Annual Report

of the

Pennsylvania
Office of Consumer Advocate

Fiscal Year 1999-2000

Irwin A. Popowsky
Consumer Advocate

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

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INTRODUCTION

The OCA was established by the General Assembly in 1976 to represent the interests of Pennsylvania’s utility consumers in matters before the Pennsylvania Public Utility Commission (PUC) and other state and federal agencies and courts. The OCA is a statutorily independent office, administratively included within the Office of Attorney General. The statute that established the OCA requires the Office to file an annual report. The following report is a summary of the OCA’s major activities during the Fiscal Year 1999-2000.

Sonny Popowsky has served as the Consumer Advocate since 1990. The OCA’s present employee complement consists of 36 persons, including the Consumer Advocate, attorneys, and other professional, administrative and clerical personnel.

The OCA was created to ensure that consumers receive vigorous professional representation before the state and federal agencies and courts that regulate these important services. The OCA participates before the PUC in all major base rate cases, purchased gas cost cases, and non-base rate cases with major impact on consumers. Other proceedings before the PUC include alternative regulatory plans by telephone utilities, retail competition issues, rulemakings and policy statements. OCA also participates in matters before the Federal Energy Regulatory Commission and the Federal Communications Commission. While the OCA’s cases vary in size and scope, each case is important to individual consumers since it involves either the price they must pay each month for vital public services or the quality of service they receive. In addition, the quality and price of utility service are important to the economic well-being and competitiveness of Pennsylvania.

As stated in our last two Annual Reports, the last few years have seen an unprecedented level of activity at the OCA on behalf of Pennsylvania electric consumers. During 1999 and 2000, the OCA has been heavily involved in the implementation of the Pennsylvania Electric Choice program. For the first time, consumers in Pennsylvania were able to choose the company that provides them with the generation portion of their electric service. In order to protect the interests of consumers while offering them the greatest number of competitive options, the OCA participated in numerous rulemakings, petitions, and complaint proceedings involving such issues as customer switching, customer information, consumer education, provider of last resort, and generation divestiture. The OCA was also active at the regional and federal level in seeking to ensure that the rules and structures now being established to permit competition at the wholesale level will benefit Pennsylvania retail customers.

In natural gas, as in electric restructuring, the OCA was active in the negotiations that led to the enactment of Natural Gas Choice legislation in 1999, as well as the specific utility restructuring proceedings that followed from that Act. In each of those proceedings, the OCA presented testimony from a team of experts who addressed all the major consumer issues in these cases. These issues included the unbundling of competitive and non-competitive service rates, the determination of costs related to
restructuring under the Act, universal service programs for low income consumers, and consumer education and protection requirements in the new partially competitive natural gas markets. As of July 1, 2000, the OCA also 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.

In telecommunications, the OCA continued to participate in proceedings arising from the Commission’s “global” order which addressed the full gamut of regulatory and competitive issues that will provide the framework for the future of the telecommunications industry in Pennsylvania. The OCA participated in a wide range of cases involving the restructuring of regulation under the federal Telecommunications Act of 1996 as well as Pennsylvania’s “Chapter 30” legislation that was passed in 1993. In these cases, the OCA has sought to expand competitive choices for consumers, while at the same time continuing important regulatory consumer protections, including the paramount goal of assuring universal telephone service for all Pennsylvanians.

In the water and wastewater industry, the OCA has continued to represent consumers in numerous base rate increase and acquisition proceedings. In addition, the OCA has supported efforts by several consumers and homeowner groups to obtain extension of water service to their homes at reasonable cost.

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 also responds to numerous individual utility consumer complaints and inquiries. The OCA handled nearly 6,000 consumer inquiries and complaints in Fiscal Year 1999-2000, an increase of 200% from last Fiscal Year. In many instances, the OCA was able to help these consumers receive refunds or rate reductions. In other cases, the OCA has helped consumers receive necessary utility line extensions at reasonable costs or expanded toll-free local telephone calling areas to help keep their overall bills down. The OCA also has intervened in several recent cases in which consumers complained of excessive electric outages.

Some of the OCA’s interventions involve new electric and natural gas suppliers that are now serving Pennsylvania consumers on a competitive basis. In one case, a natural gas supplier collected $281,000 in deposits from Pennsylvania consumers in order to secure long-term gas contracts, but the supplier then went into bankruptcy in Georgia. The OCA intervened in the Georgia bankruptcy proceeding and was able to negotiate an agreement with the new owner of the company to return the deposits to Pennsylvania consumers while honoring the long-term agreements on their original terms.
Of particular significance during Fiscal Year 1999-2000, the OCA implemented a new toll free number to expand its assistance to utility consumers throughout Pennsylvania. The new toll free number (800-684-6560) is staffed from 8 a.m. to 6 p.m., Monday through Friday. The toll free number has allowed the OCA to be available to a greater number of Pennsylvania consumers who have a question, complaint or concern about prices, billing, quality of service or any other utility related issues. Members of the OCA staff respond to each customer contact and assist consumers by providing information or otherwise resolving their complaints and concerns.

An increasing portion of the OCA’s efforts is also spent on educating consumers about changes in the utility industry. The OCA believes that without adequate consumer education, consumers will not be able to benefit from the increased choices made possible by competition and, may, in fact be harmed by such practices as slamming and cramming about which they might not be aware. The OCA now has a Consumer Education and Outreach Coordinator to direct its consumer education efforts. The Consumer Advocate and other members of OCA staff have participated in consumer presentations 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 keeps consumers informed about these matters and regularly sends mailings to consumers and members of the General Assembly about upcoming cases and public hearings.

The OCA also provides consumer information and education through its website at www.oca.state.pa.us. The OCA received over 534,000 visits to its website in the last fiscal year, with most of these “hits” seeking information on electric choice.

Of particular benefit to consumers is the OCA’s popular Residential Electric Shopping Guide. This guide provides a list of electric generation suppliers with “apples-to-apples” comparative price information for residential customers in each of the major electric distribution service territories and has been widely circulated both in print form and from the OCA’s website. During the last Fiscal Year, the OCA distributed more than 17,000 shopping guides to individual Pennsylvania consumers. Another 18,275 shopping guides were downloaded from the OCA website and an additional 79,510 pricing charts were downloaded.

The OCA believes that it has continued to serve Pennsylvania consumers well both with respect to its traditional regulatory responsibilities, as well as in its new role in assisting consumers to obtain the benefits and avoid the pitfalls of new competitive utility service markets. Through this annual report, the OCA will summarize its activities in fulfilling this role in Fiscal Year 1999-2000.
ELECTRICITY

Pennsylvania

In Fiscal Year 1999-2000, the Office of Consumer Advocate continued work on many issues that arose as part of the transition of Pennsylvania’s electric generation industry to a more competitive structure. As reported in last year’s Annual Report, during Fiscal Year 1998-1999, the restructuring proceedings for the electric utilities in Pennsylvania were concluded through either a Final Order or a Restructuring Settlement. Throughout Fiscal Year 1999-2000, the OCA actively participated in the implementation activities that resulted from these Orders and Settlements.

In addition, the OCA continued to work on mergers within the electric utility industry. The OCA continued its representation of ratepayers in proceedings involving the merger between Duquesne Light Company and Allegheny Energy, which, by Fiscal Year 1999-2000, had moved to federal court. The OCA also actively participated in the proceeding before the Commission to consider the merger of PECO Energy Company and Unicom, Corp.

Finally, the OCA continued its active role in a number of complaint proceedings, petition proceedings brought by electric utilities and alternative electric generation suppliers, and in on-going appeals. In addition, the OCA has been involved in numerous electric matters before the Federal Energy Regulatory Commission and continued its active participation on committees formed by PJM.

PECO Energy Company

On November 22, 1999, PECO Energy Company filed an Application requesting Commission approval of a plan for corporate restructuring and merger with Unicom Corporation. (Docket No. A-110550F.0147) The OCA filed a Protest in this matter raising concerns that as filed, the proposed merger did not provide substantial, affirmative benefits to PECO’s ratepayers and was not in the public interest, as required by Pennsylvania law. Of particular concern to the OCA were issues regarding the allocation of merger savings to ratepayers, the potential impact on retail competition, the potential impact on the quality of service, the potential impact on universal service programs, the additional risks associated with the merger of two utilities owning substantial nuclear generation, and the potential for limitation of the Commission’s jurisdiction and regulatory control over the merged entity. The OCA investigated PECO’s plans and engaged in extensive settlement negotiations with PECO and other interested parties. PECO, the OCA and other parties, including those representing environmental interests, community interests, retail electric marketer interests and low income consumer interests were able to enter into a comprehensive settlement that provided a wide variety of benefits and protections for PECO’s ratepayers. Importantly, the Joint Settlement provided for $200 million in rate reductions; extensions of rate cap protections; enhanced reliability and customer service; enhanced universal service programs; reduced risk and costs for nuclear decommissioning of PECO’s nuclear units; benefits that will improve the competitive market;
environmental benefits, including a significant funding of renewable energy; and firm commitments to support the communities of Southeastern Pennsylvania. At the end of Fiscal Year 1999-2000, the Commission had approved the Joint Settlement.

Also during Fiscal Year 1999-2000, the OCA participated in several other PECO proceedings. On January 7, 2000, PECO filed a request to securitize an additional $1 billion of its authorized stranded cost. (Docket No. R-00005030) The OCA, PECO and other interested parties were able to enter into a settlement that allowed the securitization to go forward and provided a $60 million, or approximately 2% rate reduction for PECO’s customers in 2001. PECO also filed an Application to purchase additional shares of the Peach Bottom Nuclear Station during Fiscal Year 1999-2000. (Docket No. A-110550F.0149) PECO and the OCA were able to agree on various ratepayer protections, including a limitation on ratepayer responsibility for nuclear decommissioning costs, as part of this proceeding.

As reported in last year’s Annual Report, in October of 1998, the Mid-Atlantic Power Supply Association (MAPSA) filed a Formal Complaint and Petition for Emergency Order against PECO Energy Company (Docket Nos. P-00981615, C-00981846, et al.) and PP&L, Inc. (Docket No. C-00981845) alleging that PECO and PP&L had engaged in marketing activities through direct mailings to customers of their provider of last resort service in a manner that was unfair, deceptive, false and misleading. As to PECO, MAPSA also alleged that PECO had engaged in a mass media campaign that was also unfair, deceptive, false and misleading. The Clean Air Council filed a similar complaint against PECO regarding the same advertising campaign. The OCA participated in the expedited hearing process and filed Briefs and Reply Briefs on the issues raised by the case. The OCA was particularly concerned with the advertisements for the provider of last resort service that were inconsistent with the Commission’s consumer education initiatives, PECO’s obligations under the Joint Settlement, and the Commission’s Interim Guidelines. The OCA argued that the advertisements, which encouraged customers to remain with PECO and not explore competitive alternatives, promoted the provider of last resort service over competitive alternatives. The OCA argued that this promotion was improper and inconsistent with the Commission’s Orders, consumer education initiatives and the Joint Settlement.

On May 19, 1999, the Commission entered an Order directing PECO to refrain from any marketing practices which promote, solicit and advertise Provider of Last Resort Service over competitive alternatives. The Commission also referred the matter to the Pennsylvania Office of Attorney General for further investigation and necessary proceedings. Both PECO Energy and MAPSA appealed the Commission’s Order to the Commonwealth Court. During Fiscal Year 1999-2000, the OCA submitted Briefs to the Commonwealth Court in support of the MAPSA appeal and presented oral argument to the Court. The OCA argued that the Commission’s Order was unclear and may have improperly found that the Commission’s jurisdiction in this matter was limited. The OCA argued that the Commission had jurisdiction under several sections of the Public Utility Code to consider the matter and provide appropriate remedies. The Commonwealth Court ruled that the Commission had jurisdiction and that its Order was
not limiting. At the end of Fiscal Year 1999-2000, no further appeal of the Commission Order was taken by any party.

The OCA also participated in an appeal by PECO to the Commonwealth Court concerning the Commission’s Order setting forth procedures for the implementation of the final phase of retail competition for the electric industry. On March 19, 1999, the Commission entered a Tentative Order setting forth procedures for the implementation of full retail choice in the Commonwealth. (Docket No. M-00991230). In the Tentative Order, the Commission, recognizing that all customers were now eligible for customer choice, proposed procedures that would allow all customers to be considered eligible for choice and simply select an alternative supplier. The Commission also sought comments on different approaches with respect to sharing customer information with electric generation suppliers (EGSs). The OCA filed Comments on April 8, 1999. In its Comments, the OCA agreed with the Commission’s proposal to consider all customers eligible for choice, but expressed concern with the issue of the release of confidential customer information. The OCA argued that customers should be permitted to restrict the release of at least three categories of information: 1) telephone number, 2) usage history, or 3) all information. The OCA further commented that the Commission’s proposed procedure, which required a customer to check off a block and return a postcard to the EDC to restrict the release of information, may be acceptable but only for these limited purposes and only if the use of the information is limited and the EGS is required to keep the information strictly confidential. On May 18, 1999, the Commission entered a Final Order adopting its procedures and prohibiting the release of all telephone numbers. In addition, the Commission strictly limited the EGS’s use of the information to only the sale of generation service, and it required that the EGS strictly maintain the confidentiality of the information with no further release permitted without the customer’s affirmative consent.

PECO appealed the Commission’s Order arguing that the mechanism to restrict customer information was not adequate. The OCA filed Briefs and presented oral argument in support of the Commission’s Order. Specifically, the OCA argued that the Commission had narrowly defined the information to be released, provided strict limitations on the use of the information, prevented any further release of the information, and provided customers an adequate means to restrict all information from the list. The OCA supported the Commission’s decision to allow the information to be provided with these protections so that retail competition could be advanced in Pennsylvania. The Commonwealth Court entered an Order upholding the Commission’s decision. At the end of Fiscal Year 1999-2000 no further appeal of the Commonwealth Court Order was filed.

Duquesne Light Company

During Fiscal Year 1999-2000, the OCA continued to work on several issues from Duquesne Light Company’s restructuring proceeding. As reported last year, as part of its restructuring proceeding under the Electric Competition and Customer Choice Act, Duquesne proposed to sell all of its generation assets. During Fiscal Year 1998-1999, Duquesne filed proceedings, particularly a proposed generation asset exchange with FirstEnergy, in preparation for the sale of its generating assets. The
generation asset exchange was structured to be an integral part of Duquesne’s generation auction by improving the marketability of Duquesne’s generation portfolio. Through the exchange, Duquesne was able to exchange partially owned assets, including nuclear assets, for non-nuclear assets in which Duquesne would have a 100% ownership interest. On July 15, 1999, the Commission entered an Order that allowed the asset exchange and generation auction to proceed. In December of 1999, Duquesne successfully completed the generation auction, having received $1.7 billion for its assets—an amount that significantly reduced its stranded cost. With the proceeds from this sale, Duquesne will be able to end stranded cost recovery for most customers by 2001 or 2002. The successful conclusion of the divestiture and the expiration of stranded cost recovery should result in a significant rate reduction for Duquesne’s customers at that time.

With the successful completion of the divestiture and the early termination of stranded cost recovery, the issue of who would be the provider of last resort in Duquesne’s service territory and how that service would be priced had to be addressed. Throughout the Spring of 2000, the OCA, Duquesne, and other interested parties worked on developing a plan for the provision of this essential default service in the post-transition period. On June 30, 2000, Duquesne filed a Petition For Approval Of A Plan For Post-Transition Period Provider Of Last Resort Service. (Docket No. R-00974104). At the end of fiscal Year 1999-2000, the OCA was preparing its Comments on Duquesne’s Plan.

The OCA also continued its representation of consumers in proceedings concerning the proposed merger of Duquesne and Allegheny Energy. After conclusion of the Commission proceeding, Duquesne notified Allegheny Energy that it was exercising its rights to withdraw from the merger agreement. Allegheny Energy filed an action in federal court arguing that Duquesne had breached the Merger Agreement and asking the court to order Duquesne to complete the merger. Allegheny also requested the court to stay the sale of Duquesne’s generation assets even though Duquesne’s Auction of these assets had been successfully completed with the receipt of a bid for $1.7 billion. (United States District Court for Western District of Pennsylvania, Civil Action No. 98-1639). The OCA determined to file a Brief as an Amicus Curiae in opposition to Allegheny Energy’s request in the federal court case. In particular, to obtain the relief that Allegheny Energy requested, including the stay of the generation divestiture following the successful auction, Allegheny had to establish that its relief was in the public interest. As the statutory representative of consumers, the OCA argued that the interests of the consumers must be weighed in determining the public interest. Specifically, the OCA argued that the relief requested by Allegheny, which would prevent the sale of the generation assets, could have negative impacts upon Pennsylvania ratepayers. The sale of Duquesne’s generation assets through its Generation Auction would provide approximately $1.2 billion in benefits to Duquesne’s ratepayers—an amount far greater than any expected merger benefit. In November, 1999 the Court ruled that Duquesne had not breached the Merger Agreement but had properly exercised its rights under the Agreement. The Court found that Allegheny was not entitled to any relief. The conclusion of this federal court action was a critical element in allowing the divestiture to proceed to final closing in April, 2000.
In the Fall of 1999, PPL filed its reconciliation statement for its stranded cost recovery through its competitive transition charge (CTC). (Docket No. M-FACE9908). As part of this filing, PPL included a claim for an additional $15 million in stranded cost associated with the implementation of the Retail Pilot Program in 1998. PPL made this claim after the Settlement of its restructuring proceeding which had provided it with $2.97 billion of stranded cost. In the Settlement of the Restructuring Proceeding, PPL and the parties to the Settlement had agreed that the $2.97 billion was in full and final satisfaction of all stranded cost claims that were made or could have been made. The OCA opposed recovery of this additional $15 million stranded cost claim in light of the Settlement of PPL’s restructuring proceeding. In addition, the OCA argued that even if allowed, the Company had calculated the claim incorrectly and when calculated correctly, the Company had not incurred any additional stranded cost. Testimony and Briefs were filed with the Administrative Law Judge in May of 2000. At the end of Fiscal Year 1999-2000, the case was pending before the Administrative Law Judge.

In December of 1999, PPL made several filings to implement a corporate realignment and transfer of its generation assets to an unregulated affiliate. The transfer of the assets to an unregulated affiliate was approved as part of the Settlement of PPL’s restructuring proceeding. The corporate realignment and the specific structure of the transfer were not addressed by the Settlement. In addition to the corporate realignment and transfer of the generation assets, PPL also requested that the Commission make several findings required by federal law to allow the unregulated generation assets to obtain Exempt Wholesale Generator (EWG) status under the Public Utility Holding Company Act of 1935. Although the OCA did not object to the transfer as approved in the Settlement, the OCA filed Comments with the Commission noting its concern that the proposed corporate realignment, and the structure of the transfer raised questions about consistency with other provisions of the Settlement as well as questions about the full implementation of aspects of the Settlement, particularly the rate cap provisions of the Settlement. Additionally, the OCA argued that the Company had provided insufficient information for the Commission to determine whether it could make the necessary EWG findings. The OCA requested that the Commission resolve these issues before approving the Applications and issuing the EWG findings. On April 13, 2000, the Commission entered an Order approving the Applications and issuing the necessary EWG findings. PPL’s industrial customer group, filed an appeal with Commonwealth Court. At the end of Fiscal year 1999-2000, this matter was pending before Commonwealth Court.

As reported in last year’s Annual Report, PPL filed a Petition for approval to retire from service the Holtwood Unit 17 Coal-Fired Steam Electric Station in Lancaster, Pennsylvania. (Docket No. P-00991669). In its Petition, PPL questioned whether the Commission retained jurisdiction to rule on this matter, but if the Commission found that it did retain jurisdiction, PPL asserted that Holtwood was uneconomic and requested the necessary approvals for retirement. The OCA answered PPL’s Petition arguing that the Commission, in this case, retained jurisdiction to review this matter pursuant to Section 521 of the Public Utility Code. In addition, the OCA pointed out that such review is particularly important in light of the Commission’s on-going obligation under Chapter 28 of the Public Utility Code to ensure...
reliability as well as the provisions of Section 2808(a) which govern the stranded cost recovery of a unit that is no longer operated on a continued basis. The OCA argued that the Commission must assure itself that retirement of the Holtwood Station will not jeopardize system reliability, and that the plant is uneconomic on a production cost basis. Subsequent to the filing of the OCA’s Answer, the parties held a series of informal discussions regarding the economic and reliability issues raised by the OCA. These informal discussions were able to resolve the concerns about the economics and reliability raised by the OCA, and the matter was returned to the Commission for final disposition. On November 4, 1999, the Commission entered an Order in this proceeding finding that the Petition of PPL is moot. The Commission concluded that because of the introduction of price competition into the generation sector of the electric industry, the Commission is no longer obligated to approve or disapprove the removal of generating facilities from operation, even if the generating facility is owned by a jurisdictional public utility. The OCA sought reconsideration of the Commission’s Order in that the Commission’s Order could be interpreted as a limitation on its authority to meet its obligations under Chapter 28. On March 30, 2000, the Commission entered an Order on Reconsideration. The Commission clarified that it was not its intention to limit its authority in its previous Order. The Commission then considered PPL’s Petition in its merits and approved the Petition.

**Pennsylvania Power Company**

On May 12, 1999, Pennsylvania Power Company (Penn Power) filed an Application for a Certificate of Public Convenience authorizing Penn Power to transfer its transmission assets to an affiliated company, American Transmission Systems, Inc. (ATSI). (Docket No. A-110450F.016). The transaction is intended to be an intermediate step in the overall plan to transfer assets to a regional transmission organization or to create a structure wherein third parties may divest their transmission assets. The OCA filed a Protest in this proceeding raising issues regarding the continuation of PUC jurisdiction over the reliability of the transmission system and the siting of transmission lines, continued system reliability, and necessary ratepayer protections on transmission pricing. After negotiations, the OCA and the Company were able to reach a Settlement of this matter. The Settlement provided for a cap on retail transmission rates through December 31, 2004; continuation of the Commission’s jurisdiction, continuation of Penn Power’s obligations to provide safe, adequate and reliable service in its retail service territory, and specifies the treatment of certain costs so as to protect ratepayers. The Settlement was approved by the Administrative Law Judge. On July 13, 2000, the Commission entered an Order approving the Settlement.

**West Penn Power Company (Allegheny Power)**

On August 30, 1999, West Penn Power Company filed its reconciliation statement of its stranded cost collection through the competitive transition charge (CTC). In its reconciliation statement, West Penn identified a significant undercollection due to its sales falling short of the sales forecast used in the Settlement to establish the CTC. The undercollection was approximately $15.9 million. The effect of this undercollection would be to increase the CTC for the following year and correspondingly lower the price to compare. The OCA submitted comments to the Commission opposing West Penn’s proposal to
lower the price to compare. The OCA was particularly concerned that the level of the price to compare would be reduced from its then current rate. The OCA recommended that the undercollection be deferred for collection in a subsequent year. West Penn, the OCA and the Commission’s Office of Trial Staff were able to resolve this matter through a Settlement Agreement. Under the Settlement, West Penn agreed to maintain the projected level of the CTC for all rate classes throughout the year 2000. West Penn was also permitted to utilize the securitization savings for 1999 and 2000 to apply against the 1999 CTC under-recovery and the expected under-recovery of 2000. In this manner, the price to compare, which had already been communicated to customers would not be lowered, and the Company was provided some reduction of its deferrals. The Commission approved the Settlement in December of 1999.

On March 23, 2000, West Penn filed a Petition requesting approval of its Competitive Default Service to begin in 2001. (Docket No. P-00001802) Under West Penn’s Settlement of its Restructuring Proceeding, West Penn was required to competitively bid its provider of last resort service for 20% of its residential customers for 2001. West Penn’s Petition presented its Plan for this auction of its provider of last resort service for these customers to the Commission. On April 12, 2000, the OCA filed an Answer to West Penn’s Petition. In its Answer, the OCA raised several concerns about West Penn’s bid procedure, but more fundamentally, questioned whether the bid should proceed at all given the very low shopping credit, the variability of the shopping credit, the bid structure, and the recent failure of the GPU Energy bid to attract any bidders. The OCA recommended that the West Penn bid be delayed and a collaborative group convened to discuss the many issues relating to the bid. The Commission entered an Order agreeing to the collaborative process. The Commission directed the parties to meet throughout the month of July 2000 and provide a Report by August. At the end of Fiscal Year 1999-2000, the parties had just begun the collaborative working group process.

**GPU Energy**

*Metropolitan Edison Company and Pennsylvania Electric Company*

In the Fall of 1999, Metropolitan Edison Company and Pennsylvania Electric Company filed a Petition for expedited approval for implementation of a competitive default service (CDS) program (Docket Nos. P-00991770 and P-00991772). In the Petition, the Companies requested expedited approval for the implementation of the CDS bidding program to meet the requirements set forth in their Restructuring Proceeding Settlements. The OCA filed an Answer to the Companies’ Petition recommending some modifications to the bid program. Given the short time frame before the bid had to be issued, the OCA did not oppose the bid methodology, but the OCA expressed concern that the bid methodology might not provide maximum benefits from the competitive process. The OCA also expressed its continuing concern with including the customer cares functions, such as billing and metering, in the bid process at this time. On January 27, 2000, the Commission entered a Tentative Order authorizing Met-Ed and Penelec to solicit bids from alternative providers for a one year term for a generation only service. The Commission directed that the bid process follow the technical format of the PECO CDS program. The Commission directed that following this bid, a collaborative be convened to discuss the structure of future bids. In the interim, however, Met-Ed and Penelec had issued the request for proposals and received no
bids. The Companies subsequently asked for permission to withdraw the Petition. The OCA agreed with the Companies’ request to withdraw the Petition. The Commission allowed the Petition to be withdrawn but directed that a collaborative group be convened to discuss a bid structure for the Competitive Default Service. At the end of Fiscal Year 1999-2000, this collaborative group was continuing its discussions.

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

**Pike County Light & Power Company**

On November 19, 1999, Pike County made a filing pursuant to the Order of the PUC at Docket No. R-00974150 (Application of Pike County Light & Power Company for Approval of Restructuring Plan) at the conclusion of the divestiture of the generation assets of its parent company. Pike’s filing proposed to reflect the divestiture proceeds which had reduced its stranded cost by, among other things, reducing the Company’s Competitive Transition Charge (CTC), and correspondingly increasing Pike’s “provider of last resort” service charge. Pike, however, had failed to reflect the proceeds from the sale of one of its properties, the Bowline property, and had proposed to reduce its recovery period for stranded cost and its rate cap period from approximately six years to two years. On January 5, 2000, the OCA filed a formal complaint in order to address concerns regarding Pike’s proposal to retain the benefits of the Company’s share of gain stemming from the sale of the Bowline adjacent property; Pike’s proposal to reduce its CTC recovery period and corresponding rate cap period from 6 ½ years to 2 years; and Pike’s methodology for reconciling stranded cost recovery. Pike, the OCA and other parties to the proceeding reached a settlement prior to the commencement of the hearings. The settlement set Pike’s CTC to reflect appropriate recognition of Pike’s CTC collections throughout 1999 and Pennsylvania ratepayers’ ability to share in the system gain stemming from the sale of the Bowline adjacent property. The parties also agreed to recovery over 5 ½ years which has the effect of continuing the rate cap for the statutory period. The Commission approved the Settlement by Order entered June 2, 2000.
In another case involving Pike, the Company filed with the Pennsylvania Public Utility Commission an application for a certificate of public convenience seeking the Commission’s approval of the transfer by merger from Consolidated Edison, Inc. to a newly-formed holding company (also named Consolidated Edison, Inc.) all property of Pike County used or useful in the public service. Previously, as reported in last year’s Annual Report, Pike County’s parent, Orange & Rockland had merged with Consolidated Edison. (Docket No. A-110650F0006). In the prior case, the OCA and the Company had agreed to a settlement which contained, among others, the following provisions: 1) in any future rate cases, Pike’s cost of service shall reflect the savings resulting from the merger and thereby all such savings shall be prospectively flowed through to customers, and 2) for accounting purposes, Pike’s pro rata share of the costs to achieve the merger shall be recorded as a regulatory asset and amortized to Pike’s electric and gas department over a period of five years, commencing July 1, 1999.

In Pike County’s second merger Application, Pike recommended merger costs and benefits treatment as agreed to by the OCA in the July 2, 1998 Application proceeding, therefore, there was no need for the OCA to filed a Protest and Notice of Intervention in this proceeding. The Commission approved the merger as filed by Pike.

**State Tax Adjustment Surcharges**

On November 1, 1999, the Department of Revenue issued its calculation of the Revenue Neutral Reconciliation (RNR) pursuant to Section 2810 of the Electricity Generation Customer Choice and Competition Act (Act). The RNR provides an adjustment to the Gross Receipts Tax as a mechanism to maintain tax neutrality to the Commonwealth following the implementation of customer choice. The Department of Revenue determined that a 6 mill increase in the Gross Receipts Tax was necessary. In addition, several utilities experienced changes and increases in the level of their PURTA tax. The increase in the level of taxes prompted each electric utility to make a filing for either an exception to the rate cap provisions of the Act, or for a deferral of the collection of the tax increase. For example, **PECO Energy Company** filed a single issue rate case seeking an exception to the rate cap for recovery of the RNR increase. (Docket No. R-00994928). **Duquesne Light Company** also filed a request for a single issue rate proceeding to exceed the rate cap, but later requested only that it be permitted a deferral of the costs above the rate cap. (Docket No. R-00994930 and P-00991768). Other companies, such as **West Penn Power Company** (Docket No. P-00991765), **Penn Power Company** (Docket No. P-00991764 and R-00005108); **Met-Ed** and **Penelec** (R-00994962, R-00994963, R-00994964); **PPL Utilities** (Docket Nos. R-00994965 and P-00991780); and **UGI-Electric** (Docket No. R-00994961) filed the STAS but sought deferral of the increase above the rate cap and recovery of that amount in a subsequent year. The OCA filed Answers in each of these cases. The OCA opposed any exceptions to the rate cap and agreed with the proposal to defer collection of the tax amount above the rate cap in subsequent years. The Commission entered Orders in each case approving the deferrals of the amounts above the rate cap and rejecting all requests for rate cap exceptions.
Subsequently, the Mid-Atlantic Power Supply Association (MAPSA), a group of alternative electric suppliers, filed a Petition for waiver of certain Commission regulations to allow Electric Generation Suppliers (EGS) to collect the increased Gross Receipts Tax on equal footing with the Electric Distribution Companies (EDC). (Docket No. P-00991783) MAPSA argued that as long as EDCs are permitted to have a separate State Tax Adjustment Surcharge that is not reflected in the price to compare, and as long as EDCs are permitted deferrals and future collection of the Gross Receipts Tax, there is no uniform basis to compare the EGS price which must recover these taxes directly in the price it charges to customers. The OCA filed an Answer agreeing with MAPSA that non-uniform price comparisons could present a problem for the appropriate operation of the market. The OCA expressed concern that the solutions proposed by MAPSA, however, could produce results that were inconsistent with the statutory rate caps. The Commission determined to convene a working group to further discuss this issue. At the end of Fiscal Year 1999-2000, the working group had just begun its discussions of this matter.

Other Electric Matters

The OCA also worked on several other matters throughout Fiscal Year 1999-2000. The OCA continued its participation in several working groups that continued to consider implementation issues related to customer choice and the implementation of the Settlements of the electric restructuring proceedings under the Electric Generation Competition and Customer Choice Act. Notably, the OCA served as a board member of the Statewide Sustainable Energy Fund. As reported in last year’s Annual Report, as part of the restructuring proceeding settlements for PECO Energy, PP&L, Inc., Metropolitan Edison Company, Pennsylvania Electric Company, and West Penn Power Company, Sustainable Energy Funds were created. The Sustainable Energy Funds were established to provide funding and support to promote (1) the development and use of renewable energy and clean energy technologies; (2) energy conservation and efficiency; and (3) renewable business initiatives. The OCA worked with the other Joint Petitioners in the nomination and approval of representative Boards as well as in establishing initial recommendations for the Boards regarding by-laws for operation. By Order entered June 4, 1999, the Commission approved the Boards for each of the utilities. In addition, the Commission established a Statewide Board to provide oversight, guidance, and technical assistance to the Sustainable Energy Funds. The OCA was named a member of the Statewide Board. During this Fiscal Year, the OCA served as a Board member of the Statewide Board and worked with the Board as it developed its strategic business plan.

In addition, the OCA continued its efforts in the collaborative process that was addressing the design and implementation for the Renewable Pilot Programs for Low Income Customers that were called for by the various settlements. The OCA also filed Comments with the Commission in Guidelines For Renewable Pilot Programs, setting forth the OCA’s recommendations for the design of these programs. (Docket No. M-00991226) The Commission issued Guidelines based largely on the work of the collaborative groups and reflecting many of the OCA’s Comments.
The OCA also continued to serve on the **PECO Energy** Universal Service Advisory Committee that considers and advises PECO regarding these important issues. The OCA continued its work on the Phase-In Implementation Committee (PIC) and participated actively in several working groups that considered various business practices associated with the implementation of retail electric choice.

As part of the implementation of retail electric competition, the Commission continued the process of instituting rulemakings and generic proceedings to govern all aspects of customer choice. During Fiscal Year 1999-2000, the OCA participated in these rulemakings, many of which were finalized during Fiscal year 1999-2000. Of particular importance, by Tentative Order, the Commission issued Guidelines to address a developing problem with commercial and industrial customers returning to the Provider of Last Resort (POLR) service during the high cost summer months. The Commission proposed that for Companies that had a 12-month minimum stay requirement for the POLR service, that the EDC also establish a market based rate the customer can pay if the customer wishes to return to the competitive market within 60 days. For those companies without a 12-month requirement, the Commission proposed that they file such a proposal and a 60-day market rate option by September 1, 2000. The OCA submitted comments addressing this “parking rate” option and other possible options to address the problem of large volumes of load returning to the provider of last resort with short notice at the highest cost time of year. The Commission subsequently entered a Final Order allowing for these filings, but deferring resolution of the specific details of the mechanism to the individual cases. At the close of Fiscal Year 1999-2000, the EDCs were beginning to file their detailed proposals.

The OCA also participated in a case filed by the Manufacturers’ Association of Northeast PA (MANP). In **Petition For Declaratory Order Of The Manufacturers’ Association of Northeast PA** (MANP) requested a declaration that it did not need a license as an electric generation supplier (EGS). MANP had entered into an agreement with a licensed EGS whereby the licensed EGS would provide a particular rate to the MANP members. MANP also advertised the availability of this rate to its members. MANP argued that it should not be required to obtain a license for this limited activity. The OCA filed an Answer agreeing with MANP. The OCA agreed that since MANP did not sign customers up, aggregate customers, or take title to any electricity for customers, the MANP activities were not contemplated by the licensing regulations to require a license. MANP’s activity was limited to arranging for its members to receive a special rate upon the member directly contacting the licensed EGS. The Commission entered an Order agreeing with the OCA and MANP.

**Federal**

**Introduction**

The OCA continued to actively participate in electric proceedings before the Federal Energy Regulatory Commission (FERC) over the past fiscal year. In 1997, FERC had issued Order No. 888 in an effort to comprehensively restructure the wholesale markets for electricity. In that final rule, FERC asserted jurisdiction over all electric utility transmission facilities; required electric utilities to provide
non-discriminatory access to their interstate transmission systems for all wholesale electricity transactions; and encouraged electric utilities to participate in Independent System Operator (ISO) organizations. ISOs are intended to operate, but not own, the electric utility transmission systems within their borders. On December 20, 1999, FERC issued Order No. 2000, further restructuring the electric utility industry. *Regional Transmission Organizations, Notice of Proposed Rulemaking*, Docket No. RM99-2-000, 64 Fed. Reg. 31390 (1999). All electric utilities not currently participating in an ISO must, by October 15, 2000, file a proposal to join or form a Regional Transmission Organization (RTO), or explain their failure to do so. RTOs are similar in nature to the concept of ISOs, but are intended to cover a broader scope and geographic region. The OCA led the effort on behalf of itself and the National Association of State Utility Consumer Advocates (NASUCA) to submit comments on FERC’s proposed rulemaking relating to RTOs.

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

In Order No. 2000, FERC encouraged, but did not require, electric utilities to create regional organizations to manage the electric transmission grid within their boundaries. FERC required that any RTO proposals must include provisions for independent governance; broad stakeholder representation; adequate scope, size and configuration; ensuring short-term reliability of the transmission system, administration of a region-wide tariff; performing ATC calculations; region-wide transmission system planning; market monitoring; inter-regional coordination with other RTOs and ISOs; security coordination.

The OCA’s primary focus in FERC electric matters continues to be the development of wholesale electric markets that benefit Pennsylvania retail consumers. Consequently, the OCA continues to actively participate in the three ISOs and RTOs which affect Pennsylvania’s utilities and retail electric consumers. These include the Pennsylvania-New Jersey-Maryland Interconnection, L.L.P. (PJM ISO or PJM), the Midwest Independent System Operator (Midwest ISO), and the Alliance Regional Transmission Organization (Alliance RTO). The OCA is also involved in the FERC rate, tariff and formation proceedings related to these three RTOs.

The OCA’s main challenge in the federal electric arena is to ensure that the proper RTO structures and rules are in place to protect consumers from the potential for market power abuses and to support competition in both wholesale and retail markets so that even small consumers can benefit from retail choice.
FERC Electric Rulemaking Proceedings

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

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

In addition to governance issues, the OCA and NASUCA urged FERC to develop a proactive market monitoring function for RTOs, to invest RTOs with the authority to require interconnection of new generation facilities to a particular utility’s transmission system, and to reject the use of extra “incentives” to encourage utilities to join RTOs. The OCA and NASUCA urged FERC instead to mandate that all electric utilities join RTOs. The Final Rule issued in December, 1999. Numerous parties sought rehearing; however FERC made no significant changes to Order No. 2000 on rehearing. Several parties, including several electric utilities, have appealed Order No. 2000. NASUCA has intervened in these appeals in support of the Final Rule.

2. The Collaborative Workshops

In an effort to promote membership in RTOs, FERC has initiated a process of regional RTO workshops & collaboratives which provide a forum for stakeholders to discuss issues and possibly form new RTOs. This process will be on-going through the summer of 2000. The OCA is participating in two collaboratives: the Midwest ISO / Alliance RTO collaborative and the PJM / Northeast collaborative.

3. Order No. 888 Appeals

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

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

The OCA continues to participate in proceedings at FERC regarding the operations of the PJM Interconnection as an ISO. Since its approval as an ISO in November 1997, PJM has filed numerous amendments to its agreements and tariff in an effort to construct a workably competitive wholesale market for electricity within its boundaries.

The OCA actively participated in the collaborative process that led to many of these filings. Through this participation, the OCA has been able to influence the manner in which PJM addresses issues that arise as retail competition gains momentum in Pennsylvania. Senior Assistant Consumer Advocate Denise Goulet served as Chair of the PJM Public Interest and Environmental Organizations User Group (PJM PIEO-UG) during most of the last fiscal year. This User Group is comprised of environmental groups, citizens groups, and the state consumer advocate offices from the four states and the District of Columbia which lie within the region governed by the PJM ISO. Throughout this fiscal year, the PJM PIEO-UG has become more proactive in addressing issues of concern within PJM. For example, the OCA led an effort to support PJM’s attempts to remedy certain market design flaws in the PJM tariffs and Operating Agreement which had provided generators a means of gaming the electric generation markets during peak periods in the summer of 1999. The OCA continues to actively monitor market events within PJM and is currently reviewing the PJM Market Monitoring Unit’s State of the Market report to assess the extent to which market power may be influencing the futures market for energy prices and the capacity markets.

The OCA also monitors the activities of various other PJM Committees and User Groups, including the following: Members Committee, Energy Market Committee, Reliability Committee, Tariff Advisory Committee, Transmission Expansion Advisory Committee, and the Future Adequacy Working Group efforts to revamp PJM’s market rules governing Installed Capacity Obligations and generation adequacy issues. Through participation in these committees, the OCA has been able to influence PJM decisions relating to proposed revisions of the ISO’s rules and tariffs. Several of those activities are discussed in greater detail below.

2. Midwest Independent System Operator (Midwest ISO), Docket No. ER98-1438-000

Several Midwestern utilities collaborated during 1997 with various stakeholders to develop an ISO structure for the Midwest. In January 1998, they filed a tariff and various agreements with FERC to implement the structure they agreed upon in the collaborative process. The OCA did not participate initially in the FERC proceeding, since no Pennsylvania utility had announced an intent to become a participant in the Midwest ISO. In March 1998, however, Allegheny Power System and Duquesne Electric Company stated that they would join the Midwest ISO as a means of complying with a Pennsylvania Public Utility Commission’s Order in their state merger proceeding which, among other things,
required the merging companies to participate in a fully functioning ISO as a condition of merger approval. While Duquesne withdrew from participation in the Midwest ISO upon the dissolution of the merger, Allegheny remained a provisional member. Both Duquesne and Allegheny were required to file by October 15, 2000, in compliance with Order No. 2000 and provide notice as to which, if any, RTO or ISO they will join. The OCA formally intervened in the Midwest ISO case in April, 1998. On September 16, 1998, FERC conditionally approved the Midwest ISO with certain modifications and specifically set certain issues for hearing. The issues set for hearing remain pending at this time before the FERC.

The OCA attended several settlement conferences in this case. Most parties, including FERC Trial Staff and the OCA, were able to reach agreement on many of the issues that had been set for hearing. One issue, discussed and partially settled, was the Midwest ISO participants’ request to receive a level of return on equity that would provide an incentive to electric utilities in the area to join the Midwest ISO. The parties stipulated to the floor level of return based on the cost of equity, but reserved the incentive adder issue for briefs to be submitted directly to FERC. The parties requested that FERC decide whether, as a matter of policy, the Midwest ISO should be allowed to receive an additional 100 basis points on its equity return. FERC approved the settlement and established a briefing schedule for the incentive return issue. The OCA led the effort to draft and submit a joint consumer advocate brief on behalf of consumer advocate offices in Pennsylvania, Ohio, Indiana, Illinois, and Missouri. The OCA and the Joint Consumer Advocates opposed the Midwest ISO Participants’ request to receive an increased incentive rate of return on equity. FERC has not yet issued an order on either the equity return issue set for paper hearing or the other issues set for evidentiary hearings.

3. **Alliance Regional Transmission Organization (Alliance RTO), Docket Nos. ER99-3144-000 and ER99-80-000**

The OCA also has continued to actively participate during the fiscal year in the collaborative process which led to the filing on June 3, 1999 with FERC of an application to form the Alliance RTO. FirstEnergy Corporation, one of the utilities participating in this effort, has a subsidiary in Pennsylvania, Pennsylvania Power Company. The OCA intervened in these proceedings and filed comments highlighting the OCA’s concerns with the independence of the governance structure and the rate proposals. The OCA’s concerns focused on the Alliance RTO governance structure providing the electric utilities forming this entity significant veto power and undue influence over the RTO’s operations. The OCA contended that many of these utilities remain vertically integrated, and as such, exert significant market power in energy markets. Additionally, OCA’s comments raised the concern that the Alliance structure provides for the continuation of rate panckaking and thus eliminates one important benefit that ISOs and RTOs can provide, i.e. access to broader geographic markets at lower costs. FERC issued an order approving the Alliance RTO conditioned upon the Alliance making a compliance filing satisfying the governance and rate requirements of Order No. 2000. The Alliance made a compliance filing which also failed to meet these requirements.
The OCA additionally has been a part of the debate as to whether the Midwest ISO should merge with the Alliance RTO. Currently the Midwest ISO and the Alliance RTO split the Midwest region, and the boundaries of the Midwest ISO are not contiguous. Such a structure hinders the ability of both entities to resolve parallel path flows, rate pancaking, and other operational problems within their borders, thus potentially dampening competition. Meetings between the Midwest ISO and the proposed Alliance RTO throughout the summer have not produced a successful merger of these two entities despite the OCA’s efforts to encourage such a merger.

4. FirstEnergy Corporation’s Application to Transfer Assets to Subsidiary, Docket No. EC99-53-000

FirstEnergy Corporation (FirstEnergy) filed an application with FERC on March 19, 1999, for authorization to transfer ownership and operational control of its jurisdictional transmission facilities to American Transmission Systems, Inc. (ATSI). ATSI would be a wholly-owned subsidiary of FirstEnergy. This application is a first step to develop the Alliance RTO into a for-profit Transco, i.e., a corporation which would own some or all of the transmission facilities of the electric utilities within its borders. ATSI would either then become the for-profit Transco or would transfer the facilities to such an entity. FirstEnergy proposed to transfer to ATSI only the physical facilities, but not the real estate upon which those transmission facilities sit. The OCA intervened in this proceeding on April 21, 1999 and filed comments regarding the reasonableness of FirstEnergy’s application. On June 10, 1999, FirstEnergy filed a new Ground Lease reflecting language supported by the OCA to resolve the OCA’s primary concerns relating to the Ground Lease, and FERC approved the revised language by order dated October 27, 1999.

FERC Electric Cases

1) EL00-25-000: Commonwealth Edison Company: Independent Transmission Company (ITC)

Commonwealth Edison, which is in the process of merging with PECO Energy Company, seeks to join with several other Midwestern electric utilities to form an Independent Transmission Company (ITC) which will share responsibilities with the Midwest ISO to operate the transmission systems of all ITC member companies. Although Commonwealth Edison is a member of the Midwest ISO, not all ITC members are members of the Midwest ISO. An ITC is an organization of electric utilities joining together to regionally operate their transmission facilities. An ITC would not perform all of the functions of an ISO or an RTO. In its Order conditionally approving Commonwealth Edison’s filing, FERC recognized that the form might be acceptable, but that Commonwealth Edison provided insufficient details relating to independence of governance and functional operation. FERC also specified that market monitoring would have to be performed by the Midwest ISO. The Commission issued an Order on Rehearing on May 22, 2000 affirming its original decision.
2) **EL00-42-000: PJM Bilateral Contract Data**

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

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

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

4) **ER00-298-000: PJM Unbundled Charges**

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

5) **EC00-31-000 / EC00-32-000: PP&L Corporate Restructuring**

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

6) **EC00-105-000 / EL00-85-000: PJM Asset Transfer**

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

7) EC00-75-000: NiSource, Inc. / Columbia Energy Group Merger Application

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

8) PECO / Commonwealth Edison Merger, EC00-26-000

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

9) PECO Corporate Restructuring, EC00-38-000

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

Pennsylvania

Natural Gas Restructuring

On June 22, 1999, Governor Ridge signed the Natural Gas Choice and Competition Act (Gas Choice Act) into law. The Gas Choice Act provided a framework for restructuring the services of natural gas distribution companies (NGDCs) in Pennsylvania to eliminate legal and regulatory barriers and further the development of a competitive market for natural gas supply service to all consumers in Pennsylvania, and in particular to residential and small commercial customers, many of whom had not yet enjoyed the benefits of a competitive gas supply market that had been available to larger commercial and industrial customers for a number of years. As part of the same Act, the General Assembly eliminated the applicability of the gross receipts tax (GRT) to natural gas service, placing all gas service customers on a par with respect to the payment of such taxes.1 The Gas Choice Act provided for implementation of restructuring by July, 2000. Consequently, a significant portion of OCA’s resources during the 1999-2000 fiscal year were devoted to analyzing and making recommendations with respect to the manner in which gas restructuring should be implemented and in addressing the other requirements of the Act.

In particular, OCA’s efforts have been focused upon addressing the Act’s requirements, including: (1) unbundling of natural gas supply services, including commodity, capacity, storage, balancing and aggregation services; (2) requirements related to the continued provision of firm and reliable service in an unbundled environment; (3) disposition of NGDC commitments with their suppliers and, in particular, their interstate pipeline capacity; (4) recovery of costs associated with restructuring; (5) universal service programs, funding and cost recovery; (6) consumer education programs, funding and cost recovery; (7) the implementation and enforcement of consumer protection requirements pertaining to the services of alternative natural gas suppliers, including licensing and bonding requirements; (8) customer disclosure requirements and billing and payment procedures; (9) maintenance of quality of service; (10) supplier of last resort determinations and obligations; (11) establishment of a collaborative process to address ongoing restructuring issues; and (12) marketing affiliate standards of conduct.

Given the unique circumstances of each NGDC with respect to the gas supply marketplace, their operational characteristics, the extent to which customer choice is already available, and the rules that some already have in place with respect to matters such as consumer protection, as well as the differing needs of the customer populations for universal service and energy conservation programs and consumer

1For many years, retail sales customers of the NGDC had paid the GRT on their entire bill, but customers who received their gas supply separate from the NGDC’s distribution service were not required to pay GRT on any portion of their bill.
education, OCA performed a distinct analysis of each company’s restructuring plan and made individual recommendations in each case.

In virtually every case, and in large part, OCA’s concerns were resolved by way of settlement. The only case in which the vast majority of OCA’s issues were not resolved by way of settlement was in the restructuring proceeding of UGI Utilities, Inc. In addition, certain discrete, but limited issues were litigated in the restructuring proceedings of National Fuel Gas Distribution Corporation and T.W. Phillips Gas and Oil Co. There were also some limited issues that did arise in the compliance phase of several of the restructuring proceedings, despite the comprehensive settlements of those proceedings.

While most of the issues in these cases were settled, the settlements recognize that implementation of the settlements is an ongoing process that will require careful scrutiny by all parties and the Commission. In particular, there will be ongoing issues to implement Commission directives, as incorporated in the settlements, pertaining to customer information and education, and, in most cases, issues concerning cost recovery will need to be addressed in future rate proceedings. Additionally, it is important to emphasize that many of the settlements require monitoring of the availability and competitiveness of customer choice for natural gas supply service and provide for future revisitation of choice in future collaboratives and proceedings if certain thresholds for participation in the marketplace for these services are not met.

The Gas Choice Act also required the Commission to adopt interim guidelines and final regulations in a number of areas and OCA has actively participated in that process, submitting comments and participating in working groups. The Commission adopted many of OCA’s recommendations in these proceedings.

Restructuring of the natural gas industry begins a new phase in the regulation of natural gas services in Pennsylvania. Natural gas suppliers must be licensed and bonded by the Commission. The Act requires the Commission to ensure that customers are provided with adequate and accurate information to enable them to make informed choices of their natural gas services and, in furtherance of this objective, the Commission is to implement, together with the natural gas utilities, a consumer education program. The Commission is also required to ensure that customer services and consumer protections are maintained at the same level of quality. The Act further requires the implementation of appropriately funded universal service and energy conservation programs. Finally, the overall objective of the Act is to introduce a competitive market for gas supply services while meeting these other objectives. These mandates impose important regulatory obligations that must be carefully followed in order to ensure that the General Assembly’s objectives are realized. The Office of Consumer Advocate has sought through the restructuring and rulemaking proceedings to advocate positions which are consistent with the goals of the Gas Choice Act. OCA expects that many of these issues will continue to define the course of regulation of natural gas services in Pennsylvania for many years to come.
Restructuring Proceedings

The Commission established an aggressive schedule for the restructuring proceedings, with three companies submitting their filings on August 1, 1999, a fourth on August 16, 1999, two more filings on October 1, 1999, two more on December 1, 1999, one filing on February 1, 2000, and one on April 1, 2000. Schedules were established for each of the cases that provided for Final Commission Orders in each of the proceedings within six months (or less in the case of the later filings) of the filings.

Columbia Gas of Pennsylvania (Docket No. R-00994781)

Columbia’s case in many ways provided a format for resolution of many of the common issues in each of the cases. Columbia was already providing choice to the majority of its customers prior to the implementation of the Gas Choice Act and an interim settlement provided all of Columbia’s customers with choice as of November 1, 1999. In addition, the parties had been involved in a collaborative discussion of certain restructuring issues even before the implementation of the Gas Choice Act and the submission of Columbia’s restructuring filing on August 1, 1999. As a result, the parties also addressed and resolved in the interim settlement a significant portion of the universal service and cost recovery issues in the case. In particular, the parties had agreed that Columbia would expand its Customer Assistance Program (CAP) from the 1,000 pilot customer program to 22,000 customers over a 4-year period. The settlement provided a mechanism for funding the CAP program without increasing rates and which provided an incentive for Columbia to not file for a rate increase to be effective before January 1, 2004. The settlement further provided an incentive mechanism for the Company to meet the CAP enrollment targets specified by the settlement.

In addition to the expansion of the CAP program to a level that Columbia itself had proposed and believed to be appropriate, in this interim settlement, the Company gave up its right to claim restructuring proceeding costs (except those related to appeals). The Company also gave up its right to claim customer education costs up to the level that it had proposed in the case. Costs above that level were to be deferred in accordance with Section 2211(c) of the Gas Choice Act.

OCA filed testimony on a wide range of issues in this proceeding. Among OCA’s key recommendations were the following:

- Rates must be unbundled in a manner that facilitates customer choice and provides a simple and understandable price to compare to customers;

- Columbia’s average annual delivery requirements may be unduly hindering customer choice by limiting the gas supply costs against which suppliers can compete;
• Columbia’s capacity choice rider, authorized by Section 2211(h) of the Act, is reasonable in an infant marketplace.

• The Company’s aggregation fee imposes an additional cost on suppliers just to provide service which is inconsistent with the Act’s mandate and should be eliminated.

• Recoverable costs from restructuring should be limited to those that are incremental and are not offset by any cost reductions or revenue increases resulting from restructuring.

• Quarterly reports detailing incremental costs incurred by the Company from restructuring, net of any savings, should be filed with the Commission.

• Uniform supplier agreements should be developed for NGDCs across Pennsylvania and suppliers should be subject to similar credit evaluations and standards.

• Suppliers should be required to post security bonds which cover their obligations to customers and the public, to provide for restitution to customers and payment of penalties, as well as to secure their obligations to the NGDC.

• NGDC tariffs must be altered to reflect a competitive market with respect to procedures and substantive rights such as applications for service, deposits and credit and collection practices.

• Tariffs should address the coordination of customer complaint procedures.

• Tariffs, Company policy and education efforts should reflect procedures and standards implemented pursuant to the Gas Choice Act, to ensure that consumer protections are maintained at the same level of quality under a choice framework, that customers are provided adequate and accurate customer information in an understandable format, that the Company and any supplier affiliate adhere to the Code of Conduct established by the Commission pursuant to Section 2208 of the Act, and that service quality and reliability are maintained.

• OCA also made a number of additional recommendations with respect to universal service and energy conservation programs. These included specific recommendations for the operation and expansion of the Company’s Customer Assistance Program, operation and funding of the Company’s Low-Income Usage Reduction Program, and its CARES program and hardship fund. Among these
recommendations were the streamlining of CAP enrollment, the portability of CAP benefits (available to customers as they switch suppliers), the application of the same credit and collection procedures to CAP customers as to other customers, funding of LIURP at a specific dollar level and reexamination of the Commission’s LIURP funding requirement, expansion of LIURP as consumption grows, and greater integration between LIURP and CAP. OCA also proposed a broader effort to coordinate with federal and state housing programs to utilize energy efficiency in affordable housing projects.

The settlement with Columbia provided resolution in one form or another to virtually all of these issues and was approved by the Commission in its entirety. In large part, the settlement addresses the concerns specified by OCA above. Given the active participation by both customers (110,410 customers electing NGSs as of 10-1-99) and suppliers (14) in Columbia’s program as of the date of the settlement, the parties agreed that the design of Columbia’s customer choice program would continue, in large part, in its current form. This includes continuation of Columbia’s elective capacity assignment program and the recovery of unrecovered capacity costs resulting from this mechanism through a charge applicable to all residential and small commercial customers, consistent with Section 2211(h) of the Gas Choice Act. The settlement also ensures that all of these customers will have choice at effectively the same cost even though some customers are served by higher cost pipeline capacity through a special demand cost adjustment procedure.

One of the important principles established by the settlement is that the terms of access to provide natural gas supply service as between Columbia’s sales service and NGS natural gas supply service should be equivalent. This is reflected in the elimination of Columbia’s proposed aggregation charge, which would have charged NGSs for every volume of service taken by their customers. This is a charge that customers would not have had to pay to continue to take sales service from the Company and OCA contended that it was in violation of Sections 2203(4) and (5) of the Act, which provide for nondiscriminatory terms of access for the provision of natural gas supply service.

While recognizing that NGSs should not be charged simply to have access to their customers, the Columbia settlement also recognized that providing choice is not likely to be without cost to the utility. Consequently, the settlement provided for a 1¢/Mcf charge to all residential and small commercial customers, to recover at least a portion of the incremental costs of implementing and administering customer choice in this restructured environment. At the same time, the Company will begin to amortize its incremental costs associated with restructuring and will be permitted to claim the unamortized balance of its restructuring costs in a future rate proceeding, net of any additional revenues (such as the 1¢/Mcf charge, billing charges, etc.). Other parties may also contend in a future proceeding that any costs should be offset by any savings arising under the Act. One of the significant sources of savings arising under the Act are savings in cash working capital costs that are currently being realized by Columbia from the elimination of Pennsylvania’s Gross Receipts Tax as applied to natural gas service. Because of the substantial delay in collection of revenues necessary to recover these taxes as compared to the time when
the tax was due, the Company’s rates had reflected a substantial amount of cash working capital costs to
compensate the Company for this time value of money. With the elimination of this tax, it has been OCA’s
position that it is appropriate that such savings are an integral part of the determination of the amount of
incremental costs arising under the Act.

OCA also expects Columbia and other companies to realize savings in other areas. In
particular, many companies incur capital costs for maintaining gas in storage during the summer season and
using that gas in the heating season. If customers switch to NGSs and the Company is no longer required
to maintain gas in storage for these customers, then these capital costs also will no longer be incurred.
However, under Columbia’s choice program, the Company is continuing to retain all of its storage capacity
and these savings will not arise until some point in the future if, and when the Company assigns to NGSs
or decontracts its storage capacity, and modifies its choice program accordingly.

In order to ensure that a dynamic competitive environment continues to be available to
Columbia’s customers, the settlement provides for a future review of customer and supplier participation
levels, and requires the Company to consult with a Stakeholder Collaborative Group and, if consensus
about needed changes are not reached by a date certain, to make a filing with the objective of enhancing
participation if customer participation falls below 10% of all residential and small commercial customers
as of August 31, 2001 or 15% of such customers as of June 30, 2002.

The Columbia settlement also addressed a wide range of customer protection, consumer
education issues, and supplier participation issues. With respect to consumer education and customer
information, substantial modifications will be made to Columbia’s proposed bill format that will make bills
in this environment more understandable to customers. The settlement also ensured that a number of critical
consumer education objectives will be met. These include providing consumer education concerning the
impact of the elimination of the Gross Receipts Tax and the Commission’s policies with respect to the
renewal of NGS contracts. In OCA’s judgment, it is essential that customers, especially those who have
been participating in Columbia’s existing choice program, be provided with this information in order to
ensure that they are aware of the impact of the Gas Choice Act on their participation in the competitive
market and their options to change suppliers or return to sales service in this environment.

The Columbia settlement also established or implemented in the Company’s tariffs
numerous consumer protections, many of which had been previously established by Commission
Guidelines. Most of these consumer protections follow those which had been established in the context
of electric restructuring. These include rules prohibiting the termination or threat of termination, or denial
of restoration of service, of customers for failure to pay NGS charges, clearly establishing an important
difference between the payment remedies within the control of the regulated utility as compared to those
available to an NGS operating in a competitive market. These procedures also ensure that customers,
regardless of whether they select an NGS or not, will continue to have the following protections: the
availability of budget payment plans; customer complaint procedures that enable customers to seek redress
of their grievances; Chapter 56 protections with respect to credit determinations, deposit requirements, and
initiation or disconnection of service; billing of late fees for an NGS only where the customer has specifically agreed to them; and allocation of partial payments in accordance with Commission requirements.

The settlement also ensured that the Company’s compliance tariffs will reflect these customer protections and other important Commission policy requirements. In particular, the tariff will specify the procedures by which customers will be informed of their ability to select an alternate supplier, will distinguish between regulated and unregulated services and will clearly delineate where charges (such as late fees) are applicable, and will refer customers and NGSs to Commission guidelines that govern NGS conduct subject to Commission jurisdiction under the Act.

The Commission approved the Settlement and throughout the Spring of 2000, the parties continued efforts to implement the Settlement provisions.

**Equitable Gas Company** (Docket No. R-00994784)

Since April 1998, at the conclusion of the Company’s last base rate proceeding, Equitable Gas Company’s tariffs have made customer choice available to all customers, including residential and small commercial customers. Equitable proposed few changes to its existing program in the context of its restructuring proceeding. Consequently, in restructuring the services of Equitable Gas Company, OCA examined the success of Equitable’s existing choice program, proposed changes that were designed to enhance that program, sought to ensure that customers received the consumer protections and education mandated by the Act, and evaluated the Company’s universal service and energy conservation programs to ensure that they were appropriately funded and available throughout the Company’s service territory.

OCA’s testimony addressed a range of issues, including similar consumer protection and customer information issues to those addressed with Columbia and other companies. Specifically to Equitable, OCA’s testimony sought to eliminate a number of unnecessary barriers to choice. These included elimination of the Company’s switching fee and aggregation charges, and minimum term of service, and replacement of its capacity assignment scheme which imposed greater costs on NGSs with a smaller market. While the Company’s low income Customer Assistance Program (CAP) was currently serving 4,900 customers, OCA determined that an appropriately funded program should reach a significantly larger number of customers given the number of low income, payment-troubled customers in the Company’s service territory. As in other proceedings, OCA also made a number of recommendations with respect to the operation of the Company’s universal service programs. OCA’s proposal with respect to cost recovery issues was similar to that proposed in Columbia’s case and elsewhere.

After much effort, OCA and a number of other parties were able to reach a nearly comprehensive settlement with Equitable Gas Company. The settlement addressed most of OCA’s program design issues, eliminating the Company’s aggregation charges for the Company’s Firm Pooling Service and its switching fee, providing for open enrollment without any minimum term of service, and
revising capacity assignment requirements for smaller marketers to make them consistent with those for larger suppliers.

The settlement also provided for expansion of the Company’s CAP program to 10,000 customers by January 1, 2004, and provides incentives for the Company to meet the annual enrollment targets specified by the settlement. The settlement, unlike most other settlements, resolved all cost-recovery issues. Under the settlement, Equitable will not defer any costs for recovery in a future rate proceeding, nor will it seek to recover any costs resulting from the Act in a future base rate proceeding. The parties were able to resolve these issues in this way in light of the declining level of Equitable’s transition cost surcharge. Recovery of an estimated level of costs will be through this surcharge, but will not be reconcilable, and will be accomplished while decreasing rates from their current level.

The settlement also addressed OCA’s concerns about consumer protection and customer education issues, ensuring that customers will be treated in accordance with Commission guidelines and that relevant rules will be incorporated into the Company’s tariffs.

One issue was litigated before the Commission, the funding and operation of the Company’s Low Income Usage Reduction Program (LIURP). OCA contended that funding for the Company’s program should be maintained at a fixed dollar level of $635,000, in accordance with its existing budget and funding requirements under the Commission’s regulations. The Commission agreed with OCA that the current funding level should be continued and directed this result. The Commission also laid to rest the question presented by Equitable’s proposal of whether the percentage funding amount in the Commission’s regulations included all jurisdictional revenues – transportation as well as sales, again agreeing with OCA on this point.

A final order was entered by the Commission approving the terms of this settlement on May 11, 2000 and resolving litigated LIURP issues in favor of OCA. The Company filed a petition for review with the Commonwealth Court, appealing the Commission’s decision on the LIURP issue. At the close of Fiscal Year 1999-2000, the appeal was pending before the Commonwealth Court.

**National Fuel Gas Distribution Corporation** (Docket No. R-00994785)

Like Equitable, National Fuel had also made customer choice available to all of its customers prior to the passage of the Gas Choice Act. National also proposed to maintain its customer choice program in large part as currently operating, while addressing the customer protection and education issues mandated by the Gas Choice Act. OCA’s testimony in this case addressed a number of key unbundling issues, some of which were similar to the other cases. As in the other cases, OCA proposed a more straightforward unbundling of the tariffs to enable consumers to more easily determine the price to compare to determine any differences between taking natural gas supply service from National and from an NGS. OCA also proposed the elimination of aggregation charges, elimination of restrictions on the enrollment period, and the tariffing of billing procedures and charges. OCA also raised a number of unique
issues in connection with National’s restructuring proceeding. In particular, OCA emphasized the treatment afforded NGSs serving residential and small commercial customers as compared to the more favorable treatment of large transportation customers. In particular, large transportation customers are afforded the option to balance their deliveries monthly, giving them substantial flexibility, while NGSs serving small customers must meet daily delivery requirements. NGSs serving small customers are also required to pay for certain interstate pipeline capacity that is necessary to maintain reliability throughout National’s system, but large transportation customers are not required to pay for this capacity. The Company also has certain balancing tariff provisions and delivery requirements that are unnecessarily onerous to NGSs serving small customers. OCA filed testimony opposing this treatment. The result of many of these measures is to give economic access to local Pennsylvania gas supplies to large transportation customers but not to NGSs serving smaller transportation customers. OCA opposed this approach to retail choice.

As in other cases, OCA also proposed an expansion of the Company’s Customer Assistance Program in order to meet the need of its low-income, payment-troubled customers for this type of assistance, as well as making recommendations on other universal service and energy conservation issues similar to those that OCA presented in other cases.

After lengthy negotiations, OCA and the Company were able to reach resolution on most of the issues in the case, including consumer protection and education issues, and universal service/energy conservation issues. However, certain program issues were carved out for litigation and those issues were pending before the Commission at the end of the fiscal year. In particular, the discrimination issues discussed above were carved out for litigation. Also being litigated was the Company’s proposal to recover the costs of “back-up” gas supply arrangements through its purchased gas cost recovery mechanism. Finally, the parties also litigated the issue of whether consumer education costs should be recovered through the surcharge mechanism that the Commission had established for statewide education costs.

In a Recommended Decision, the ALJ agreed with OCA that issues concerning “back-up” gas supply arrangements should be deferred until a proceeding in which the Company seeks recovery of those costs and that such costs should be recovered from defaulting NGSs. However, the ALJ disagreed with OCA’s position on the discrimination issues. OCA filed Exceptions on those issues and to the ALJ’s recommendation that all consumer education costs be recovered through the consumer education surcharge that the Commission had established for statewide education costs.

On all other issues, OCA was able to reach agreement with the Company and the other parties. On universal service issues in particular, the Company agreed to propose to expand its Customer Assistance Program, known as LIRA, from the current level of 5,000 customers to 8,500 customers through a filing to be submitted on September 1, 2001. The settlement also provided for a number of other changes in the operation of the Company’s CAP program. On June 29, 2000, the Commission entered an Order approving the Settlement.
PECO Energy Company (Docket No. R-00994787)

While PECO Energy has, for many years, provided transportation service to large commercial and industrial customers, PECO’s restructuring proposal presented the first opportunity for residential and small commercial customers to take advantage of the benefits that customer choice can offer. It should be recognized that PECO is, with the exception of the Philadelphia Gas Works, the largest gas utility in Pennsylvania, providing service to over 429,000 customers in the areas surrounding Philadelphia. In this light, OCA endeavored to carefully examine PECO’s initially proposed approach to customer choice to determine whether it would be likely to give rise to a competitive marketplace for natural gas supply service. OCA concluded that there were a number of problems with PECO’s proposed approach to customer choice. These included the Company’s proposal to not assign its storage and balancing resources to NGSs, thus limiting the amount of gas costs against which competitors could compete, its proposed system of penalties applicable to NGSs, and its proposed $0.08/Mcf aggregation charge applicable to NGSs simply to provide service. OCA also raised a variety of other potential problems with the program, including the preference through capacity assignment for NGSs to serve larger customers in the residential class and not to serve smaller customers and some provisions which were detrimental to suppliers. OCA also raised consumer protection and education issues along similar lines to those presented in other cases, although PECO’s use of the format by which it had implemented consumer protection and customer information requirements in the context of electric restructuring resulted in PECO’s proposals largely addressing OCA’s concerns on such issues. On universal service and energy conservation issues, OCA identified a population of approximately 25,000 low-income, payment-troubled customers that would benefit from the Company’s expansion of its CAP Rate program, or approximately 10,000 more than are currently participating.

Again, after lengthy settlement discussions, most of the parties were able to reach an agreement that addressed most of OCA’s concerns. While OCA continued to be concerned that PECO’s decision to not assign or allow NGSs to compete with respect to storage and balancing costs may limit the development of a competitive market, the settlement recognizes that PECO’s program is new and that further unbundling of these services may be more appropriate after some initial experience is gained under restructuring. Consequently, the settlement provides for further examination of these issues after two years of experience with customer choice. At that time, the Company will be required to submit a report indicating the number of customers and NGSs participating in choice. If certain thresholds for participation are not met, the Company will be required to collaborate with the parties to assess what changes should be made to enhance the marketplace and, absent consensus among the parties, file a tariff proposing changes that are likely to enhance the marketplace. The settlement also revises the capacity assignment approach so as to eliminate or reduce any incentive for NGSs to serve larger but not smaller customers. The settlement also eliminates the proposed 8¢/Mcf aggregation charge and provides for collection of the Company’s restructuring costs through a 1¢/Mcf charge applicable to all low volume customers. Revenues collected in this manner will be offset against the unamortized balance of restructuring costs in a future rate proceeding where the Company may claim recovery of its restructuring costs. A portion of such costs will
be amortized over a ten-year period (billing-system related costs) and other costs will be amortized over a 5-year period.

Given the incipient marketplace, the Company will also provide quarterly reports to the Commission identifying the number of small customers participating in choice and the number of NGSs providing service to them.

With respect to universal service and energy conservation, the parties agreed that PECO’s current Gas CAP rate will be continued but that there will be no fixed limit on the number of customers participating in the program and no limit will be imposed without consultation with the LIURP Advisory Committee, the Commission and OCA. The Company has also agreed that, in cooperation with its LIURP Advisory Committee, the Company will modify its Gas CAP Rate to include a “special needs” component, which will address the needs of customers with incomes at or below 50% of the federal poverty level, and will update its evaluation of its CAP Rate program, utilizing the same expert who had performed an initial evaluation. The Company has also agreed that its Gas CAP Rate will be portable, available to customers whether or not they select an NGS or are served by the Company.

Finally, the settlement addresses the consumer protection and education concerns raised by OCA in the case in large part. Included in these protections is a provision that provides for the Commission to include an amount in an NGS bond, as the Commission may determine, to protect customers and the public in the event of an NGS default.

The Administrative Law Judge accepted the joint petition for settlement between PECO and OCA, and Conectiv Energy and the Small Customer Marketer coalition filed Exceptions with the Pennsylvania Public Utility Commission. The Commission denied Conectiv Energy’s and Small Customer Marketer coalition’s Exceptions and adopted the Recommended Decision of the ALJ, thus approving the joint petition for settlement.

**Peoples Natural Gas Company** (Docket No. R-00994782)

Like Equitable and National Fuel Gas, choice in natural gas supply services has been available to all of Peoples’ customers since before the adoption of the Gas Choice Act. Prior to restructuring, the Company had engaged in a collaborative with the parties to discuss important gas supply planning decisions in order to facilitate the transition to a more open customer choice program. Many of these decisions were incorporated into a settlement which was filed in the Company’s 1999 purchased gas cost proceeding under section 1307(f) of the Public Utility Code. Consequently, in its restructuring filing, Peoples proposed generally to continue its existing choice program while addressing the other requirements of the Act, in particular consumer protection and education requirements.

In light of OCA’s participation in Peoples’ gas supply planning collaborative, many of OCA’s concerns over the operation of the Company’s customer choice program were already being
addressed. However, there were several important issues that still remained to be addressed. In particular, as in the other proceedings, OCA recommended that the Company’s tariffs be unbundled on a single rate schedule to enhance customer understanding of their choices and, as in the other cases, OCA recommended the elimination of aggregation charges (8¢/Mcf) and switching fees. OCA’s witness also recommended that billing procedures and charges should be set forth in the Company’s NGS tariff. Finally, with respect to program design issues, OCA recommended that third-party suppliers should not be suspended from serving customers without a Commission order and made a number of other recommendations to equalize the terms of service for retail sales service and NGS service.

OCA also recommended a significant expansion of the Company’s Customer Assistance Program in order to meet the Company’s universal service and energy conservation obligations under the Act, and made similar recommendations as in other cases with respect to consumer protection and education issues.

Settlement discussions led to the resolution of OCA’s concerns in large part. In particular, the Company agreed to unbundle its tariffs as recommended by OCA and to eliminate its aggregation charges and switching fees. These charges will be eliminated January 1, 2001. As stated in the settlement, the new rate design will “make residential customers financially indifferent as to whether” they purchase natural gas supplies from Peoples or another natural gas supplier. Peoples also agreed to redesign its bill format to follow this unbundling approach and to meet the Commission’s customer information requirements. The settlement also addressed OCA’s concerns about consumer protection and education issues.

With respect to universal service and energy conservation issues, Peoples agreed to increase CAP enrollment from the current level of 1,000 customers to 2,000 customers by April 1, 2001 and to propose a further increase to 12,000 customers in a filing submitted on April 1, 2000, which would give the Company an opportunity to claim recovery of additional costs associated with its universal service obligations. (Peoples subsequently filed its proposal to expand its CAP program on April 3, 2000 in Docket Number R-00005263. That case is pending before the Commission.) Peoples also agreed to a number of enhancements to its CAP program to make the program more effective and consistent with the Commission’s CAP Policy Statement, and agreed to continue funding of LIURP at $610,000 pending any changes to the Commission’s regulations.

Finally, with respect to the recovery of restructuring implementation costs, the settlement provides for amortization of such costs over 5 years, except that billing system costs will be amortized over 10 years. Peoples will submit quarterly reports to the Commission identifying by category any changes in costs resulting from the Act.

By order entered January 31, 2000, the Commission entered an Order approving the terms of the settlement. A compliance filing was submitted on March 2, 2000, to which OCA filed Comments.
In a further order issued on May 11, 2000, the Commission adopted OCA’s position that the Company should take additional remedial action to address “slamming” complaints.

**PFG Gas, Inc. and North Penn Gas Company** (Docket No. R-00994788)

PFG Gas, Inc. and North Penn Gas Company (PFG), which serve approximately 73,000 customers in 26 counties through parts of central and eastern Pennsylvania, addressed a variety of issues in its restructuring proceeding. Since PFG did not have a customer choice program prior to restructuring for its residential and small commercial customers, its proposal, like PECO’s, required particularly careful scrutiny. PFG also did not have any operating Customer Assistance Program prior to restructuring. PFG also sought cost recovery of consumer education and universal service dollars through two additional surcharges. As in the other cases, OCA carefully analyzed PFG’s customer choice proposal and made a number of recommendations. In particular, OCA recommended that the Company’s proposal not to assign storage assets to NGSs should be rejected and that the Company should assign such assets or allow NGSs to obtain other resources to meet these customers requirements. OCA also recommended that PFG’s high penalties for imbalances should be reduced and that charges for NGSs to aggregate customer load should be eliminated. OCA also made recommendations similar to those presented in other cases with respect to cost recovery and consumer protection and consumer education requirements. Finally, OCA recommended that the Company should implement a CAP rate program, similar to that utilized by PECO. OCA also recommended the implementation of a LIURP program and other universal service and energy conservation efforts.

After hearings and lengthy settlement discussion, OCA was able to reach agreement with the Company and other parties on virtually all of the issues in this proceeding. With respect to the Company’s customer choice program, the Company agreed to perform a feasibility analysis to be presented in its 2001 purchased gas cost proceeding that addresses the feasibility of unbundling the Company’s storage service and to establish a daily requirements service. The Company also agreed to revise its assignment methodology to ensure that the pipeline capacity assigned to each NGS reflects that NGS’s customers’ requirements. The Company will also propose to eliminate its currently-effective aggregation charge under its monthly aggregation rate in its 2000 purchased gas cost proceeding. With respect to cost recovery, the Company agreed to a five year amortization of computer system costs and ten-year amortization of other costs, and agreed to withdraw without prejudice its proposal for separate surcharges to recover consumer education and universal service costs.

The Company also agreed to address consumer protection and education issues consistent with the manner in which such issues had been resolved in other proceedings and in accordance with Commission guidelines. With respect to universal service and energy conservation issues, the Company has agreed to implement a CAP rate, with a target enrollment of 2,200 customers over a four-year period, upon approval of a proposal to be filed with the Commission within 30 days of approval of the settlement. The settlement specifies many of the details of that program. The Company has also agreed to establish a CARES program and a hardship fund as further means of assistance to customers. In recognition of the
dispersed nature of the Company’s service territory, the settlement provides that the Company will not be required to implement a LIURP program during the ramp-up of the CAP rate.

By Order entered on June 22, 2000, the Commission approved the settlement with the exception of a paragraph regarding bonding. The Company circulated a draft compliance filing among the parties, and the parties engaged in a collaborative to revise the draft as necessary prior to the Company’s submission of the compliance filing with the Commission.

**PG Energy, Inc.** (Docket No. R-00994783)

Like PECO’s and PFG’s restructuring proceedings, PG Energy’s restructuring proposal represented its initial offering of choice to residential and small commercial customers and raised many similar customer choice issues. In particular, the Company had sought to allocate its interstate pipeline storage costs, rather than to assign the assets to suppliers. OCA opposed this proposal and sought to have the assets assigned to NGSS in order to give them greater ability to control the assets with which they must compete. OCA also proposed modifications to the Company’s capacity assignment methodology, which would have assigned the same amount of capacity for all residential customers, regardless of their level of consumption. As in other cases, OCA also proposed the elimination of the Company’s proposed pooling fees.

The Company had also proposed to maintain its universal service and customer education programs essentially without change.

After lengthy discussion, OCA was able to reach agreement with the Company on all of the issues in this proceeding. In order to address OCA’s concerns that the Company’s storage allocation proposal would stifle a competitive market, the Company agreed that if certain supplier and customer participation targets are not met, then the Company will file a tariff to be effective September 1, 2001, proposing changes that it believes will create greater competition in the marketplace. The Company also agreed to eliminate its proposed pooling fee.

The Company also agreed to target enrollment in its CAP program to expand it from the current level of 1,000 customers to 5,000 customers over four years. The Company has also agreed to a number of changes in the operation of the program to enhance the enrollment process and reduce barriers to participation. The Company also agreed to maintain LIURP funding at the level recommended by OCA until the Commission changes its regulatory requirements or until a future base rate case.

Finally, the Company agreed to address consumer education and consumer protection issues as had been addressed in other proceedings and in a manner consistent with Commission guidelines on such issues.
T.W. Phillips Gas and Oil Co. (Docket No. R-00994790)

Due to the availability of local gas supplies and Company produced gas supplies, T.W. Phillips has lower rates and gas supply costs than many other Pennsylvania gas utilities. In this light, OCA examined T.W. Phillips’ restructuring plan with an eye toward ensuring that customers served by NGSs would not be disadvantaged in their access to Company produced gas supplies or other locally produced, low-cost, long term gas supply arrangements that could otherwise make T.W. Phillips’ rates impossible to compete against.

In particular, with respect to T.W. Phillips’ customer choice program, OCA’s witness recommended that suppliers should be assigned company production and local Pennsylvania gas should be made available to suppliers to the same extent such supplies are currently used to provide bundled sales service to such customers. OCA also recommended the elimination of the Company’s “agency” service, where the Company acts like an NGS in its own service territory. Additionally, as in other cases, OCA recommended that the Company’s proposed aggregation and pooling service charges should be eliminated, that the Company’s rates should be unbundled so as to facilitate customer understanding of the price to compare, and that enrollment in the Company’s program should be continuous. OCA also recommended that T.W. Phillips should assign capacity, rather than allocate capacity costs, to NGSs so that NGSs are able to maximize the value of that capacity (e.g., the ability to sell excess capacity in the summer and use the revenue to offset costs and provide rate discounts to customers). OCA made a number of other recommendations for the purpose of providing non-discriminatory access to the Company’s distribution system for purposes of providing natural gas supply service.

Further, OCA recommended that T.W. Phillips implement a Customer Assistance Program as part of meeting its universal service and energy conservation obligations. OCA determined that there are approximately 4,200 low-income, payment-troubled customers on the Company’s system that could benefit from such a program. OCA also made similar recommendation on LIURP funding, and on consumer protection and education issues as those presented in other proceedings.

The parties were able to reach a settlement on all of the issues in this proceeding except for universal service and energy conservation issues. To address OCA’s concerns about the gas supply costing structure for the Company’s retail sales service, the Company will not charge NGSs serving residential and small commercial customers for lost and unaccounted for gas to compensate for the inclusion of Company production volumes in sales customers rates. The Company also will assess the feasibility of assigning or releasing Pennsylvania gas supplies to NGSs, or alternatively will allocate such supplies to NGSs at the NGS’s option at the average cost for such month. The Company also agreed to eliminate its aggregation and pooling fees and to charge instead a 1¢/Mcf charge applicable to all Priority customers. The parties also resolved the difficult issue of allocating capacity costs for purposes of this case. The Company also agreed to unbundle its tariffs as recommended by OCA.
With respect to cost recovery issues, the Company will capitalize and amortize its costs over a five year period, with the unamortized balance subject to examination and recovery in a future rate proceeding.

Briefs were been filed by several parties, including OCA, on universal service and energy conservation issues. The ALJ subsequently issued a Recommended Decision recommending that the settlement be approved and that the Company be required to conduct a study assessing the need for universal service programs in its service territory and to present a proposal in its base rate case proceeding at Docket Number R-00005459 to meet that need within 60 days of the Commission’s Order in the restructuring proceeding. The Commission entered an Order adopting the ALJ’s recommendation.

**UGI Utilities, Inc.** (Docket No. R-00994786)

The UGI restructuring proceeding was the one natural gas restructuring proceeding which did not produce a settlement, although the parties made significant efforts to reach an amicable resolution of the issues. OCA argued that UGI’s proposed program design would not make retail choice economically available to its customers. Part of this problem related to differing interpretations of Section 2211(g) of the Act, which allows a company such as UGI that realizes profits (margins) through interruptible transactions to shift credits to rates related to the capacity-related portion of such transactions from the base rate component of a Company’s rates to its gas supply rate. The OCA contended that the purpose of this section of the Act was to ensure that a Company that utilized its sales customers’ capacity to make such interruptible transactions was not adversely affected by reductions in the capacity available to make such transactions as customers switched to alternative natural gas suppliers. However, UGI interpreted this section to allow it to shift the entire credit, including distribution-related margins, from base rates to sales rates. The OCA argued that the effect of doing so would be to make it impossible for natural gas suppliers to compete economically against the Company’s sales service.

Other key concerns raised by OCA in this proceeding included the Company’s capacity assignment proposal, which would have required suppliers to take assignment of capacity on up to 56 different capacity routes, the Company’s balancing proposal, which provided less favorable treatment to NGSs serving small customers as compared to larger transportation customers, the penalties proposed for imbalances, and the Company’s proposed treatment of storage capacity. OCA’s testimony also addressed a wide range of other concerns, including the Company’s proposed aggregation and switching charges, a requirement for a minimum aggregation group of 500 customers, and the non-inclusion of billing charges in the tariff. OCA also raised concerns over customer protection and education issues similar to those raised in the other proceedings. OCA also recommended expansion of the Company’s CAP program to 10,000 customers over a 4-year period, with modifications to the Company’s CAP program similar to those recommended in other proceedings. OCA also recommended the continuation of LIURP funding at a fixed dollar amount and asked the Commission to direct UGI to revisit its hardship program in light of the limited contributions that were being made under such program. OCA’s testimony also addressed cost recovery issues along the same lines as OCA had proposed in other proceedings, including a 10-year
amortization of restructuring implementation costs and deferral of universal service and consumer education costs to a future rate proceeding.

The ALJ’s Recommended Decision accepted most of UGI’s recommendations in this proceeding and OCA filed Exceptions to the ALJ’s recommendation. The Commission’s opinion and order were entered on June 29, 2000, which adopted most of the ALJ’s conclusions. The Commission did, however, direct the parties to mediate the issue involving the appropriate supplier bonding requirements and universal service issues. At the close of Fiscal Year 1999-2000, the parties were preparing for mediation.

Valley Cities Gas Service Company (Docket No. R-00994946)

Valley Cities Gas Service Company, a division of NUI Corporation, which serves approximately 4,900 customers in Bradford County, submitted a restructuring filing on April 3, 2000. Given the small size of the Company, the benefits of restructuring to this Company’s customers may be more limited than for other companies. Nonetheless, the Company’s filing generally provided an appropriate restructuring of the Company’s services. The parties were able to reach a comprehensive settlement that addressed the issues of concern to OCA. With respect to program design issues, the settlement provides for the performance of a feasibility study to modify the Company’s capacity assignment proposal if more than 600 customers elect alternative natural gas suppliers. The settlement also substantially reduces the Company’s balancing charge in recognition of OCA’s concern that it duplicates costs that will already be incurred by suppliers and makes the service non-competitive. On universal service issues, the settlement implements a discount rate for 50 customers by January 1, 2001 and requires the Company to file a proposal for a CAP rate program to serve 200 customers over a four year period, with cost recovery related to such program to be addressed in such proceeding.

The settlement with NUI also revises the Company’s unbundling approach and provides for a collaborative discussion on consumer protection and education issues. On June 2, 2000, the Administrative Law Judge entered a Recommended Decision, which was adopted by the Commission by Order dated June 23, 2000.

Rulemakings and Policy Statements To Implement Competition

As part of the implementation of the Natural Gas Choice Act, the Commission instituted rulemakings, policy statements, generic proceedings and working groups to establish a regulatory framework to govern all aspects of customer choice, from consumer education to licensing of suppliers to assuring quality of service and the safety, adequacy and reliability of natural gas service. The OCA actively participated in all of these proceedings and in each of the working groups convened by the Commission. The OCA’s overall goal in participating in these proceedings was to help shape the regulations, orders and guidelines which appropriately balance the promotion of competition and the protection of consumers in the emerging competitive retail natural gas market.
During the Fiscal Year, the Commission adopted many of the OCA recommendations in each of the rulemakings, policy statements, or generic proceedings. These modifications included refinements of provisions setting forth protections for consumers, further clarifying definitions to be in accordance with the competitive markets, and strengthening reporting requirements so that the Commission can carry out its obligations under the Act. For example, in the interim guidelines directed at assuring that customers receive uniform, accurate and understandable information from natural gas suppliers, the Commission adopted the OCA’s recommendation that a natural gas supplier be required to provide its price in the same units of measure as the natural gas distribution company in whose service territory the customer resides. (Docket No. M-00991249F.005). In the Commission’s rulemaking on the reporting requirements for universal service and energy conservation programs, the Commission adopted many of the OCA’s recommendations to strengthen the reporting requirements and make the information more useful to the Commission. (Docket No. L-00000146). In establishing binding Interim Standards of Conduct, the Commission adopted the OCA’s recommendation for necessary disclosures when an affiliate uses the name and logo of the regulated company. (Docket No. M-00991249F.004). The OCA also strongly supported the Commission’s proposed rulemakings or guidelines on licensing requirements, customer switching, maintaining quality of service, and maintaining safety and reliability. (Docket No. M-00991249F.002; M-00991249F.006; M-00991249F.003; L-00990144).

At the end of Fiscal Year 1999-2000, the Commission’s rulemaking proceedings, implementation proceedings, and collaborative processes were continuing. Many of the proceedings that established Interim Guidelines were in the rulemaking process to be formalized as regulations. The OCA will continue its active participation in all of these efforts.

Base Rate Proceedings

Although there were no base rate proceedings finally litigated before the end of the fiscal year in light of the Gas Choice Act’s provision that rates will not be increased before January 1, 2001, a number of Companies have filed rate cases or are expected to file rate cases to be effective on and after January 1, 2001. In particular, PG Energy, Inc. filed a rate case on April 3, 2000, proposing an increase in rates of $17.9 million. (Docket No. R-00005119) OCA filed a Formal Complaint against the proposed rate increase and was investigating and preparing testimony assessing the Company’s claims at the end of the fiscal year. In an Order issued on May 11, 2000, the Commission suspended the effective date of rates until January 2, 2001. This case represents the first time the Commission will address cost recovery claims related to the Gas Choice Act and OCA expects to fully explore and address the issues related to such claims.

On April 3, 2000, Peoples Natural Gas Company filed a single-issue rate proceeding, in accordance with the terms of its restructuring settlement, to address its universal service and energy conservation obligations under the Act and the appropriate recovery of associated costs. OCA has also filed a Formal Complaint in response to this filing and was performing discovery and preparing testimony at the end of the fiscal year.
Purchased Gas Cost Proceedings

OCA continued its assessment of gas utilities’ gas purchasing practices during the year pursuant to Section 1307(f) of the Public Utility Code. 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, OCA continued to analyze the gas supply planning practices of gas utilities in light of the changing regulatory environment in the industry and, in light of the Natural Gas Choice and Competition Act, NGDC decisions to renew capacity entitlement or acquire new capacity. 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. OCA also continued to analyze subsidization between retail sales customers and transportation customers and the improper use of back-up propane facilities to meet interruptible load requirements.

Additionally, OCA continued to address a variety of other issues, including gas companies’ proposals for performance-based gas purchasing programs. These include programs under which gas utilities’ gas purchases are compared to published gas indices, and the utility is rewarded or penalized for its performance; capacity release incentive programs, under which a gas company’s performance in the capacity release market is compared to historic levels of performance; incentives for making sales off-system; and gas company proposals to purchase a portion of their gas supply based upon long-term contracts and hedging programs. As discussed above, 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.

Merger Proceedings and Other Proceedings

On July 3, 2000, PG Energy, Inc. and Honesdale Gas Company filed a joint application for a merger with Southern Union Company, a Delaware Corporation providing public utility service to customers in Texas, Missouri and Florida. The Office of Consumer Advocate filed a Protest and Intervention in PG Energy’s application, proceeding in order to address issues related to the merger. In particular, OCA intended to explore issues related to merger savings, the effects of the merger on competition, and the effects of the merger on quality of service issues in light of quality of service issues experienced by Southern Union in other states where it provided service. Southern Union moved to dismiss OCA’s Protest, contending that the issues raised by OCA were outside the scope of the proceeding. Initially, the Commission dismissed OCA’s Petition, but then approved a subsequent Settlement Petition which amended such Order and resolved the proceeding by addressing a number of OCA’s concerns. In particular, the settlement provided for flow through of 50% of any merger-related savings as an offset to any restructuring cost claim. The Company also agreed that there would be no
layoffs as a result of the merger and no adverse change in utility operations, service availability or service quality as a result of the merger. Finally, Southern Union agreed to offer service, for at least 1 year, as an electric generation supplier to customers within the territory served by PG Energy and Honesdale if it can economically provide such service.

In the Spring of 2001, Columbia Gas of Pennsylvania, Inc. (Columbia) also filed for approval of a merger transaction between NiSource Inc. (NiSource) and Columbia Energy Group (CEG), the parent company of Columbia. (Docket No. A-120700F.003) The OCA filed a Protest questioning whether the merger would provide substantial, affirmative benefits to the public and would affirmatively promote the service, accommodation, convenience or safety of the public in some substantial way, as required by Pennsylvania law. Specifically, OCA raised several issues including issues regarding the benefits of the merger, the treatment of merger savings in rates, the competitive effects of the merger, the effect on quality of service, the effect on the Company’s universal service programs, and the effect on the Commission’s continuing jurisdiction. After extensive negotiations, the OCA, the Company and other interested parties were able to reach a Settlement. Importantly, as part of the Settlement the Company agreed to extend the rate cap on its non-gas costs that was set forth in Section 2211(a) of the Natural Gas Choice and Competition Act through January 1, 2004. Additionally, the Company agreed that it would not seek recovery of any costs to close the merger in future proceedings and it would not defer for future recovery any expenses related to achieving the merger. The Company also agreed that any gas cost savings achieved as a result of the merger would be immediately flowed through to ratepayers through its Purchased Gas Cost Rider. The Company also agreed to maintain appropriate levels of staffing for its utility business and to seek to improve customer service. The Company will report on its service performance in the areas of call center availability, meter reading, emergency response time, service interruptions, worker safety and compliance with Commission requirements. Through the Settlement, the Company also reaffirmed its commitment to the expansion of its universal service programs and assured that the merger will not adversely affect the expansion of the programs in a timely manner. The Company also made several commitments in the Settlement that will assist in the development of retail natural gas competition in its service territory. Related to that, the Company also agreed to file a tariff supplement to encourage distributed generation and to conduct a distributed generation demonstration project for a residential and a small commercial customer in Columbia’s service territory. Finally, the Settlement secures Columbia’s commitment to maintain its corporate presence in Pittsburgh for an extended period of time and secures Columbia’s commitment to maintain its charitable and community giving following the merger. The Administrative Law Judge recommended that the Commission approve the Settlement, and shortly after the end of Fiscal Year 1999-2000, the Commission approved the Settlement.
Federal

FERC Natural Gas Rulemaking Proceedings

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

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

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

Order No. 637 requires that all short-term capacity release transactions not subject to rate caps during the experimental two year period must be posted and competitively bid. Even those short-term transactions undertaken as pre-arranged deals in state mandatory capacity assignment programs must be exposed to the risk that another party may competitively bid the capacity away from the marketer taking assignment under a mandatory capacity release transaction. Such a ruling places local distribution companies in Pennsylvania implementing mandatory capacity assignment programs in a Catch-22 situation of deciding whether to proceed with mandatory capacity assignment and forego the right to receive revenues above the price caps for all release transactions or to subject marketers in their retail choice programs to the risk of paying prices for mandatorily assigned capacity that exceed the pipeline’s otherwise applicable maximum tariff rate.

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

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

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

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

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

On September 15, 1999, FERC issued a new Policy Statement governing pipeline certificate proceedings. FERC determined that pipeline expansion projects should be undertaken on an incremental pricing basis without subsidies from existing pipeline shippers unless the expansion project provided significant benefits to existing shippers as well as the new shippers to be served by those projects. The OCA supports this policy and had advocated incremental pricing for expansion projects in rulemaking and rate proceedings before FERC for the past eight years. Incremental pricing for expansion projects sends accurate price signals about the cost of new capacity and ensures that only those projects for which a real need exists will be built.
3. **Order No. 636 Appeals, Docket No. RM91-11-000**

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

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**FERC Gas Base Rate Proceedings**

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

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

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

The OCA also raised an important rate design issue concerning the pricing of expansion capacity. This issue was consolidated with the identical issue in Transco’s 1997 rate case discussed below, at Docket No. RP97-71-000.
2. Columbia Gas Transmission Corporation, Docket No. RP95-408

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

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

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

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

A substantial controversy existed in this case with respect to Transco’s claimed rate of return due to FERC’s policy changes in Opinion No. 414, discussed above at Transco’s Docket No. RP95-197-000 and due to FERC’s new policy for calculating an appropriate return on equity. The OCA jointly sponsored a witness on this issue with the NC Utilities Commission and the Transco Municipal Group recommending a substantial reduction in the return sought by Transco. Those issues remain pending before FERC on rehearing.

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

**FERC Miscellaneous Rate Proceedings**

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

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

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

   Texas Eastern filed in December 1997 a request that FERC issue a declaratory ruling that Public Service Electric & Gas Company’s (PSE&G) attempt to release all its capacity on Texas Eastern to an inadequately funded affiliate of PSE&G violated the Commission’s capacity release regulations. Texas Eastern claimed that PSE&G’s proposal was a plan to avoid payment for that capacity through the end of PSE&G’s contract, which would leave significant stranded capacity on this pipeline system. The OCA intervened in this proceeding in order to protect the interests of Pennsylvania residential customers with respect to stranded costs. FERC issued its order granting Texas Eastern the relief it sought in February 1998. PSE&G appealed this order to the D.C. Circuit Court of Appeals where the proceeding awaits the establishment of a briefing schedule.

3. **National Fuel Gas Distribution Corporation, Docket No. RP99-190-000**

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

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

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

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

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

6) RP00-21-000: CNG Transmission

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

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

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

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

Tennessee filed on May 31, 2000 to extend for a two year period the surcharge mechanism through which it recovers environmental expenses from customers pursuant to a global settlement related to environmental expense recoveries filed in 1995. The OCA had played a lead role in negotiating the original settlement. The settlement provided for a surcharge to be in place for a five year period to recover all costs for this remediation program which was anticipated to last ten to fifteen years. Tennessee’s filing notes that the pipeline has currently over-recovered approximately $30 million based on its overall total program costs even though the pipeline anticipates completing all remediation work in 2004. Tennessee remains concerned, however, that environmental policies may change in the near future, causing Tennessee to face tougher clean-up standards and consequently higher costs. The settlement had provided Tennessee the opportunity to recover any such legitimate costs from customers. Tennessee seeks in this filing to continue the surcharge mechanism in place, albeit at a zero dollar charge, and to also retain the existing over-recovery of anticipated expenses as a hedge against the potential increase in overall program costs. The OCA intervened in this proceeding on June 12, 2000, but did not protest the filing considering the fact the settlement provides for early recovery of anticipated costs and for recovery of any costs necessitated by changes in environmental laws and policy relating to this program. National Fuel Gas Distribution Corporation, a Pennsylvania local gas distribution company, did protest, seeking immediate flow-through of all over-recovered amounts. By order dated June 29, 2000, FERC accepted this filing. Tennessee filed for clarification of this order to correct the effective date for the surcharge due to an inadvertent typographical error in the order. By letter order FERC corrected the effective date.
9. **RP00-326-000 and RP00-327-000: Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation**

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

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

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

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

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

Pennsylvania

Global Proceeding

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

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

- Cap all of Bell Atlantic-PA’s basic local service rates at their current levels through 2003;
- Establish a Universal Service Fund to support a $16.00 maximum limit on local residential rates, and otherwise maintain local rates at or below that limit for all Local Exchange Carriers, including small rural companies;
- Prevent local exchange companies from raising their basic local service rates in order to make up for revenue losses resulting from competition in services that are subject to some competition;
- Require Bell to automatically enroll eligible low income consumers in the Lifeline program and otherwise expand the program in order to raise the level of enrollment above current levels;
- Require Bell to offer various network elements to Competitive Local Exchange Carriers (CLECs) in order to encourage CLECs to serve residential customers and customers in the non-urban portions of Pennsylvania;
- Reject Bell’s contention that the PUC was only permitted to change the rules under which Bell would operate if Bell approved of such changes.
Hearings were held in the Global proceeding in June and July of 1999. The PUC entered its Global Order on September 30, 1999. That Order put in place many of the requests that OCA had advocated. Specifically, the OCA was successful in achieving Bell rate caps, a limit on universal service charges to $16.00 for residential local service, and requiring Bell to modify its rates even though it did not voluntarily agree to do so.

The OCA was not successful, however, in achieving the Lifeline eligibility rules requested. The PUC continued to require consumers to be enrolled in public assistance programs before they could be eligible to receive Lifeline assistance.

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

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

- Bell and GTE had been given adequate due process before the PUC;
- The PUC was fully empowered to create a universal service fund to support the local rates of rural customers;
- The PUC’s actions in the Global Order did not violate Bell’s Chapter 30 Plan.

Efforts to achieve a settlement of the appeals were unsuccessful and the appeals were still pending before the Commonwealth Court at the close of the fiscal year.

Bell Atlantic/GTE Merger

On October 2, 1998, Bell and GTE filed an application with the PUC to approve a merger of the Bell and GTE local telephone companies operating in Pennsylvania. (Docket No. A-310200F0002). The OCA advocated that, if the PUC were to approve the merger, it should make certain that $79.2 million in merger related expense reductions, $54.5 million in additional revenues flowing from the merger, and $34 million per year in additional capital investment available as a result of the merger would be used to benefit consumers. These funds should be used to decrease rates for various services, and be used to achieve other objectives, e.g., greater numbers of customers enrolled in the Lifeline program and a reduction in the number of rate centers in order to avoid the need for additional area codes. The OCA also advocated
various measures designed to assure that Bell and GTE would open their networks to competition from CLECs.

During the course of litigation, the Office of Attorney General entered into a Memorandum of Understanding (MOU) with Bell and GTE which required Bell and GTE to take certain actions if the merger would be approved. The MOU would reduce the GTE rates by $15 million and cap the Bell rates through December 31, 2003 at current levels. The MOU also committed GTE to offering various services, referred to as CLASS services, within 24 to 30 months of merger approval. GTE also offered to increase its customers’ eligibility for Lifeline services to 150% of the poverty level.

The OCA supported these various proposals as a means of bringing the benefits of the merger to the Bell and GTE customers. However, the OCA stressed that the PUC should require the additional measures outlined by the OCA above.

On November 4, 1999, the PUC approved the merger but applied various conditions. Notably, the PUC required Bell and GTE to apply all of the MOU conditions as set forth above. In addition, the PUC required Bell and GTE to continue to report service quality conditions.

A number of parties appealed the merger decision and those appeals were pending as of the end of the fiscal year.

**MCI/Sprint Merger**

On December 21, 1999, **MCI Worldcom, Inc.** (MCI) and **United Telephone Company/Sprint** (Sprint) filed an application with the PUC to approve a merger of MCI and Sprint. (Docket Nos. A-310183F0003, A-313200F0006, A-310356F0002). On January 31, 2000, the OCA filed a protest explaining that the PUC should make certain MCI and Sprint offer affirmative benefits as a part of merger approval.

The OCA and MCI/Sprint entered into negotiations and reached a stipulation that offered various consumer benefits as a result of the merger. This stipulation was offered to the PUC and approved by the PUC through an Order entered on March 30, 2000. Subsequently, MCI and Sprint terminated their merger proposal. As a result, many of the merger conditions agreed to as a part of the PUC Order did not become effective. However, certain Lifeline commitments have continued into effect. Notably, Sprint has expanded Lifeline eligibility to 150% of the poverty level without requiring that customers must remain enrolled in any other government assistance programs. This will create greater Lifeline eligibility for Sprint customers.
Chapter 30 Proceedings

On July 31, 1998, ALLTEL Pennsylvania, Inc. (ALLTEL) and a group of nineteen Small Telephone Companies (Small Companies) filed petitions to establish Chapter 30 Plans. (Docket Nos. P-00981423 and P-00981425, etc.)

ALLTEL proposed a Price Stability Mechanism which would allow it to raise rates each year by the amount of inflation. In addition the Company proposed numerous changes to current regulatory requirements, including proposals to (1) allow “revenue neutral” changes in rates (rate rebalancing); (2) modify the Company’s obligations and cost-recovery with respect to the Commission’s Extended Area Service Regulations; and (3) modify certain reporting requirements, including a proposal to eliminate the filing of financial data which allows a determination of the level of the Company’s earnings.

The OCA intervened in the proceeding. The OCA recommended a productivity offset of 3.0% and limitations to monthly basic local service rate increases resulting from rate rebalancing to $1.00 each year, with an overall rate cap of $15.00 per month. Under the OCA’s proposal, attempts to rebalance rates should be subject to the protections afforded ratepayers under Section 1308 of the Public Utility Code. Furthermore, the ability to adjust rates for exogenous events should be clearly limited to significant exogenous events that are clearly unforeseen and beyond the LEC’s control. The OCA also recommended that the Commission carefully evaluate ALLTEL’s Network Modernization Plan, including the reporting requirements.

Also, on July 31, 1998, the PTA Small Company Group (SCG) filed a Petition for approval of Alternative and Streamlined Form of Regulation and Network Modernization Plans. The Small Company Group is made up of 19 Pennsylvania Telephone Association (PTA) member telephone companies. (Docket No. P-00981425 et al.) The Plans included two separate Price Stability Plans, identified as “Plan A” and “Plan B.” The Plan A Price Stability Plan (PSP) is applicable to companies with more than 50,000 access lines and any company with less than 50,000 access lines electing to participate thereunder.\(^2\) Plan B is applicable to the remaining Small Companies. Plan B is a Simplified Ratemaking Plan that is an abbreviated form of rate base/rate of return regulation. The Companies also proposed numerous changes to current regulatory requirements, including (1) “revenue neutral” changes in rates (rate rebalancing); (2) modifying the Company’s obligations and cost-recovery concerning the PUC’s Extended Area Service Regulations; (3) modifying certain reporting requirements, including a proposal to eliminate the filing of earnings-related financial data which allows a determination of the level of earnings of the Companies. The OCA intervened in the proceeding. The OCA also filed complaints against the present rates of two Plan A Companies (D&E and North Pittsburgh C-00981676 and C-00981623), and

\(^2\)Conestoga Telephone and Telegraph Company, Buffalo Valley Telephone Company, Denver & Ephrata, and North Pittsburgh Telephone Company
recommended that these companies should not be allowed rate increases until their overearnings were reduced.

The OCA’s position, in part, reflected a productivity offset of 3.0% and limitations to monthly basic local service rate increases resulting from rate rebalancing to $1.00 per month and to a $15.00 per month overall rate cap. Proposals to rebalance rates, which would result in increases to basic local service rates of more than $1.00, should be subject to the protections afforded ratepayers under Section 1308 of the Public Utility Code. Furthermore, the ability to adjust rates for exogenous events should be limited to significant exogenous events that are clearly unforeseen and beyond the LEC’s control. The OCA also recommended that the Commission carefully evaluate the companies’ Network Modernization Plans, including the reporting requirements.

The OCA recommended modifications to the proposed Simplified Ratemaking Plan for the Plan B Companies to ensure due process to ratepayers. OCA proposed that Company SRP filings only be allowed when a Company’s earnings are below a Commission-established threshold level. The limited filing requirements which already exist should remain in place and time frames for investigation and presentation of rate cases should be slightly modified. Other aspects of Plan B, such as the treatment of rate rebalancing and exogenous events, should be modified consistent with OCA’s Plan A proposals.

On January 20, 2000, the PUC issued orders in these proceedings. In the ALLTEL and Small Companies cases the PUC determined that:

- ALLTEL and the Plan A Small Companies had not demonstrated that their pricing formula should use a 0% inflation offset and set a 2% offset instead;
- The Plan B companies would operate under a form of rate base/rate of return similar to that which the OCA had advocated;
- ALLTEL and the Small Cos. must continue to pass a just and reasonable rate test before any rate rebalancing request would be permitted;
- ALLTEL and the Small Cos. must continue to offer Extended Area Service on qualifying routes;
- ALLTEL and the Small Cos. would be permitted to raise rates as a result of exogenous events as they had proposed;
- ALLTEL and the Small Cos. must continue to file financial information with the PUC;
- No action was taken concerning the overearnings of the Small Cos.;
• ALLTEL and the Small Cos. must generally conform to the determinations made in the Global Order.

ALLTEL and the Small Cos. filed Petitions for Reconsideration on February 4, 2000 with the PUC. The Commission ruled on these Petitions on March 30, 2000. The PUC sustained their earlier rulings and did not allow ALLTEL and the Small Cos. to avoid the requirements in the Chapter 30 Orders and Global Order to subject any rate increase request to the “just and reasonable” rate requirements.

On December 15, 1998, GTE filed its Chapter 30 Plan. (Docket No. P-00981449). GTE offered a rate of return based Plan which would have allowed GTE to raise its rates if its financial earnings were found inadequate. GTE proposed to modernize its network only so long as it was successful at selling certain services and its financial earnings were adequate. GTE requested that it be exempted from many current regulatory requirements and be able to raise its rates much more rapidly than is presently permitted.

The OCA responded to that Plan and proposed many revisions. OCA advocated that GTE’s rates should be reduced by inflation minus 6.5% each year and that it should be required to rapidly modernize its network. OCA advocated many other procedural protections in order to avoid rate increases and ensure adequate due process.

On September 10, 1999, the PUC entered its Order and rejected the GTE proposed Chapter 30 Plan. The PUC supported the determinations found by ALJ Meehan and rejected the Plan as requiring inadequate modernization and continuing to rely upon rate of return based regulation. GTE was ordered to refile its Chapter 30 Plan in late 2000.

**Verizon Structural Separations Proceeding**

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

The OCA intervened into this proceeding and proceeded with issuing discovery and preparing direct testimony in response to Verizon’s filing. The remainder of this proceeding will be litigated throughout the Fall and Winter of 2000.
**AT&T Communications of Pennsylvania/TCG Pittsburgh Application**

On April 19, 2000, AT&T, and its affiliate TCG, filed an Application with the Commission seeking to provide facilities-based competitive local exchange service in the service territories of eight rural telephone companies in western Pennsylvania. (Docket Nos. A-310125F0002 and A-310213F0002) In response to the Application, the Commission issued a Secretarial Letter on June 12, 2000 raising questions to be addressed, in addition to the usual Application proceedings, regarding the ramifications of approval of Application and the impact of those ramifications on end-users.

The OCA intervened in this proceeding to represent the interests of Pennsylvania consumers particularly with regard to answering the Commission’s specific questions as articulated in the Secretarial Letter. Therefore, the OCA filed testimony generally recommending approval of the Application while cautioning that the Commission should further monitor the impact of such approval. In accordance with the condensed procedural schedule established by the Administrative Law Judge, the OCA also presented its witness and cross-examined other witnesses, during two days of evidentiary hearings in June. Following the hearings, the OCA also filed a Main Brief and a Reply Brief to further enunciate its responses to the Secretarial Letter.

A Recommended Decision was recently issued by the Administrative Law Judge which recommended approval of the Application. At this time, the Commission has not yet acted on the Recommended Decision.

**Interconnection Proceedings**

On August 11, 1997, Citizens Telephone Company of Kecksburg, Inc. (Citizens), filed a Petition for Streamlined Regulation and Plan for Network Modernization and also requested a five-year suspension from the interconnection obligations imposed by the Telecommunications Act of 1996. By Opinion and Order entered April 28, 1999, the Commission granted Citizens a stay from the requirements of certain provisions of Section 251(b) and 251(c). The suspension was granted until July 10, 2000; with a potential for two 1 year renewals consistent with the parameters set forth in the July 10, 1997 Order in docket number P-00971177 involving various rural and small incumbent local exchange carriers. In that Order, notwithstanding the exemption and grant of a suspension under Section 251(f) of the Telecom Act, the Commission also required Citizens to undertake to provide equal number portability, reciprocal compensation, access to right-of-way and dialing parity with respect to Armstrong Communications.


Citizens petitioned the Commission on January 10, 2000 to extend the suspension of the interconnection obligations one year, or until July 10, 2001, with the suspension being effective July 10,
2000. Citizens’ request mirrors the one year suspension extensions requested by other small and rural incumbent local exchange carriers and granted by the Commission. The Commission granted Citizens’ request.

With regard to the requirement that Citizens provide equal number portability, reciprocal compensation, access to right-of-way and dialing parity, Armstrong in 1996 had petitioned the Commission requesting arbitration of an interconnection agreement with Citizens (Docket No. P-00961127, et al.). Subsequent to the Commission’s April 28, 1999 Order, Armstrong elected to defer discussion on those items pending the conclusion of the appeals. The Commission therefore, by Order entered January 28, 2000, dismissed Armstrong’s Petition without prejudice.

Federal

Numbering Issues

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

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

The OCA has also filed several pleadings at the FCC, as an individual agency and on behalf of NASUCA, on these same issues. On December 18, 1998, NASUCA filed Comments with the FCC in response to the NANC Report Concerning Telephone Number Pooling and Other Optimization Methods (NSD File No. L-98-134). NASUCA argued that the FCC should quickly take action to implement various techniques outlined in the NANC Report that have the potential to avoid the rapid addition of area codes and exhaust the present system that allows telephone numbers to be dialed using no more than ten digits. NASUCA advocated that the FCC should also empower states to implement these various measures.

On June 2, 1999, the FCC issued a Notice of Proposed Rulemaking regarding Numbering Resource Optimization (CC Docket No. 99-200) which the OCA, as part of NASUCA, filed Comments and Reply Comments upon. The FCC also issued a Report and Order and Further Proposed Notice of Rulemaking on March 31, 2000 regarding Numbering Resource Optimization, which the OCA filed Comments upon as part of a group of utility consumer advocates. In all of these Comments, the OCA emphasized the urgency for a national numbering conservation plan to slow the implementation of additional area codes across the country thus minimizing the burdens placed on consumers due to the implementation
of new area codes. The OCA advocated primarily for the use of thousands-block pooling and rate center consolidation as methods to slow the exhaust of numbering resources. Again, the OCA urged that the FCC should empower states to implement these various measures.

On December 23, 1999, the Pennsylvania Public Utility Commission petitioned the FCC for its own individual authority to implement numbering conservation measures. The OCA filed Comments in support of this petition so that the Pennsylvania Commission can tailor its use of numbering conservation measures to meet the particular needs for numbering resources in Pennsylvania. The FCC recently granted the Pennsylvania Commission some of the authority it requested and that the OCA supported so that Pennsylvania’s particular area code issues can be addressed. The OCA will advocate for the Pennsylvania Commission to exercise its new authority to implement these measures.

The OCA was also active in other states’ individual petitions to the FCC for their own additional numbering authority so that those states could also tailor numbering conservation measures to meet the specific needs in their states to control numbering resources. In particular, the OCA filed Comments in support of the Petitions from: Massachusetts, New York, Florida, California, Texas, Connecticut, Wisconsin, New Hampshire and Ohio.

Other Federal Action

The OCA was also active in filing Comments to various other FCC proceedings including: the federal Subscriber Line Charge (SLC), the Central Office Code Utilization Survey (COCUS) process, Calling Party Pays, Low-Volume Long-Distance Users protections, Voice Grade Access requirements, Carrier Identification Codes and Reciprocal Compensation. Throughout these Comments, the OCA advocated various consumer protection issues for Pennsylvania consumers and consumers nationwide.
WATER

Base Rate Increase Proceedings

Whenever an increase to water rates is proposed by a major water utility, the OCA assembles a team of accounting, rate of return, rate design and, in some cases, engineering experts to enhance its participation on behalf of the affected consumers. In each case, OCA attorneys, with the assistance of expert consultants, thoroughly scrutinize and challenge the utility’s rate claims and, where appropriate, investigate allegations of inadequate quality of service.

In April 1999, Pennsylvania-American Water Company (PAWC) filed for a base rate increase of over $40 million, an increase of 14.2%. (Docket No. R-00994638) For most of PAWC’s residential customers, this would have translated into a change in monthly bills from $30.97 to $34.90. PAWC also sought changes in rates and charges for other customer classes, including rate reductions for Public Fire customers. In June of 1999, the OCA filed a Formal Complaint and the investigation into all aspects of the case - accounting, depreciation, rate of return, rate design and quality of service - were in progress. Following full public input and evidentiary hearings, the OCA entered into settlement negotiations with the various parties to the case.

Pursuant to the settlement which resulted, PAWC was permitted to put an increase of $24.6 million into effect, rather than the $40 million initially sought - an 8.7% increase rather than the 14.2% originally requested. The residential bill impact was a 6.88% increase, rather than the original 12.69%. The Company also agreed to refrain from filing for another increase prior to one year following the effective date of the settlement rates. The Commission Order approving the settlement rates was entered on December 17, 1999.

Another base rate increase request that resolved through a settlement was that of The York Water Company to increase its annual operating revenues by $1,535,946 or 8.8%. (Docket No. R-00994605). This increase request, filed on April 22, 1999, was exclusive of any revenues associated with State Tax Adjustment Surcharge and the Distribution System Improvement Charge which will automatically be rolled into the Company’s rates, in accordance with law. The Commission issued an Order instituting a formal investigation into the Company’s proposed rate increase. Subsequently, the parties began informal settlement negotiations.

The parties were able to reach a settlement on all aspects of the case and a Settlement Petition was filed with the Commission. The settlement provided for a base rate increase of $651,000, which represents a 3.7% increase in the Company’s projected revenues. The Company agreed to refrain from filing another base rate increase prior to one year after the effective date of the rates resulting from this case, or until approximately October 2000. The PUC approved the settlement in October 1999.
In October 1999, Philadelphia Suburban Water Company, Consumers Water Company - Roaring Creek, Susquehanna and Shenango Valley Divisions, having been merged in March 1999, filed tariff supplements to increase revenues by approximately $28 million. (Docket Nos. R-00994868, R-00994877, R-00994878 & R-00994879) Following public input hearings in five different areas of the service territory, the parties to the case entered into settlement negotiations which resulted in a reduction to that request by nearly 40% to $17 million. In other words, the overall increase in annual revenues was approximately 9.4%, rather than 15.5%, as originally sought. For a 5/8-inch metered residential customer consuming 4,700 gallons per month in the Main Division, the bill impact was about 10.8% - or a $2.80 increase per month.

For residential customers in the Roaring Creek Division of Consumers territory who were paying among the highest rates of all large water utility customers in the Commonwealth, the first consumption block charge was reduced while the customer charge increased toward the charges of the Main Division, resulting in a net overall reduction in revenues of approximately $650,000. The Roaring Creek customers thus experienced a reduction in their bills of approximately 10%. The Company also agreed to refrain from further base rate increase requests until May 2001. The PUC approved the settlement in April 2000.

Applications & Related Proceedings

On April 21, 1999, United Waterworks, Inc. filed an application with the Commission to acquire Center Square Water Company and to begin to offer water service to portions of Cumberland and York Counties. (Docket No. A-210390F2000) According to the application, the consideration for this acquisition was $1,200,000. The Joint Applicants made several other proposals in the Application, seeking Commission approval of an acquisition adjustment in a future rate proceeding and a finding that the expenses related to the transaction were reasonable and recoverable through rates. The Application also sought approval of a 68% increase in the rates to the residential Center Square customers over a two-year period, to bring those rates in line with those of the United Water residential customers.

On May 14, 1999, the OCA filed a Protest to the Application, asserting that the 68% increase in rates to the Center Square customers did not appear just and reasonable. Furthermore, the proposed transaction appeared to be improper due to the request for approval of the future acquisition adjustment and for the additional $10,000 in acquisition expenses in future rates.

In order to resolve the OCA’s Protest, United agreed to withdraw all of the provisions to which the OCA had objected: the proposed 68% rate increase and the request for preapproval of the acquisition adjustment and the acquisition expenses. The Commission approved the stipulation in February 2000.

United Water subsequently filed a Petition to the Commission seeking waiver of the statutory sixty-day notice period to enable the Company to impose the State Tax Adjustment Surcharge
and the Distribution System Improvement Charge on the customers within the acquired Center Square territory. The OCA contested this Petition, asserting that the terms of the settlement agreement prohibited any rate changes until the conclusion of United’s next base rate increase for all of its customers. United withdrew this Petition with prejudice in May 2000.

In July 1999, **Philadelphia Suburban Water Company** (PSWC) filed a Petition for a Declaratory Order (Docket No. P-00991732). In that Petition, PSWC asked the PUC to declare that it was a violation of the Pennsylvania Public Utility Code for a regulated public utility to agree, as a condition of acquiring a municipal water system, to provide free public fire service to the municipality in perpetuity. As background, the City of Coatesville Authority, the seller of the system, had mandated a “non-negotiable term” in the bidding process, *i.e.*, that any buyer must agree as a condition of the sale to provide the City public fire hydrant service at no charge forever.

The OCA intervened in the Declaratory Order proceeding and expressed its agreement that such a mandatory provision for free service in perpetuity to any customer would lead to a violation of the sections of the Public Utility Code requiring the Commission to establish “just and reasonable” rates for all customers, including public fire customers; the sections prohibiting undue preferences or discrimination, and the section requiring Commission review of all contracts or agreements between a public utility and a municipal corporation.

In October 1999, the Commission issued its order granting the Petition for Declaratory Order.

Four months after the issuance of the above Declaratory Order, **Pennsylvania-American Water Company** (PAWC) submitted its Application to purchase the City of Coatesville water and wastewater systems. (Docket No. A-212285F0071 and A-212285F0002) Within the Application, PAWC stated that it did not intend to charge the City for public fire service at any time, in accordance with the City’s “non-negotiable bidding term.” The OCA filed a Protest to this Application on the basis that the proposal to provide public fire hydrant service without charge in perpetuity was contrary to the Commission’s October Declaratory Order and the Public Utility Code. At the end of the fiscal year, the matter was pending before an Administrative Law Judge.

In April 2000, **Citizens Utilities Water Company** (Citizens) and PAWC filed a Joint Application with the PUC for approval of the sale and transfer of water utility property rights from Citizens to PAWC. (Docket No. A-212285F0074, A-211070F2000) The OCA intervened in the proceeding, as did Philadelphia Suburban Water Company. The OCA also submitted a Protest, asserting that affirmative public benefits are required to be shown as a condition of approving the sale. As of the end of the fiscal year, the matter was pending.
SMALL UTILITY PROJECT

Introduction

Since 1991, the OCA has annually reviewed the rate filings, applications, and monitored other activities of the Commonwealth’s nearly 200 small utilities, as part of the OCA’s Small Utility Project. Through the Small Utility Project, the OCA seeks to assure that customers of small utilities benefit from the OCA’s expertise in matters of rates and other regulatory concerns the same as customers of larger utilities. Even so, small utility cases have their own unique dynamics. On one hand, the OCA typically has contact with a much greater percentage of customers of the utility, whether through informal meetings, correspondence or at public input hearings, than for larger utilities. On the other hand, small utility cases present the challenge of how to protect the consumers’ interests without overwhelming the utility’s often limited resources with litigation costs.

The OCA has met this challenge by developing specific expertise in matters related to small utilities, participating in alternative dispute resolution where appropriate, and participating in rulemakings and other regulatory programs which directly impact the regulation of small utilities. The following is a summary of the OCA’s activities in other proceedings for the 1999-2000 Fiscal Year involving the Commonwealth’s smaller water and sewer utilities.

Complaint Cases

As reported in last year’s annual report, the OCA intervened in a customer complaint against LP Water and Sewer Company, seeking refunds for amounts paid to LP by its customers prior to the time the Commission approved LP’s initial tariffs. (Docket No. C-00956966). On appeal, the OCA intervened in and briefed the issues in support of the PUC’s order. Commonwealth Court, on October 21, 1998, upheld the Commission’s order requiring LP to refund $598,535 to its customers. (3015 C.D. 1997) The Court rejected all of LP’s arguments against the PUC order. On November 20, 1998, LP petitioned the Supreme Court of Pennsylvania for allowance of appeal. On December 7, 1998, OCA filed a brief in opposition to LP’s Petition for Allowance of Appeal. LP’s Petition for allowance of appeal was denied by the Pa. Supreme Court on August 10, 1999. (1001 M.D. 1998).

As discussed in last year’s report, the PUC’s Law Bureau and National Utilities, Inc. reached a settlement of Law Bureau’s complaint against NUI. (Docket No. C-00967814). The Settlement was filed on December 4, 1998. The OCA did not take a position on the settlement. On January 7, 1999, the ALJ issued an Initial Decision recommending approval of the settlement. The Commission issued a tentative order on August 8, 1999.

Applications
As noted in last year’s report, Chesterdale Waste Treatment Company filed an application for initial certificate in June, 1994. (Docket No. A-00230042). On August 20, 1999, Little Washington Wastewater Company filed an application seeking Commission approval to acquire the assets of Chesterdale. The OCA did not oppose the application and no other protests were filed. The Commission granted the application on November 8, 1999.

Base Rate Increase Proceedings

National Utilities, Inc. filed for a base rate increase in the amount of $477,026 or a 57% increase on October 30, 1998. (Docket No. R-00984334). Along with fifteen NUI ratepayers, the OCA filed a formal complaint against the increase. Several petitions were submitted by other NUI ratepayers, one of which called for a takeover by a neighboring water authority. In addition to its customary rate inquiry, the OCA engaged the services of an engineering consultant to assist in exploring a variety of water quality complaints presented by the NUI customers. Following the Company’s agreement to participate in the PUC’s Alternative Dispute Resolution, the tariff supplement was suspended until November 1999. During the next several months, the parties to the case were able to negotiate a settlement which provided for an increase of $230,000 with twelve additional provisions for improved water and service quality.

In response to the testimony admitted at the public input hearings by NUI’s customers, the Company agreed to respond to low pressure complaints, flush mains more frequently except in drought conditions, provide more detail on customer bills, advise customers of its toll-free number, provide prompt good faith communications with customers when outages occur, among other conditions. The Administrative Law Judge recommended approval of the settlement.

On October 7, 1999, the Commission issued a Tentative Order accepting the proposed settlement with modification. Specifically, the PUC’s order directed NUI to exit the jurisdictional water and wastewater business in two years. NUI filed a response to the Tentative Order rejecting the Commission’s modification. On November 4, 1999 the Commission issued a Short Form Order in which it rejected the Settlement as not being in the public interest without the Commission’s modification and denied the rate case request without prejudice. NUI filed a Petition for Reconsideration in which it asked the PUC to reconsider its Short Form Order and allow NUI to increase rates by $230,000 and include the PUC’s modification of the two year exit requirement. The PUC issued an order on December 20, 1999 in which it approved a rate increase of $230,000 subject to the condition that NUI exit the jurisdictional water and wastewater business within 2 years.

On February 28, 2000, Penn Estates Utilities, Inc. filed two base rate cases, one for the water division and one for the sewer division. (Docket Nos. R-00005031 and R-00005032). The Company filed for base rate increases of $68,571 (28%) and $248,218 (89%) respectively. OCA filed formal complaints. Approximately 100 additional complaints were filed by customers. Settlement negotiations resulted in a settlement petition being filed by the Company, OTS and OCA. The settlement provides for base rate increases of $39,000 for water and $236,000 for sewer. The settlement also
provides for a number of water quality and managerial improvements and a stay out for filing for an additional rate increase until January 15, 2003. At the end of the fiscal year, the settlement was pending before the ALJ.

On September 7, 1999, Venango Water Company and Cooperstown Water Company filed rate increase requests of $19,360 (22.2%) and $5,440 (14.87%) respectively. (Docket Nos. R-00994778 and R-00994733). The OCA filed formal complaints. The parties submitted a settlement petition on February 10, 2000. The settlement petition proposed an increase for Venango of $17,905 (20.5%) and for Cooperstown of $4,797 (13.11%). The settlement also contained a stay out of 18 months and addressed rate design issues raised by the Companies’ filings. On March 16, 2000 the ALJ adopted the settlement and on April 17, 2000, the PUC approved the settlement.

On September 30, 1999, Fawn Lake Forest Water Company filed a rate increase request of $51,055 (10.2%) (Docket No. R-00994801). The OCA filed a formal complaint. The active parties submitted a settlement on March 7, 2000. The proposed settlement included a revenue increase of $41,000 (8.18%). The settlement also addressed rate design changes, metering obligations and water quality concerns. Fawn Lake agreed not to file another rate case before one year from the effective date of rates. The ALJ recommended approval of the settlement on April 11, 2000. The PUC adopted the ALJ’s recommendation on May 15, 2000.

On May 5, 1999, Imperial Point Water Service Company filed for a rate increase of $19,662 (24%) (Docket No. R-00994681). The OCA filed a formal complaint. The active parties reached a settlement proposing an increase of $7,500 (9.34%) as well as modifications to Imperial Point’s accounting methods and other provisions, including a stay out. On October 6, 1999, the ALJ recommended adoption of the settlement. The PUC adopted his recommendation on November 4, 1999.

On March 31, 2000, Emporium Water Company filed a rate increase request of $259,937 (40.2%) (Docket No. R-00005050). The OCA filed a formal complaint on May 8, 2000. At the end of the fiscal year, the parties were participating in the Commission’s mediation process.

On April 28, 1999, Superior Water Company filed a rate increase request of $259,048 (76.8%) (Docket No. R-00994672). OCA filed a formal complaint. 172 customers also filed formal complaints. After an extensive mediation process and a public input hearing, the OCA, OTS, and the Company reached a settlement agreement proposing a rate increase of $230,000 in two phases. The first phase was an increase of $150,000. The second phase, in the amount of $80,000 was to become effective six months after the effective date of Phase I rates so long as certain capital projects were completed. The settlement also provided for a two year stay out. In addition, many service issues were addressed as well.

An additional hearing in the service territory was held on November 4, 1999 specifically for comments on the settlement. On December 22, 1999, the ALJ recommended adoption of the settlement. On March 3, 2000, the PUC entered an order adopting the settlement.
On December 23, 1998, the **City of Lancaster-Water** filed a base rate increase request of $999,937 (18.8%) (Docket No. R-00984567). The OCA filed a formal complaint as did a group of municipalities. The parties were able to stipulate to all issues except two, including the cost of equity and overall rate of return. After full litigation on those issues, the PUC entered an order granting Lancaster an increase of $610,350. In October, 1999, City of Lancaster-Water filed an appeal of the final Commission order in its base rate proceeding. Briefs on appeal were filed in April and May, 2000. At the end of the fiscal year, the appeal was pending before Commonwealth Court.
CONSUMER EDUCATION AND OUTREACH

Consumer Education

The Office of Consumer Advocate substantially expanded its consumer education efforts in October 1998 by hiring its first Consumer Education and Outreach Coordinator. The Office has produced new brochures, newsletter articles and consumer bulletins to inform the public on the functions and responsibilities of the Office, and to help consumers understand their choices in an increasingly competitive utility industry.

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

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

• issued twenty-five Consumer Bulletins and informational letters alerting consumers to utility mergers, proposed rate increases and scheduled public input hearings in their areas.

• participated in sessions organized by the Public Utility Commission to train the leaders of community based organizations on how to properly use the information available and participate in the Electric Choice Program.

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

• appeared in several media events, including radio, TV and Cable TV. Participated in numerous interviews for radio and newspapers.
served and actively participated on the Council for Electricity Choice, responsible for input and implementation of the statewide education program on electricity choice including TV, radio and print advertising, brochures and other educational materials.

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

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

actively participated as a consortium member in the planning and implementation of the Pennsylvania Energy, Utilities, and Aging Consortium biennial conference on “Changes and Choices: Utilities in the New Millennium”. The Consortium also held two roundtable workshops, one in Philadelphia and one in Erie, educating over 200 consumers, government agencies and community leaders on utility and aging issues.

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

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

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

worked with utility representatives and other office staff to prepare plain language consumer informational letters and bill messages to explain difficult to understand concepts such as caller ID, State Tax Adjustment Charges and impacts of changing rate structures.

served as a presenter at state and national conferences, forums, organization and group meetings and delegations covering topics concentrating on Pennsylvania’s electric restructuring benefits and consumer protections, natural gas competition, evolving telecommunications and water issues.
**Consumer Outreach**

*Presentations and Speaking Engagements*

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

<table>
<thead>
<tr>
<th>Date</th>
<th>Purpose</th>
<th>Place</th>
<th>Topic</th>
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</thead>
<tbody>
<tr>
<td>July 20, 1999</td>
<td>Consumer Forum sponsored by the D.C. Office of Peoples’Counsel</td>
<td>Washington, D.C.</td>
<td>Consumer Ed, Electric Restructuring &amp; Retail Competition</td>
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<tr>
<td>Sept 16, 1999</td>
<td>PEA Annual Meeting</td>
<td>Hershey, PA</td>
<td>Electric Choice Program</td>
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<td>Sept 22, 1999</td>
<td>Consumer Forum with State Representative Phyllis Mundy</td>
<td>Exeter, PA</td>
<td>Consumer Issues</td>
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<td>Sept 30, 1999</td>
<td>Consumer Federation of America</td>
<td>Wash, D.C.</td>
<td>Electricity Restructuring Consumer Impacts</td>
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<td>Oct 4, 1999</td>
<td>TV Show with State Representative Sheila Miller on GPU-Met Ed for airing in Reading, PA</td>
<td>Harrisburg, PA</td>
<td>Electric Utility Shopping</td>
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<tr>
<td>Date</td>
<td>Event Description</td>
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<td>City/State</td>
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<tr>
<td>Oct 6, 1999</td>
<td>Delaware Public Service Commission</td>
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<td>Dover, DE</td>
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<td></td>
<td>PA Consumer Education</td>
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<td>Oct 14, 1999</td>
<td>Northeastern PA Claims Association</td>
<td>Mountaintop, PA</td>
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<td>Comparison Shopping for electric and telephone services</td>
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<tr>
<td>Oct 21, 1999</td>
<td>AARP Strategy Session on Utility Issues</td>
<td>Washington, D.C.</td>
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<tr>
<td></td>
<td>What state did right/wrong on electric restructuring</td>
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<tr>
<td>Oct 26, 1999</td>
<td>Be Winterwise Utility Fair</td>
<td>Reading, PA</td>
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<td></td>
<td>All utility issues</td>
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<td>Oct 27, 1999</td>
<td>Council on Aging</td>
<td>Harrisburg, PA</td>
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<td></td>
<td>Electric competition, gas deregulation and telephone slamming</td>
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<td>Nov 9, 1999</td>
<td>NASUCA Annual Conference</td>
<td>San Antonio, TX</td>
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<td></td>
<td>Electric Restructuring Implications for Residential and Small Commercial Consumers</td>
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<tr>
<td>Nov 10, 1999</td>
<td>NASUCA Annual Conference</td>
<td>San Antonio, TX</td>
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<td></td>
<td>Moderator–Water Pricing-Alternative Schemes</td>
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<td>Nov 10, 1999</td>
<td>NASUCA Annual Conference</td>
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<td>Education of Residential and Small Commercial Customers in a World of Choice</td>
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<td>Nov 12, 1999</td>
<td>PUC Train the Trainer Session</td>
<td>Pittsburgh, PA</td>
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<td>Office of Consumer Advocate and the Residential Customer</td>
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<td>Nov 18, 1999</td>
<td>The Consumers’ Energy Conference</td>
<td>South Portland, Maine</td>
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<td></td>
<td>Electric Restructuring</td>
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<td>Dec 2, 3,4,</td>
<td>Town Meeting of PA State Senator Kitchen</td>
<td>Philadelphia, PA</td>
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<tr>
<td>1999</td>
<td>Electric Competition</td>
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<td>Date</td>
<td>Event Description</td>
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<td>Dec 7, 1999</td>
<td>Public Policy Forum University of Pennsylvania</td>
<td>Philadelphia, PA</td>
<td>Electric restructuring and the environment</td>
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<tr>
<td>Dec 21, 1999</td>
<td>PAPUC Consumer Advisory Council</td>
<td>Harrisburg, PA</td>
<td>PECO/UNICOM Merger Proposal</td>
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<td>Jan 21, 2000</td>
<td>Industrial Energy Consumers of PA</td>
<td>Harrisburg, PA</td>
<td>Electric and Gas Competition</td>
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<tr>
<td>Jan 28, 2000</td>
<td>Town Meeting of PA State Senator Kitchen</td>
<td>Philadelphia, PA Lawncrest Recreation Center</td>
<td>Electric Competition</td>
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<td>Feb 16, 2000</td>
<td>Office of Attorney General’s Consumer Fair</td>
<td>Harrisburg, PA</td>
<td>Staffed an exhibitor’s booth</td>
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<tr>
<td>March 8, 2000</td>
<td>AARP Local Chapter Meeting</td>
<td>Turtle Creek, PA</td>
<td>OCA, Electric, Gas and Telecommunication issues</td>
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<tr>
<td>March 21, 2000</td>
<td>NASUCA Capitol Hill Conference</td>
<td>Wash, D.C.</td>
<td>Moderator for Maintaining Reliability in a Competitive Electricity Market</td>
</tr>
<tr>
<td>March 21, 2000</td>
<td>NASUCA Capitol Hill Conference</td>
<td>Wash, D.C.</td>
<td>Are State Mandates and Order 2000 Sufficient to Fuel the RTO Formation Process?</td>
</tr>
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<td>April 25, 2000</td>
<td>Utilities, Energy &amp; Aging Consortium</td>
<td>Philadelphia, PA</td>
<td>Roundtable discussion sessions on electric shopping</td>
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<td>Date</td>
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<td>May 10, 2000</td>
<td>AARP Local Chapter Meeting</td>
<td>Clairton, PA</td>
<td>OCA &amp; Electric shopping</td>
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<td>May 11, 2000</td>
<td>Utilities, Energy &amp; Aging Consortium</td>
<td>Erie, PA</td>
<td>Roundtable discussion sessions on electric shopping</td>
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<td>May 11, 2000</td>
<td>PA Weatherization Task Force</td>
<td>Harrisburg, PA</td>
<td>Restructuring, renewables, and low income issues</td>
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<td>May 19, 2000</td>
<td>Community Assistance Network</td>
<td>Homestead, PA</td>
<td>Electric, gas and telecommunication issues</td>
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<td>May 24, 2000</td>
<td>World Forum on Energy Regulation</td>
<td>Montreal, Canada</td>
<td>Processes of regulation: negotiated settlements vs. adversarial proceedings</td>
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<tr>
<td>May 25, 2000</td>
<td>Senator Gerlach's Senior Expo</td>
<td>Chester County, PA</td>
<td>Staff an exhibitors booth, answer questions and distribute materials</td>
</tr>
<tr>
<td>June 1, 2000</td>
<td>PA State Senators Tilghman and Holl's Senior Citizen Expo</td>
<td>Washington, PA</td>
<td>Staff an exhibitor's booth, answer questions and distribute materials</td>
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<tr>
<td>June 8, 2000</td>
<td>PA State Senator Tim Murphy's Senior Expo</td>
<td>Castle Shannon, PA</td>
<td>Staff an exhibitor's booth, answer questions and distribute materials</td>
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<tr>
<td>June 20, 2000</td>
<td>To Live Again (Widows and Widowers)</td>
<td>Philadelphia, PA</td>
<td>Electric shopping</td>
</tr>
</tbody>
</table>
CONSUMER COMPLAINT PROCEEDINGS

Natural Gas Proceedings

Titan Energy, Inc., (United States Bankruptcy Court, Northern District of Georgia, Case No. 00-69001) is a natural gas supplier serving approximately 50,000 customers in the Columbia and Peoples Gas service territories.

Through customer calls and letters to the OCA call center, the OCA became aware of a letter sent by Titan Energy to its customers. In the letter, Titan asked the customers to send in deposits of $25 per year for each year of their fixed rate contract with Titan in order to assure the continuation of their existing fixed rate contract. According to the letter, if the customer did not send in this assurance money, then the customer would be switched to a monthly variable rate that was substantially higher than the fixed rate contract.

While the OCA was investigating Titan’s letter, Titan filed for bankruptcy in Georgia. The OCA intervened in the Georgia bankruptcy proceeding and filed Objections to the Debtor’s Emergency Motion For Order Authorizing the Sale of Property. OCA’s objections sought the return of the deposits sent in by some of Titan’s customers, in response to the June 14, 2000 letter from Titan, to assure the continuation of the fixed rate contract with Titan.

In July 2000, the bankruptcy judge issued an order resolving the bankruptcy proceeding, including the OCA’s issues. Specifically, the OCA and PowerDirect, the successful bidder for Titan Energy’s stock, entered into an agreement in which Power Direct agreed to return, within 60 days of the bankruptcy order, the deposits sent in by Titan’s customers, as well as send a second notice to all other customers advising them of the ability to continue on the fixed rate contract at no additional charge or move to a monthly variable rate. The letters were subject to PUC and OCA approval. Titan ultimately returned $281,000 in deposits to those Pennsylvania customers who had sent in the assurance payment in response to Titan’s June, 2000 letter.

Extended Area Service Proceedings

During the 1999-2000 fiscal year, the OCA continued to provide assistance to numerous telephone consumers who have concerns about the adequacy of their local calling areas, as well as to state legislators who raise concerns on behalf of their constituents. In some instances, the OCA intervened to assist consumers who have filed formal complaints with the Commission seeking to improve their local telephone service through changes in the boundaries between exchanges or the expansion of their toll-free local calling area. In other cases, the OCA has informally assisted the consumers in communicating their concerns to company counsel, assisted consumers in the litigation without formal intervention and advised consumers of optional rate plans or other alternatives that would have the effect of reducing their toll charges without litigation.
In the case of Norton v. Bell Atlantic - PA, Docket No. C-009922980, several Bell customers submitted Formal Complaints on behalf of the community of Mount Gretna, PA, in order to seek a larger local calling area. The OCA formally intervened to assist these customers in January 2000. Currently, Mount Gretna has non-toll calling to only three neighboring communities: Palmyra, Lebanon and Annville. The customers seek an expansion of their local calling area to Hershey, Hummelstown and Elizabethtown. On behalf of the Mount Gretna customers, the OCA submitted a motion to require Bell to perform a new traffic study and that motion was granted by the Administrative Law Judge. At the conclusion of the fiscal year, the OCA was awaiting the results of the new study.

The OCA also formally intervened in the case of Vincent Golden and Tammy Warner v. Bell Atlantic - PA and GTE North, Inc., Docket No. C-00991878 and C-00981960, on behalf of all of the customers in the Portage exchange in Bell’s service territory. Portage currently has only one other exchange in its local calling area. The customers sought extended area service to several neighboring exchanges. The OCA submitted testimony in support of EAS to Johnstown, South Fork and Ebensburg. Evidentiary hearings were concluded in April 2000. The Administrative Law Judge issued an Initial Decision concluding that the Complainants and the OCA had met the burden of proving that Bell’s service is inadequate and that the customers should be polled in order to determine whether three additional exchanges – Johnstown, South Fork and Ebensburg – should be included in their local calling area in exchange for a modest increase in their monthly service charge.

More than fifteen hundred GTE customers joined in a formal complaint against GTE in Docket No. C-00968442, Linda Fenske v. GTE North, Inc. This was the fourth in a series of formal complaints by members of the same customer group addressing the inadequacy of their local calling area. Many of these customers were incurring hundreds of dollars’ worth of toll bills each month just to make routine calls to schools, friends and relatives, hospitals, churches and businesses in the York and Red Lion areas. The customers asserted that the high cost of telephone service was economically disadvantageous to the Stewartstown community, as other neighboring areas had much larger toll-free calling areas.

The OCA intervened to assist this group of customers and joint efforts to demonstrate that the PUC standards for mandatory EAS were met proved successful. The PUC approved the Administrative Law Judge’s recommendations that a polling should be conducted to determine whether the majority of Stewartstown customers are in favor of expanding the local calling area in exchange for a small increase in their monthly customer charges. That polling was successful and in February 2000, the Stewartstown customers’ local calling area was expanded to include Red Lion and York.

Numerous complaints were filed by Bell customers in Haines, Miles and Penn Townships, as well as the Borough of Milheim, an area known as the “Spring Mills exchange.” These customers, numbering nearly 5,000, complained that they were able to call only two other exchanges without incurring toll charges. The OCA filed a formal intervention to assist these customers in their attempt to expand their local calling area to include Bellefonte, Boalsburg and State College.
Hearings were held, following which the Complainants (represented by individual counsel) commenced negotiation with Bell of PA to resolve the matter in order to avoid continued litigation. A settlement was reached between the Complainants and Bell which was ultimately approved by the Commission and resulted in a successful polling. EAS to the three other exchanges has now been implemented in exchange for a small monthly charge.

The OCA intervened to assist customers in a case captioned Keith R. McCall v. Bell Atlantic - Pennsylvania, Inc., Docket No. C-00981941. Several hundred customers in Lehighton, Pa., asserted that their phone bills were exorbitant because their “community of interest” straddles not only an exchange boundary, but also a “LATA” boundary. Each call to a family member, school, or local business in the Palmerton area results in an additional toll charge. Public and evidentiary hearings were concluded in October 1999 and the Administrative Law Judge issued his Initial Decision in March 2000, recommending that Bell offer an optional calling plan to its Lehighton customers. The OCA submitted exceptions to this Initial Decision, arguing that Extended Area Service to Palmerton is needed to remedy the inadequate service. As of the end of the fiscal year, the OCA was awaiting the Final Order.

Other Consumer Quality of Service Complaints

The unlawful practice of “slamming” takes place when a long distance company switches a consumer from another long distance company without the customer’s consent. The OCA has assisted numerous consumers who have been “slammed” both by contacting the companies to return the account to the consumers’ chosen carrier and by pursuing complaints where the informal remedy has not proved satisfactory.

For example, Harriet Gaige filed a Formal Complaint against AT&T, asserting that AT&T had switched her long-distance telephone service from MCI Telecommunications to AT&T without her permission. (Docket No. C-00981211). The slam had been accomplished through forgery of her husband’s signature. The OCA intervened to assist the Complainant in 1998 and participated in a hearing on the case.

The ALJ agreed with the OCA and the Complainants that AT&T was liable for the actions of its employees of contractors who were responsible for the incident. The ALJ and the Commission found that a fine in the amount of $20,000 pursuant to the Pennsylvania Public Utility Code was warranted. The case was concluded in September 1999.

The OCA has also assisted consumers in other types of quality of service complaints. For example, in Freedman v. Bell Atlantic-PA, the customers alleged persistent low volume, extraneous noise and outages over a six-month period. With the assistance of an expert telecommunications engineer, the OCA attempted to resolve these quality of service concerns; however, the case remained unresolved at the end of the fiscal year.
The OCA was also called upon to assist a consumer in Docket No. C-00992839, who alleged that she requested a non-published number in 1999 and asked that her name, address and phone number not be distributed to any other companies. Nonetheless, in July 1999, the consumer began to receive telemarketing calls from companies who said that her information had been received from Bell Atlantic. The OCA formally intervened in this matter in June 1999 to request that Bell take steps to ensure that her rights and those of other non-published number subscribers are protected pursuant to Commission regulations requiring that customer information only be used for the legitimate and lawful activities necessarily incident to the rendition of service.

**Water Utility Main Extension Cases**

The OCA continues to review all formal complaints filed with the Public Utility Commission against water utilities. Some of these complaints involve routine billing disputes, leaks or quality problems. On the other hand, many such complaints are filed because groups of citizens need an extension of public water service and have been unable to obtain it.

Some of these groups have experienced serious quality problems with existing supplies or have increasingly inadequate supply due to increased development. Some have only the option of purchasing water from local suppliers to fill cisterns for their home supply.

In some instances, even where the need for public water service is compelling, companies are able to charge applicants for service for a portion of construction costs. This occurs because water utilities’ tariff rules require the application of a mathematical formula to determine whether the additional revenues to be received from new customers will offset the increased expenses to the company resulting from the new mains. If not, the companies may require applicants for water service to pay a portion of the cost of construction and this sometimes makes water service unaffordable. OCA attorneys, with the help of an engineering consultant, were able to assist a number of groups of applicants for water service during the course of this fiscal year.

As a result of three different settlements which occurred during the fiscal year, over one hundred families were able to receive water service without advance contributions toward construction in various areas of Pennsylvania-American Water Company’s service territory. These communities also benefit by the availability of public fire service in their areas for the first time. Many of these families had experienced substantial outages due to their wells running dry and all relied at least partially on hauled or bottled water to meet their household needs.

At the end of the fiscal year, several proceedings and investigations were underway to assist groups of customers seeking water service in Washington County.
**Water Quality of Service Cases**

In June 1999, the OCA intervened in a Formal Complaint proceeding captioned *Balla v. Redstone Water Pennsylvania*, Docket No. C-00992270. A group of sixteen Redstone Water customers in Daisytown, Washington County, had experienced poor water quality and periods of low pressure for many years and filed Formal Complaints with the PUC. One hundred twenty-six customers later joined in the Formal Complaint due to similar water quality and pressure problems. With the assistance of an expert engineer, the OCA’s investigation consisted of extensive document review at the DEP, several site visits and independent water quality tests. The matter proceeded to litigation in which the OCA recommended an independent engineering study of the feasibility of interconnecting with a neighboring water supplier to resolve the quality and pressure concerns. At the end of the fiscal year, the OCA was awaiting the Initial Decision.

The OCA also intervened in the case of *Don E. Crist v. Scott Water Company*, Docket No. C-00003337. The Company’s twenty-six customers filed a Formal Complaint with the PUC due to an extensive period of alleged Safe Drinking Water Act violations.

After extensive discussions and prior to evidentiary hearings, the Company agreed to give certain credits on the various customers’ water bills as partial compensation for the periods of inadequate service and other related expenses, depending upon the particular circumstances. The Company further agreed to commit to abiding by the Safe Drinking Water Act requirements, as specifically set forth in a Consent Decree signed and filed with the Department of Environmental Protection in May 2000.

**Electric Outage Investigations**

As part of its emphasis on quality of service issues, the OCA has intervened in several formal complaint proceedings and participated in investigations of electric power outages throughout the Commonwealth. As a result of these efforts, many consumers have experienced improvements in reliability of their service day-to-day. In addition, enhanced tree-trimming efforts, improvements in circuitry, increased wildlife protection, increased installation of lightning arrestors are among the company efforts which have resulted in fewer outages and fewer subsequent surges that often occur, causing damage to home appliances. In conjunction with an expert engineering consultant, the OCA has recommended some or all of these measures to alleviate the risks and inconvenience associated with persistent power outages.

A residential GPU customer residing in Lookout, Pennsylvania, Wayne County, and three hundred other GPU electric customers in the area, petitioned the OCA for assistance with improving the area’s electric service. A community of 300 year-round residents, had experienced approximately thirty-five outages between January and October 1999. The recorded 1998-1999 outages ranged from thirty minutes in length to as long as fifteen hours. At times, the outages were followed by power surges which damaged customers’ equipment and appliances, sometimes irreparably.
The OCA, with the assistance of an engineering consultant who specializes in distribution systems, visited the area, met with the customers, viewed the circuit and discussed the problems with GPU management and engineers. As a result of these discussions, the Company committed to a multi-faceted approach to reliability enhancement, which included stepped-up tree-trimming efforts on the rights-of-way, installation of lightning arrestors, installation of a substation recloser replacement and new line recloser, installation of additional line spacers, all to take place over a period of twelve months ending September 2000. In the first six months of 2000, the Lookout customers had experienced only five outages, all of which have been adequately explained by the fact that the final phases of the reliability enhancement efforts had not yet been completed as of the end of the fiscal year.

At the request of several other customer groups and through formal interventions in pending complaint proceedings, the OCA assisted in attaining improved reliability in electric service through similar efforts in Allegheny, Blair, Centre, Lebanon, Bucks, Pike and York Counties.
OCA CALL CENTER

As of April 20, 2000, the OCA implemented a toll free number for Pennsylvania’s utility consumers - 800-684-6560. As noted in last year’s annual report, the OCA began development of a toll free number to aid consumers who have questions about or problems with their utility service. During Fiscal Year 1999-2000, the OCA enhanced its office space to accommodate the new call center. The OCA’s consumer service representatives staff the toll free number from 8AM to 6 PM, Monday through Friday. The addition of a toll free number represents a major undertaking for our office. Many benefits for consumers have already been realized, but there will be long-term benefits as well. The addition of the toll free number and consumer service representatives is another step in expanding our outreach to all Pennsylvania utility consumers in the rapidly changing world of utility regulation.

During Fiscal Year 1999-2000, the consumer service representatives have handled nearly 6,000 consumer contacts, including phone calls, letters and e-mail. Of those contacts, approximately 1,064 were complaints. The breakdown of complaints by utility industry are as follows:

<table>
<thead>
<tr>
<th>Industry</th>
<th># of complaints</th>
<th>% of total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone</td>
<td>670</td>
<td>63%</td>
</tr>
<tr>
<td>Electric</td>
<td>223</td>
<td>21%</td>
</tr>
<tr>
<td>Gas</td>
<td>96</td>
<td>9%</td>
</tr>
<tr>
<td>Water</td>
<td>75</td>
<td>7%</td>
</tr>
<tr>
<td>Total Consumer Complaints</td>
<td>1,064</td>
<td></td>
</tr>
</tbody>
</table>

![Consumer Complaints-Fiscal Year 1999-2000](image-url)
Summarized here are some examples of our assistance to individual consumers:

? We received numerous calls from consumers who were having billing problems with their new electric suppliers. In some instances, the consumers were supposed to receive refunds of one month’s generation bill according to their supplier contracts. Although many consumers contacted the suppliers, they did not receive the checks from the suppliers. We intervened on a case by case basis and followed through until each consumer who contacted us received his or her refund check.

? We also received calls from consumers who did not receive bills from suppliers for several months at a time. We contacted the supplier and made sure that each customer received a bill for each billing period and calculated at the correct rate.

? An example of assistance in the telephone area dealt with many instances of billing disputes consumers had with their long distance carriers. In a number of instances, a telemarketer called and offered the customer a specific rate to secure the account. Once the customers agreed to the service or the specific plan, they were billed at a higher rate. In a number of cases, customers were charged the highest basic rates for calls to another country, even though they had been promised a lower rate. In almost all cases, we were successful in having the calls rebilled at the lower rate.

? We were contacted by a gas customer who was very upset because of a billing mix-up that had been going on for the last several months. Her gas company had been billing her for a meter that was located in another part of the city and she could not get them to straighten the matter out. Despite numerous calls to the utility, her billing became more confusing each month and she kept receiving shut-off notices while the matter was being investigated. Over the period of just over one month, we stayed in contact with the utility in an effort to resolve this to everyone’s satisfaction. The utility acknowledged that it had entered the incorrect meter information on her account and agreed to an amount due that was satisfactory to both the consumer and the company.

? In another telephone case, we assisted a woman who had received a $342 bill from a long distance carrier for two calls made by her son, to Africa and Australia, through the internet. She attempted to have the calls removed from her bill, however she was advised that she was responsible for the bill. OCA contacted the long distance carrier to explain that the charges were incurred by a minor and that internet access had been taken away from him. The company agreed to forgive these charges on a one time only basis.

? A man called to advise us that he called a telephone company to set up service at his new Pennsylvania residence. He was assured that service would be hooked up on the designated date. Closer to that date, he was advised of a delay in his hook-up and another date was scheduled. The company changed his date four times and still he had no service. Every time he called the company, from his cell phone, he was given no adequate reason for the delay. Finally, he was told
about OCA and decided to seek our assistance. We contacted the company and found that someone had indeed dropped the ball and they proceeded with the task of hooking up his phone. One month after the date service was originally scheduled to begin, he got his dial tone and a credit to his account for all of the cell phone charges he incurred while waiting for his service. He was extremely pleased with the help we were able to provide.

During a family emergency, while away from home, a man used a payphone and charged his calls to his home telephone number. When he received his phone bill, he realized that he had been charged 89 cents per minute, plus $9.99 per call. He made numerous attempts to have the calls re-rated to coincide with his home calling plan, but he was not successful. Our office contacted his long distance carrier on his behalf. They advised us that because he didn’t use their calling card, they had billed him at their highest rate. The carrier agreed to re-rate the calls and credit the connection fee of $9.99 per call on a one-time basis.
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 the immediate Past President of NASUCA. Senior Assistant Consumer Advocate Denise Goulet serves on the gas committee. Senior Assistant Consumer Advocate Philip McClelland serves on the Telecommunications Committee. Senior Assistant Consumer Advocate Christine Hoover is the Chair of the Water Committee, and Senior Regulatory Analyst Marilyn Kraus serves on the Tax and Accounting Committee. OCA Consumer Education and Outreach Coordinator Grace Cunningham serves on the Consumer Protection Committee.

Additionally, OCA staff members serve in an advisory role on committees at the federal level. Mr. Popowsky was elected to serve as the first representative of small consumers on the Board of Trustees of the North American Electric Reliability Council (NERC), the national organization that was created to promote the reliability of the electric supply system in North America. Senior Assistant Consumer Advocate Philip F. McClelland is a member of the staff of the State/Federal Universal Service Joint Board, which presents policy recommendations to the Federal Communications Commission. Mr. McClelland also serves as NASUCA’s representative on the North American Numbering Council. Similarly, Senior Assistant Consumer Advocate Christine M. Hoover is the NASUCA representative to the American Water Works Association Public Advisory Forum. Ms. Hoover also represents NASUCA on two U.S. Environmental Protection Agency groups, the Stage 2 M/DBP regulatory negotiation and National Drinking Water Advisory Council’s Small Systems Working Group. Ms. Hoover also serves on the American Water Works Research Foundation’s Public Advisory Council on Drinking Water Research. Senior Assistant Consumer Advocate Denise Goulet participated on several committees devoted to the development of the PJM Interconnection as an Independent System Operator under the jurisdiction of FERC, including the PJM Public Interest and Environmental Users Group. Senior Assistant Consumer Advocate Dianne Dusman is a member of the American Water Works Association’s Subcommittee on Rates and Accounting.

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

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

The current OCA staff is listed below:

Irwin A. Popowsky
Consumer Advocate

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

Christy M. Appleby
Joel H. Cheskis
Erin L. Horting
Stephen J. Keene
Edward G. Lanza
James A. Mullins
Lori A. Pantelich
Zachary M. Rubinich
Barrett C. Sheridan
Assistant Consumer Advocates

Heather L. Fernsler
Ronald L. Finck
Legal Interns

Marilyn J. Kraus
Senior Regulatory Analyst

Daniel W. Griffiths
Senior Public Policy Research Analyst

Grace C. Cunningham
Consumer Education Coordinator

Mary M. Gillette
Director of Administration

Jane K. Long
Information Officer

Pamela R. Carroll
Leslie B. Chatman
Jayne M. Hontz
Kathleen A. O’Handly
Administrative Staff

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

Susan J. Henry
Consumer Liaison

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

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