers’ phone bills and suggest savings</td>
<td>Erie, PA</td>
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<tr>
<td>5-6-05</td>
<td>Energy, Utilities and Aging Consortium Present session on telephone issues/Review consumers’ phone bills and suggest savings</td>
<td>Tyrone, PA</td>
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<td>5-12-05</td>
<td>Representative Jewel Williams Senior Expo Staff an exhibitor’s booth, answer questions and distribute materials</td>
<td>Philadelphia, PA</td>
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<td>5-26-05</td>
<td>Senator Stewart J. Greenleaf Senior Citizen Expo Staff an exhibitor’s booth, answer questions and distribute materials</td>
<td>Fort Washington, PA</td>
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<td>6-15-05</td>
<td>NASUCA Presentation on Electric Capacity and Transmission Issues</td>
<td>New Orleans, LA</td>
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<tr>
<td>6-16-05</td>
<td>Senator Robert W wonderling’s Constituent Services and Health Expo Staff an exhibitor’s booth, answer questions and distribute materials</td>
<td>Red Hill, PA</td>
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<tr>
<td>6-17-05</td>
<td>Senator Pileggi’s Senior Expo Staff an exhibitor’s booth, answer questions and distribute materials</td>
<td>Aston, PA</td>
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OCA CALL CENTER

The OCA’s toll free number – 800-684-6560 – was implemented in April, 2000 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. 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 way to expand our outreach to all Pennsylvania utility consumers in the ongoing changes in utility regulation.

During Fiscal Year 2004-05, we had a total of 29,223 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:

- We assisted a man who was billed more than $500 for calls from a long distance company he had never heard of. His contacts with the company about the bill were not successful. We contacted his local exchange carrier and had all of the charges removed.

- We assisted a man who switched from one telephone company to another, but the first company continued to send him bills for service he no longer had. He was being billed for non-basic services that he never agreed to receive and monthly service fees after he switched. We contacted the company on his behalf and were successful in getting him a full credit for all of the incorrect bills.

- We assisted a man who had switched his long distance telephone service to a new company. About eight months later, he received a collection letter saying he owed the first company $197. We determined that his service was never cancelled properly and the company agreed to credit his account for the full amount and to notify the collection agency of the error.

- We assisted a man who received a bill from a long distance telephone company for a collect call that he did not accept. He told the company that he was not even home at the time the call was allegedly received. The telephone company initially refused to remove the charges from his bill and the customer contacted our office for assistance. We were able to facilitate a credit to his account.

- We also assisted an elderly lady who was very upset after contacting her gas utility. Her husband had passed away eight years before and she wanted to transfer gas service to her name. The utility told her that it would have to charge her to make the change to the account, which the customer believed was unfair. Our office called the utility and it agreed to waive the charge and send the customer the necessary paperwork to effect the transfer.
• One of the modem hijacking victims who contacted our office was a woman who was very grateful for our intervention on behalf of all consumers. She had heard on the news, that we were working to get refunds and when she contacted her telephone company, she received an extra $400 credit. We are still working with many consumers to obtain the credits that are due to them.

• We assisted an elderly man who had his service suspended, for no reason, by his telephone company. They advised him that they would restore service in 1 to 5 days, but after one week he still did not have service. He and his wife have medical problems and they can not be without their phone service for any length of time. We made several calls on their behalf and we had their telephone service restored that day.

• We assisted a man who received a telephone bill for almost $3,000. He had called the telephone company to inquire about calling plans for Indonesia. A company representative told him about a plan in which you pay $80 a month for unlimited calling. He signed up for this plan, but when his bill arrived, he was charged a very high per minute rate. He called the company and was advised that the $80 per month rate did not include calls to Indonesia, then they offered to give him a $100 credit. The customer felt that since the company representative gave him incorrect information, they should give him more of a credit. We contacted the telephone company and were able to get his calls re-rated at the promised rate.

• We also assisted an elderly gentleman whose water had been turned off when the service to the house behind him was terminated, due to a leak in the line. The company said the leak was in a service line that served both homes and that the terminated property was up for sheriff’s sale and was now in the hands of a realtor. We made several calls to the realtor and different social service agencies to obtain assistance for the man, who will have a new tap installed to service his house separately.

• A customer called who had switched her telephone service to a new company. A week later, she tried to switch back to her original company, but the second company refused to cancel her service and would not stop billing her. We contacted the company, had them cancel the service and credit her account for the amount billed since she cancelled the service.

• We were contacted by a man who had called his telephone company to have his service transferred to a new location. Even though he made the arrangements well in advance, the service was not yet transferred when he moved. Five days later, he was still waiting and found it impossible to get through to the company for assistance. He was very worried because he had a wife and three small children at home with no means of communication. We contacted the company and found that it was a coordination problem with the incumbent local exchange carrier and a competitive local exchange company. We were able to facilitate the communication problem and he had service within one day of contacting our office.
• We also assisted a customer who had been informed by an electric company, that their meter had foreign load from other areas in the apartment building. Her landlord was making estimates on how much she should be paying and it was more than she felt she owed. We were able to convince the landlord and the company to install new separate meters and work out an agreeable amount for the bill until the work would be completed.

• We were contacted by a representative from a school district, who was very concerned about a family with no electric service. The mother and the children are disabled and the children attend this public school. Because they had no heat, they were using their gas stove to heat their trailer, which is a very dangerous situation. We immediately contacted the electric company and were advised that the service had been turned off for non-payment. We explained the situation in the home and worked with the company to have the service restored as soon as possible, as well as put the family on a customer assistance program. We also contacted several social service agencies to assist the family. The school took up a collection to help the family. We were able to assist this family by getting its service restored and hopefully to allow them to maintain electric service as well.

• We assisted a consumer who had been a victim of "modem hijacking". While on her computer, her modem made long distance calls to a country called Tuvalu. She received a phone bill for almost $1,000. We contacted the FCC, the BCP and did a lot of research on this scam. After several weeks of working with the long distance carrier, they agreed to send her a new bill after re-rating the calls to their lowest possible rate offered.

• We received a request from a State Representative, asking us to assist one of her constituents who was random billed for operator assisted calls at a very high rate. The customer did not have long distance service and was disputing these charges. We contacted the company and they agreed to remove the charges from her account.

• Another customer received a high telephone bill for calls she made to a TTY service. For an unknown reason, a carrier other than the one she used, billed her for the calls at a high rate. We were able to get the calls re-rated and they put a block on her line, so that this problem would not happen again.

• We were contacted by a woman who pays for her telephone service by way of direct debit. She received notice that her bill total was $800 for one month. When she contacted the company, she was advised that she had been billed for an operator assisted call to Europe for $570. She had never used the operator to place her calls, having always dialed them directly. The company was holding her responsible for the call. We contacted the company on her behalf, and requested that they look at her billing history to see that she always dialed direct and that this must have been an error. They agreed that there must have been a mistake and therefore agreed to bill her for a direct dial call, saving her over $500.
• We also assisted a woman who contacted our office on behalf of herself and fourteen of her neighbors. They have been experiencing inadequate electric service for the past five years. They have outages all of the time and they know that their underground cables need to be repaired. We contacted the company and explained the severity of this situation. The company agreed and sent a crew out to work on repairing the lines, within a few days.

• For the last several months, we have been assisting numerous consumers who fell victim to a billing error by a major telephone company. One example was a consumer who had not been a customer of this company for several years. He received a bill in January, for services he did not have, and the bills continued every month for five months. He was unable to reach anyone at the company who could correct the problem, even though he was assured time and time again that the problem would be fixed. We contacted the company on his behalf and had all of the bills revoked and had his name removed from their billing records.

• Another consumer contacted us to report that she had signed up with a new long distance company at a rate of five cents per minute for her interstate calls, and eight cents per minute for her international calls. When she received her bill, she was charged $3.00 per minute for interstate and $6.75 for her international calls. Her total bill was $1,421.83. We contacted the company and had all of the calls billed at the correct rate and a credit issued.

• We were contacted by a consumer who had an unusual situation. She and her husband had been out of the country for the past six weeks. When they returned, they realized that their telephone service had been disconnected, even though they were up to date on their bills. The company advised them that a wireless telephone company had taken over their telephone number and someone else had been given their number. Their telephone company advised them that they could give them new service; however it would take ten days. We contacted their company and we were able to get the company to get them new service the next day.

• We also assisted a customer who requested our help with a telephone problem. Her babysitter had been without phone service for one week. The company kept telling her they were having staffing problems and they would be out as soon as they could. We contacted the company and requested that they sort out their problems and get her service repaired right away. Service was restored that day and a credit was issued for the seven days she was out of service.
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. He currently serves on the NASUCA Executive Committee.
- Senior Assistant Consumer Advocate Stephen Keene serves on the Gas Committee.
- Senior Assistant Consumer Advocate Philip McClelland serves on the Telecommunications Committee.
- Senior Assistant Consumer Advocate Christine Hoover is the Chair of the Water Committee.
- Senior Regulatory Analyst Marilyn Kraus serves on the Tax and Accounting Committee.
- Senior Assistant Consumer Advocate Diianne Dusman serves on the Consumer Protection Committee. Ms. Dusman and Assistant Consumer Advocate Shaun Sparks initiated and serve as co-chairs of the Modem Hijacking Subcommittee.

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. He also participated as a consumer representative on the Stakeholder Committee of the Regional Greenhouse Gas Initiative.
- 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 Maloni Hoover is the NASUCA representative to the American Water Works Association Public Interest Advisory Forum and serves as its Chair. Ms. Hoover also serves on the American Water Works Research Foundation’s Public Council on Drinking Water Research.
• Public Policy Research Analyst Dan Griffiths serves as a consumer representative on the NERC Planning Committee and its Standards of Evaluation and Nominating Subcommittees. Mr. Griffiths also participates on the following PJM Groups: Members Committee, Electricity Markets Committee, Resource Adequacy Model Work Group, Reliability Committee, Planning Committee, Transmission Expansion Advisory Committee, Market Implementation Committee and the PJM Public Interest and Environmental Users Group.

• Mr. Griffiths and Assistant Consumer Advocate Christy Appleby participate in the Mid-Atlantic Demand Response Consortium.

• Senior Regulatory Analyst Marilyn J. Kraus served on the PJM Finance Committee.

In Pennsylvania, the OCA represents the interests of consumers on a number of different boards and projects.

• Mr. Popowsky served on the Council on Utility Choice created by the PUC to oversee the education of consumers regarding utility choice.

• Senior Assistant Consumer Advocate Tanya McCloskey serves on the Board of the Pennsylvania Sustainable Energy Fund, co-chairs the Gas Universal Service Task Force, serves as the OCA’s representative on the Pennsylvania Energy Development Authority Board of Directors and represents the OCA on the Department of Public Welfare LIHEAP Advisory Committee.

• 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 continues 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 Ms. 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.

• The OCA works with Energy Utilities and Aging Consortium which plans, promotes and sponsors educational events statewide. The OCA also works with the Department of Aging to arrange Safeguards for Seniors educational events.
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