



Annual Report  
of the  
Pennsylvania  
Office of Consumer Advocate

Fiscal Year 2015-2016

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## INTRODUCTION

The Office of Consumer Advocate (OCA) has served Pennsylvania utility consumers since its establishment by the General Assembly in 1976. The OCA is a statutorily independent office, administratively included within the Office of Attorney General.

The OCA represents Pennsylvania utility consumers in matters before the Pennsylvania Public Utility Commission (PUC) and other state and federal regulatory agencies and courts. The OCA participates before the PUC in all major rate cases, most small rate cases, and many non-rate proceedings that have a significant impact on consumers. The OCA also participates in matters before the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC) that have a substantial impact on Pennsylvania consumers. The OCA participates actively on policy-making committees of non-government organizations such as the PJM Regional Transmission Operator (RTO), whose decisions have a critical impact on electric prices and service in Pennsylvania. Through our consumer education outreach, website, and toll-free call center, the OCA also seeks to ensure that consumers are informed regarding changes in their utility service.

In recent years, the OCA has continued to work on proceedings resulting from major state and federal legislative changes impacting utility consumers, such as rulemakings and implementation orders regarding electric and natural gas restructuring, as well as regulatory requirements for basic and advanced telecommunications services. During Fiscal Year 2015-2016, the OCA worked on implementation orders and other cases that were a result of several legislative changes impacting utility consumers, such as the legislation addressing the consolidated tax savings adjustment, and changes to the valuation method for certain acquisitions of municipal water and wastewater systems. In Fiscal Year 2015-2016, the OCA continued to participate in ongoing proceedings involving the implementation of Act 11 of 2012, which included, among other things, a Distribution System Improvement Charge (DSIC) for electric, natural gas, water, and wastewater utilities, and a fully projected future test year, as well as the combination of water and wastewater revenue requirements. Many filings were made to establish DSICs, and numerous rate filings included the use of a fully projected future test year.

The OCA serves as the voice of Pennsylvania utility consumers as the utility industries continue to evolve from a fully regulated to a partially regulated, partially competitive structure. The OCA has evolved as well in order to ensure that Pennsylvania consumers receive the benefits – and avoid the potential harms – that these industry changes bring about.

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In the electric industry, the OCA continued its complaints against a number of electric generation suppliers regarding the variable rates charged to customers during early 2014 with final orders being issued in a number of cases. Those orders, among other things, included additional refunds to date of approximately \$10.6 million to affected customers. In addition, the OCA has sought to ensure that customers continue to be protected through the development of stable, reasonably priced "default" service. Pursuant to Act 129, the OCA continues to participate in all default service filings of electric distribution companies to ensure that those companies provide reliable default generation service to their customers at the least cost over time. The OCA also continues to be active in Act 129 proceedings to ensure that the energy efficiency, demand response, and advanced metering programs developed by Pennsylvania electric utilities provide the greatest benefit to consumers at the lowest reasonable cost. The OCA is also involved in the DSIC filings made pursuant to Act 11 by electric distribution companies. During Fiscal Year 2015-2016, and in the current year, the OCA has been involved in distribution base rate proceedings filed by six electric distribution companies as well as an application proceeding. At the same time, through our website and consumer outreach, OCA has been a leader in educating residential consumers on how to shop for competitive electric generation services if they choose to do so. Since much of the decision-making that affects Pennsylvania electric consumers occurs at the federal and regional level, the OCA has continued its expanded participation in key electric proceedings before the FERC, including the Potomac-Appalachian Transmission case, and in the activities of the PJM Interconnection.

In the natural gas industry, the OCA has participated in a number of base rate cases as well as application cases involving natural gas utilities. The OCA also is involved in the ongoing quarterly DSIC filings made pursuant to Act 11 by natural gas companies and a recent filing by natural gas companies to increase the DSIC cap. The OCA continues to represent consumers across Pennsylvania in the annual PUC review of every major natural gas distribution company's purchased gas costs. As in the electric industry, the OCA seeks to ensure that natural gas consumers continue to have access to the least cost "supplier of last resort" service from their regulated natural gas distribution company while also educating residential consumers about how to choose alternative natural gas suppliers. Over the last few Fiscal Years, the OCA has been involved in a number of PUC proceedings related to the retail gas market. The OCA has also been active in cases concerning the extension of natural gas service to unserved areas. The OCA participates in proceedings at the FERC that involve the major interstate pipelines that serve Pennsylvania's retail natural gas distribution companies.

In telecommunications, the OCA has participated in cases involving broadband deployment and basic service pricing in Pennsylvania, as well as cases involving implementation of federal orders regarding access charges and universal service funding. The OCA continues to focus on the goal of ensuring that Pennsylvania

maintains and enhances the provision of reliable and affordable universal telephone service throughout the Commonwealth while also achieving the universal broadband requirements of Chapter 30. This has included efforts to maintain reasonable limits on basic telephone rates, particularly in rural areas, and to expand the Lifeline telephone discount programs to low-income consumers who might otherwise not be able to afford service. The OCA also continues to monitor consumer complaints and inquiries regarding the availability of broadband in areas around the Commonwealth. At the federal level, the OCA works extensively with the National Association of State Utility Consumer Advocates to provide the consumers' perspective in proceedings before the Federal Communications Commission.

In the water and wastewater industries, the OCA continues to represent consumers in base rate increase cases involving large, medium and small companies, acquisitions, and other application proceedings, and mandatory takeover proceedings involving both large and small utilities. During Fiscal Year 2015-2016 and into the current year, the OCA participated in an application proceeding involving the PUC's jurisdiction over stormwater service as part of a proposed acquisition. The OCA has provided comments on the tentative implementation order issued by the Commission following the addition of Section 1329, municipal valuation, to the Public Utility Code. As water and wastewater infrastructure expand in order to meet the needs of Pennsylvania consumers for safe and adequate service, the OCA has expanded its own efforts to ensure that rates are maintained at reasonable and affordable levels. In addition, the OCA has participated in a number of service quality cases to ensure that consumers are receiving safe and adequate water and wastewater service, and has worked to extend public water service at a reasonable cost to unserved areas. The OCA continues to address requests from water and wastewater utilities of all sizes under Act 11 that choose to use the fully projected future test year and the provisions of Act 11 that allow for combining the revenue requirements of water and wastewater subsidiaries within the same parent company.

During the last Fiscal Year, in addition to its litigation activities, OCA participated on behalf of utility consumers in state and federal legislative and policy debates. The Office has been called on to present formal testimony in the Pennsylvania General Assembly regarding critical utility issues that affect Pennsylvania consumers. The OCA also presented testimony before the PUC at an en banc hearing on alternative ratemaking issues.

The OCA also responds to individual utility consumer complaints and inquiries. The OCA maintains a toll-free calling number (800-684-6560). The OCA also devotes substantial resources to educating consumers about changes in the utility industry. The Acting Consumer Advocate, Consumer Liaison, and other members of OCA staff have helped plan and participate in consumer presentations, roundtables, and forums across

the Commonwealth to help educate consumers about changes in the utility industry and to advise them about cases that affect them. During Fiscal Year 2015-2016, the OCA participated in 69 consumer outreach events across Pennsylvania, many of which were sponsored by members of the General Assembly. In addition, the OCA keeps consumers and members of the General Assembly informed through regular letters and bulletins about upcoming cases and public hearings. The OCA also provides consumer information and education through its website at [www.oca.state.pa.us](http://www.oca.state.pa.us). Among the most popular items on the OCA website are the OCA's monthly shopping guides that provide "apples-to-apples" price comparisons for residential electric and natural gas customers who are looking for alternatives to their utility default service suppliers.

The OCA recognizes the importance of its role in advocating for the interests of Pennsylvania consumers and keeping consumers informed with respect to their utility services. The OCA looks forward to continuing to meet its growing challenges on behalf of Pennsylvania utility consumers. The OCA believes that it has served Pennsylvania consumers well both with respect to its traditional regulatory responsibilities, as well as in its role in assisting consumers to obtain the benefits and avoid the pitfalls of the changing utility service markets.

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## ELECTRIC: UTILITY-SPECIFIC PUC PROCEEDINGS Alphabetically by Utility Name

### Blue Pilot Energy, LLC

Docket No. A-2011-2223888. On May 4, 2015, Blue Pilot, a licensed electric generation supplier (EGS), filed a letter in the above-referenced docket notifying the Commission of its intent to abandon service to Pennsylvania customers, pursuant to 52 Pa. Code Section 54.41(b) (BPE Notice of Intent). Through that letter, Blue Pilot also requested that the Commission waive the 90-day notice requirement in Section 54.41(b) and allow for an approximate 30-45 day notice to affected customers and electric distribution companies (EDCs). The Company also requested “cancellation of its EGS license, effective immediately.”

On May 18, 2015, the Office of Consumer Advocate (OCA) filed a Notice of Intervention, Public Statement, and Joint Answer with the Commonwealth of Pennsylvania, Bureau of Consumer Protection (BCP) in the above proceeding. In the Joint Answer, the OCA/OAG noted that they had filed a Joint Complaint against Blue Pilot on June 20, 2014, at Docket No. C-2014-2427655 and that the Joint Complaint proceeding had not yet concluded. In addition, the OCA/OAG noted that they were aware of a number of other Formal Complaints filed by individual residential and business customers against Blue Pilot involving disputes surrounding terms, prices billed, and quality of service that also remained unresolved by final Commission decision or settlement at that time. The OCA/OAG submitted that the allegations and facts of those Complaints may bear on the Commission’s determination as to the appropriate action regarding Blue Pilot’s license. Joint Complainants also asserted that the Commission should not potentially compromise its jurisdiction over Blue Pilot until all matters concerning the Company have been brought to the forefront and resolved. As such, while the OCA/OAG did not oppose Blue Pilot’s proposal to cease serving its Pennsylvania customers and to the shortened notice period if the EDCs could properly accommodate the return to default service of the Blue Pilot customers, the OCA/OAG did oppose Blue Pilot’s request for the immediate cancellation of Blue Pilot’s license. The OCA/OAG also submitted that the Commission should immediately act to secure the proceeds of the Blue Pilot bond or letter of credit that should have been on file with the Commission, as there is no information, other than the bond proceeds, to suggest that Blue Pilot can, or will, meet any final obligation to provide refunds to customers.

On December 17, 2015, the Commission issued a Tentative Order at Docket No. M-2015-2490383. In the Tentative Order, the Commission tentatively approved the cancellation of the EGS license of, *inter alia*, Blue Pilot for the failure to provide proof to the Commission that it has a bond or other approved security currently in effect. The OAG/OCA provided comments to the Tentative Order on February 1, 2016, wherein the

OCA/OAG again submitted that the Commission should refrain from cancelling or granting any abandonment of Blue Pilot's license until the Commission is assured that all obligations of Blue Pilot to Pennsylvania consumers and the Commonwealth have been properly met. In their Comments, the OAG/OCA also repeated their request that the Commission act immediately to secure any proceeds of Blue Pilot's last viable bond or letter of credit so that it is available to meet Blue Pilot's obligations to the Commonwealth and to the Company's Pennsylvania customers as finally determined by the Commission. Finally, the OAG/OCA requested that the Commission consider permanent revocation of Blue Pilot's EGS license as determined in the pending complaint cases.

On March 14, 2016, the Commission issued a Final Order in Docket No. M-2015-2490383, wherein it addressed the OCA's/OAG's request to refrain from cancelling or granting an abandonment of Blue Pilot's EGS license. Specifically, the Commission suspended Blue Pilot's license until final resolution of the pending Joint Complaint at Docket No. C-2014-2427655. Resolution of the Joint Complaint proceeding is pending at the Commission.

Docket No. C-2014-2427655. On June 20, 2014, the Commonwealth of Pennsylvania and the OCA (collectively, Joint Complainants) filed a Joint Complaint asserting five separate counts and alleging that Blue Pilot Energy, LLC (Blue Pilot or Respondent) violated Pennsylvania law and Commission orders and regulations. The five separate counts in the Joint Complaint are as follows: I) failing to provide accurate pricing information; II) prices nonconforming to disclosure statement; III) misleading and deceptive promises of saving; IV) lack of good faith handling of complaints; and V) failure to comply with the Telemarketer Registration Act. With respect to relief, the Joint Complainants requested that the Commission find that Respondent violated the Public Utility Code, the Consumer Protection Law, the Telemarketer Registration Act, and the Commission's regulations and orders; provide restitution to Respondent's customers; impose a civil penalty; and order Respondent to make various modifications to its practices and procedures; and revoke or suspend Respondent's Electric Generation Supplier (EGS) license, if warranted.

On July 10, 2014, Blue Pilot filed Preliminary Objections to the Joint Complaint and an Answer to the Joint Complaint generally denying the alleged violations. On December 11, 2014, the Commission issued an Order in which it determined that while it does not have the authority or jurisdiction to determine whether a violation of the CPL or TRA has occurred, the Commission can hear claims alleging fraudulent, deceptive, and/or misleading conduct brought against Blue Pilot under the Commission's Regulations and can also hear claims alleging improper verification of enrollment of residential customers brought against Blue Pilot under the Commission's telemarketing regulations. Further, the Commission determined that it has the authority and

jurisdiction to determine whether the prices charged to customers by an EGS conform to the EGS disclosure statement regarding pricing.

At hearings, the Joint Complainants presented the direct testimonies and exhibits of 83 consumer witnesses testifying to their experiences as Blue Pilot customers. The Joint Complainants also provided testimony by three expert witnesses regarding Blue Pilot's promotional sales materials, its Disclosure Statement, its business operations, its pricing practices and its overall charges to customers, the complaints received by OAG against Blue Pilot, and the lapse in bond or other approved security as required by Pennsylvania statute and the Commission's regulations.

The testimony by the Joint Complainants' witnesses showed that Blue Pilot has engaged in a pattern of unfair and deceptive practices that constitute significant violations of the Public Utility Code and the Commission's regulations and orders. Specifically, the testimony shows that these significant and widespread violations are a result of Blue Pilot's widespread use of false and misleading statements in the Company's written advertising materials, Disclosure Statement, and in oral statements made by the Company's agents. The unfair and deceptive practices identified in this case were exacerbated by the Company's lack of proper training, oversight and discipline of its sales agents.

This matter was fully litigated, although the Company did not present any defense witnesses. In their Initial Decision, the ALJs found that Blue Pilot deceptively and misleadingly charged prices to its variable rate customers that neither conformed to the Disclosure Statement nor reflected marketed prices promising savings in violation of the Public Utility Code and the Commission's regulations and Orders. The ALJs ordered Blue Pilot to pay a civil penalty in the amount of \$2,554,000; to provide refunds to customers in the amount of \$2,508,449; and that Blue Pilot's license be permanently revoked and that no future electric generation supply license application from the owners, directors or managers of Blue Pilot shall be considered by the Commission. The Commission's final Order is pending.

### **Duquesne Light Co.**

Docket No. M-2015-2515375. Act 129 of 2008 required the Commission to implement an Energy Efficiency and Conservation Program for Electric Distribution Companies (EDCs) with more than 100,000 customers. Under the Commission's Phase III Implementation Order, Duquesne's Phase III consumption reduction target was set at 3.1% of its expected sales for the June 1, 2009 through May 31, 2010 period. The Commission also directed that Duquesne's Phase III Plan: (1) achieve 3.5% of its overall consumption reductions come from the Government/Non-Profit/Educational (GNE) sector; (2) achieve a minimum of 5.5% of its consumption reductions from

programs exclusively directed at low-income customers; (3) offer at least one comprehensive measure for residential customers and at least one comprehensive measure for nonresidential customers; and (4) achieve a total overall gross verified demand reduction of at least 42 MW.

Duquesne filed its Phase III Plan on November 30, 2015. The OCA filed a Notice of Intervention and Public Statement in this proceeding on December 10, 2015. Additionally, the OCA submitted Comments on the Plan on January 4, 2016 and Direct Testimony on January 13, 2016. In its Direct Testimony, the OCA recommended that the Company should: increase costly and/or higher tiered rebate measures and eliminate low cost and low rebated measures; eliminate the Savings by Design program and redirect funds to other efforts; implement a pilot “bring your own device” program for residential demand response; and target the full range of multi-family housing for energy efficiency measures.

The parties reached a settlement agreement and submitted a Joint Petition for Settlement on February 10, 2016. Through this settlement, the OCA helped to ensure that: multifamily housing is appropriately included in the plan; CFL lighting is replaced with more efficient LED lamps; and that resources are being used for cost-effective programs that provide meaningful energy efficiency gains.

In an Opinion and Order entered March 10, 2016, the Commission approved Duquesne’s EE&C Phase III Plan, and directed the Company to provide a detailed description of the allocation methodology used to assign costs to the various customer classes in its compliance tariff.

Docket No. M-2016-2534323. On March 16, 2016, Duquesne filed its Universal Service and Energy Conservation Plan (USECP or Plan) for the years 2017 through 2019, in accordance with the Commission’s regulations at 52 Pa. Code § 54.74(a), relating to electric universal service and energy conservation requirements. On August 11, 2016, the Commission entered its Tentative Order on the Plan which requested clarifications from the Company and comments from interested parties. The OCA filed Comments regarding: (1) procedures for Low Income Home Energy Assistance Program (LIHEAP) auto-enrollment; (2) the requested waiver of the recertification process for LIHEAP recipients; (3) the Customer Assistance Program (CAP) stay-out provisions; (4) removal from CAP based on income information from a PUC Complaint; (5) the minimum bill requirements; (6) the requirement for Social Security numbers for the Company’s Hardship Fund; (7) maximum CAP credit education; and (8) the requirement for a Low Income Usage Reduction Program (LIURP) audit prior to CAP enrollment. The matter is pending before the Commission.

Docket No. P-2014-2418242. On July 30, 2015, Duquesne filed a Petition requesting the Commission approve continuation of its Standard Offer Customer Referral Program (SOP) with minor modifications and to make revisions to the SOP customer script.

On August 19, 2015, the OCA filed an Answer, wherein the OCA generally supported the continuation of the Company's cost-effective SOP. The OCA noted that Duquesne's SOP has received favorable reviews from electric generation suppliers (EGSs) and that by directly transferring potential SOP customers to participating SOP suppliers, the Company is able to avoid the costs of paying a third-party to enroll customers in the SOP. The OCA also supported Duquesne Light's efforts to revise its SOP script to include additional customer disclosures. The OCA, however, noted that the proposed modification to the SOP script included most, but not all, of the required language identified in the DSP VII Settlement. The OCA submitted that Duquesne Light should also include the missing language in its SOP script.

By Secretarial Letter dated February 12, 2016, the Commission granted the Company's Petition, as modified by the OCA's recommendations.

Docket No. P-2015-2497267. On August 4, 2015, Duquesne filed a Petition to Modify its Smart Meter Plan, which included, among other things, a proposal to implement an Advanced Distribution Management System (ADMS) consisting of two components – an Outage Management System (OMS) and a Distribution Management System (DMS). The Company proposed the ADMS as a means of meeting two of the additional (beyond those statutorily required) smart meter functions identified by the PUC in its 2009 Smart Meter Implementation Order. Duquesne proposes the OMS in order to communicate to customers information related to outages and restorations. The DMS is proposed to enable Duquesne to monitor voltage at each meter on its system. In the Commission's Implementation Order, each of the additional smart meter capabilities were made subject to a cost-benefit analysis and the Commission retained the right to waive implementation of any of the additional capabilities (beyond those statutorily required) if they were shown to be not cost-effective.

The OCA filed an Answer and the case was referred to the OALJ for hearings. The OCA took the position that the entire ADMS (consisting of both OMS and DMS) failed to meet the cost-effectiveness test imposed by the Commission's Implementation Order and that the Commission should therefore waive any requirement for the additional capabilities of smart meter voltage monitoring and outage communications for Duquesne at this time.

After the record was closed on April 11, 2016, the ALJ reopened the record (on May 4, 2016) for the purpose of further developing the record by way of supplemental testimony, a hearing, and briefs. The additional hearing was held on June 30, 2016. The issuance of a Recommended Decision is pending.

Docket No. P-2016-2540046. On April 15, 2016, Duquesne filed a Petition for approval of a Long Term Infrastructure Improvement Plan. The OCA filed Comments on the plan on May 13, 2016 recommending that Duquesne provide additional information to ensure the Long-Term Infrastructure Improvement Plan (LTIIIP) accelerates infrastructure repair and replacement in a cost effective manner as required by Act 11. The Company filed a Petition to establish an initial Distribution System Improvement Charge (DSIC) on May 26, 2016 and the OCA filed an Answer. The OCA recommended that costs related to Duquesne's proposed microgrid program should not be approved for DSIC recovery until the Company files an amended LTIIIP including detailed information and costs when the program is closer to construction. The OCA also recommended that the riders proposed for inclusion in "distribution revenue" for purposes of calculating the DSIC rate. At the end of the Fiscal Year, the case was pending.

Docket No. P-2016-2543140. On May 2, 2016, Duquesne Light filed a Petition with the Commission for approval of its eighth default service plan (DSP) for the period June 1, 2017 through May 31, 2021, as well as approval of the Company's (i) Time-of-Use (TOU) Program, (ii) Standard Offer Program (SOP), (iii) Customer Assistance Program (CAP), and other approvals required for the implementation of the DSP. On June 6, 2016, the OCA filed an Answer in response to the Company's Petition, a Notice of Intervention, and a Public Statement to ensure that a reasonable DSP is approved that fully complies with Act 129 and the Commission's Regulations.

At the end of the Fiscal Year, the OCA's experts were preparing testimony addressing procurement, rate design, retail market enhancement and consumer protection issues.

### **HIKO Energy, LLC**

Docket No. C-2014-2427652. On June 20, 2014, the Commonwealth of Pennsylvania and the OCA (collectively, Joint Complainants) filed a Joint Complaint asserting eight separate counts and alleging that HIKO Energy, LLC. (HIKO or Respondent) violated Pennsylvania law and Commission orders and regulations. The nine separate counts in the Joint Complaint are as follows: I) misleading and deceptive promises of savings; II) slamming; III) lack of good faith handling of complaints; IV) failing to provide rate information; V) failing to provide accurate pricing information; VI) prices nonconforming to disclosure statement; VII) failing to follow POR program parameters; and VIII) failure to comply with the Telemarketer Registration Act. With respect to relief, the Joint Complainants requested that the Commission find that Respondent violated the Public Utility Code, the Consumer Protection Law, the Telemarketer Registration Act, and the Commission's regulations and orders; provide restitution to Respondent's customers; impose a civil penalty; and order Respondent to make various modifications to its practices and procedures; and revoke or suspend Respondent's EGS license, if warranted.

Following submission of testimony by consumer witnesses in support of their Complaint, the Joint Complainants, HIKO and OSBA filed a Joint Petition for Approval of Settlement. Under the terms of the Settlement, HIKO agreed to pay \$2,025,383.85 in refunds to eligible consumers in addition to the \$159,320.15 the Company already paid. HIKO also agreed to make a contribution of \$25,000 to the Electric Distribution Companies' hardship funds. Additionally, the Settlement required the Company to make various modifications to its business practices. Among these modifications, the Company agreed that it would not accept any new Pennsylvania customers from April 1, 2015 until June 30, 2015; provided, however, that if HIKO finds that it is able to offer a fixed rate product before June 1, 2016, it would be able to do so pursuant to provisions outlined in the settlement requiring modifications to HIKO's business practices. The Company also agreed to make modifications to its marketing and third-party verification processes; disclosure statement; and training, compliance monitoring, and customer service practices. The modifications to HIKO's business practices were designed to provide accurate information to customers in a clear, direct and understandable manner and ensure reasonable customer service.

On August 21, 2015, the ALJs approved the Joint Petition for Approval of Settlement in its entirety. On December 3, 2015, the Commission issued an Order approving the Settlement in its entirety without modification. The Company made Hardship Fund payments totaling \$25,000. The Settlement Administrator sent refund checks to customers totaling \$2,025,383.85. The Company continues to implement business modifications required by the Settlement.

Docket No. C-2014-2431410. On July 11, 2014, the Bureau of Investigation and Enforcement (I&E) filed a Formal Complaint against HIKO Energy, LLC. In the Complaint, I&E alleges that HIKO violated the Commission's regulations at 52 Pa. Code § 54.4(a) for failing to charge prices to customers that matched the prices marketed and agreed upon. By way of relief, I&E sought a civil penalty in the amount of \$14,780,000, refunds to customers of the difference between the promised price and the price HIKO charged, and revocation of HIKO's license. On August, 8, 2014, the OCA filed a Notice of Intervention in this matter.

On August 21, 2015, the ALJs issued an Initial Decision, directing HIKO to pay a civil penalty in the amount of \$1,836,125. On December 3, 2015, the Commission issued an Order adopting the ALJs' Initial Decision. HIKO appealed the Commission Order and sought a stay of that Order. On February 12, 2016, the Commonwealth Court granted HIKO's Protective Application for Stay Pending Appeal/Supersedeas and ordered HIKO to file a security in the amount of 120% of the civil penalty ordered by the Commission. The appeal is pending review by the Court.

**IDT Energy, Inc.**

Docket No. C-2014-2427657. On June 20, 2014, the Commonwealth of Pennsylvania and the OCA filed a Joint Complaint asserting seven separate counts and alleging that IDT Energy, Inc. (IDT or Respondent) violated Pennsylvania law and Commission orders and regulations. The seven separate counts in the Joint Complaint are as follows: I) misleading and deceptive promises of savings; II) misleading and deceptive welcome letter and advertisements; III) slamming; IV) lack of good faith handling of complaints; V) failing to provide accurate pricing information; VI) prices nonconforming to disclosure statement; and VII) failure to comply with the Telemarketer Registration Act. With respect to relief, the Joint Complainants requested that the Commission find that Respondent violated the Public Utility Code, the Consumer Protection Law, the Telemarketer Registration Act, and the Commission's regulations and orders; provide restitution to Respondent's customers; impose a civil penalty; and order Respondent to make various modifications to its practices and procedures; and revoke or suspend Respondent's EGS license, if warranted.

At hearings, the OCA presented approximately 125 consumer testimonies for the record wherein consumers testified to their experiences as IDT customers. The OCA also prepared expert witness testimony for the expert evidentiary phase of the proceeding.

The Company, Joint Complainants, and OSBA (Joint Petitioners) reached a settlement on all issues before the expert evidentiary phase of the proceeding. Under the terms of the Settlement, IDT agreed to pay \$2,400,000 in refunds to eligible consumers in addition to the \$4,177,000 million the company has already paid. IDT also agreed to pay a civil penalty of \$25,000 and make a contribution of \$75,000 to the Electric Distribution Companies' hardship funds. Additionally, the Settlement required the Company to make various modifications to its business practices. Among these modifications, the Company agreed to offer only fixed rate products of at least six-month durations for twenty-one months. The Company also agreed to make modifications to its marketing and third-party verification processes; disclosure statement; and training, compliance monitoring, and customer service practices. The modifications to IDT's business practices are designed to provide accurate information to customers in a clear, direct and understandable manner and to ensure reasonable customer service.

On November 19, 2015, the Presiding Officers issued an Initial Decision, in which they approved the Settlement in its entirety without modification. On June 30, 2016, the Commission issued a Tentative Opinion and Order, modifying the ALJs' Initial Decision by imposing the obligation on the Joint Complainants to provide notice to consumers who elect to receive payment from the Refund Pool that receipt of payment may affect the consumers' right to recover amounts for the same conduct of IDT that could result from legal proceedings against IDT in a court of law. The Joint Complainants accepted this modification and the Commission's Order became final.

**Metropolitan Edison Co. (Met-Ed)**

Docket Nos. A-2015-2488903, A-2015-2488904, A-2015-2488905, G-2015-2488906, G-2015-2488907. On June 19, 2015, the Applicants filed an application for authorization to contribute assets to Mid-Atlantic Interstate Transmission, LLC (MAIT), for MAIT to be certified as a public utility, and for approval of certain affiliated interest agreements.

The Transaction would result in the consolidation of the FirstEnergy East Operating Companies' transmission assets into MAIT, a newly-formed, stand-alone transmission company. The transmission assets to be contributed are located in the "PENELEC," "ME," and "JCPL" transmission zones of PJM. Upon consummation of the Transaction, MAIT would succeed to the transmission rights and obligations of the FirstEnergy East Operating Companies and would provide service over the transmission assets pursuant to the PJM Open Access Transmission Tariff, including the provision of transmission service at distribution voltage levels to certain Penelec and Met-Ed wholesale customers.

As a result of the Transaction, the FirstEnergy East Operating Companies would not own transmission assets. The FirstEnergy East Operating Companies would continue to own and operate distribution facilities and provide retail electric service within their respective service territories, and JCP&L would continue to own and operate a single generating facility. The FirstEnergy East Operating Companies also would retain ownership of the land on which the transmission assets are located and would grant MAIT access to and use of such land in exchange for lease payments. Applicants are seeking approval of the Transaction concurrently from the Federal Energy Regulatory Commission (FERC), and the New Jersey Board of Public Utilities (see the "Federal" section of this OAG Report for a summary of the FERC filing).

The OCA filed a Protest and Public Statement on August 3, 2015. The OCA's Protest, among other issues, highlighted the fact that the proposed transaction must provide "substantial, affirmative public benefits" in order for the Commission to approve the Application.

The OCA filed Direct Testimony on December 22, 2015. Through its testimony, the OCA took the position that the proposed transaction, as filed, did not provide affirmative benefits to the public, and recommended several conditions that the Commission should require if the proposed transaction were to be approved.

The parties, including the OCA, participated in settlement negotiations which resulted in a settlement agreement that was filed with the Commission on February 16, 2016. On April 1, 2016, the presiding ALJs issued an Initial Decision adopting the Settlement. The Settlement directly addressed the following issues raised by the OCA:

- The Transmission Assets to be Transferred: Under the Settlement, the Joint

Applicants agreed to ensure that transmission regulatory assets related to storm damage and vegetation management will be transferred with the transmission assets. This settlement term adopted the OCA's recommendation and will protect the distribution customers of Met-Ed and Penelec from being responsible for transmission costs through their distribution rates once the companies no longer own the transmission assets.

- **Anti-Competitive Impacts:** Under the Settlement, the Joint Applicants agreed not to remove the transmission assets from PJM's control unless MAIT seeks and obtains the Commission's approval to do so, as was recommended by the OCA.
- **The Operation of the Ground Leases:** To settle the issue of how the ground lease payments should be applied, the parties agreed that both the revenues and expenses associated with the land subject to the ground lease will be excluded from future distribution rates. In other words, under the Settlement, Met-Ed will not be required to apply the rent payments they receive from MAIT as a credit to future distribution rates, as OCA recommended, but Met-Ed and Penelec may not seek to recoup any expenses associated with the land subject to the ground lease through future distribution rates. This compromise achieved a balance for the customers of Met-Ed and Penelec because although they will not receive the benefit of the rent payments, they will not be harmed in that they will not pay the expenses.
- **Capital Structure:** The Settlement addressed the OCA's concern with MAIT's capital structure. Under the settlement, MAIT will finance all new transmission investment over the next five to ten years through the issuance of debt only, unless (1) MAIT's capital structure falls within the range of FERC-approved capital structures, or (2) MAIT is unable to obtain the necessary capital through debt. Requiring MAIT to finance new transmission investment only with debt for a period of time should bring its capital structure within a reasonable range more rapidly than if the new investment were financed by both debt and equity. This provision is in the public interest because it allows MAIT the flexibility to acquire the necessary capital while protecting customers from unduly high rates.
- **Dividends:** The Settlement requires MAIT to make annual dividend payments until the five-year anniversary of the completion of the contribution of assets from Met-Ed and Penelec to MAIT, with limited exceptions. The Settlement also established the minimum amount of the annual dividend payment (i.e., Threshold Dividend Amount). This settlement provision addressed the OCA's concern with MAIT's dividend payments being in the discretion of MAIT's Board. Establishing a minimum threshold for the frequency and amount of the dividend payments made by MAIT guarantees some cash dividends to Met-Ed and Penelec, and

mitigates risk to Met-Ed and Penelec, and their customers.

- **Accumulated Deferred Income Tax:** Under the Settlement, the Joint Applicants agreed that customers will be held harmless in the event ADIT is not transferred to MAIT. Including this guarantee in the Settlement protects the customers of the Joint Applicants because it ensures that these customers will continue to receive the benefit of ADIT in the rates that they pay for transmission service. This condition also places the risk of losing the ADIT on the Joint Applicants.
- **Rate Impacts:** Under the Settlement, the Joint Applicants agreed that MAIT will not seek, in any FERC filing, an incentive or premium on the basis that it is a new company with no credit rating or that it is a single purpose entity, which causes greater risk. This settlement term adopts the OCA's recommendation and ensures that MAIT's formula rate filing with FERC will reflect MAIT's creditworthiness, which the Joint Applicants assert is a primary reason for the Proposed Transaction. Regarding both transmission and distribution rates, the Joint Applicants agreed to exclude all "costs-to-achieve" arising from the Proposed Transaction from transmission and distribution rates. This settlement term adopted the OCA recommendation included in its testimony, and should ensure that no costs will be passed on to customers that would not otherwise exist but for the Proposed Transaction.

The Commission's Order is pending.

Docket Nos. M-2015-2514767, M-2015-2514768, M-2015-2514769 and M-2015-2514772. Joint Petition of Met-Ed, Penelec, Penn Power and West Penn for Consolidation of Proceedings and Approval of Act 129 Phase III Efficiency and Energy Conservation Plan (EE&C). On November 23, 2015, each of the Companies filed its respective EE&C Plan for Phase III. On January 20, 2016, the OCA filed a Notice of Intervention and Comments with the assistance of its consultants, Geoffrey C. Crandall and Roger D. Colton. Also on January 20, 2016, the OCA submitted the Direct Testimony of Mr. Crandall and Mr. Colton.

The Companies each proposed the following residential programs: (1) Appliance Turn-In Program; (2) Home Performance Program; and (3) the Efficient Products program. The Efficient Products program included six sub-programs including: (1) Audits; (2) Energy Efficiency Kits; (3) New Homes; (4) Behavioral; (5) Behavioral-Demand Response; and (6) School Education. The OCA examined whether the appropriate technologies were being proposed; whether the proposed measures are reasonably calculated to achieve the proposed savings or demand reductions; whether modifications to the design of the residential Behavioral-Demand Response program were necessary; whether the measures were cost-effective; whether the proposed savings were sustainable; and whether there was a potential for double-counting of

savings. Specifically, Mr. Crandall expressed concern regarding the level of savings that can be achieved through the use of a behavioral demand response program such as the Home Energy Reports without a financial incentive, the untested nature of the behavioral demand response program, and the longevity of the demand response reductions. Mr. Crandall also identified a concern with the Companies' proposal to continue to use Compact Fluorescent lightbulbs in the kits to residential customers and that the Company did not propose to phase out the CFLs until Year 4.

The Companies were also required to achieve a minimum of 5.5% in consumption reductions from the low-income sector. The OCA examined the proposed low-income and multi-family low-income programs to determine whether modifications should be made to the program. Mr. Colton identified concerns with the scope of the multi-family housing program and coordination of the low-income programs with available federal programs.

On February 10, 2016, a Joint Petition for Settlement was filed. The Settlement addressed many of the OCA's concerns raised in its Comments and Testimony. The Settlement overall provided for the Companies to secure more of the required residential energy savings from direct install measures and for the Companies to meet with stakeholders regarding the Home Energy Reports that are part of the behavioral energy efficiency program. With regard to the demand response program, the Settlement provided that the Companies would implement the Behavioral Demand Response Program as a pilot for Years 2 and 3 of the Plan and will review with stakeholders the results within 100 days after each summer period for Years 2 and 3. The Settlement also provided for further review of the Companies' behavioral demand response program during the plan period. The Settlement provided that effective at the beginning of Phase III, one LED lamp would be substituted for the CFL lightbulb in all energy efficiency kits. The Companies also agreed to accelerate full replacement of all CFLs with LEDs by the end of Year 3. The Settlement also addressed the OCA's issues related to low-income and multifamily housing programs during the plan period. The Settlement specifically defined the multifamily housing programs more narrowly to identify the eligible building types consistent with the recommendations of OCA witness Colton. The Company also agreed to adopt the OCA's recommendation to coordinate the low-income programs with federal low-income programs to maximize available resources for low-income customers.

On March 10, 2016, the Commission approved the Settlement with one minor modification. The minor modification was not opposed by any party.

Docket No. P-2015-2508942. On October 19, 2015, Met-Ed filed a Petition seeking approval of its initial Long-Term Infrastructure Improvement Plan (LTIIP). On November 18, 2015, the OCA filed Comments recommending that Met-Ed provide additional information to ensure the LTIIP accelerates infrastructure repair and replacement in a

cost effective manner as required by Act 11. The OCA noted that Met-Ed did not provide historical baseline data to compare against the proposed LTIP and recommended that the Commission review/evaluate the Company's biennial Inspection and Maintenance Plan. The OCA emphasized that previous service/reliability commitments as part of previous settlements should not be considered as accelerated infrastructure improvements for purposes of Distribution System Improvement Charge (DSIC) recovery under Act 11.

The Commission's Bureau of Technical Utility Services (TUS) required Met-Ed to provide supplemental information in response to questions and concerns raised by the OCA. On February 11, 2016, the Commission entered an Order approving the LTIP, based on the filing and supplemental information.

On February 16, 2016, Met-Ed filed a Petition to establish a DSIC. The OCA filed an Answer on February 26, 2016 raising concerns about the Company's proposal that the DSIC will not apply to certain high voltage customers. The OCA submitted that, without additional information, the Company has not shown that the exclusions are warranted and consistent with Act 11, which requires utilities to apply the DSIC to all customers.

On June 9, 2016, the Commission approved the DSIC petition and allowed the tariff to go into effect on July 1, 2016. The Commission also referred matters raised by the OCA to the OALJ for hearing.

Docket Nos. P-2015-2511351, P-2015-2511333, P-2015-2511355, P-2015-2511356.

On November 3, 2015, Met-Ed filed a Joint Petition with Penelec, Penn Power, and West Penn seeking Commission approval of their default service programs and procurement plans for the period June 1, 2017 through May 31, 2019. On November 30, 2015, the OCA filed an Answer to the Companies' Joint Petition. On January 14, 2016 and February 9, 2016, the OCA served expert testimony.

Throughout the proceeding, the OCA actively participated in settlement discussions with the Companies and the parties. On April 1, 2016, the parties filed a Joint Petition for Settlement in this proceeding. The Settlement addressed many of the issues raised by the OCA's witnesses and provided several benefits for residential ratepayers. Specifically, under the terms of the Settlement, the plan term will be four years, as recommended by OCA witness Hahn. As explained by Mr. Hahn, a four year plan will avoid the time and expense associated with a filing in two years and save ratepayers that expense. Additionally, consistent with Mr. Hahn's recommendation, under the terms of the Settlement, each residential class tranche will consist of a 95% fixed price portion and a 5% variable price spot portion. This settlement provision is consistent with Pennsylvania law and provides diversification benefits. The Settlement also modified the Companies' current Customer Referral Program (CRP) by modifying the disclosures made to customers when presenting this Program. The modifications to the

CRP script will help to ensure that customers are receiving accurate and adequate information prior to enrolling with the CRP. The Settlement also modified the Companies' proposal that EGS refunds under their POR programs would go directly to the Companies to apply to the respective customer's account balance first by requiring consent of a residential customer prior to his or her respective EDC receiving his or her refund directly to offset any arrearages on the customer's account. As noted by OCA witness Alexander, this Settlement provision benefits residential ratepayers in that it more accurately reflects the complexities that may be associated with situations where an EGS issues a refund. The Settlement also required the Companies to convene a stakeholder collaborative to discuss, *inter alia*, the scope of shopping by customers in the Customer Assistance Program (CAP). The requirement for the Companies to hold a stakeholder collaborative to discuss CAP shopping will enable the Companies and the parties to further discuss the effects of CAP shopping and determine the best action to take regarding CAP shopping in the future.

On May 19, 2016, the Commission issued an Order, adopting the Joint Petition.

Docket No. R-2016-2537349. On April 28, 2016, Met-Ed filed Supplement No. 23 to Met-Ed's Tariff Electric – Pa. P.U.C. No. 52. The Company was seeking an increase in annual distribution revenue of \$140.2 million, or an overall increase of 9.53%. As part of this increase, the Company proposed to increase the residential monthly customer charge from \$10.25 to \$17.42. Met-Ed serves approximately 560,000 residential, commercial, and industrial customers in all or portions of 14 counties in eastern and south central Pennsylvania.

The OCA filed a Formal Complaint and Public Statement on May 3, 2016. The OCA retained five expert witnesses to review accounting, rate of return, cost of service/rate design, universal service, and depreciation. In its Direct Testimony, the OCA recommended a distribution revenue increase of no more than \$63.184 million, or \$70.966 million less than the Company's proposal, with no increase to the residential customer charge. The OCA also made a variety of other recommendations to address the impact of any rate increase on low-income customers, the Company's proposed depreciation method, and the allocation of costs among customer classes. At the end of the Fiscal Year, litigation of this matter was ongoing.

### **PECO Energy Co. – Electric (PECO-Electric)**

Docket No. C-2016-2525801. On January 25, 2016, the International Brotherhood of Electrical Workers Local 614 (IBEW) filed a formal complaint with the Pennsylvania PUC against PECO Energy Company. The complaint was filed in order to enforce compliance with the Company's Long Term Infrastructure Improvement Plan (LTIIP). IBEW alleged that PECO's failure to comply with the LTIIP is having a direct and

immediate adverse effect on the safety of Local 614's members. Local 614 alleged that PECO's use of unqualified Contractors of Choice (COC) and PECO's failure to sufficiently supervise the COC does not provide "adequate, efficient, safe and reasonable service and facilities" as required by Section 1501 of the Public Utility Code. 66 Pa. C.S. § 1501.

The OCA intervened in this matter to protect the interests of PECO's customers. At the end of the Fiscal Year, this matter was in litigation.

Docket No. M-2015-2507139. On October 2, 2015, PECO Energy Company filed its Universal Service and Energy Conservation Plan (USECP or Plan) for 2016 through 2018. PECO's proposed 2016-2018 Plan includes provisions for both electric and natural gas service. On February 25, 2016, the Commission entered its Tentative Order on the Plan which requested Comments from interested parties. The OCA filed Comments regarding the following issues: (1) CAP enrollment outreach; (2) consumer education for the Fixed Credit Option (FCO) program re-design; (3) de facto space heating pilot reporting requirements; and (4) removal of language regarding the inclusion of account collection costs. At the end of the Fiscal Year, the case was pending before the Commission.

Docket No. M-2015-2515691. Act 129 of 2008 required the Commission to implement an Energy Efficiency and Conservation Program for EDCs with more than 100,000 customers. Under the Commission's Phase III Implementation Order, PECO's Phase III consumption reduction target was set at 5.0% of its expected sales for the June 1, 2009 through May 31, 2010 period. The Commission also directed that PECO's Phase III Plan: (1) achieve 3.5% of its overall consumption reductions come from the Government/Non-Profit/Educational (GNE) sector; (2) achieve a minimum of 5.5% of its consumption reductions from programs exclusively directed at low-income customers; (3) offer at least one comprehensive measure for residential customers and at least one comprehensive measure for nonresidential customers; and (4) achieve a total overall gross verified demand reduction of at least 161 MW.

PECO filed its Phase III Plan on November 30, 2015. The OCA filed a Notice of Intervention and Public Statement on December 10, 2015. Additionally, the OCA submitted Comments and testimony on the Plan. The parties submitted Direct Testimony on January 21, 2016. The parties reached a settlement agreement and submitted a Joint Petition for Settlement on February 17, 2016. Through this settlement, the OCA helped to ensure that: multifamily housing is appropriately included in the plan; CFL lighting is replaced with more efficient LED lamps; and that resources are being used for cost-effective programs that provide meaningful energy efficiency gains.

In an Opinion and Order entered on March 17, 2016, the Commission granted, in part, and denied, in part, PECO's Petition and the Settlement. The Order required PECO to submit a compliance tariff including a detailed description of the allocation methodology that would be used to assign costs to various customer classes. The Company was also required to submit its Conservation Service Provider (CSP) request for proposal process within 30 days. No parties withdrew from the Settlement as a result of this Order.

PECO subsequently filed its CSP RFP process as well as its Revised Plan and revised EEPC tariff. In an Opinion and Order dated May 19, 2016, the Commission approved PECO's EE&C Phase III Plan as modified.

Docket No. P-2012-2283641. On January 13, 2013, PECO filed a Petition pursuant to Section 2807(e) of the Public Utility Code requesting the approval of its Default Service Program for the period June 1, 2013 to May 31, 2015 (DSP II). PECO also proposed several retail market enhancement programs pursuant to the Commission's Orders in its *Investigation of Pennsylvania's Retail Electricity Market* at Docket No. I-2011-2237952. The OCA intervened in the matter and filed testimony. The Commission issued an Order on October 12, 2012, and in the Order, among other issues, directed the Company to file a Petition to allow CAP customers to participate in the retail shopping market by no later than May 1, 2013 and also addressed the issue of cost recovery for the retail market enhancement programs.

On May 1, 2013, pursuant to the Commission's October 12, 2012 Order in the PECO's DSP II, PECO filed its Petition for Approval of its Customer Assistance Program (CAP) Shopping Plan to allow CAP customers to shop for electric generation. PECO proposed a program that would allow CAP customers to select from participating EGSs. Participating EGSs had to guarantee the customer a price that was at or below PECO's PTC. The Commission issued an Order on January 24, 2014 which denied the Company's proposal to require Participating EGSs to guarantee the customer a price that was at or below PECO's PTC.

On March 20, 2014, CAUSE-PA filed a Petition for Review at the Commonwealth Court and an Emergency Application for Stay, and the OCA filed an Answer in support. On March 28, 2014, Judge Leadbetter issued a Memorandum Opinion granting the Application for Stay.

On April 11, 2014, the OCA filed a Petition for Review and argued that the Commission's decision committed errors of law and was not based on substantial evidence. On July 14, 2015, the Commonwealth Court issued an Order determining that the Commission had the authority under the law to allow for such CAP program rules but declined to require the Commission to implement such program rules. The Court determined that substantial evidence existed to support the Commission's

determination that Participating EGSs did not need to guarantee the CAP customer a price that was at or below PECO's PTC. The Court determined, however, that substantial evidence did not exist to support the Commission's determination that Shopping CAP customers could be charged a cancellation fee by the Participating EGSs. The Court ordered the Commission to implement this protection.

On August 12, 2015, the Commission filed a Petition for Allowance of Appeal regarding the Commonwealth Court's remand of the cancellation fee issue. On August 28, 2015, CAUSE-PA, TURN et al., and Action Alliance also filed a Joint Petition for Cross-Appeal and an Answer in Opposition to the Commission's Petition for Allowance of Appeal with the Pennsylvania Supreme Court. On April 5, 2016, the Supreme Court denied allocatur for both Petitions. On May 11, 2016, the Commission issued a Secretarial Letter which directed that PECO file a proposed CAP Shopping Plan in its current DSP III proceeding consistent with the Commonwealth Court's Order. Specifically, the Commission directed that PECO's filing should include: (1) proposed language of the rule; (2) a proposed timeline and effective date; and (3) a proposed plan to collect data upon which to base an analysis of the CAP shopping program experiences, evaluations and recommendations. Parties will have the opportunity to comment before the filing is reviewed and approved by the Commission. At the end of the Fiscal Year, this matter was pending before the Commission.

Docket No. P-2015-2471423. On March 27, 2015, PECO filed a Petition for Approval of its Electric Long Term Infrastructure Improvement Plan and to establish a Distribution System Improvement Charge (DSIC) for its electric operations. PECO requested that the DSIC be approved effective January 1, 2016 and indicated its expectation that the initial DSIC rate will be set at 0.00% because its planned investment in infrastructure improvements for the first year of the LTIIP (2016) were included in the fully projected future test year claim in PECO's base rate filing at Docket No. R-2015-2468981.

The OCA filed Comments on the LTIIP and an Answer and Formal Complaint against the DSIC on April 10, 2015. The OCA objected to the Company's failure to reflect accumulated deferred income taxes (ADIT) in its calculation of the DSIC because it will allow PECO to earn a return on DSIC plant as if all of that plant was paid for with investor-supplied capital when it was partially paid for with zero cost capital in the form of ADIT. Also, the OCA objected to its calculation of state income taxes, to the extent tax deductions are not recognized, because the DSIC rate will charge more than PECO's actual tax expense.

TUS required PECO to provide supplemental information in response to questions and concerns raised in the OCA's LTIIP Comments. On October 22, 2015, the Commission entered an Order approving the LTIIP and the DSIC, based on the filing and supplemental information. The Commission did not require the changes recommended by the OCA to reflect actual taxes; recognizing that the Commonwealth Court was

reviewing the same legal questions in the OCA's appeals of prior Commission DSIC Orders. On November 3, 2015, the Court affirmed the Commission's Orders and allowed utilities to calculate the DSIC without reflecting their actual state and federal taxes paid.

The Commission referred two issues for hearings in the PECO Electric DSIC case: whether the DSIC charge should apply to customers taking service at transmission voltage rates and if revenues associated with the riders in PECO's tariff are properly included as distribution revenues. The DSIC rate for residential customers could increase if other customers are exempt from paying the DSIC and could decrease if revenues from riders are excluded from the total revenue to which the DSIC applies. Accordingly, it is important for residential customers that these matters are decided in accordance with Act 11 and the requirement that rates be just and reasonable.

The Parties agreed to delay setting a procedural schedule while they participated in settlement conferences.

Docket No. P-2016-2534980. On March 17, 2016, PECO filed a Petition requesting the Commission's approval of a Default Service Program for the period June 1, 2017 to May 31, 2019 (DSP IV). The OCA intervened in the matter and filed testimony addressing issues, including term of the DSP IV, product mix, the Standard Offer Product and the Customer Assistance Program (CAP). At the end of the Fiscal Year, the matter was proceeding before the ALJ.

Docket No. P-2016-2535033. On March 18, 2016, Direct Energy filed a Petition requesting that the Commission require PPL and PECO, on a pilot basis, to implement a retail market enhancement program for the stated purpose of increasing retail shopping for "value added" products. In particular, Direct Energy's Petition sought to have PPL and PECO send out a one-time mailing to non-shopping residential and small business customers that would include an "opt-in offer" for competitive energy supply under a two year contract that included "value added" features. Direct Energy requested that the program be implemented on an expedited basis. In addition, Direct Energy's proposal required residential ratepayers to assume a portion of the costs of such program. The OCA filed an Answer to the Petition on May 9, 2016. The Commission assigned the proceeding to the Office of Administrative Law Judge for hearings. After the scheduling of a Prehearing Conference, Direct Energy requested multiple extensions to work toward settlement of the issues presented in its Petition. The OCA is an active participant in those ongoing negotiations.

Docket Nos. P-2016-2546452, A-2016-2546450. On May 18, 2016, PECO Energy Company (PECO-Electric) filed a Petition and a related Application seeking approval of its Microgrid Integrated Technology Pilot Plan (Microgrid Pilot) and for issuance of a Declaratory Order regarding the recovery of microgrid costs. In its Petition, PECO

proposes to construct, own, and operate a community microgrid within its service territory. The microgrid will operate as part of PECO's distribution system, but will be able to separate itself and operate in "island mode" to provide uninterrupted service within the microgrid during outages, severe storms, or other events to certain customers.

PECO estimates that the Microgrid Pilot will cost approximately \$35 million to implement, which it proposes to recover from all PECO customers. The Company seeks to recover \$15.3 million of these costs through its Distribution System Improvement Charge (DSIC), and to recover the remaining \$19.6 million in a future electric distribution base rate case.

At the end of the Fiscal Year, the matter was proceeding before the ALJ.

Docket No. R-2015-2468981. On March 27, 2015, PECO filed proposed Tariff Electric - Pa. P.U.C. No. 5. Through Tariff No. 5, the Company proposed to increase distribution rates to produce additional annual operating revenues of \$190.1 million, or 15.6% above existing Distribution revenues. The proposed increase represents a 4.4% increase over PECO's total present revenues (distribution, transmission and default service generation). The Company proposed that the rate increase become effective on May 26, 2015. PECO provides electric distribution service to approximately 1.6 million residential, commercial, and industrial customers in Philadelphia, Bucks, Chester, Delaware, Montgomery, and York Counties.

The OCA filed a Formal Complaint against the proposed revenue increase on April 6, 2015. Numerous other parties intervened in the proceeding. The OCA and other non-Company parties filed Direct Testimony, Rebuttal Testimony and Surrebuttal Testimony. On September 10, 2016, the parties filed a comprehensive settlement. The settlement provided for a \$127 million increase, or \$63.1 million less than the amount originally requested by the Company. On a total revenue basis (distribution, transmission, and generation), the increase was 2.9% as compared to the original request of 4.4%. The Settlement provided an increase to PECO's monthly residential customer charge will increase from \$7.13 to \$8.45, or 18.5%, compared to the filed-for increase to \$12.00, or 68%. This reflects the OCA's recommendation that reflecting appropriate customer costs supports a customer charge less than \$8.48. A cost-based customer charge provides necessary price signals to customers regarding conservation.

The settlement was approved by the ALJ and, subsequently, by the Commission in an Order entered on December 17, 2015.

**Pennsylvania Electric Co. (Penelec)**

Docket No. A-2015-2488903, A-2015-2488904, A-2015-2488905, G-2015-2488906, G-2015-2488907. On June 19, 2015, the Applicants filed an application for authorization to contribute assets to Mid-Atlantic Interstate Transmission, LLC (MAIT), for MAIT to be certified as a public utility, and for approval of certain affiliated interest agreements. See write-up for Met-Ed, above.

Docket Nos. M-2015-2514767, M-2015-2514768, M-2015-2514769 and M-2015-2514772. Joint Petition of Met-Ed, Penelec, Penn Power and West Penn for Consolidation of Proceedings and Approval of Act 129 Phase III Efficiency and Energy Conservation Plan (EE&C). See write-up for Met-Ed, above.

Docket No. P-2015-2508936. On October 19, 2015, Penelec filed a Petition seeking approval of its initial Long-Term Infrastructure Improvement Plan (LTIIIP). On November 18, 2015, the OCA filed Comments recommending that Penelec provide additional information to ensure the LTIIIP accelerates infrastructure repair and replacement in a cost effective manner as required by Act 11. The OCA noted that Penelec did not provide historical baseline data to compare against the proposed LTIIIP and recommended that the Commission review/evaluate the Company's biennial Inspection and Maintenance Plan. The OCA emphasized that previous service/reliability commitments as part of previous settlements should not be considered as accelerated infrastructure improvements for purposes of Distribution System Improvement Charge (DSIC) recovery under Act 11.

TUS required Penelec to provide supplemental information in response to questions and concerns raised by the OCA. On February 11, 2016, the Commission entered an Order approving the LTIIIP, based on the filing and supplemental information.

On February 16, 2016, Penelec filed a Petition to establish a DSIC. The OCA filed an Answer on February 26, 2016 raising concerns about the Company's proposal that the DSIC will not apply to certain high voltage customers. The OCA argued that, without additional information, the Company has not shown that the exclusions are warranted and consistent with Act 11, which requires utilities to apply the DSIC to all customers.

On June 9, 2016, the Commission approved the DSIC petition and allowed the tariff to go into effect on July 1, 2016. The Commission also referred matters raised by the OCA to the OALJ for hearing.

Docket Nos. P-2015-2511351, P-2015-2511333, P-2015-2511355, P-2015-2511356. On November 3, 2015, Met-Ed, Penelec, Penn Power and West Penn filed a Joint Application seeking Commission approval of their default service programs and procurement plans for the period June 1, 2017 through May 31, 2019. See write-up for Met-Ed.

Docket No. R-2016-2537352. On April 28, 2016, Penelec filed Supplement No. 23 to Penelec's Tariff Electric – Pa. P.U.C. No. 81. The Company is seeking an increase in annual distribution revenue of \$158.8 million, or an overall increase of 11.42%. As part of this increase, the Company proposed to increase the residential monthly customer charge from \$9.99 to \$17.10. Penelec serves approximately 590,000 residential, commercial, and industrial customers in all or parts of 33 counties in northern and central Pennsylvania.

The OCA filed a Formal Complaint and Public Statement on May 3, 2016. The OCA retained five expert witnesses to review this proceeding regarding accounting, rate of return, cost of service/rate design, universal service, and depreciation. At the end of the Fiscal Year, this matter was in litigation before the Administrative Law Judge.

### **Pennsylvania Gas & Electric (PaG&E)**

Docket No. C-2014-2427656. On June 20, 2014, the Commonwealth of Pennsylvania and the OCA (collectively, Joint Complainants) filed a Joint Complaint asserting seven separate counts and alleging that Energy Services Providers, Inc. d/b/a Pennsylvania Gas & Electric violated Pennsylvania law and Commission orders and regulations. The seven separate counts in the Joint Complaint were as follows: I) misleading and deceptive promises of savings; II) slamming; III) misleading and deceptive welcome letter; IV) lack of good faith handling of complaints; V) failing to provide accurate pricing information; VI) prices nonconforming to disclosure statement; and VII) failure to comply with the Telemarketer Registration Act. With respect to relief, the Joint Complainants requested that the Commission find that Respondent violated the Public Utility Code, the Consumer Protection Law, the Telemarketer Registration Act, and the Commission's regulations and orders; provide restitution to Respondent's customers; impose a civil penalty; and order Respondent to make various modifications to its practices and procedures; and revoke or suspend Respondent's EGS license, if warranted.

On March 24, 2015, the Joint Complainants, I&E, and PaG&E filed a Joint Petition for Approval of Settlement. Under the terms of the Settlement, PaG&E agreed to pay \$2.3 million in refunds to eligible consumers in addition to the \$4.5 million the company had already paid. PaG&E also agreed to pay a civil penalty of \$25,000 and make a contribution of \$100,000 to the Electric Distribution Companies' hardship funds. Additionally, the Settlement required the Company to make various modifications to its business practices. Among these modifications, the Company has agreed to offer only fixed rate products of at least six-month durations for eighteen months beginning March 1, 2015. The Company has also agreed to make modifications to its marketing and third-party verification processes; disclosure statement; and training, compliance monitoring, and customer service practices. The modifications to PaG&E's business

practices are designed to provide accurate information to customers in a clear, direct and understandable manner and to assure reasonable customer service.

On June 8, 2015, the ALJs issued an Initial Decision, in which they recommended approval of the Joint Petition in its entirety without modification. On February 11, 2016, the Commission voted to modify the ALJs' Initial Decision and impose the obligation on the Joint Complainants to provide notice to consumers who elect to receive payment from the Refund Pool that receipt of payment may affect the consumers' right to recover amounts for the same conduct of PaG&E that could result from legal proceedings against PaG&E in a court of law. The Commission's Order modifying the Initial Decision was accepted by the Joint Complainants and became final as of March 16, 2016. PaG&E made Hardship Fund payments totaling \$100,000 and paid the \$25,000 civil penalty. The Company is also implementing the business modifications required by the Settlement. At the end of the Fiscal Year, refunds for customers were being prepared.

### **Pennsylvania Power Co. (Penn Power)**

Docket Nos. M-2015-2514767, M-2015-2514768, M-2015-2514769 and M-2015-2514772. Joint Petition of Met-Ed, Penelec, Penn Power and West Penn for Consolidation of Proceedings and Approval of Act 129 Phase III Efficiency and Energy Conservation Plan (EE&C). See write-up for Met-Ed, above.

Docket No. P-2015-2508948. On October 19, 2015, Penn Power filed a Petition seeking approval of its initial Long-Term Infrastructure Improvement Plan (LTIIP). On November 18, 2015, the OCA filed Comments recommending that Penn Power provide additional information to ensure the LTIIP accelerates infrastructure repair and replacement in a cost effective manner as required by Act 11. The OCA noted that Penn Power did not provide historical baseline data to compare against the proposed LTIIP and recommended that the Commission review/evaluate the Company's biennial Inspection and Maintenance Plan. The OCA emphasized that previous service/reliability commitments as part of previous settlements should not be considered as accelerated infrastructure improvements for purposes of Distribution System Improvement Charge (DSIC) recovery under Act 11.

TUS required Penn Power to provide supplemental information in response to questions and concerns raised by the OCA. On February 11, 2016, the Commission entered an Order approving the LTIIP, based on the filing and supplemental information.

On February 16, 2016, Penn Power filed a Petition to establish a DSIC. The OCA filed an Answer on February 26, 2016 raising concerns about the Company's proposal that the DSIC will not apply to certain high voltage customers. The OCA submitted that, without additional information, the Company has not shown that the exclusions are

warranted and consistent with Act 11, which requires utilities to apply the DSIC to all customers.

On June 9, 2016, the Commission approved the DSIC petition and allowed the tariff to go into effect on July 1, 2016. The Commission also referred matters raised by the OCA to the OALJ for hearing.

Docket Nos. P-2015-2511351, P-2015-2511333, P-2015-2511355, P-2015-2511356. On November 3, 2015, Met-Ed, Penelec, Penn Power and West Penn filed a Joint Application seeking Commission approval of their default service programs and procurement plans for the period June 1, 2017 through May 31, 2019. See write-up for Met-Ed.

Docket No. R-2016-2537355. On April 28, 2016, Penn Power filed Supplement No. 17 to Penn Power's Tariff Electric – Pa. P.U.C. No. 36. The Company is seeking an increase in annual distribution revenue of \$42.0 million, or an overall increase of 9.57%. As part of this increase, the Company proposed to increase the residential monthly customer charge from \$10.85 to \$13.41. Penn Power serves approximately 163,000 residential, commercial, and industrial customers in all or portions of 6 counties in northern and central Pennsylvania.

The OCA filed a Formal Complaint and Public Statement on May 3, 2016. The OCA retained five expert witnesses to review this proceeding regarding accounting, rate of return, cost of service/rate design, universal service, and depreciation. At the end of the Fiscal Year, this matter was in litigation before the Administrative Law Judge.

### **Pike County Light & Power Co.**

Docket No. A-2015-2517036. On December 4, 2015, Pike and Orange and Rockland Utilities, Inc. (Orange and Rockland or Seller) filed a Joint Application with the Commission seeking to transfer control and ownership interests to Corning Natural Gas Holding Corporation (CNGHC). The Joint Applicants request all necessary authority, approvals and certificates of public convenience from the Commission, pursuant to Sections 1102(a)(3), 2102(b) and 190I(a) and (c) of the Public Utility Code regarding: (1) the transfer of all of Pike affiliate Orange and Rockland's ownership interests in Pike to CNGHC; (2) the affiliated interest agreement(s); and (3) the securities transactions involving Pike.

On December 23, 2015, the OCA filed a Protest and Public Statement. In its Protest, the OCA identified a number of issues with the proposed transaction in the Joint Application, including: 1) whether the transaction provides affirmative ratepayer benefits; 2) whether the transaction will provide any acquisition savings and/or synergies; 3) whether the Joint Applicants propose to bear the costs of executing the

proposed transaction; 4) whether quality of service will be affected as a result of the transaction; 5) whether there is an adverse impact on rates; 6) whether there are any market power and effects on competitive markets; 7) whether the corporate structure will change and the impact of any changes; 8) whether the Commission's jurisdiction would continue; and 9) whether Corning possesses the requisite technical, legal, and financial fitness to operate Pike.

On April 1, 2016 and April 25, 2016, the OCA served the Direct and Surrebuttal Testimonies of Matthew I. Kahal, respectively. In his Testimonies, Mr. Kahal raised numerous concerns with the Joint Application, including the following: 1) Corning's technical and managerial capability to operate an electric utility; 2) Corning's proposed reliance on Orange and Rockland post-Acquisition for certain services, power supply, and gas supply through third-party contracts with O&R, despite the fact that the Commission will lose regulatory authority over the Orange and Rockland and Pike affiliated interest relationships post-acquisition; 3) Corning's financial ability to finance the proposed transaction; and 4) the unknown impact of the transaction on Pike's customers' rates over time.

The parties reached a settlement in this matter, and filed a Joint Petition for Full Settlement with the Commission on June 10, 2016. The Settlement addresses many of the issues raised by the OCA's expert witness and provides substantial, affirmative benefits to the public and to Pike's ratepayers. Of significance, the Settlement provided for a stay-out for any base rate case filing extended 18 months from the date the present stay-out expires (September 1, 2016) until March 1, 2018. The stay-out will provide Pike customers with a measure of rate stability and assurance that a rate increase will not be requested prior to March 1, 2018, thus mitigating the risk for Pike's ratepayers. Additionally, the Settlement provided that Pike will not claim transaction costs, costs incurred as a result of this acquisition, or "goodwill" costs in any rate case. This Settlement provision would help alleviate the risk that Pike's ratepayers will be required to assume these potentially substantial costs that would not exist but for the proposed transaction. Furthermore, the Settlement provided that customers shall be held harmless from adverse rate effects associated with tax and accounting charges related to this transaction. Additionally, under the Settlement, Pike/Corning agreed to study the feasibility and cost implications of an interest rate swap, or similar switch to fixed rate debt, to hedge variable rate debt and shall provide its findings in one of its quarterly status reports filed within six months of closing. These Settlement provisions would help to ensure that Pike's ratepayers will not be exposed to substantial rate increases as a result of this transaction. Additionally, the Settlement made several modifications to the Transition Services Agreement (TSA) between Pike and Orange and Rockland, in which Orange and Rockland would provide specific services to Pike at a specific cost following the Closing. The Settlement provisions related to the TSA would clarify any confusion on the record relating to the intent of the TSA and help to

ensure a smooth transition as Corning hires the necessary staff and implements the necessary operations in order to conduct electric utility operations. As a further assurance of a smooth transition, under the Settlement, Corning and Pike made specific commitments relating to the Corning/Pike re-staffing plan. The Settlement also contained numerous provisions requiring Pike or Corning to commence various studies and engage in quarterly meetings relating to improving Company operations and the status of the transition. Furthermore, the Settlement provided that Pike would continue its Electric Division Reliability Plan and establish a dedicated service center in its service territory. These Settlement provisions would help to ensure adequate service quality and reliability.

On June 30, 2016, the ALJ issued a Recommended Decision, wherein she recommended approval of the Joint Petition in its entirety without modification. The Commission's Order is pending.

Docket No. P-2015-2490141. On June 26, 2015, Pike filed a Default Service Implementation Plan with the PUC designed to provide generation service to the Company's default service customers for the period beginning June 1, 2016, and ending May 31, 2018. Pursuant to Pennsylvania law, Pike must acquire generation resources for customers who do not receive service from an electric generation supplier or whose generation supplier fails to deliver supply. 66 Pa. C.S. § 2807(e). Pike filed its Petition to continue its 100 percent spot market default service procurement plan after the current Commission-approved DSP expires on May 31, 2016.

In testimony and briefs, the OCA recommended that the Company should hedge a portion of its default energy supply due to increased volatility in the spot market since the Company's last DSP case.

On December 18, 2015, the ALJ issued a decision recommending that the Company continue its 100% spot market purchasing strategy. The OCA filed Exceptions on January 19, 2016, arguing that the ALJ erred in his decision. On March 10, 2016 the Commission issued an Order adopting the ALJ's decision approving a 100% spot market purchasing strategy.

### **PPL Electric Utilities Co.**

Docket No. M-2015-2515642. On November 30, 2015, PPL filed its Phase III Energy Efficiency & Conservation Plan (EE&C Plan). On December 10, 2015, the OCA filed a Notice of Intervention and Public Statement. The OCA filed Comments and testimony recommending modifications to the Plan. The parties, including the OCA, participated in settlement negotiations which resulted in a settlement agreement that was filed with the Commission on February 16, 2016. The Settlement included the following terms that addressed issues raised by the OCA:

- PPL will include approximately 1,500 comprehensive home energy audits as part of its EE&C Plan. This term adopts the OCA's recommendation to include comprehensive energy audits for residential customers. The inclusion of 1,500 home energy audits will benefit the Company and its customers because the audits should encourage customers to install more rebated measures and/or prioritize the measures installed, resulting in greater energy savings.
- PPL agreed to review the general contents of its home energy reports with stakeholders at least once every program year. PPL further agreed that it would listen to and consider comments from the stakeholders regarding the general content of these reports. This term addressed OCA's concern that the messaging included in PPL's proposed home energy reports may not be individualized or targeted enough to be useful to consumers.
- PPL agreed to coordinate with the Pennsylvania Housing Finance Agency (PHFA) to align the "eligibility of measures in Act 129 low-income multifamily buildings with PHFA's Qualified Allocation Plan and Energy Rebate Analysis," and provides for stakeholder meetings to address energy efficiency measures related to the development of affordable housing. This settlement provision addressed OCA's concern regarding how the Plan interacts with state and federal housing programs.
- PPL agreed in program year (PY) 8 to evaluate a pilot demand response program for residential customers using smart thermostats, and to review the results of the evaluation with stakeholders in early PY 9. The Company further agreed to design and seek to implement the pilot residential demand response program if the evaluation recommends moving forward with the pilot. This provision provided a reasonable compromise to the OCA's recommendation to include a residential demand response program as part of the Phase III Plan.

On March 17, 2016, the Commission issued an Opinion and Order approving the Phase III Plan as modified by the Settlement, but directed PPL to revise its cost recovery mechanism and file its revised Phase III Plan within 60 days of the Order. On May 24, 2016 PPL filed its revised Phase III Plan, concluding the proceeding.

Docket No. P-2016-2526627. On January 29, 2016, PPL filed a Petition requesting approval of its next default service plan for the period June 1, 2017 through May 31, 2021. For residential customers, PPL proposed to procure fixed-price, full requirements, load-following service for residential supply. The Company proposed to mix 6 month and 12 month laddered contracts to serve residential customers. PPL also proposed to continue its existing Customer Referral Program into the next plan period with limited modifications.

The OCA filed an Answer and Notice of Intervention on March 4, 2016. The OCA filed the written Direct, Rebuttal and Surrebuttal testimony of Richard Hahn, and the written Direct and Surrebuttal testimony of Barbara Alexander. On June 16, 2016, Evidentiary Hearings were held. At those hearings, the parties presented the ALJ with a partial, unopposed settlement concerning all issues except CAP customer shopping. As part of the Partial Settlement, the Company agreed to modify its residential procurement schedule to reduce the amount purchased on single dates, as recommended by OCA witness Hahn, in order to reduce potential volatility. The Partial Settlement also included modifications to the Standard Offer Program's customer education and presentation materials as recommended by OCA witness Alexander. The Partial Settlement is pending Commission Decision. In addition, the issues surrounding CAP shopping were not resolved by settlement and will be briefed.

Docket No. P-2016-2524581. On January 15, 2016, PPL filed its Petition for Approval to Use the Remote Service Switch in its Meters for Involuntary Service Termination pursuant to the Commission's September 3, 2015 Order in its Smart Meter Technology Procurement and Installation Plan (Plan) at Docket No. M-2014-2430781. PPL's new Radio Frequency (RF) smart meters would provide the Company with the functionality to remotely terminate service to customers. PPL proposed to begin utilizing the remote switch for involuntary service termination beginning April 1, 2017. On January 4, 2016, the OCA filed its Notice of Intervention and Answer to the Petition. The OCA identified concerns with the Company's proposed termination processes, reconnection processes, and the quantification and flow-through of savings and benefits to ratepayers through the smart meter surcharge. The parties reached a tentative settlement of the matter that would ensure compliance with Commission consumer protection regulations, as well as widen the hours available for reconnection seven days a week. The parties are formalizing the agreement and will present it to the Commission in the summer of 2016.

Docket No. P-2016-2535033. On March 18, 2016, Direct Energy filed a Petition requesting that the Commission require PPL and PECO, on a pilot basis, to implement a retail market enhancement program for the stated purpose of increasing retail shopping. See write-up under PECO-Electric, above, for additional information.

Docket No. R-2015-2469275. On March 31, 2015, PPL filed a base rate case proposing to increase distribution rates to produce additional annual operating revenues of \$167.5 million, or an increase of about 3.9% over total present rates (distribution, transmission, and default service), or 18.5% in distribution-only revenues. The Company also proposed to change from a monthly to a daily customer charge, and to increase its customer charge from \$14.09 per month to an equivalent of \$20.00 per month.

The OCA filed a Formal Complaint against the proposed increase on April 6, 2015. The parties were able to achieve a full and complete settlement of all issues in this matter, and a Joint Petition for Settlement was submitted to the ALJ on September 4,

2015. The Settlement included a distribution rate increase of \$124 million, \$43.5 million less than what PPL requested. As a result of the OCA's participation, a smaller proportion of this increase was allocated to the residential class than originally proposed. Importantly, the Settlement also adopted the OCA's recommendation that PPL's proposed customer charge of \$20 per month would not be implemented and the Company would not move to a daily customer charge. Instead, the parties agreed that PPL's current customer charge of \$14.09 per month would remain unchanged. As a result, the typical residential customer would experience a total bill increase of 5.11%, rather than 6.9% as proposed by the Company. The Settlement was subsequently recommended for approval by the ALJ, and the Commission approved the Settlement without modification in an Opinion and Order entered on November 19, 2015.

### **Respond Power, LLC**

Docket Nos. C-2014-2427659, C-2014-2438640. On June 20, 2014, the Commonwealth of Pennsylvania and the OCA (collectively, Joint Complainants) filed a Joint Complaint asserting nine separate counts and alleging that Respond Power, LLC (Respond Power or Respondent) violated Pennsylvania law and Commission orders and regulations. The nine separate counts in the Joint Complaint are as follows: I) misleading and deceptive claims of affiliation with electric distribution companies; II) misleading and deceptive promises of savings; III) failing to disclose material terms; IV) deceptive and misleading welcome letter and inserts; V) slamming; VI) lack of good faith handling of complaints; VII) failing to provide accurate pricing information; VIII) prices nonconforming to disclosure statement; and IX) failure to comply with the Telemarketer Registration Act. With respect to relief, the Joint Complainants requested that the Commission find that Respondent violated the Public Utility Code, the Consumer Protection Law, the Telemarketer Registration Act, and the Commission's regulations and orders; provide restitution to Respondent's customers; impose a civil penalty; and order Respondent to make various modifications to its practices and procedures; and revoke or suspend Respondent's EGS license, if warranted.

On October 24, 2014, Joint Complainants served consumer direct testimony from approximately 200 consumer witnesses, in which consumer witnesses testified to their experiences as Respond Power customers.

The Joint Complainants also presented the testimony of three expert witnesses and one investigator regarding a pattern of unfair and deceptive practices that constituted significant violations of the Public Utility Code and the Commission's regulations and orders. The combined testimony provided evidence of a widespread use of false and misleading statements in the Company's written advertising materials, Disclosure Statement, and in oral statements made by the Company's agents. The testimony also identified a lack of proper training, oversight and discipline of its sales agents.

The parties reached a global Settlement and filed a Joint Petition seeking approval of the Settlement on April 22, 2016. The Settlement would provide \$3,863,351.33 in refunds to customers, in addition to refunds and rebillings the Company has provided directly to customers. Also, the Company has agreed to pay a civil penalty of \$125,000 and contribute \$50,000 to EDCs' Hardship Funds. Further, the Company has agreed to implement business modifications, including extensive modifications to its door-to-door marketing practices. On May 17, 2016, the ALJs issued an Initial Decision, wherein they recommended that the global Joint Petition be adopted in its entirety without modification. The Commission approved the ALJ's Initial Decision.

### **UGI Utilities, Inc. – Electric Division (UGI-ED)**

Docket No. M-2015-2477174. On April 9, 2015, UGI filed a Petition with the PUC seeking approval of a Phase II Energy Efficiency and Conservation Plan for the period of June 1, 2015, through May 31, 2018 (Phase II EE&C Plan). On May 4, 2015, the Office of Consumer Advocate filed an Answer, Notice of Intervention and Public Statement and on February 23, 2016, the OCA submitted the Direct Testimony of expert witness Stacy Sherwood. OCA witness Sherwood made three recommendations: (1) to increase the Residential Appliance Rebate Program's incentive budget by \$122,280, from \$137,280 to \$259,325; (2) to monitor the Residential Appliance Rebate Program's progress throughout Phase II and make adjustments to the program, including its participation rates, as necessary; and (3) to track information including, the number of measures installed and water heating source, for the School Energy Education and Home Energy Audit Programs through Phase II. A Settlement was reached on all issues. In the Settlement, the Company specifically adopted OCA witness Sherwood's three recommendations. On April 26, 2016, the ALJ recommended that the Settlement be approved without any modifications, and on June 9, 2016, the Commission approved the Settlement.

Docket No. P-2016-2543523. On April 22, 2016, UGI-ED filed a Petition seeking the Commission's approval of the Company's third default service plan and all potential associated affiliated interest transactions for the period June 1, 2017 through May 31, 2021. On May 31, 2016, the OCA filed a Notice of Intervention in response to the Company's Petition. The OCA has retained the consulting services of an expert witness to review the Company's proposed Plan, with particular attention focused on the Company's proposed default service supply mix, procurement classes, purchasing schedule, and retail market enhancements. The OCA will determine whether to file testimony on July 8, 2016.

**Unified Energy Alliance, LLC (UEA)**

On July 2, 2015, UEA filed a Formal Complaint against Future Energy Solutions, LLC (FES), Navigate Power, LLC (NP) and various individuals affiliated with these companies. The OCA filed a Notice of Intervention on July 15, 2016 to investigate issues raised in the complaint regarding fraudulent, deceptive or other unlawful marketing or billing practices and slamming. The OCA reviewed testimony filed by all other parties. On March 14, 2016, UEA filed a Certificate of Satisfaction indicating all issues had been addressed and asking the Commission to mark the docket closed on March 24, 2016. The OCA filed a letter on that date indicating no objection.

**West Penn Power Co.**

Docket Nos. M-2015-2514767, M-2015-2514768, M-2015-2514769 and M-2015-2514772. Joint Petition of Met-Ed, Penelec, Penn Power and West Penn for Consolidation of Proceedings and Approval of Act 129 Phase III Efficiency and Energy Conservation Plan (EE&C). See write-up for Met-Ed, above.

Docket No. P-2015-2508931. On October 19, 2015, West Penn filed a Petition seeking approval of its initial Long-Term Infrastructure Improvement Plan (LTIIP). On November 18, 2015, the OCA filed Comments recommending that West Penn provide additional information to ensure the LTIIP accelerates infrastructure repair and replacement in a cost effective manner as required by Act 11. The OCA noted that West Penn did not provide historical baseline data to compare against the proposed LTIIP and recommended that the Commission review/evaluate the Company's biennial Inspection and Maintenance Plan. The OCA emphasized that previous service/reliability commitments as part of previous settlements should not be considered as accelerated infrastructure improvements for purposes of Distribution System Improvement Charge (DSIC) recovery under Act 11.

TUS required West Penn to provide supplemental information in response to questions and concerns raised by the OCA. On February 11, 2016, the Commission entered an Order approving the LTIIP, based on the filing and supplemental information.

On February 16, 2016, West Penn filed a Petition to establish a DSIC. The OCA filed an Answer on February 26, 2016 raising concerns about the Company's proposal that the DSIC will not apply to certain high voltage customers. The OCA submitted that, without additional information, the Company has not shown that the exclusions are warranted and consistent with Act 11, which requires utilities to apply the DSIC to all customers.

On June 9, 2016, the Commission approved the DSIC petition and allowed the tariff to go into effect on July 1, 2016. The Commission also referred matters raised by the OCA to the OALJ for hearing.

Docket Nos. P-2015-2511351, P-2015-2511333, P-2015-2511355, P-2015-2511356. On November 3, 2015, Met-Ed, Penelec, Penn Power and West Penn filed a Joint Application seeking Commission approval of their default service programs and procurement plans for the period June 1, 2017 through May 31, 2019. See write-up for Met-Ed.

Docket No. R-2016-2537359. On April 28, 2016, West Penn filed Supplement No. 10 to West Penn's Tariff Electric – Pa. P.U.C. No. 38. The Company proposed an increase in annual distribution revenue of \$98.2 million, or an overall increase of 5.74%. As part of this increase, the Company proposed to increase the residential monthly customer charge from \$5.81 to \$13.98. West Penn serves approximately 721,000 residential, commercial, and industrial customers in all or portions of 23 counties in western Pennsylvania. The OCA filed a Formal Complaint and retained five expert witnesses to review this proceeding regarding accounting, rate of return, cost of service/rate design, universal service and depreciation. At the end of the Fiscal Year, this matter was in litigation before the ALJ.

## **NATURAL GAS: UTILITY-SPECIFIC PUC PROCEEDINGS**

### **Columbia Gas of Pennsylvania, Inc.**

Docket No. A-2015-2513395. On October 30, 2015, Columbia Gas filed an Application for Approval of Abandonment of Service. In the Application, Columbia sought Commission approval to abandon service to six residential customers currently receiving natural gas service. The Application stated that Columbia is seeking to abandon the six residential customers named in the Application because the pipeline that serves these customers needs to be replaced, at a cost of approximately \$53 million. On December 10, 2015, the OCA filed a Notice of Intervention and Public Statement in this matter, to monitor the actions taken in this matter and ensure that any actions are in the best interests of all Columbia customers and are in accord with the Public Utility Code and the Commission's regulation. Three of the residential customers named in the Application filed Protests opposing the Application. The OCA assisted these customers with serving interrogatories on the Company and serving their direct testimony. The OCA also participated in settlement negotiations between the customers and the Company, at the customers' request. On April 21, 2016, the hearing in this matter was held and the parties informed the presiding ALJ that they had reached a settlement that resolved the Protests filed by the three residential customers. On May 11, 2016, Columbia filed a Main Brief supporting its Application and the Settlements

relating to each of the Protests. On June 24, 2016, the ALJ issued an Initial Decision recommending that the Settlement be adopted and the application to abandon service to the six residential customers be approved. Via Order dated September 9, 2016, the Commission approved the Application as modified by the Settlement.

Docket No. P-2015-2521993. On December 31, 2015, Columbia filed a Petition seeking waiver of the statutory Distribution System Improvement Charge (DSIC) cap of 5% of billed distribution revenues and approval to increase the maximum allowable DSIC to 10%. The OCA filed an Answer on January 20, 2015, in which it recommended that the proposed waiver be denied because Columbia has not proposed any further acceleration of replacement; and it has not met the statutory standard for a waiver. Further, Columbia is successfully funding its infrastructure improvements through Act 11 of 2012's base rate mechanism of a fully forecasted future test year. The 5% cap is an important consumer protection that limits the amounts utilities can charge ratepayers without base rate review.

The OCA filed testimony and briefs in support of its position in June 2016. The parties await a Recommended Decision at the close of the Fiscal Year.

Docket No. R-2015-2468056. On March 19, 2015, Columbia Gas filed a base rate case seeking an overall increase in annual operating revenues of \$46.2 million or 8.63%, effective May 18, 2015. For the residential class, a typical Columbia sales customer using 69 therms per month would see their total average bill rise from \$90.04 per month to \$97.82 per month. The Company proposed to increase the fixed monthly charge from \$16.75 to \$20.60, while continuing its Weather Normalization Adjustment mechanism, whereby residential customers' bills are adjusted up or down in months where the weather varies from normal by more than 5 percent. This base rate case was driven by the Company's continued investment in infrastructure and a proposed return on equity of 10.95%. The OCA filed a Formal Complaint on March 25, 2015 and hired expert witnesses to provide testimony in this matter. On June 19, 2015 the OCA submitted the direct testimonies of four of its expert witnesses. The OCA witnesses found that the Company's current rates should be reduced by approximately \$11.3 million, as opposed to the \$46.2 million increase sought by the Company. In addition, the OCA witnesses recommended that the Company's proposed customer charge of \$20.60 be rejected and that the current customer charge of \$16.75 be maintained.

The parties reached a settlement that was filed on August 27, 2015 . The Settlement provided for an overall distribution base rate increase of \$28 million, about \$18.2 million less than the rate increase amount originally requested by Columbia. Revenues increased by 5.18% compared to 8.63%. Consistent with the OCA's position, the residential customer charge remained at the current level to allow customers – and low income customers, particularly – to control the volumetric portion of their distribution bill through usage reduction measures. The proposed Settlement was approved by the

presiding officer and by Commission Order entered on December 3, 2015.

Docket No. R-2015-2469665. Columbia filed its pre-filing on February 27, 2015, in which it proposed to decrease its Purchased Gas Cost rates that took effect on January 1, 2015 of \$0.53891 by \$0.14050/Therm to a rate of \$0.39841/Therm for service rendered on and after October 1, 2015. As required by the Settlement of the 2014 PGC case, the Company's pre-filing included an evaluation of the allocation of the customers' share of net proceeds derived from Off System Sales, Asset Management Arrangements and Capacity Release transactions. The OCA retained an expert to review the filing and filed a Formal Complaint on March 30, 2015. The OCA opposed the NGS Parties' proposed change to the allocation of off-system sales and capacity release credits between the Purchased Gas Commodity Charge (PGCC) and the Purchased Gas Demand Charge (PGDC). The OCA argued that the current sharing allocation should continue, which recognizes that the majority of transactions generating Unified Sharing Mechanism (USM) revenue involve the sale of natural gas supply which is paid for only by PGC customers. Thus PGC customers should receive the majority of the revenue and the existing 60/40 split with Choice customers should continue. The parties reached a Partial Settlement addressing the calculation of the USM projection of the customer share. The Settlement provided a compromise that will moderate the impact of extraordinary events on the USM credit and still pass through to PGC customers the credits to which they are entitled in a timely manner. The parties did not reach agreement on the allocation of USM revenues.

The OCA filed Main and Reply Briefs in support of its allocation recommendation and in opposition to the natural gas suppliers' (NGS) recommendation to allocate all revenue to the demand charge. The ALJ largely accepted the OCA's position and recommended an allocation formula that decreases the credit to sales customers as CHOICE participation levels increase. In an Order entered on September 30, 2016, the Commission reversed the ALJ and accepted the NGS argument that capacity assets are the most critical component of transactions generating revenue.

Docket No. R-2016-2529660. On March 18, 2016, Columbia Gas filed a base rate case seeking an overall increase in annual operating revenues of \$55.3 million, or 11.23%, over present revenues, with an effective date of May 17, 2016. The Company proposed an increase to the residential fixed monthly charge by \$2.76, from \$16.75 to \$19.51. If the Company's proposed rate increase was approved, the bill for a residential customer who purchases 70 therms of gas per month would increase from \$77.33 to \$86.97 per month. On March 22, 2016, the OCA filed a Formal Complaint. By Order entered April 21, 2016, the Commission suspended the request until December 19, 2016. The OCA retained four expert witnesses to review the Company's filing, and present necessary testimony addressing Columbia's proposed rate or return, revenue and expense claims, cost of service study, and issues relating to the Company's universal service programs.

After lengthy settlement negotiations, the parties reached a Settlement agreement on all issues, which was filed on September 2, 2016. The Settlement provides for an overall distribution rate increase of \$35 million, or about \$20.3 million less than the rate increase originally requested by the Company. As recommended by the OCA, there will be no increase to the customer charge of \$16.75 per month. The Settlement also addressed a number of universal service and conservation issues.

The parties are currently awaiting a Recommended Decision.

Docket No. R-2016-2531807. Columbia filed its annual Purchase Gas Costs filing pursuant to Section 1307(f) of the Public Utility Code on April 1, 2016. In its PGC filing, the Company proposed to increase its PGC rate, which is currently set at \$0.30994 by \$0.07313/Therm to a rate of \$0.38307Therm for service rendered on and after October 1, 2016. The OCA retained an expert to review the filing and filed a Formal Complaint. On May 6, 2016, the OCA served its Direct Testimony, raising concern with the adequacy of the Company's filing. Specifically, the OCA recommended that the Company be required to provide support regarding its retainage rate increase, its affiliate transactions, and its new DTI contracts. The Company subsequently filed Rebuttal Testimony which provided the supporting information that the OCA recommended that the Company provide.

On June 28, 2016, the parties filed a Joint Petition for Settlement resolving all issues. As part of the Settlement, the Company agreed to identify any affiliate transactions in its future 1307(f) filings. The ALJ's Recommended Decision is pending.

### **Fink Gas Co.**

Docket No. A-2015-2466653. On January 20, 2015, Fink Gas Company filed an Application for approval to abandon all natural gas service and natural gas distribution service to its 22 customers, all of which are located in Armstrong County, Pennsylvania. On February 6, 2015 the OCA filed a Protest challenging the Company's Application. The OCA's primary objective in this proceeding was to determine whether natural gas service to Fink Gas's 22 customers, or to the largest number possible, could be maintained; whether another natural gas utility could serve Fink Gas or its customers and provide safe and reliable service; and if safe and reliable service cannot be maintained, the extent to which customers are compensated for being abandoned and required to switch to an alternative fuel source.

On October 15, 2015, the Parties filed a Joint Petition for Settlement. The Settlement agreed that all of Fink's customers would be transferred to Peoples Natural Gas Co., which would install new pipelines to serve the customers. In exchange, Fink would contribute \$56,000 to Peoples to mitigate some of Peoples' construction costs for

installing a natural gas distribution system to replace the Fink system and acquire the Fink Gas customers.

On December 2, 2015, the ALJ issued an Initial Decision approving the settlement without modification. On January 15, 2016, the Commission issued a Final Order stating that the ALJ's decision had become final without further Commission action, thereby approving the Settlement.

As of December 2015, each of Fink Gas's customers were being served by Peoples Natural Gas through Peoples' newly constructed distribution system.

### **Mountain Energy LTD**

Docket Nos. A-2013-2396198, A-2013-2397326, A-2013-2397328, R-2015-2496404, A-2015-2507377. On December 9, 2013, Mountain Energy filed an Application for Approval of: (1) the abandonment of service by Mountain Energy to eighty-six residential customers located in Greene County, Pennsylvania; (2) the sale and transfer of certain jurisdictional assets by Mountain Energy; and (3) the abandonment by Mountain Energy of all natural gas services and natural gas distribution services in this Commonwealth. In the Application, Mountain Energy provided that it needs to abandon service to its natural gas customers because it lacks the ability to provide adequate, safe and reasonable service to its natural gas customers in the future. Mountain Energy proposed to assist the customers who would be abandoned in acquiring an alternative fuel source by providing them with a monetary contribution. Additionally, Mountain Energy provided that it had sold all of its jurisdictional gas leases, wells and gathering systems to Leatherwood, Inc. (Leatherwood) in a series of transactions in October 2006, May 2008, March 2009, and November 2009. Mountain Energy further provided that it had not expressly sought or obtained Commission approval for these transactions. Thus, Mountain Energy requested that the Commission approve Mountain Energy's sale and transfer of the jurisdictional assets as of the dates of the respective closings. Mountain Energy maintained that if the Commission approves the Application to Abandon Service and Application to Sell and Transfer Certain Jurisdictional Assets, the Company will have no remaining customers or assets. As such, Mountain Energy sought to cease operating as a Pennsylvania public utility.

Following the filing of Mountain Energy's Application, Mountain Energy, the OCA, I&E, Peoples, and Leatherwood engaged in a series of discussions relating to the feasibility of transferring a portion of Mountain Energy's remaining customers to Peoples. On February 13, 2015, the Active Parties reached an Agreement in Principle, in which the Active Parties determined that a majority of Mountain Energy's remaining customers could be economically transferred to Peoples. The Active Parties held in-person meetings with the Mountain Energy customers on May 18-19, 2015 in the service

territory area to discuss how Peoples would proceed and which customers could be served. The Active Parties also answered questions and discussed how the procedure would work moving forward.

On August 3, 2015, Mountain Energy made a filing at Docket No. R-2015-2496404 for the temporary addition of a Gas Cost Rate (GCR) to its tariff until Peoples took over the system, as contemplated by the Agreement in Principle.

On October 1, 2015, Peoples filed an Application to acquire certain jurisdictional facilities owned by Mountain Energy and Leatherwood and to transfer seventy-seven Mountain Energy utility customers to Peoples to effectuate the Agreement in Principle (Peoples' Application). In the Peoples' Application, Peoples provided that the facilities being acquired by Peoples have no book value and are being acquired at no cost. Peoples, however, anticipated the need to invest approximately \$3 million to \$6 million during the first year of operation for 1.5 miles of new pipeline extensions and two to five miles of pipeline replacement and to invest additional capital for replacements over the following four years. In the Peoples' Application, Peoples further provided that in order to remove disincentives to making needed capital improvements, Peoples and the Active Parties have agreed to a deferral mechanism that will provide Peoples the opportunity to include the annual revenue requirement associated with investment costs for recovery in a future rate case. In addition to capital costs, Peoples also anticipated incurring approximately \$150,000 per year in operation and maintenance expense related to these facilities. Peoples further provided that Peoples and the Active Parties have agreed to reimbursement to Peoples by Mountain Energy for a portion of Peoples' projected Operation and Maintenance (O&M) costs (\$1,500 for each customer transferred to Peoples) and a cost recovery procedure for Peoples that provides for the filing of a 1308(b) non-general rate case for on-going recovery of O&M costs, 66 Pa. C.S. § 1308(b).

On October 9, 2015, Mountain Energy filed an Amended Application to (1) reflect the proposed transfer of the majority of Mountain Energy's customers to Peoples which, if approved, would decrease the number of customers that would have to be converted to another fuel source; (2) increase the monetary contribution made by Mountain Energy to assist customers who will not be transferred to Peoples in converting to another fuel source; and (3) update the total number of customers being served by Mountain Energy.

On February 3, 2016, the Active Parties filed a Joint Petition for Settlement. By this Settlement, the Joint Petitioners requested that the Commission: (1) approve the various applications of Mountain Energy to (a) authorize the abandonment of service to all of Mountain Energy's remaining customers in Greene County, Pennsylvania; (b) approve the transfer of certain jurisdictional assets by Mountain Energy to Leatherwood, on a nunc pro tunc basis, as a result of sales that closed in October 2006, May 2008,

March 2009 and November 2009; and (c) approve the abandonment by Mountain Energy of all natural gas service and natural gas distribution service in this Commonwealth; (2) approve the transfer of property used or useful from Mountain Energy to Peoples and the transfer of patrons located in Aleppo, Center, Freeport, Gray and Richhill Townships, Greene County, PA, from Mountain Energy to Peoples; (3) approve the tariff filing by Mountain Energy to implement a gas cost recovery rate of \$4.672; and (4) make all associated findings required by the Public Utility Code.

Through its participation in these proceedings, the OCA sought to ensure that Mountain Energy's customers, who were potentially being abandoned or transferred to Peoples, were afforded adequate protection and reasonable treatment by Mountain Energy and Peoples. In addition, the OCA sought to ensure that any actions taken in this matter are in the best interests of Mountain Energy's and Peoples' customers and are in accord with the Public Utility Code and the Commission's regulations. The OCA also sought to ensure that any costs incurred by Peoples are reasonable and in accord with the Public Utility Code.

In his Recommended Decision dated May 2, 2016, the ALJ recommended that the Joint Petition be modified to include the purchase gas cost rate of zero instead of the agreed to rate of \$4.672 and that the Commission approve and adopt the Joint Petition subject to said modification.

### **National Fuel Gas Distribution Corp. (NFGD)**

Docket No. R-2016-2521819. After making its pre-filing on December 31, 2015, NFGD filed its definitive annual PGC filing pursuant to Section 1307(f) of the Public Utility Code on February 1, 2015. Relative to the November 2015 rate of \$2.3438/Mcf, the Company's filing projected an increase of \$0.8649/Mcf to a rate of \$3.857/Mcf for service rendered on or after August 1, 2015. The OCA filed a Formal Complaint on January 22, 2016 and retained an expert to review the filing.

OCA witness Mierzwa's testimony addressed the need for continuation of the contract for capacity with TETCO. A Settlement was reached and, among other things, the terms provided for a continuation of the TETCO contract on an annual basis and additional reporting requirements to establish the continuing need for, and benefits of, the TETCO capacity in next year's 1307(f) proceeding. On June 30, 2016, the Commission approved the Settlement Agreement.

### **PECO Energy Co. – Gas (PECO-Gas)**

Docket No. P-2013-2347340. On March 20, 2015, PECO-Gas filed a Petition to establish a Distribution System Improvement Charge (DSIC). PECO requested that the DSIC be approved effective October 1, 2015 and indicated its expectation that the initial

DSIC rate will be set at 0.00% because the Company's return on equity will be at or above the threshold allowed for recovery under the DSIC.

The OCA filed an Answer and Formal Complaint against the DSIC on April 7, 2015. The OCA objected to the Company's failure to reflect ADIT in its calculation of the DSIC because it will allow PECO to earn a return on DSIC plant as if all of that plant was paid for with investor-supplied capital when it was partially paid for with zero cost capital in the form of ADIT. Also, the OCA objected to PECO's calculation of state income taxes, to the extent tax deductions are not recognized, because the DSIC rate will charge more than PECO's actual tax expense. In addition, the OCA raised concerns regarding the timing of PECO's filing and the period for which PECO can recover investment in the October 1, 2015 DSIC rate.

On September 11, 2015, the Commission entered an Order approving PECO's DSIC, in which it rejected the OCA's adjustments for actual taxes paid. The Commission referred the OCA's other issues for hearing. Specifically, (1) if PECO's initial DSIC charge is 0.00% because of an over-earning situation, when the utility is no longer overearning, how far back can the Company recover DSIC-eligible investment and (2) should PECO include balancing charges in the calculation of the 5% cap on costs recovered through the DSIC? The resolution of both issues directly affects the DSIC rate that will be charged to customers.

On March 4, 2016, the parties filed a Joint Settlement addressing the OCA's issues. The Settlement limits the costs that PECO can recover through the surcharge to the immediately preceding quarter and excludes balancing charges from the revenues used to calculate the DSIC charge and in the revenue base on which the 5% cap on the DSIC will be calculated. Both of these terms serve to reduce the DSIC rate charged to customers. The presiding officers recommended approval of the Settlement on June 3, 2016. The Commission adopted the recommendation in an Order entered on June 30, 2016.

Docket No. P-2014-2451772. On November 6, 2014, PECO-Gas filed a Petition for approval of three programs designed to increase access to natural gas service. According to the Petition, the Company's three proposals are designed to address the financial burdens associated with PECO's existing natural gas main extension process that may deter some prospective customers from converting a portion of their energy needs to natural gas.

PECO's first proposal sought to modify its current main extension tariff by adopting a DCF (Discounted Cash Flow) model to determine whether a customer would be required to pay an up-front contribution in aid of construction (CIAC) to extend gas service to his or her home, and if so, how much the CIAC should be. The second proposal would implement a Neighborhood Gas Pilot Program, which would allow a

customer to pay the CIAC through a fixed monthly surcharge instead of as an up-front lump-sum payment. The third proposal would institute a Critical Public Facilities Pilot that would dedicate an annual fixed amount of PECO-funded investment to construct main extensions in PECO's natural gas service territory in Bucks, Chester, Delaware, and Montgomery Counties to allow owners of critical public facilities to install natural gas-fired emergency generation to ensure continued operation when electric service is disrupted.

The OCA filed expert testimony which contained a number of recommendations regarding the DCF model PECO proposed to use and on customer protections that would reduce the risk to customers who choose to participate in the Neighborhood Gas Pilot Program. The OCA participated in settlement negotiations which included the following terms that addressed issues raised by the OCA:

- The revenue stream from applicants included in the DCF model would be extended from 25 years to 40 years. It was the OCA's position that because the service life of mains is at least 40 years, a model that only considers 25 years overstates the CIAC requirement.
- Provided that the financing model used to calculate the monthly surcharge would be revised to remove revenue from the loan payment. In testimony, OCA witness Mr. Watkins explained that PECO's finance model contained an error that resulted in the monthly surcharge payment being higher than required to recover the net present value of the CIAC being financed at an interest rate of 6.85%. This provision adopted Mr. Watkins correction to the financing model. This provision also reduced the monthly surcharge payments.
- Provided that customers would not be terminated for non-payment of the Neighborhood Gas Pilot Program surcharge. The OCA's position in testimony was that customers who participate in this pilot program should not be put into the position of possibly losing service due to their participation. Since this is a pilot program, it is not known whether adding this monthly surcharge to a customer's PECO bill will affect the customer's ability to pay the bill in full. The data relating to the non-payment rate of customers who choose to pay their CIAC through the surcharge will be gathered by this pilot. To address the concern that some participating customers may not pay the surcharge, the Settlement adds an uncollectible adjustment of 1% to the monthly surcharge.
- Provided that all customers will have a 20-year payment term. This provision also reduces the amount of the monthly surcharge for the customers who choose to participate in the program.

The ALJ recommended approval of the settlement on September 16, 2015. The Commission entered an order approving the Settlement on October 1, 2015.

Docket No. R-2015-2480969.

On April 29, 2015, PECO Energy submitted its purchased gas cost pre-filing. PECO's 2015 filing indicated a proposed increase in purchased gas cost rates for residential retail sales service from the June 1, 2015 effective rate of \$3.7885/Mcf to a December 1, 2014 proposed rate of \$3.9448/Mcf, an increase of \$0.1563/Mcf.

The OCA filed a Formal Complaint and Public Statement in this proceeding on May 29, 2015, to help ensure that the proposed PGC rates are consistent with a least cost fuel procurement policy. The OCA retained an expert to thoroughly review the filing and provide recommendations. The OCA conducted discovery, both formal and informal, and determined that the submission of Direct Testimony was not necessary. Importantly, the OCA agreed with the Company's modifications to its gas price hedging program given developments in the natural gas market.

On July 30, 2015 the parties filed a Joint Petition for Complete Settlement. The Settlement made important modifications to the Company's procurement practices. On August 13, 2015, the Administrative Law Judges assigned to this proceeding issued a Recommended Decision in support of the Settlement. The Commission approved the Settlement without modification on October 22, 2015.

Docket Nos. R-2016-2545925, C-2016-2547692. On April 29, 2016, PECO-Gas submitted its purchased gas cost (PGC) pre-filing. The OCA filed a Formal Complaint and Public Statement on May 26, 2016, to help ensure that the proposed PGC rates are consistent with a least cost fuel procurement policy and do not result in rates and charges that are excessive, unjust or unreasonable, discriminatory, or otherwise contrary to Commission regulation or policy.

On May 31, 2016 PECO filed its PGC No. 33 filing with the Commission. PECO's filing indicated a proposed decrease in purchased gas cost rates for general retail sales service for residential customers from the June 1, 2016 effective rate of \$3.9734/Mcf to a December 1, 2016 proposed rate of \$3.7590/Mcf, a decrease of \$0.2144/Mcf. Based upon a preliminary analysis of PECO's purchased gas cost pre-filing of April 29, 2016 and its definitive filing of May 31, 2016, the OCA has identified several issues that may require further review regarding the reasonableness and prudence of historic and projected period costs, gas supply mix, demand requirements, contracts with pipelines and suppliers, allocation of costs, and high volume transportation program. The OCA intends to present expert testimony, as may be necessary, on these issues.

**Peoples Natural Gas Co. LLC (Peoples)**

Docket No. M-2014-2432515. On July 16, 2014, Peoples filed its proposed Universal and Energy Conservation Plan (USECP or Plan) for 2015-2017 in accordance with § 62.4, relating to natural gas universal service and energy conservation reporting requirements. The plan was filed on behalf of Peoples and its Equitable Division. On August 19, 2015, Peoples filed an Amended USECP to extend the Proposed Plan to 2018 (Proposed 2015-2018 Plan). On September 17, 2015, the Commission entered its Tentative Order on the Plan which requested Comments from interested parties within twenty days and Reply Comments ten days thereafter. On October 7, 2015, the OCA filed Comments regarding the following issues: (1) support for the proposed Extended Customer Assistance Program Pilot (E-CAP) to provide limited CAP assistance to customers at or above 150% of the Federal Poverty Level; (2) pre-program arrearage forgiveness; (3) monthly CAP payment review; (4) CAP Overpayments; (5) LIURP eligibility requirements; (6) Emergency Service/Repair Line Program; and (7) Community Weatherization Partnership Program. On December 17, 2015, the Commission approved: (1) the Companies' proposed pilot E-CAP; (2) the Tentative Order and OCA supported modifications to the arrearage forgiveness program; (3) the Tentative Order recommendation for monthly CAP customer bill reviews to ensure that customers receive the most beneficial payment and the OCA's recommendation that this review be based on the most recent 12 months; (4) the Tentative Order and OCA supported removal of the LIURP eligibility requirements; and (5) the Emergency Service/Repair Line Program and the Community Weatherization Partnership Program as recommended by the Tentative Order and supported by the OCA. On January 12, 2016, the Companies filed its Revised Universal Service and Energy Conservation Plan in Compliance with the December 17, 2015 Order.

Docket No. P-2013-2344596, P-2013-2346161, 1688 C.D. 2014. On January 23, 2013, Peoples filed a Long-Term Infrastructure Improvement Plan (LTIIP) pursuant to Section 1352 of the Public Utility Code, 66 Pa.C.S. § 1352. On February 12, 2013, the OCA filed Comments on the LTIIP. On March 4, 2013, pursuant to Section 1353, Peoples filed a Petition for Approval of a Distribution System Improvement Charge (DSIC). The OCA filed an Answer, Notice of Intervention, and Formal Complaint and Public Statement on February 20, 2013. On February 1, 2013, Peoples filed a Petition for Approval of the Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement (Waiver Petition).

On May 23, 2013 the Commission issued a combined Opinion and Order regarding the Waiver Petition, LTIIP, and the DSIC. The Commission approved People's LTIIP based on the filing and the supplemental information provided to TUS in response to questions and concerns raised in the OCA's Comments. The Commission also approved the proposed DSIC, subject to recoupment and/or refund. The Commission referred for

hearings the OCA's issues regarding ADIT and state income taxes, application of the DSIC to competitive customers and recovery of barcoding, AMR and customer-owned service line and gathering line investment. With regard to the Waiver Petition, the Commission adopted the position forwarded by the OCA, that customer-owned lines should be included in Peoples' LTIP and that Peoples should collaborate with OCA in keeping its customers fully and properly informed as to the costs and benefits of their service line replacements.

On December 12, 2013, the OCA and Peoples entered into a partial stipulation which reserved the tax issues for litigation but clarified which of the other costs at issue the Company would and would not recover through its DSIC. In the OCA's view, the Partial Stipulation fairly limited the costs recoverable through the DSIC. On April 3, 2014, the presiding ALJs issued a Recommended Decision denying the OCA's tax-related adjustments to the DSIC calculation and approving the stipulation. In its Order of August 21, 2014, the Commission likewise denied the OCA's tax-related adjustments and approved the Partial Stipulation.

On September 22, 2014, the OCA filed a Petition for Review of the portion of the Order addressing the tax issues with the Commonwealth Court. On September 22, 2014, the OCA also filed an Application for Stay, pending disposition of the Columbia and LWWC DSIC appeals. The stay was granted by the Court on September 24, 2014. On November 3, 2015, the Court affirmed the Commission's Orders in the Columbia and LWWC proceedings and allowed the utilities to calculate the DSIC without reflecting their actual state and federal taxes paid. That Order became final on December 3, 2015. The OCA filed a Praecipe to Discontinue its appeal of the Peoples DSIC Order on December 8, 2015, which was granted the same date.

Docket Nos. R-2016-2528562, R-2016-2529260. On April 1, 2016, Peoples and Peoples – Equitable Division submitted their formal 2016 Purchased Gas Cost (PGC) filing. On March 23, 2016, the OCA filed a Formal Complaint against the Company's proposed rates, seeking to ensure that the rates were not excessive, discriminatory, or otherwise contrary to Commission regulation or policy. After a full review of the filings and extensive discovery, the parties reached a settlement of all issues. The Settlement placed restrictions on the level of negotiated retainage discount rates for large customers. In addition, the settlement addressed the Companies' incentive payment proposal for local gas producers in areas of its distribution system where customers are served from gathering lines (as opposed to traditional distribution lines) and the existing local production is the only economically viable supply option. The incentive would be negotiated with individual producers in the localized areas in order to provide sufficient incentive for the producers to stimulate their existing wells to increase production and/or invest in new production. The Settlement provided that these production incentives, in the form of higher gas purchase prices paid by ratepayers, may be offered in discrete

areas of the Company's system that: (a) are experiencing declining receipts of local gas volumes, would enjoy improved service reliability with additional local gas volumes, and have no current economically viable alternative to receipts of local gas to serve customers; or (b) have limited sources of gas supply feeding the system, would experience improved service reliability with additional supply feeds, and have no current economically viable alternatives to such additional supply feeds in order to improve service reliability. The Settlement further provided that the cost of any production incentive incurred during the 2017 1307(f) historic review period will be separately identified in the Companies' 2017 1307(f) filing. The reasonableness of the Companies' production incentive calculation will be subject to review, and the allocation of production incentive costs to the various customer service classes (e.g., PGC and transportation service) will be addressed by the parties in the Companies' 2017 1307(f) filings. The settlement was pending before the ALJ at the end of the Fiscal Year.

Docket Nos. R-2016-2542918, R-2016-2542923. On April 29, 2016, Peoples and Peoples-Equitable Division filed tariff supplements with the Commission seeking approval to implement Rate MLX to replace its pilot program entitled Pilot Rider H - Service Expansion Tariff (Rider SET). Rider SET is an alternative to the Company's main extension tariff that allows customers to pay the uneconomic portion of the main extension project through a monthly surcharge on their bills. Rider SET was intended to reduce the financial barriers faced by consumers seeking natural gas service in areas where natural gas is currently unavailable. Rate MLX, if approved, would allow customers to pay the uneconomic portion through higher delivery charges instead of as an upfront lump payment. Customers would no longer have the option of paying their uneconomic portion through a monthly surcharge. Under the proposal, the Company would apply Rate MLX for each Mcf of gas used. The applicable rate a customer will be charged is at the discretion of the Company, but within the range provided in the filing. On May 26, 2016, the OCA filed a Formal Complaint in this matter. The OCA was in the process of reviewing Rate MLX at the end of the Fiscal Year.

### **Peoples – Equitable Division (Equitable)**

Docket No. P-2013-2342745. On January 11, 2013, Equitable filed a Long-Term Infrastructure Improvement Plan (LTIIP) pursuant to Section 1352 of the Public Utility Code, 66 Pa.C.S. § 1352. On June 20, 2013, the OCA filed Comments on the LTIIP requesting that the Commission obtain additional information to determine whether the plan meets the requirements of the statute for acceleration and cost-effectiveness. TUS requested additional information from Equitable on these issues. On January 29, 2013, Equitable filed a petition seeking approval of a Distribution System Improvement Charge (DSIC), in response to which the OCA filed an Answer and Formal Complaint.

On July 16, 2013, the Commission issued a combined Opinion and Order approving Equitable's LTIP and the proposed DSIC, with the latter subject to recoupment and/or refund pending final resolution of certain issues raised in the parties' Petitions and Answers. The OCA submitted Direct and Surrebuttal Testimony in support of adjustments to recognize accumulated deferred income taxes (as a rate base offset) and actual state income taxes in the DSIC calculation, to avoid producing an overstated return on Equitable's investment in distribution system improvements. The ALJ recommended approving a settlement of one issue, regarding application of the DSIC to customers paying flexed or discounted rates, or having a negotiated contract. The ALJ denied the OCA's adjustments to the DSIC calculation to recognize the ADIT component of federal income taxes and actual state income taxes paid. The Commission entered an Order consistent with the Recommended Decision on October 2, 2014. The OCA filed a Petition for Review (1965 CD 2014) and simultaneous Application to Stay the Equitable DSIC appeal pending disposition of the Columbia and LWWC DSIC appeals at Docket Nos. 1012 C.D. 2014 and 1358 C.D. 2014. The stay was granted by the Court on November 6, 2014.

On November 3, 2015, the Court affirmed the Commission's Orders in the Columbia and LWWC proceedings and allowed the utilities to calculate the DSIC without reflecting their actual state and federal taxes paid. That Order became final on December 3, 2015. The OCA filed a Praecipe to Discontinue its appeal of the Equitable DSIC Order on December 8, 2015, which was granted the same date.

Docket Nos. R-2016-2528562, R-2016-2529260. On April 1, 2016, Peoples and Peoples – Equitable Division submitted their formal 2016 PGC filing. See additional information under Peoples, above.

Docket Nos. R-2016-2542918, R-2016-2542923. On April 29, 2016, Peoples and Peoples-Equitable Division filed tariff supplements with the Commission seeking approval to implement Rate MLX to replace its pilot program entitled Pilot Rider H - Service Expansion Tariff. See companion write-up for Peoples, above.

### **Peoples TWP LLC (TWP)**

Docket No. P-2013-2344595, P-2013-2346156, 1686 C.D. 2014. On January 31, 2013, TWP filed a Long-Term Infrastructure Improvement Plan (LTIP) pursuant to Section 1352 of the Public Utility Code, 66 Pa.C.S. § 1352. On February 12, 2013, the OCA filed Comments on the LTIP. On March 4, 2013, pursuant to Section 1353, TWP filed a Petition for Approval of a Distribution System Improvement Charge (DSIC). The OCA filed an Answer, Notice of Intervention, and Formal Complaint and Public Statement on February 20, 2013. On February 1, 2013, TWP filed a Petition for Approval of the

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### Limited Waivers of Certain Tariff Rules Related to Customer Service Line Replacement (Waiver Petition).

On May 23, 2013 the Commission issued a combined Opinion and Order regarding the Waiver Petition, LTIP, and the DSIC. The Commission approved TWP's LTIP based on the filing and the supplemental information provided to TUS in response to questions and concerns raised in the OCA's Comments. The Commission also approved the proposed DSIC, subject to recoupment and/or refund. The Commission referred for hearings the OCA's issues regarding ADIT and state income taxes, application of the DSIC to competitive customers and recovery of barcoding, AMR and customer-owned service line and gathering line investment. With regard to the Waiver Petition, the Commission adopted the position forwarded by the OCA, that customer-owned lines should be included in TWP's LTIP and that TWP should collaborate with OCA in keeping its customers fully and properly informed as to the costs and benefits of their service line replacements.

On December 12, 2013, the OCA and TWP entered into a partial stipulation which reserved the tax issues for litigation but clarified which of the other costs at issue the Company would and would not recover through its DSIC. In the OCA's view, the Partial Stipulation fairly limited the costs recoverable through the DSIC. On April 3, 2014, the presiding ALJs issued a Recommended Decision denying the OCA's tax-related adjustments to the DSIC calculation and approving the stipulation. In its Order of August 21, 2014, the Commission likewise denied the OCA's tax-related adjustments and approved the Partial Stipulation.

On September 22, 2014, the OCA filed a Petition for Review of the portion of the Order addressing the tax issues with the Commonwealth Court. On September 22, 2014, the OCA also filed an Application for Stay, pending disposition of the Columbia and LWWC DSIC appeals. The stay was granted by the Court on September 24, 2014. On November 3, 2015, the Court affirmed the Commission's Orders in the Columbia and LWWC proceedings and allowed the utilities to calculate the DSIC without reflecting their actual state and federal taxes paid. That Order became final on December 3, 2015. The OCA filed a Praecipe to Discontinue its appeal of the TWP DSIC Order on December 8, 2015, which was granted the same date.

Docket No. R-2016-2528557. On April 1, 2016, the Peoples TWP submitted its formal 2016 PGC filing, pursuant to which, the Company proposed an increase in its residential PGC rate of \$0.3173 per Mcf from the rates in effect on February 1, 2016. The new rates were to take effect on October 1, 2016.

On March 23, 2016, the OCA filed a complaint against the Company's proposed rates, seeking to ensure that the rates were just and reasonable. The OCA's testimony in this case addressed TWP's retainage rates, specifically, that all transportation customers be

charged a uniform retainage rate and addressed the proposed production incentives to be paid to producers in certain local areas that are dependent on the producers' supply.

Settlement discussions were successful and settlement was reached on several issues of interest to the OCA. Specifically, the June 20, 2016 settlement provides for the elimination of TWP's two-tiered retainage rates, which charged different rates for usage above and below 100,000 Mcf per year. Beginning on October 1, 2016, all rate classes will pay the same retainage rate of 4.8% per Mcf. The OCA took the position that there was no basis for differentiating retainage charges on the basis of volume. The OCA also noted that TWP's sister companies, Peoples Natural Gas Company and Peoples Natural Gas Company – Equitable Division, impose a uniform retainage charge. Further, because of historically low gas prices, the move to a uniform retainage rate would not have a material effect on PGC rates. Therefore the OCA supported the uniform retainage rate.

TWP also proposed implementing an incentive payment to local gas producers in areas of its distribution system where customers are served from gathering lines and the existing local production is the only economically viable supply option. The Company maintained that deliveries of local gas directly into its gathering system have declined significantly in recent years. The production incentive is proposed for these particular distribution pockets as a means of reversing this trend and increasing production to serve these localized areas.

The Settlement further provided that the cost of any production incentive incurred during 2017 will be identified in the Company's 2017 PGC filing. In addition, the reasonableness of the Company's production incentive calculation will be subject to review, and the allocation of production incentive costs to the various customer service classes and will be addressed in the Company's 2017 filing.

The OCA took the position that because the incentive payments would induce additional supply in localized areas and thereby obviate construction of additional distribution facilities to bring supply from other sources, the payments would benefit all customers on the Company's system and therefore recommended that any above-market portion of the incentive payments should be recovered from all of the Company's customers, both sales and transportation customers.

By providing that the reasonableness of the production incentives and the proper allocation of their cost among customer groups will be addressed in the 2017 PGC case, the Settlement acknowledges that the level and overall cost of the incentives are not yet known, but that more information will be available by the time the 2017 case is filed. The OCA therefore supported the decision to defer consideration of the reasonableness of the incentives and the allocation of their cost among customer classes until next year.

The ALJ's Decision dated June 29, 2016 recommended approval of the Settlement without modification. The Commission's Order was pending at the end of the Fiscal Year.

### **Philadelphia Gas Works (PGW)**

Docket No. P-2014-2459362. On December 23, 2014, PGW filed its Petition for Approval of Demand-Side Management Plan (DSM) for FY 2016-2020 (Phase II Plan) and PGW Universal Service and Energy Conservation Plan for 2014-2016, 52 Pa. Code § 62.4 Request for Waivers. Phase I of the DSM program will expire on August 31, 2015. In its Phase II Plan, PGW proposed to continue five of the existing seven DSM programs: (1) Customer Responsibility Program (CRP) Home Comfort Program (formerly ELIRP), the weatherization program for the highest usage customers in PGW's customer assistance program, CRP; (2) Residential Equipment Rebates Program; (3) Commercial Equipment Rebates Program; (4) Efficient Building Grants program; and (5) Efficient Construction Grant Program. PGW also proposed to add two new programs: (1) a Low-Income Multi-family Program and (2) a fuel switching program. The Company estimated that the Phase II programs will cost approximately \$25 million from FY2015 through FY2020. Phase II of the program would increase the rates for non-CRP residential customers by 0.6% to 0.7% for each year of the program through 2020. PGW also proposed to recover costs for a Conservation Adjustment Mechanism (CAM) and a Performance Incentive Mechanism. PGW also requested all necessary waivers of Chapter 58 to permit the CRP Home Comfort Program to satisfy its regulatory Low Income Usage Reduction Program requirements.

The OCA filed an Answer and testimony. OCA witness Geoffrey Crandall opposed the Company's proposed Conservation Adjustment Mechanism and Performance Incentives. Mr. Crandall also challenged inclusion of the Efficient Fuel Switching program as an energy efficiency program when it would actually increase PGW's load. OCA witness Roger Colton opposed the Company's proposed budget modifications to its statutorily-mandated LIURP program, its Low Income Multifamily program, the proposed On-Bill Repayment program, and requests for waiver of the Commission's regulations regarding LIURP. After briefing, the ALJ issued a Recommended Decision on March 18, 2016. The ALJ adopted the OCA's recommendations regarding the CAM, Performance Incentives, Efficient Fuel Switching program, the LIURP budget and the LIURP regulation waiver requests, and the proposed On-Bill Repayment program. At the end of the Fiscal Year, the matter was pending before the Commission.

Docket No. P-2015-2501500. On September 1, 2015, PGW filed a Petition seeking approval to waive the statutory limitation on its DSIC and to begin charging customers on January 1, 2016 an annualized amount of the total costs of improvements that it plans to make sometime during the calendar year – \$33 million or 7.36%. After the fact,

PGW proposed to file and seek approval of a Long-Term Infrastructure Improvement Plan (LTIIP) that supports this level of spending. If the Company does not spend as much as projected or revenue is different than what was assumed in calculating the Distribution System Improvement Charge (DSIC) rate, PGW proposed to reconcile and refund the over-collection in April 2017, as long as 16 months after customers were overcharged. Conversely, if the Company under collects, it proposed to charge customers above 7.5%, up to 10% of a customer's distribution bill.

In expert testimony and briefs, the OCA opposed the waiver because the 5% cap is an important consumer protection that limits the amounts utilities can charge ratepayers without base rate review. In addition, PGW's service territory has the highest percentage of households in "deep poverty" of any large city in the United States. The OCA argued that PGW did not show that it is reasonable for customers to pay an increased DSIC without any contribution from its owner, the City. Nor did it show that it is reasonable for customers to pay for projects that might never be performed and before even the plan for doing the projects is subject to review. The Company did not show that its cash flow methodology means that, unlike every other utility that manages its under-collections within the DSIC cap, PGW must have an additional 50% DSIC increase to raise the overall cap to 10%. Finally, the OCA objected to PGW's failure to obtain Commission approval of a modified LTIIP to support a greater level of investment, prior to charging customers DSIC rates above 5%.

The OCA also argued that if the Commission waives Act 11 to allow the Company to charge an annualized, levelized DSIC rate: (1) PGW should not have unfettered discretion whether or not to make an adjustment to reduce over or under-collections each quarter, (2) any pre-collected DSIC revenue should be required to be spent on DSIC projects or returned to customers and (3) the Company should expand its efforts to enroll customers in Budget Billing to mitigate the impact of higher DSIC charges on winter bills.

On January 28, 2016, the Commission entered an Order denying the Company's request to increase the cap to 10% for purposes of reconciliation. PGW filed a Petition for Reconsideration of Order on February 12, 2016, which the OCA opposed. On June 9, 2016, the Commission voted to increase the cap temporarily to allow recovery of an \$11.4 million underrecovery over a two-year period. At the end of two years, the DSIC rate will return to 7.5%.

Also on February 12, 2016, PGW filed a Petition to Amend its LTIIP. The OCA filed Comments to Amended LTIIP on March 14, 2016, recommending that additional information be provided in order for the Commission to determine if the modified LTIIP accelerates infrastructure repair and replacement in a cost-effective manner. The Petition is pending.

Docket No. R-2016-2526700. On January 29, 2016, PGW filed its pre-filing information required for its annual Gas Cost Rate (GCR) filing pursuant to Section 1307(f) of the Public Utility Code. Relative to the current rate of \$3.4946/Mcf, the Company's filing anticipates an increase of \$0.2913/Mcf, to a rate of \$3.7859/Mcf to be effective September 1, 2016. The OCA filed a Formal Complaint on March 7, 2016 and retained an expert to review the filing. After review, the OCA determined it did not need to submit testimony in the proceeding. The Bureau of Investigation and Enforcement (I&E) submitted testimony regarding the Company's interest calculation. A Settlement was reached in the proceeding and filed on May 18, 2016. The Settlement adopted the recommendation of I&E's witness and reflected an interest adjustment dollar allowance of \$549,960 for calendar year 2015. In the future, the Company will continue to use the calculation identified in I&E's testimony. This will benefit ratepayers because the change will more accurately reflect the interest adjustment calculations for over- and under-collections in the gas cost rate year and on a going-forward basis. The Settlement also reflected that the OCA did not oppose PGW's request to use the public notice process and estimated data for the March 1 quarterly filing for its 2017-2018 GCR proceeding. On June 7, 2016, the ALJ issued her Recommended Decision which approved the Settlement Agreement. The matter is currently pending before the Commission.

#### **UGI Central Penn Gas, Inc. (CPG)**

Docket No. P-2013-2397056, 1306 CD 2015. On December 12, 2013, CPG and PNG filed Petitions for approval of their proposed Long-Term Infrastructure Improvement Plans (LTIIP) and Distribution System Improvement Charges (DSIC). On January 2, 2014, the OCA filed Comments to the proposed LTIIPs, and additionally filed Formal Complaints and Answers to the DSIC Petitions. The OCA raised issues regarding: proposed DSIC computations ignore the balance of accumulated deferred income taxes; further examination of the calculation of the state income tax component; categorization of gathering and storage lines as part of distribution system property; review of expansion of DSIC-eligible plant to include, inter alia, transmission regulator stations and vehicles; recovery of plant placed in service outside of the statutory timeframes for recovery; and review of tariff language relating to customers with competitive alternatives for compliance with Act 11 and the Commission's Final Implementation Order.

On September 11, 2014, the Commission entered a combined Opinion and Order approving the LTIIP and proposed DSIC for both utilities, with the DSICs subject to recoupment and/or refund pending final resolution of certain issues raised in the parties' Petitions and Answers. Specifically, the issues to be litigated were (1) DSIC-recovery of costs related to "other related capitalized costs", (2) DSIC-recovery of expenditures related to the inclusion of gathering lines and storage lines as DSIC-eligible property

and (3) CPG's proposal to include qualifying plant investment placed into service during the December 1, 2013 to November 30, 2014 timeframe in its April 1, 2015 DSIC rate. The Commission agreed with OCA's assertion that CPG's and PNG's proposed tariff language should be modified to allow for the exclusion of those customers with competitive alternatives or negotiated contracts, consistent with the Final Implementation Order and the customer safeguards required by 66 Pa. C.S. § 1358. The Commission rejected the OCA's position regarding the recognition of ADIT associated with DSIC investments and actual state income taxes in the calculation of the DSIC revenue requirement but recognized that those issues would be addressed by the Commonwealth Court.

On September 18, 2014, CPG and PNG filed their compliance filings, as directed by the Commission in its September 2014 Order. The Companies' DSIC rates became effective as of October 1, 2014 subject to refund. On March 19, 2015, CPG, PNG and OCA filed a Joint Stipulation, which addressed the issues reserved for hearing. The Settlement provided that the Companies may recover their "other related capitalized costs" but not the costs of their Smallworld GIS system (in the amount of \$146,669 for UGI-CPG and \$83,443 for UGI-PNG). Additionally, the Settlement provided that CPG and PNG may include gathering and storage lines in their DSIC when the Company acquires those lines, but it must notify the OCA (and further, that the OCA may challenge the eligibility of those assets at that time). Finally, the Settlement provided that the Companies may recover DSIC-eligible costs for plant placed into service after June 1, 2014 (rather than December 1, 2013, as the Companies had argued).

On May 11, 2015, the Commission's Office of Administrative Law Judge issued a Recommended Decision recommending approval of the Joint Stipulation. On July 8, 2015, the Commission entered a final Order, in which it approved CPG's and PNG's first non-zero DSIC tariff and rate effective April 1, 2015. The Order also approved the Joint Stipulation.

On November 3, 2015, the Court affirmed the Commission's Orders in the Columbia and LWWC proceedings, which then allowed CPG and PNG to calculate the DSIC without reflecting its actual state and federal taxes paid. That Order became final on December 3, 2015. The OCA filed Praecipes to Discontinue its appeals of the CPG and PNG DSIC Orders on December 8, 2015, which were granted the same date.

Docket No. P-2016-2537609. On March 31, 2016, the three UGI utilities filed Petitions for Waiver of the 5% DSIC cap. The OCA filed Answers opposing the Petitions on April 19 and 20, 2016, based on its preliminary position that there is no evidence that any of the utilities are unable to replace infrastructure at an accelerated pace by filing base rate cases using the Act 11 fully forecasted future test year mechanism and a DSIC within a 5% cap. The OCA is preparing Direct Testimony due July 22, 2016 for UGI-CPG.

Docket No. R-2015-2480937. On May 1, 2015, CPG submitted its 2015 pre-filing information in support of its annual reconciliation of PGC rates pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations. On May 19, 2015, the OCA filed a Formal Complaint against the Company's filing.

The Company made its definitive filing on June 1, 2015. CPG proposed a PGC rate of \$3.4081/Mcf for the residential class, which was the same as its current rate. The OCA filed testimony and participated in a number of settlement conferences. The parties filed a comprehensive Settlement petition on August 19, 2015. Through the settlement, the OCA ensured that the Company's PGC rates are appropriate and that peaking costs are reduced in future filings. The Commission adopted the ALJ's Recommended Decision and approved the Settlement without modification in an Order entered October 22, 2015.

Docket No. R-2016-2543311. On April 29, 2016, CPG submitted its 2016 pre-filing information in support of its annual reconciliation of PGC rates pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations. On May 12, 2016, the OCA filed a Formal Complaint against the filing.

CPG made its definitive filing on June 1, 2016. It proposed a PGC rate of \$3.2229/Mcf for the residential class, which is an increase of \$0.1814/Mcf or 1.6% more than its current PGC rate.

The OCA filed Direct Testimony on June 28, 2016. The matter remained pending at the PUC at the end of the Fiscal Year.

### **UGI Gas Co. (UGI-GD)**

Docket No. P-2013-2398833. On December 12, 2013, the three UGI Companies separately filed Petitions for approval of their Long-Term Infrastructure Improvement Plans (LTIIP). On January 2, 2014, the OCA filed Comments to each of the three companies' LTIIPs. On September 11, 2014, the Commission entered a combined Opinion and Order approving the UGI, PNG and CPG LTIIPs.

On February 29, all three utilities filed Petitions to modify their approved LTIIPs and further accelerate replacement of infrastructure. The parties await Commission action on comments filed by the OSBA.

In the same docket, UGI-GD filed a Petition to establish an initial Distribution System Improvement Charge (DSIC) on March 31, 2016. The OCA Answered on April 19, 2016. The OCA asked the Commission to deny the Petition until a record is developed to determine whether the costs associated with gathering lines, storage and "other

related capitalized costs” are properly recovered through the DSIC. The parties are waiting for a Commission Order in the matter.

Docket No. P-2016-2537586. On March 31, 2016, the three UGI utilities filed Petitions for Waiver of the 5% Distribution System Improvement Charge (DSIC) cap. The OCA filed Answers opposing the Petitions on April 19 and 20, 2016, based on its preliminary position that there is no evidence that any of the utilities are unable to replace infrastructure at an accelerated pace by filing base rate cases using the Act 11 fully forecasted future test year mechanism and a DSIC within a 5% cap. The UGI-Gas Division Petition has not been assigned to an ALJ.

Docket No. R-2015-2480950. On May 1, 2015, UGI submitted its pre-filing information in support of its annual reconciliation of PGC rates pursuant to Sections 53.64 and 53.65 of the Commission’s Rules and Regulations. On May 19, 2015, the OCA filed a Formal Complaint against the Company’s filing.

The Company made its definitive filing on June 1, 2015. UGI proposed a PGC rate of \$4.6287/Mcf, which was a decrease of \$0.2260/Mcf or 4.7% less than its current PGC rate. The OCA filed testimony and participated in a number of settlement conferences. The parties filed a comprehensive Settlement Petition on August 19, 2015. Through the settlement, the OCA ensured that the Company’s PGC rates are appropriate and that peaking costs are reduced in future filings. The Commission adopted the ALJ’s Recommended Decision and approved the Settlement without modification in an Order entered October 22, 2015.

Docket No. R-2015-2518438. On January 19, 2016, UGI-GD filed a tariff proposing to increase rates to produce additional annual operating revenues of \$58.56 million, or by 17.5%. The proposed rate increase, if not suspended, would become effective on March 19, 2016. The Company provides natural gas to approximately 388,000 residential, commercial and industrial customers in over 16 counties throughout Pennsylvania.

The OCA filed a Formal Complaint against the proposed rate increase on February 2, 2016. The OCA retained five expert witnesses to review the Company’s filing, and subsequently filed testimony addressing UGI’s proposed rate of return, revenue and expense claims, cost of service study, proposed Energy Efficiency & Conservation Plan, and issues relating to the Company’s universal service programs. Hearings were held on June 2, 2016, at which time the OCA entered its numerous pieces of testimony into the evidentiary record. The OCA worked with the other parties to finalize a settlement in this matter. The Joint Petition for Settlement and the OCA’s Statement in Support were filed on June 30, 2016. The Settlement provided for an overall distribution increase of \$27 million, or about \$31.56 million less than the amount originally requested by the Company. The residential customer charge would increase from \$8.55 to \$11.75 per

month, rather than to \$17.50 per month as originally proposed. The Settlement also addressed a number of other issues including environmental remediation costs, billing determinants, transportation charge and interruptible class revenues, energy efficiency and conservation, and universal service issues. At the end of the Fiscal Year, the ALJ's recommendation was pending.

Docket No. R-2016-2543309. On April 29, 2016, UGI-GD submitted its 2016 pre-filing information in support of its annual reconciliation of PGC rates pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations. On May 12, 2016, the OCA filed a Formal Complaint against the filing.

On June 1, 2016, UGI-GD made its definitive filing, proposing a PGC rate of \$4.8003/Mcf, which is an increase of \$0.5341/Mcf, or an increase of 6% to a typical Residential Heating customer's bill. The parties filed Direct Testimony on June 28, 2016 addressing the Company's peaking service and asset management services RFP results.

#### **UGI Penn Natural Gas, Inc. (PNG)**

Docket Nos. P-2013-2397056, 1305 CD 2015. See companion write-up for CPG, Docket Nos. P-2013-2397056, 1306 CD 2015.

Docket No. P-2016-2537594. See companion write-up for UGI-CPG, Docket No. P-2016-2537609. The OCA submitted Direct Testimony on July 22, 2016 for PNG.

Docket No. R-2015-2480934. On May 1, 2015, PNG submitted its 2015 pre-filing information in support of its annual reconciliation of PGC rates pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations. On May 19, 2015, the OCA filed a Formal Complaint against the Company's filing.

The Company made its definitive filing on June 1, 2015. PNG proposed a PGC rate of \$3.9305/Mcf for the residential class, which was a decrease of \$0.2977/Mcf or 7.06% less than its current PGC rate. The OCA filed testimony and participated in a number of settlement conferences. The parties filed a comprehensive Settlement petition on August 19, 2015. Through the settlement, the OCA ensured that the Company's PGC rates are appropriate and that peaking costs are reduced in future filings. The Commission adopted the ALJ's Recommended Decision and approved the Settlement without modification in an Order entered October 22, 2015.

Docket No. R-2016-2543314. On April 29, 2016, PNG submitted its pre-filing information in support of its annual reconciliation of PGC rates pursuant to Sections 53.64 and 53.65 of the Commission's Rules and Regulations. On May 12, 2016, the OCA filed a Formal Complaint against the filing.

PNG made its definitive filing on June 1, 2016. PNG proposed a PGC rate of \$3.0248/Mcf for the residential class, which is the same as its current PGC rate in effect as of June 1, 2016.

The parties filed Direct Testimony on June 28, 2016, and hearings were scheduled for July 25-26, 2016.

## **WATER & WASTEWATER: UTILITY-SPECIFIC PUC PROCEEDINGS**

### **Allied Utility Services, Inc.**

Docket No. R-2015-2479955. On June 29, 2015 Allied Utility Services, Inc. filed a request to increase its rates to become effective October 5, 2015. Allied sought an estimated annual increase in base rate revenues of \$154,334 per year. This represents an approximate 61% increase. If the Company's entire request were approved, the total wastewater bill for a typical residential customer, using 13,000 gallons of water quarterly would have increased from \$172 to \$277 per quarter, or by 61%. Allied serves 299 residential customers, in the Schnecksville North Sewer District North Whitehall Township, Lehigh County, PA. The OCA filed a formal complaint.

The parties reached a settlement addressing all of the issues in the case and submitted the Settlement to the ALJ on November 16, 2015. The Settlement provided as follows:

- An overall annual revenue increase of \$80,000, or 31.72%, in lieu of the proposed \$154,334 increase. Under the proposed Settlement, the bill for the average residential customer using 13,000 gallons of water per quarter would increase from \$172 to \$221 per quarter, rather than \$277 as originally proposed by the Company.
- Stay Out- the Company agreed not to file a general rate increase prior to two (2) years after the entry date of the Commission's Order approving this Joint Petition for Settlement.
- Net Plant in Service-The Joint Petitioners agreed that Allied's net plant in service for ratemaking purposes, as of December 31, 2014 will be \$460,998. Allied agreed that this number will be brought forward in the next rate proceeding to reflect plant additions and retirements and associated accumulated depreciation.
- Affiliated Interest Agreement- the Company agreed to file an Affiliated Interest Agreement within six months following the entry date of the Commission order approving the Settlement.
- Allied agreed to file an updated tariff no later than its next general rate filing.

Settlement ¶ 10(d). This provision will assist the OCA in ensuring that the tariff is full and complete and addresses all necessary tariff issues.

The ALJ approved the Settlement on February 26, 2016 and the Commission entered an order approving the Settlement on April 7, 2016.

### **Appalachian Utilities, Inc.**

Docket No. R-2015-2478098. On July 30, 2015 Appalachian Utilities filed a rate increase request to become effective September 28, 2015. Appalachian sought an opportunity to recover an estimated annual increase in base rate revenues of \$252,721. Appalachian Utilities serves 1,315 residential customers, in the Borough of Avis and Townships of Pine Creek and Dunnstable, Clinton County, PA. The OCA filed a formal complaint.

The parties reached a settlement addressing all of the issues in the case, which was approved in its entirety by the ALJ in a decision issued on February 19, 2016 and by the Commission in an Order entered on March 10, 2016. The Settlement negotiated by the OCA, I&E, OSBA and Company provided as follows:

- An overall annual revenue increase of \$212,000 (39%) in lieu of the proposed \$252,721 (46%) increase proposed by the Company.
- The bill for the average residential customer using 6,000 gallons of water bi-monthly increased from \$48.34 to \$68.17, rather than \$72.74 as originally proposed by the Company.
- The Company agreed not to file a general rate increase prior to three (3) years after the effective date of the new rates. If the Company files as soon as the stay out expires and the next case is fully litigated, this provision would ensure that the proposed rates would stay in effect until December of 2019.
- The Company agreed to make two changes to its tariff. The first proposed change modifies the number of gallons included in the first tier rate from 33,333 gallons to 33,000 gallons. This change to tariff page 5 is intended to reflect the actual billing practices of Appalachian, as the Company bills in increments of 1,000 gallons. The second proposed change to the tariff is the addition of a new provision addressing requirements related to when the Company enters into contracts for bulk water sales at negotiated rates. The provision provides that the negotiated rate must be no lower than the cost to provide the service and addresses the issue of the Company providing bulk water service without a tariff provision permitting such at something other than rates that are charged to retail customers. The requirement that the negotiated rate be no lower than the cost to provide bulk water service protects customers from subsidizing the rates paid for bulk water sales.

Under the proposed Settlement, Appalachian agreed to maintain a log of all customer complaints regarding service issues. This provision is in accordance with the Commission's regulation regarding service complaint logs. See 52 Pa.

Code § 65.3(b). The Company has also agreed to maintain a log of service interruptions. These logs should benefit customers as they can be used as tools to identify patterns of service-related issues, and assist the Company in rectifying such issues. The OCA also uses these logs to monitor the level and type of customer complaints and interruptions in service in between rate cases.

On March 10, 2016, the Commission entered an Order adopting the recommendation of ALJ Buckley dated February 19, 2016 and approving the Settlement without modification.

### **Artesian Water Pennsylvania, Inc.**

Docket No. A-2014-2451241. On November 3, 2014, Artesian filed an application for approval to serve water in additional territory in a portion of New Garden Township, Chester County. The OCA filed a Notice of Intervention. More than 100 Artesian customers and local residents filed Protests against the application. Their primary concern is that the local aquifer will be depleted and/or that water produced in Pennsylvania will be diverted to Artesian's Delaware operations to the detriment of Artesian's existing Pennsylvania customers. Artesian has objected to many of the complaints. Most of its objections have been denied by the Presiding Officer.

On February 3, 2016, Artesian filed a Petition to withdraw its Application, which the OCA did not oppose. A Secretarial Letter approving the withdrawal was entered on April 29, 2016.

### **City of Bethlehem**

Docket No. P-2016-2528322. On February 8, 2016, Bethlehem filed an initial Long-Term Infrastructure Improvement Plan (LTIIP). The OCA filed comments on March 9, 2016, which requested additional information for the Commission's review of the LTIIP. The City filed an Amended LTIIP Petition on April 5, 2016 providing the information requested by the OCA. The case remains pending, while the City provides additional information to the Commission's Bureau of Technical Services.

### **CMV Sewage Co.**

Docket No. A-2015-2513381. On November 10, 2015, CMV filed an Application to abandon wastewater service to all 280 of its customers. The OCA filed a Protest on December 7, 2015. The Company did not identify a viable alternative provider or give direct notice to customers of its proposed abandonment. On February 26, 2016, counsel for Company confirmed CMV's decision to continue with the abandonment proceeding rather than seek permission to withdraw and either identify a willing, viable acquiring entity or consider seeking a rate increase in a separate proceeding. On June

27, 2016, the Company filed a Petition to Withdraw its filing. On June 28, 2016, the OCA filed an Answer supporting the withdrawal. At the end of the Fiscal Year, the parties await an Initial Decision.

### **Columbia Water Co.**

Docket No. R-2014-2445660. On September 30, 2014, The Columbia Water Company filed a supplement requesting approval of a PENNVEST surcharge under 66 Pa. C.S. § 1307(a) to provide for repayment of a \$15.25 million PENNVEST loan. Two customers and the OCA filed Formal Complaints objecting to the surcharge because capital cost surcharges are not permitted under Section 1307(a) and because the amount of the surcharge constitutes a general rate increase. For both reasons, the OCA argued that the rate increase must be filed under Section 1308(d). The OCA also opposed the inclusion of the PennVest-funded rate base in base rates at the end of the PennVest surcharge period.

On December 4, 2014, the Commission approved the proposed tariff subject to refund pending the outcome of the litigation of the three complaints. On June 2, 2015, the parties filed a Joint Petition for Settlement.

The terms of the Settlement replaced the surcharge that took effect on January 1, 2014 with a different surcharge mechanism and procedures, which addressed the OCA's objection to the recovery of capital costs in a surcharge established outside of a base rate proceeding. Importantly, going-forward, the rate charged to customers will only be recalculated in the context of a Section 1308 filing. Also, if Columbia receives approval to recover additional PennVest loans via surcharge, those filings will also be made in a Section 1308 filing. At the same time, the settlement surcharge contains a material change threshold that will facilitate and help Columbia to repay its loan(s). Finally, the settlement terms prevent Columbia from claiming return and depreciation on the plant financed by that loan in rate base while the same amounts are being recovered by surcharge.

On July 1, 2015, the OALJ issued a Recommended Decision approving the settlement without modification. On August 11, 2016, the Commission entered an Order approving the tariff supplement attached to the settlement.

Docket No. R-2016-2525128. On January 12, 2016, Columbia filed a tariff supplement to decrease the Company's rate for its Marietta Division for each volumetric block and for public and private fire protection by eliminating the PENNVEST surcharge associated with each. The reason for the elimination of the surcharge is the retirement of the debt approved for the surcharge. The OCA filed a Formal Complaint on March 9, 2016, which did not oppose the rate decrease but raised an issue whether the proposed rate reduction should have been put into effect earlier than proposed by the Company.

On March 10, 2016, the Commission entered an Order referring that issue for hearing and allowing the rate reduction to take effect on March 11, 2016, subject to refund. On April 7, 2016, the Commission granted a petition for reconsideration filed by the Company. While the motion was pending, the parties resolved all issues in the proceeding and submitted a settlement. The Settlement provided for entry of additional information into the record to support the timing for the rate decrease, which addressed the OCA's concerns. The Presiding Officer recommended approval and the Commission approved the Settlement by Order entered on May 19, 2016.

### **Community Utilities Inc. of PA (CUPA)**

Docket No. R-2016-2538660. On April 6, 2016, Community Utilities of Pennsylvania, Inc. filed a request to increase its base rates to become effective June 5, 2016. CUPA also seeks Commission approval to consolidate the rates of all water customers in the service territories formerly known as Penn Estates Utilities, Inc. and Utilities, Inc.-Westgate. The OCA filed a formal complaint. Public input hearings were held on July 8, 2016 in each service territory.

The parties reached a resolution of all issues and filed a Petition for Joint Settlement on September 13, 2016. The Settlement provided for an overall annual revenue increase of \$345,000, or 32.22%, compared to the Company's request of \$427,817, or 39.96%. The parties agreed that rates of the two subsidiaries can be consolidated over time, and the Company will begin the move to consolidation in this case by consolidating its customer charge, wherein typical Penn Estates residential customers and typical Utilities Westgate residential customers with 5/8" meters will be charged a customer charge of \$17.25 per month. A customer in the service territory formerly known as Penn Estates, using 4,000 gallons of water per month, would experience a rate increase from \$30.98 to \$42.29, or by 36.5% compared to the 50.5% increase proposed by the utility. A customer in the service territory formerly known as Utilities Westgate, using 4,000 gallons of water per month, would experience a rate increase from \$38.03 to \$46.33 per month, or by 21.8% compared to the 22.6% increase proposed by the utility.

The gradual consolidation of rates between customers in the Penn Estates and Utilities Westgate service territories helps to ensure the avoidance of rate shock for customers in the Penn Estates service territory who were paying a rate lower than that of Utilities Westgate customers prior to the Company's filing.

Under the proposed Settlement, the Company cannot file for another general rate increase prior to January 6, 2018. If the Company files as soon as the stay out expires and if the next case is fully litigated, then the current rates would be in effect for approximately 21 months. Thus, the stay out will provide for some level of rate stability for the Company's customers.

Pursuant to the terms of the Settlement, the Company will provide the OCA and I&E periodic reports and confirmation of capital projects as set forth in the Company's testimony. This Settlement provision will help to ensure that the Company is making necessary capital improvements to its distribution system.

The Company agreed to investigate the quality of service issues raised by consumers at the Penn Estates public input hearing and provide a report on its investigation to the OCA and I&E. This provision will also help to ensure that customers receive quality, uninterrupted water service. The proposed Settlement is pending review by the presiding officer.

### **Corner Water Supply & Service Corp.**

Docket No. R-2015-2479962. On May 27, 2015, Corner Water filed a request to recover an estimated annual increase in base rate revenues of \$89,155, or 27.25%. Under the Company's proposal, the bill would increase the rate charged to a typical residential customer using 2,990 gallons of water per month from \$34.05 per month to \$43.32 per month. The Company serves 607 customers, of which 520 are residential, within a portion of Paint Township, Clarion County, Pennsylvania. The OCA filed a formal complaint and conducted formal and informal discovery.

The parties participated in mediation and were able to reach a full settlement of the issues in the proceeding. The Settlement provided as follows:

- The proposed Settlement provides for an overall annual revenue increase of \$52,000, or 15.89%, in lieu of the proposed \$89,155 increase.
- Tariff changes included the addition of a usage allowance for non-mobile home park customers, the addition of monthly rates for private fire customers, the addition of quarterly rates for public fire customers, and the expanded description of rates for mobile home park customers. These changes are intended to reflect the actual billing practices of Corner Water.
- Affiliated Interest Agreement-The proposed settlement required the Company to file a new Affiliated Interest Agreement within 30 days of a final order in this proceeding, pursuant to Chapter 21 of the Public Utility Code.
- Stay Out- the Company agreed not to file a general rate increase prior to two (2) years after the entry date of the Commission's Order approving this Joint Petition for Settlement.
- Corner Water agreed to file direct testimony in support of its next general rate filing, at the same time that it files the general rate increase request. In addition, Corner Water agreed that it will provide a proof of revenues as part of its next general rate increase request filing.
- Other Commitments-Corner Water agreed that it will have its two storage tanks (Commodore Tank and Tank #1, or Office Tank) inspected by a non-affiliated tank inspection company. The Commodore tank will be inspected, inside and out, before Corner Water files its next general rate increase

request. Corner Water agreed that it will provide a copy of the inspection report when completed to the signatory parties. Tank # 1 (or the Office tank) will be inspected, inside and out, before Corner Water files its second general rate increase request following this proceeding. Corner Water agreed that it will provide a copy of the inspection report when completed to the Office of Consumer Advocate and other signatory parties. These inspections are important to ensure that the tanks are operating properly and can be used to determine what maintenance, if any is necessary for each tank.

The ALJ recommended approval of the Settlement on December 11, 2015 and the Commission approved the Settlement on January 28, 2016.

### **Cornwall Borough (CBMA)**

Docket No. P-2015-2476211. The Borough of Cornwall filed a Petition for Declaratory Order on April 10, 2015. Cornwall sought an Order concluding that the provision of water service to customers outside of its municipal boundaries does not constitute the provision of public utility service pursuant to the Public Utility Code. The Petition was instigated by Cornwall's decision to terminate the existing water Authority. The Authority currently serves 1,351 customers, 47 of whom reside outside of the Borough. In addition, the Borough had agreed to provide service to an additional 25 residential customers in a neighboring municipality. The OCA filed an Answer opposing the Petition and arguing that the Borough's service to current and proposed outside customers constitutes public utility service and, as such, the outside customers are entitled to the protections afforded by the Public Utility Code and Commission regulations.

On April 8, 2015, the Cornwall Borough Municipal Authority (CBMA or Authority) filed a Petition Against the Borough of Cornwall for Violations of the Public Utility Code and Petition for Declaratory Order on April 8, 2015. The Authority raised concerns regarding actions taken by the Borough, the Borough's failure to file an Application for a Certificate of Convenience and its fitness to provide water service. The OCA intervened in the CBMA Petition to ensure that the proper legal steps are taken if the Authority is dissolved and service is provided by the Borough to customers outside of its municipal boundaries.

Following evidentiary hearings where the Borough and CBMA provided testimony, the OCA filed briefs consistent with its position that the Borough's service to extraterritorial customers should not be regulated by the Commission. The OCA noted that the Borough made the decision to terminate the Authority and start serving customers as a municipal entity. If the Borough's Petition is granted, there is no guarantee that the Borough will charge outside customers the same rates charged to inside customers, that rates will be cost-based, or that the Borough will not add additional outside

customers. The ALJ issued an Initial Decision recommending approval of the Borough's Petition. The OCA filed exceptions in February 2016. At the end of the Fiscal Year, the matter was pending before the Commission.

#### **David and Diane Miller's Water Co. (DMWC)**

Docket No. A-2016-2529425. On February 10, 2016, DMWC filed an Application for approval to abandon service to 76 customers and proposed that they be transferred to Petroleum Valley Regional Water Authority. The OCA reviewed the Application to ensure that the affected customers receive continuous service and the proposed acquisition is in the public interest and provides all necessary and proper customer protections. The OCA filed a protest to ensure that there was an opportunity to find a new operator/owner. On May 26, 2016, the Company filed a letter to withdraw the application to allow it to continue to negotiate with a buyer. The OCA did not oppose the request to withdraw. The ALJ granted the application to withdraw in a decision dated June 13, 2016.

#### **Delaware Sewer Co.**

Docket No. I-2016-2526085. As a result of the Petition filed by Delaware Sewer Company (Docket No. P-2014-2404341), the Commission adopted the ALJ's recommendation that a Section 529 investigation be started. The OCA filed a Notice of Intervention on March 3, 2016 and a Motion to Join PAWC as an Indispensable Party on March 29. PAWC objected in an Answer filed April 18, 2016. The parties await the ALJ's ruling on the Motion.

#### **Driftwood Borough**

Docket No. P-2016-2533069. On March 7, 2016, the Borough of Driftwood filed a Petition for a Declaratory Order that its provision of water service to 40 customers outside the borough's corporate boundaries does not constitute the provision of public utility service under the Public Utility Code.

The OCA filed an Answer on March 30, 2016 opposing the Petition. The OCA's concern is that the outside Borough customers are entitled to the protections afforded by the Public Utility Code and Commission regulations because they have no power to vote in the Borough. The outside customers would have no recourse regarding future rate increases or transfer of the outside customers to another entity.

The case remains pending before the Commission.

**Hidden Valley Utility Services - Water and Wastewater (HVUS)**

Docket Nos. C-2014-2447138 and C-2014-2447169. On October 9, 2014 the OCA filed complaints against HVUS due to water quality and water/wastewater quality of service issues, as well as financial and managerial issues. The complaints requested that HVUS be required to maintain its system to eliminate water discoloration, to provide adequate, efficient, safe and reasonable service and facilities, and to make all necessary repairs to its system.

The OCA filed testimony and briefs centering on the constant, severe brown and dirty water and customers' inability to use it for all household purposes. The OCA recommended that the Company take prompt action to provide adequate service or asked the Commission direct HVUS to transfer the utility to more capable ownership. These matters are currently awaiting an Initial Decision by the ALJ.

Docket No. P-2014-2424858. On June 3, 2014, the OCA filed a Petition requesting an Emergency Order directing HVUS to pay its delinquent electric accounts with Penelec as well as asking the PUC to direct HVUS to provide all HVUS account numbers to TUS and OCA in order to permit monitoring to avoid the possibility of termination of electric service. Penelec filed a Petition to Intervene. The parties filed a settlement on September 26, 2014. The terms of the proposed Settlement address each of the OCA's requests for relief made in its Petition for Emergency Order. The provisions will help to reassure customers that water and wastewater service, including fire protection, will not be interrupted due to the termination of electric service and ensure that the OCA and Commission have the information necessary to act quickly if the utility fails to make a payment on any account related to utility service. The OCA and Commission will know which account is at issue and how that account impacts water and wastewater service, understand the scope of any non-payment, and identify potential payment issues before they escalate.

On May 5, 2015, the Presiding Officer issued an Interim Order directing HVUS to execute authorization forms permitting Penelec to provide the information required by the Settlement and directing Penelec to provide that information historically and every month for the next twelve months, ending June 10, 2016. The OCA filed a status report on June 30, 2016, in which it recommended that HVUS provide authorization for Penelec to continue providing payment history to the OCA until a Final Order is issued in the OCA's related complaint proceedings against the Company.

**James Black Water Co.**

Docket No. A-2013-395443. On November 25, 2013, the de facto utility filed an Application for a Certificate of Public Convenience to serve water to 18 customers. On December 30, 2013, the OCA filed a Protest. The OCA pointed out numerous

deficiencies in the filing, making it non-compliant with Commission regulations and statutory requirements. The OCA recommended that the Commission direct the filing of a complete application. The OCA is conducting discovery to try to obtain the missing information. The Company is scheduled to submit its direct testimony on November 1, 2016.

### **Middletown Borough**

Docket No. P-2016-2542994. On May 2, 2016, the Borough of Middletown filed a Petition for a Declaratory Order that its provision of water service to 49 customer accounts outside the borough's corporate boundaries does not constitute the provision of public utility service under the Public Utility Code. The customers are served by a municipal authority created by the Borough. The Borough plans to terminate the authority and transfer all assets relating to the water system to the Borough.

The OCA filed an Answer raising a concern that the outside Borough customers are entitled to receive the protections afforded by the Public Utility Code and Commission regulations because they have no power to vote in the Borough. The outside customers would otherwise have no recourse regarding future rate increases or transfer of the outside customers to another entity. The case was pending at the end of the Fiscal Year.

### **Penn Estates Utilities, Inc. - Water**

Docket No. P-2015-2464237. On January 26, 2015, the Company filed a Joint Petition with Utilities, Inc. – Westgate, for approval of their Long-Term Infrastructure Improvement Plans (LTIIP) and to establish Distribution System Improvement Charges (DSIC). The OCA filed Comments on the LTIIPs and an Answer and Formal Complaint against the proposed DSICs on February 17, 2015. The OCA's primary concern is that Westgate did not file a base rate filing within five years prior to the date of the filing of its petition for a DSIC, which is not consistent with the express requirement of Act 11. In addition, the OCA objected to the Companies failure to recognize the balance of accumulated deferred income taxes associated with DSIC-eligible investments and state income tax deductions in the DSIC calculation.

On March 3, 2015, the Companies filed supplemental information, as recommended by the OCA. On May 19, 2015, the parties requested additional time to discuss the remaining issues before the proceeding was assigned to an ALJ.

On July 29, 2015, the Companies filed a Petition to withdraw, which the OCA did not oppose. The parties are waiting for Commission action on the Petition.

**Penn Estates Utilities, Inc. - Wastewater**

Docket No. P-2015-2464236. On January 26, 2015, the Company filed a Joint Petition with Utilities, Inc. of Pa. for approval of their Long Term Infrastructure Improvement Plans (LTIP) and to establish Distribution System Improvement Charges (DSICs). The OCA filed Comments on the LTIPs and an Answer and Formal Complaint against the proposed DSICs on February 17, 2015. The OCA's primary concern is that Utilities, Inc. of PA did not file a base rate filing within five years prior to the date of the filing of its petition for a DSIC, which is not consistent with the express requirement of Act 11. In addition, the OCA objected to the Companies failure to recognize the balance of accumulated deferred income taxes associated with DSIC-eligible investments and state income tax deductions in the DSIC calculation.

On March 3, 2015, the Companies filed supplemental information, as recommended by the OCA. On May 19, 2015, the parties requested additional time to discuss the remaining issues before the proceeding was assigned to an ALJ.

On July 29, 2015, the Companies filed a Petition to withdraw, which the OCA did not oppose. The parties are waiting for Commission action on the Petition.

**Pennsylvania-American Water Co. - Water (PAWC)**

Docket No. P-2015-2513587. On November 9, 2015, PAWC filed a petition seeking a finding that two buildings to be constructed by PAWC to shelter booster pump stations in Dunbar Township, Fayette County, to support an interconnection with the Municipal Authority of Westmoreland County (MAWC) are reasonably necessary for the convenience or welfare of the public and, therefore, exempt from local zoning ordinances. The pump stations were being constructed due to the expiration of PAWC's bulk water contract with North Fayette County Municipal Authority and its planned interconnection with MAWC. The OCA filed a Notice of Intervention on December 8, 2016 to ensure that the interests of PAWC's customers were protected. In a decision issued on March 29, 2016, the ALJ granted the petition and determined that all parties preserved the right to raise the issue whether the MAWC contract is prudent in a future rate case. The Commission entered an Order on April 21, 2016, consistent with the Initial Decision.

**Pennsylvania-American Water Co. – Wastewater Div. (PAWC)**

Docket No. A-2016-2537209. PAWC and Scranton filed a joint Application for PAWC to acquire the latter's wastewater system assets and customers on March 30, 2016. The OCA filed a Protest on April 5, 2016 raising preliminary issues regarding the reasonableness of the proposed purchase price, the burden of system improvements, the proposal to freeze the acquired customers' rates for two years. The OCA's direct

testimony was filed on June 14, 2016. The OCA recommended that the application be denied because stormwater service by an investor-owned utility subject to the jurisdiction of the PUC is not in the public interest. The OCA also opposed any recovery from existing PAWC water and wastewater ratepayers of the revenue requirement that is not be collected from the Scranton customers pursuant to the 1.9% limit on rate increases for the first 10 years. In addition, the applicants did not identify any cost savings related to the transaction and OCA's calculations show that there is higher cost to make the improvements due to PAWC's higher financing costs. At the end of the Fiscal Year, this matter was proceeding to litigation before the assigned ALJ.

Docket No. A-2016-2544151. On May 6, 2016, PAWC filed an application to acquire the wastewater system assets and customers of the New Cumberland Borough, in Cumberland County. The OCA filed a Protest on June 6, 2016 raising preliminary issues regarding the reasonableness of the proposed purchase price, infrastructure investment, offers of employment, proposed rates and rate increase limitations for acquired customers and whether the proposed transaction would provide substantial, affirmative benefits to the existing PAWC wastewater and water customers. At the end of the Fiscal Year, this matter was assigned to an Administrative Law Judge.

### **Schuylkill Haven Borough – Water**

Docket No. R-2015-2470184. On March 3, 2015 the Borough of Schuylkill Haven Water Department (Schuylkill Haven or the Borough) filed Supplement No. 43 to Tariff Water – Pa. P.U.C. No. 3, to become effective as of May 4, 2015. Schuylkill Haven sought an annual increase in base rate revenues of \$246,462 per year from inside-Borough customers and \$283,079 per year from its outside-Borough customers. This represents an approximate 31.17% increase to the customers outside of the Borough. If the Borough's entire request is approved, the total bill for a typical residential customer residing outside the Borough, using 3,000 gallons of water per month would increase from \$25.86 to \$33.20 per month, or by 28.4%. Schuylkill Haven serves 2,783 residential water customers, of which 1,825 reside inside of the Borough and 958 reside outside of the Borough, in the Borough of Cressona and North Manheim Township, Schuylkill County, Pennsylvania. The OCA filed a Formal Complaint and public statement.

The parties were able to reach a settlement on all issues in the proceeding. The Settlement provided as follows:

- The proposed Settlement provided for an overall annual revenue increase for outside-Borough customers of \$230,966, or 25.43%. Under the proposed Settlement, a typical residential customer using 3,000 gallons of water per month would see an increase from \$25.86 to \$31.26, or approximately 21%.
- The Borough cannot file for another general rate increase prior to twelve (12)

months after the new rates go into effect.

- Customer Complaint Log-the Borough will create and maintain a complaint log to record all complaints from jurisdictional customers, which shall include, at a minimum, the date of contact, issue(s) in question, and steps taken, if necessary, to resolve the issue(s).
- Meter Testing-the Borough will test all jurisdictional meters that are 1 inch or larger at least every 8 years. For meters that are larger than one inch in size and have not been tested or installed in the last eight years, the Borough will begin testing of those meters no later than December 1, 2015 and will conclude such testing by April 1, 2016.
- Pressure Valves- the Borough will update its website with a section explaining the recommended specifications for pressure valves as being “working pressure rated for 300 psi that can reduce pressures down to a minimum of 40 psi.” The information will also be included in the written building code materials that are provided to contractors.
- Public Fire Hydrant Installation in Cressona and North Manheim Townships-The Settlement also establishes terms for the installation of public fire hydrants in Cressona and North Manheim Townships. Specifically, if in the Borough’s judgment the installation of a new public fire hydrant is appropriate in Cressona or North Manheim Township, the Borough agrees to inform Cressona/North Manheim Township in writing as such and provide a brief explanation of the engineering and public safety basis for the Borough’s determination. Id. Cressona/North Manheim Township will have the opportunity to provide a written consent or objection to the installation of the hydrant as proposed within 45 days. Any objections to a proposed installation must be reasonable in nature and specifically address the engineering and public safety issues referenced by the Borough. Under the terms of the Settlement, if Cressona/North Manheim Township acknowledges its consent to the installation in writing, the Borough would proceed with the installation, and Cressona/North Manheim Township will be responsible for payment of the Borough’s tarified public fire hydrant rate, beginning on the date when the public hydrant is placed into service. This provision will help to facilitate open communication between the Borough and customers of Cressona/North Manheim Townships. In addition, this provision will help to ensure that any engineering or public safety issues regarding the installation of fire hydrants in those municipalities are brought to the Borough’s attention and properly considered prior to the installation of any new hydrants.
- Cressona and North Manheim Townships Customer Contacts-the Borough’s customers from Cressona and North Manheim Township will continue to be able to contact the Borough’s Water Department directly with any questions or concerns about the Borough’s water service, via telephone, mail, or in-person. Additionally, the Borough will implement a web-based portal for the submission of customer comments or concerns. The Settlement provided that the Borough will hold one public forum per year, during which Cressona and North Manheim Township residents can ask questions or submit comments regarding the Water System.
- Consumer Confidence Reports- the Borough will continue its practice of uploading Consumer Confidence Reports (CCRs) to its website, and will notify

customers when new reports are uploaded via customer bill messaging. The Borough will maintain the current year report and prior two years on its website. Additionally, the Borough will provide Cressona and North Manheim with a paper copy of the CCRs.

- Notice of Rate Case Filing-the Borough will provide notice of its next jurisdictional rate case filing to all parties to this case thirty days prior to the filing of the rate case and will include all the parties on its service list for said filing. If the Borough holds a pre-rate case filing meeting with any party in advance of the filing of its next rate case, the Borough will extend an invitation to all current parties in this proceeding to attend and participate in such meeting.

The ALJ recommended approval of the Settlement on September 1, 2015 and the PUC approved the Settlement on October 22, 2015.

### **Twin Lakes Utilities, Inc.**

Docket No. R-2015-2506337. On November 16, 2015, Twin Lakes Utilities, Inc. filed a base rate case proposing to increase rates for service provided to 115 residential water customers in Shohola Township, Pike County, Pennsylvania. Twin Lakes requested an annual increase in base rate revenues of \$195,287, or an approximate 257% increase over current annual revenues. This includes a proposed increase in the volumetric charge from \$6.29 to \$22.46 per 1,000 gallons, as well as an increase in the monthly customer charge for a customer with a 5/8 inch meter from \$37.00 to \$132.11 per month.

The OCA filed a Formal Complaint and Public Statement against the proposed rate increase on November 23, 2015. A public input hearing was held on February 19, 2016 in Shohola Township, Pike County at which time nine customers testified about the quality of service, billing issues and the impact of the proposed rate increase.

The active parties were able to reach an agreement in principle which was filed with the ALJ and sent to all formal complainants on March 24, 2016. The Settlement provisions are set forth below. The provisions related to the quality of service, the stay out, and the triggers for the phase in are solely a result of OCA's involvement in the case.

- The proposed settlement provides for an increase in annual revenues of \$125,000 (164.54%), in lieu of the originally proposed \$195,287 increase (257%). In order to lessen the impact of this increase on customers, the increase will be phased in over three years and will be contingent upon implementation of various system improvements. While this increase is still sizeable, it represents a significant reduction from Twin Lakes' original rate increase request.
- Under the proposed Settlement, the rates for a typical residential customer using 7,800 gallons of water per quarter will increase from \$160.06 to \$430.13, or by

approximately 168.73%, rather than to \$582.95 (264.21%) as originally requested.

- Approximately 50% of the increase will occur in Year 1 (\$62,500), 25% in Year 2 (\$31,250), and the remaining 25% in Year 3 (\$31,250). In order to implement the Year 2 and Year 3 increases, Twin Lakes will be required to complete certain improvements to its water supply and to its distribution system before those increases can go into effect. The phase-in will lessen the impact on customer bills by spreading the increase over three years, and will ensure that various improvements are completed so that customers are receiving improved service quality as a result of higher rates.
- System Improvements - Twin Lakes has agreed to make a number of improvements to its distribution system and completion of these improvements will act as triggers that will allow subsequent phases of the rate increase to be placed into effect. The Company's system has significant issues, including very high levels of unaccounted for water and the need to replace Well #1 which recently collapsed. These improvements will help to address these concerns. In order to trigger the Year 2 rate increase, Twin Lakes will replace Well #1 and place the new well into service. The Year 3 rate increase trigger requires Twin Lakes to:
  - Install a new supply main connecting replacement Well #1 to the distribution system;
  - Replace 4,000 feet of main, in-kind by diameter, on Warpath Place (500 feet), Kenny Road (1,000 feet), Dylan Road (1,000 feet), Susan Road (1,000 feet), and Rock Place (500 feet);
  - Replace service lines owned by Twin Lakes in conjunction with the above main installations and replacements; and
  - Install a new air relief valve.

After each set of capital improvements are completed, Twin Lakes must file a verification and a tariff supplement to implement the next phase of the rate increase, effective no sooner than 12 months after implementation of the previous phase. These improvements will provide necessary repairs to this aging and leaky system which has unaccounted for water of around 80%, and will help to ensure that customers receive improved service quality as a result of the rate increase.

- Stay Out - Twin Lakes will not file for a rate increase within 36 months after the effective date of the rates agreed to in the Settlement. This three year stay out

will provide customers with a measure of rate stability and an assurance that another rate increase will not be requested before the current increase is fully phased in.

- Outage Alert System – Customers testified at the public input hearing that they are not notified of outages in the Twin Lakes system. To address this, Twin Lakes agreed to include bill messages or inserts twice per year notifying customers of the Company’s existing outage alert notification system and how to enroll in order to receive notifications. The Company will also inform any new customers of the outage alert system when they contact Twin Lakes to begin service.
- Billing Enrollment for New Customers – Two customers testified at the public input hearing that when they purchased their homes in Sagamore Estates, they had difficulty being added to Twin Lakes’ billing system. In response, the Company agreed to work with the Sagamore Property Association to ensure that new customers contact the Company promptly in order to be added to the system in a timely manner.
- Water Pressure - Some customers complained of low water pressure in their homes. To address water pressure issues, Twin Lakes will conduct annual pressure surveys of the system pursuant to 52 Pa. Code § 65.6. Additionally, for customers reporting low water pressure, the Company has agreed to test the pressure drop in the customer’s service line to determine if the service line is adequate. After Well #1 is replaced and connected to the distribution system, Twin Lakes will also increase overall pressure in the system by 1 psi every two months during the warmer months (May to October), unless this causes additional line breaks. These measures will help ensure that customers receive adequate water pressure in their homes.
- Hydrant Replacement for Mr. Zilber – Andrew Zilber is a Twin Lakes customer that contacted the Company and the OCA regarding a leaking hydrant located on his property. Mr. Zilber also testified about problems with the hydrant at the public input hearing. As part of the Settlement, Twin Lakes removed the hydrant from Mr. Zilber’s property on March 14, 2016 and installed a new hydrant in another location. Mr. Zilber agreed to replace his service line in conjunction with the Company’s removal of the hydrant. These steps should address the issues identified by Mr. Zilber.

In a Recommended Decision dated April 21, 2016, the Administrative Law Judge recommended approval of the Settlement without modification. The Commission

adopted the ALJ's recommended decision and approved the Settlement without modification in an Order entered June 9, 2016.

#### **Utilities, Inc. of PA - Wastewater**

Docket No. P-2015-2464251. Refer to the summary of the consolidated proceeding with Penn Estates Utilities, Inc., Docket No. P-2015-2464236.

#### **Utilities, Inc. Westgate - Water**

Docket No. P-2015-2464242. Refer to the summary of the consolidated proceeding with Penn Estates Utilities, Inc., Docket No. P-2015-2464237.

### **TELECOM: UTILITY-SPECIFIC PUC PROCEEDINGS**

#### **CenturyLink**

Docket No. R-2016-2564750. CenturyLink filed its 2016 Price Stability Index (PSI) report and a proposed rate increase in September 2016. CenturyLink calculated an allowed annual increase in non-competitive service revenues of \$381,584, based upon changes in inflation. CenturyLink proposed to increase residential basic local rates by \$1 per month to \$22. CenturyLink also proposed various business rates between \$0.55 and \$1.65 per month. The overall increase would be \$543,425 in additional annual non-competitive service revenues, based on the PSI calculation and deduction of a previously allowed increase that CenturyLink had banked or deferred.

OSBA filed a formal complaint against CenturyLink's filing and proposed business rate increases. The OCA intervened. CenturyLink moved for dismissal of the OSBA formal complaint as untimely or for judgment on the pleadings. The motion was pending at the end of the Fiscal Year.

#### **Frontier Communications Commonwealth Telephone Co.**

Docket No. R-2016-2524540, P-00951995F1000, R-2016-2524592, P-00961024F10000. In late January 2016, the five Frontier Companies and Frontier Commonwealth filed their annual Price Stability Index (PSI) reports. A few days later the Companies filed proposed tariffs to increase rates for non-competitive services. Frontier Commonwealth proposed additional annual revenues of \$434,567. The Company proposed an increase of up to \$1.00 per month per line for residential basic local service and an increase of up to \$2.00 per month for business local services. The OSBA filed complaints in March 2016. The OCA intervened. The Commission approved the PSI reports and rate increases, subject to refund. The OCA is an active participant in the OSBA complaint proceedings.

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**Frontier Co. of Breezewood, LLC**

Docket No. R-2016-2524540, P-00951995F1000, R-2016-2524592, P-00961024F10000. Breezewood proposed additional annual revenues of \$5,840. The Company proposed an increase of \$1.00 per month per line for residential basic local service and an increase of \$1.00 per month for business local services. Please see companion write-up under Frontier Communications for additional information.

**Frontier Co. of Canton, LLC**

Docket No. R-2016-2524540, P-00951995F1000, R-2016-2524592, P-00961024F10000. Canton proposed additional annual revenues of \$6,420. The Company proposed an increase of \$1.00 per month per line for residential basic local service and an increase of \$1.00 per month for business local services. Please see companion write-up under Frontier Communications for additional information.

**Frontier Co. of Lakewood, LLC**

Docket No. R-2016-2524540, P-00951995F1000, R-2016-2524592, P-00961024F10000. Lakewood proposed additional annual revenues of \$3,192. The Company proposed an increase of \$1.00 per month per line for residential basic local service and an increase of \$1.00 per month for business local services. Please see companion write-up under Frontier Communications for additional information..

**Frontier Co. of Oswayo River, LLC**

Docket No. R-2016-2524540, P-00951995F1000, R-2016-2524592, P-00961024F10000. Oswayo River proposed additional annual revenues of \$3,684. The Company proposed an increase of \$1.00 per month per line for residential basic local service and an increase of \$1.00 per month for business local services. Please see companion write-up under Frontier Communications for additional information.

**Frontier Co. of Pennsylvania, LLC**

Docket No. R-2016-2524540, P-00951995F1000, R-2016-2524592, P-00961024F10000. Breezewood proposed additional annual revenues of \$26,429. The Company proposed an increase of \$1.00 per month per line for residential basic local service and an increase of \$1.00 per month for business local services. Please see companion write-up under Frontier Communications for additional information.

**Infiniti Mobile**

Docket No. P-2016-2531610. IM Telecom d/b/a Infiniti Mobile filed a petition for designation as ETC to offer Lifeline service. Infiniti Mobile said Lifeline consumers could have a choice between a Lifeline service or apply the Lifeline discount to other retail offerings. OCA filed Comments in April 2016 requesting clarification of a number aspects of Infiniti Mobile's proposed service. The OCA noted that some Infiniti Mobile service plans cost less than the \$9.25 Lifeline discount, which could result in some of the Lifeline discount not being used to provide service. The OCA asked Infiniti Mobile to explain how a prospective Lifeline customer would know which underlying wireless network would serve them, so the consumer could make an informed decision whether to enroll with Infiniti Mobile. In May 2016, Infiniti Mobile filed reply comments and a supplement to its petition which clarified some points and modified its petition. The OCA will continue to monitor this proceeding.

**Verizon North LLC**

Docket Nos. R-2015-2510231, R-2015-2510233. Verizon PA and Verizon North filed their 2016 Price Change Opportunity reports and proposed rate increases in October 2015. Verizon PA calculated an allowed annual increase in non-competitive service revenues of \$1,422,000, based on changes in inflation. Verizon North calculated an allowed increase in non-competitive service revenues of \$216,000. Verizon North proposed to increase basic local residence service by \$0.12 per line and larger increases to basic local business dial tone and local usage rates.

OSBA filed a formal complaint against the Verizon PA and Verizon North filings. The OCA intervened. In December 2015, the Commission approved the PCO calculations and allowed the proposed rate increases to take effect, subject to refund. The case remains pending.

**Verizon Pennsylvania, LLC**

Docket No. C-2015-2515583. In November 2015, Mr. and Mrs. Altman complained that Verizon had provided unreasonable service due to outages. The Altmans opposed Verizon's plan to switch the line to their home from copper to fiber or risk suspension of telephone service. The OCA monitored the Altmans' formal complaint and provided guidance on procedural matters. At the end of the Fiscal Year, the matter was pending before the ALJ.

Docket No. P-2015-2509336. On October 21, 2015, the Communications Workers of America (CWA) petitioned the Commission to open a formal investigation into the state of Verizon Pennsylvania, LLC's (Verizon) physical plant. CWA avers that Verizon has allowed its physical plant to fall into a state of disrepair such that it poses a safety

hazard to employees and the public, and fails to provide “adequate, efficient, safe, and reasonable service and facilities” as required by Section 1501 of the Public Utility Code. CWA alleges that these conditions exist in areas where Verizon has not deployed its FiOS, or fiber-to-the-home facilities, and that the poor condition of Verizon’s plant affects the quality of landline service provided to customers and places utility workers in danger. CWA’s petition requests that the Commission inspect both the physical plant as well as Verizon’s records, and that the Commission take action to correct the deficiencies in Verizon’s plant. The OCA filed a Notice of Intervention and Public Statement on November 3, 2015.

The Commission issued an interim order stating that CWA’s Petition would be treated as a formal complaint. The OCA anticipates filing direct testimony in September 2016.

Docket Nos. R-2015-2510231, R-2015-2510233. Verizon PA proposed to increase basic local residence service by \$0.12 per line per month with larger increases to basic local dial tone and local usage rates, to produce an annual revenue increase of \$1,106,990. Verizon PA proposed to offset the remaining allowed 2016 increase and a negative 2003 PCO balance to cover its 2016 contribution to the Pennsylvania Universal Service Fund. See companion write-up under Verizon North for additional information.

## **GENERIC PUC PROCEEDINGS: DSIC**

### **Implementation of Act 11 of 2012**

The Commission established Docket No. M-2012-2293611 as a generic docket number for all Secretarial Letters, Implementation Orders and working groups regarding the implementation of Act 11 and, in particular, issues involving implementation of the Distribution System Improvement Charge (DSIC).

On November 5, 2015, the Commission issued a Supplemental Tentative Order that invited interested parties to comment on the issues regarding the implementation, operation and computation of the DSIC:

- requiring quarterly financial reports for all utilities that use the DSIC mechanism;
- filing and computation issues for when the DSIC is reset to zero;
- treatment of over/under collections, or E-factor, after the DSIC is reset to zero;
- computation issues for determining the DSIC rate cap; and
- requirement to file a Long Term Infrastructure Improvement Plan (LTIIIP) by water utilities that use the DSIC.

The OCA filed Comments on December 14, 2015. The OCA supported the Commission's recommendations that would provide for the most up to date and accurate inputs available to ensure that only the utility's actual costs are recovered and the consumer protection provisions of the statute, such as the earnings cap, function as intended. The OCA also made recommendations for ways to reduce the lag in resetting the DSIC to zero in response to overearnings and to ensure that only the fixed costs of new, additional investment will be eligible for recovery in a positive DSIC rate. At the end of the Fiscal Year, the matter remained pending.

## **GENERIC PUC PROCEEDINGS: ELECTRIC**

### **Alternative Energy Portfolio Standards Act of 2004**

Docket No. L-2014-2404361. On February 20, 2014, the Commission issued a Proposed Rulemaking Order to update and revise its regulations implementing the Alternative Energy Portfolio Standards Act. The Commission stated that the revisions were necessary to comply with Act 129 of 2008 and Act 35 of 2007, as well as to clarify issues of law, procedure and policy. The proposed rulemaking drew comments from a variety of interested parties, including the solar industry, environmental groups, agriculture, industry, utilities, and individuals.

The OCA submitted comments on September 3, 2014. The OCA expressed concern regarding the effect the proposed revisions would have on residential customers. The proposed regulations, among other things, would limit the size of alternative energy systems to 110% of a customer-generator's annual electric consumption, and would require independent electric load at each meter for virtual net metering. The OCA's comments raised issues as to the impact on the use of alternative energy systems by residential consumers and the application to alternative energy in new residential construction. The OCA also recommended changes to billing practices for net metering customer-generators.

On May 9, 2015, the Commission's Advance Notice of Final Rulemaking Order was published in the Pennsylvania Bulletin for public comment. The Advance Notice included a number of revisions to the original proposal, including an increase on the size limit of 110% to 200% of the customer-generator's annual electric consumption at the interconnection meter and all qualifying virtual meter aggregation locations.

The Commission adopted its Final Rulemaking Order on February 11, 2016 and the regulations were submitted to the Independent Regulatory Review Commission (IRRC) for approval. At its May 19, 2016 meeting and in a June 2, 2016 Order, the IRRC disapproved the regulations because it found that the PUC does not have statutory authority to impose limits on sizing of alternative energy systems. On June 9, 2016, the Commission issued an Amended Final Rulemaking Order which modified the final

regulations to remove any reference to non-statutory limits to a customer-generator's ability to net meter excess generation. At its June 30, 2016 meeting, the IRRC again rejected the Amended Final Rulemaking Order due to concerns regarding the definition of "utility" and the lack of a compelling need for the rulemaking.

### **Electric Safety Regulations**

Docket No. L-2015-2500632. On November 19, 2015, the Commission issued a proposed rulemaking order to amend its regulations at Chapter 57 of the Pennsylvania Code and to add electric safety standards to that Chapter. The Commission sought to amend 52 Pa. Code Chapter 57 in order to make minor revisions and updates to Section 57.1 and also proposed to add electric safety standards in Section 57.28. The stated goal of the proposed revisions and additions was to enable the Commission's Electric Safety Division to enforce the applicable electric safety standards in order to ensure public safety and to protect the public interest, while at the same time providing clarity as to the enforcement powers of the Electric Safety Division in order to minimize potential legal challenges to the applicability of same.

The OCA filed Comments on March 7, 2016. Primarily, the OCA's Comments focused on the fact that the current regulations only address electric distribution companies (EDCs), but in fact, the Commission also has jurisdiction for safety purposes over all public utilities in Pennsylvania that own or operate electric facilities such as transmission only companies. Thus, the OCA submitted that the term EDCs should be replaced in the regulations with "public utility."

The final disposition of this matter remains pending at the Commission.

### **Variable Rate Retail Electric Products**

Docket No. M-2014-2406134. On February 20, 2014, Vice Chairman John F. Coleman, Jr. and Commissioner James H. Cawley issued a Joint Motion seeking to examine variable electric rate products. The Commission issued an order on March 4, 2014 seeking Comments from interested parties. The OCA, AARP, Pennsylvania Utility Law Project (PULP), and Community Legal Services, Inc. (CLS) (hereinafter the Residential Consumer Group) filed joint comments and numerous other parties filed Comments on April 3, 2014. The Commission opened a separate Comment proceeding on March 18, 2014 at Docket No. L-2014-2409383 to address accelerating the switching time it takes consumers to switch between suppliers. The OCA submitted Comments addressing the accelerated switching issue. The Commission also opened a separate Comment proceeding on March 19, 2014 at Docket No. L-2014-2409385 to address disclosure requirements to consumers. The OCA submitted Comments in that proceeding as well. In its Comments, the Residential Consumer Group discussed specific topics and

answered questions posed by the Commission in its March 4 Order. Additionally, the Residential Consumer Group provided specific Recommendations to improve consumers' experience in the Pennsylvania retail market and strengthen consumer protections. The Commission currently has all parties' Comments. The Commission has not taken action since receiving Comments.

## GENERIC PUC PROCEEDINGS: NATURAL GAS

### Customer Account Number Access Mechanisms

Docket No. M-2015-2468991. On April 9, 2015 the Commission entered a Tentative Order proposing that natural gas distribution companies (NGDCs) develop passcode-protected secure website portals (account access mechanisms) that would allow natural gas suppliers (NGSs) to access customer account numbers during enrollment transactions between NGSs and customers in public venues. The Tentative Order provided the Commission's proposed format for the account access mechanisms and solicited comments from interested parties regarding the Commission's proposal. On May 26, 2015 the OCA submitted Comments in response to the Commission's Tentative Order, generally supporting the format proposed by the Commission. Numerous other parties, including NGDCs and NGSs submitted comments as well.

On July 8, 2016, the Commission entered a Final Order establishing the format of the account access mechanism and directed each NGDC to submit compliance plans for the development of an account access mechanism within six months. Parties were granted 30 days to submit Comments on the compliance plans filed by the NGDCs. On March 15, 2016 the Commission issued a Secretarial Order seeking Reply Comments. The OCA submitted Reply Comments on April 15, 2016. On June 30, 2016 the Commission issued orders approving and/or modifying each of the NGDCs' compliance plans. The account access mechanisms are to be implemented no later than December 31, 2016. This docket remains open and the OCA intends to continue its participation in this matter if any new issues arise.

### "Gas on Gas" Competition

Docket No. I-2012-2320323. On December 8, 2011, I&E, the OCA, the Office of Small Business Advocate, Peoples TWP LLC and Peoples Natural Gas Company filed a Petition with the Commission seeking an investigation into the practice of "gas-on-gas competition" in Pennsylvania. This practice only occurs in limited portions of western Pennsylvania, mainly in and around the City of Pittsburgh, where more than one natural gas distribution company (NGDC) has distribution lines in the same geographic location. Customers in those areas, mainly commercial and small industrial customers, can extract lower distribution rates from their existing NGDC through the threat of leaving

the system, or they can physically leave the system and connect to another NGDC. The revenue losses created by either of these events are eventually passed through to all of the NGDC's remaining ratepayers. The OCA has been investigating and seeking a resolution of this practice for at least the last 10 years. This form of monopoly utility "competition" seen in Western Pennsylvania is extremely rare and this may be the only place in the United States where such activity is present.

On July 25, 2012, the Commission issued a Secretarial Letter, which granted the relief sought in the Joint Petition, ordered a generic investigation and assigned the matter to the OALJ.

On June 24, 2014, the ALJ issued her Recommended Decision. The ALJ agreed with the OCA's position on all counts. This matter remains pending at the Commission.

### **Retail Competition**

Docket No. I-2013-2381742. On September 12, 2013 the Commission announced that it was opening an investigation into the Retail Natural Gas Market in Pennsylvania. The OCA has actively participated in the Commission's Investigation since it was initiated. The has submitted numerous comments for the Commission's consideration, including: (1) Comments on December 12, 2013 addressing the current state of retail competition within the natural gas supply market in Pennsylvania, how the current market could be improved for the benefit of customers, potential barriers to customer participation in the market; (2) Comments on October 14, 2014 providing additional comments based on issues that arose from the Commission's August 21, 2014 Tentative Order; (3) Comments on February 2, 2015 regarding natural gas supplier disclosure requirements and natural gas supplier access to customer account numbers; and (4) Informal Comments on August 31, 2015, concerning possible amendments to the regulations that govern the standards for changing a customers natural gas supplier. This docket remains open and the OCA intends to continue its participation in this matter.

## **GENERIC PUC PROCEEDINGS: TELECOM**

### **Access Charges**

Docket No. M-2012-2291824. In November 2011, the FCC issued the Connect America Fund which drastically revised the framework for telecom carriers to pay one another for terminating intrastate telephone calls, among other major regulatory changes. The FCC's goal is for intrastate access rates to mirror the level of the carrier's interstate rates. The FCC's Connect America Fund Order (WC Docket No. 10-90) was upheld on appeal. (see below). Starting in 2012, the PUC directed carriers to implement the rate reforms ordered by the FCC.

In Spring 2015, the PUC directed carriers to file tariffs and supporting documentation to implement Step 4 of the FCC's reform. In Spring 2016, the PUC directed carriers to file tariffs and supporting documentation to implement Step 5. As a result of the Step 5 and earlier changes, ILEC terminating end office intrastate access rates should be in parity with the equivalent interstate rates and be at or below federal targets. The FCC mandated reductions to intrastate access rates are intended to increase competition and quality in toll service. The OCA continues to monitor the access tariff filings by Pennsylvania carriers, with a focus on the ILECs that have an obligation to serve.

### **Public Utility Status**

Docket No. M-2016-2517831. In January 2016, the Commission opened a proceeding to examine whether telecom carriers that deploy distributed antenna systems (DAS) to facilitate retail wireless service by commercial carriers are public utilities and so required under Pennsylvania law to obtain a certificate of public convenience. Certificated public utilities have the right of eminent domain and access to public right-of-ways. The Commission order identified questions of state and federal law and policy and requested public comment. The OCA filed comments in April 2016. The OCA noted that, in concept, a telecom carrier offering use of its DAS to wireless carriers as a standalone service might be engaged in some form of wholesale Commercial Mobile Radio Service (CMRS) and so not be a public utility under Pennsylvania law. Based on OCA research, these telecom carriers routinely pair the receipt of wireless carrier's traffic at the DAS hub with transport over the telecom carrier's fiber network for hand-off to the next carrier. This combination of network services may fit the PUC's "competitive access provider" telephone utility category. The OCA reviewed the industry and local government comments and did not file reply comments. The OCA awaits further Commission action.

### **717 Area Code**

Docket No. P-2015-2510230. Neustar LLC is the North American Numbering Plan Administrator. In October 2015, Neustar filed a petition with the Commission indicating that numbering resources for the 717 Area Code are expected to be exhausted during the third quarter of 2018. Neustar's petition recommended Commission approval of an overlay of a new or additional area code for the geographic area covered by 717. In March 2016, the PUC entered an Order requesting comment on the NEUSTAR petition and options for area code relief. OCA filed comments in May 2016 in support of a geographic overlay of a new area code, when in the future there is a need due to exhaustion of the 717 numbering resources. The OCA also emphasized the importance of consumer education in implementing any change. The OCA participated in the telephonic public input hearings. The matter remains pending at the PUC.

## Lifeline

Docket No. P-2014-2421056 A Boomerang Wireless petitioned the Commission for designation as an Eligible Telecommunications Carrier (ETC) to offer Lifeline service to eligible residential customers and obtain reimbursement for such discounts from the federal Universal Service Fund. The OCA's August 2014 Comments stated support for grant of the petition, subject to clarification and conditions. For example, the OCA asked Boomerang to confirm that its Lifeline service and company-paid for wireless handsets would support text-to-911 communications. The matter remains pending at the PUC.

Docket No. P-2016-2531610. Infiniti Mobile filed a petition for designation as an ETC to offer Lifeline service. Infiniti Mobile said Lifeline consumers could have a choice between a Lifeline service or apply the Lifeline discount to other retail offerings. OCA filed Comments in April 2016 requesting clarification of a number of aspects of Infiniti Mobile's proposed service. The OCA noted that some Infiniti Mobile service plans cost less than the \$9.25 Lifeline discount, which could result in waste. The OCA asked Infiniti Mobile to explain how a prospective Lifeline customer would know which underlying wireless network would serve them, so the consumer could make an informed decision whether to enroll with Infiniti Mobile. In May 2016, Infiniti Mobile filed reply comments and a supplement to its petition which clarified some points and modified its petition. At the end of the Fiscal Year, the matter was pending before the Commission.

## FEDERAL COMMUNICATIONS COMMISSION (FCC)

### Business Data Services

WC Docket Nos. 16-143, 15-247, 05-25. In May 2016, the FCC issued an order and Further Notice of Proposed Rulemaking directed at reforming its regulation and oversight of "business data services," (BDS) previously known as special access. BDS are those communications services and transport paths purchased by enterprises and wholesalers from incumbent local exchange carriers (ILECs), competitive providers that combine fiber backbone networks and packet services, cable telephony providers, and others. In the May Order, the FCC committed to move away from various regulatory frameworks employed in the past that failed to promote competition and constrain the rates charged by ILECs. The FCC committed to move towards a framework based on competition, technology neutrality, removal of barriers for modernization of old technologies to new Internet Protocol and packet based transmission, and forward looking.

In June 2016, the National Association of State Utility Consumer Advocates (NASUCA), of which the OCA is a member, filed comments, with support from consultant Susan

Baldwin. NASUCA urged the FCC to reduce, not just freeze, the BDS rates charged by ILECs, given the ILECs' dominance in their market areas and the importance of traditional DS1 and DS3 wholesale communications channels in the BDS marketplace. NASUCA supported the stringent market competition test proposed by the FCC.

Nationally, BDS is a \$40 billion market. NASUCA's goal is to reduce the rates for BDS where competition is not effective, for the ultimate benefit of consumers of retail telephone services or other services and goods such as banking that depend on efficient, low cost paths for data transmission and communications.

### **Net Neutrality**

GN Docket No. 14-28, DC Circuit Docket No. 15-1063. The FCC released its Open Internet Order, also referred to as the FCC "Net Neutrality Order" in March 2015. The FCC Order reexamined the role of broadband internet access service providers in the role of transmitting communications. The FCC determined that such services should be classified as common carrier and telecommunications service under the federal Communications Act, instead of as less regulated information services, a position which NASUCA has long advocated. The FCC directed broadband service providers to not throttle or prioritize the flow of internet services, to protect the privacy of communications, and other requirements to promote an open internet. The FCC granted forbearance from some other regulatory obligations, such as rate regulation, that would otherwise apply to common carriers providing telecommunications services. The U.S. Telecom Association and others filed appeals. NASUCA, with the OCA as a member of the Telecommunications Committee, intervened in support of the FCC's Open Internet Order and joined in a brief in support. In June 2016, the U.S. District Court of Appeals for the D.C. Circuit upheld the FCC Open Internet Order as within the FCC's authority and discretion and consistent with prior appellate rulings.

### **Universal Service Fund (USF)**

The OCA monitors and works to improve at the state and federal level the efficiency and benefits for Pennsylvania consumers provided by the federal Universal Service Programs, with a focus on the High Cost/Connect America Fund support for telecom and broadband networks and the Lifeline program. In 2014, Pennsylvania received roughly \$214 million in federal USF support, including \$77.5 million for high cost and Connect America Fund support for voice and broadband networks. The FCC estimates that in 2015, residential consumers paid roughly \$3.00 per month to support the four federal USF programs: High Cost/Connect America Fund, Lifeline, Schools & Libraries, and Rural Healthcare.

GN Docket Nos. 09-29, 09-51, WC Docket No. 10-90. On November 18, 2011, the FCC released its Report and Order and Further Notice of Proposed Rulemaking (Connect America Fund Order). The FCC Connect America Fund Order modified significantly the availability and allocation of \$4.5 billion of high cost universal service support, by directing that a portion of the fund go to support build-out of wireless networks to offer broadband service (Mobility Fund) and to support construction and expansion of broadband service to unserved areas by wireline carriers (Connect America Fund). The FCC Order modified intercarrier compensation by eliminating state regulation of intrastate access charges. Instead, telecommunications carriers will eventually exchange traffic on a “bill and keep” basis or a zero rate. The FCC allowed Local Exchange Carriers (LECs) that experience a revenue loss due to the change in intercarrier compensation to make-up the loss from end users through an “access revenue charge” or ARC. The FCC Connect American Fund Order took effect on December 29, 2011. The Connect America Fund Order reserved some issues for further comment and rulemaking.

The Connect America Fund Order froze federal high cost support available to wireline carriers subject to federal price cap rate regulation but made available \$300 million in Phase I support in 2012 for price cap carriers to use to extend broadband to unserved areas. Pennsylvania ILECs did not receive Connect America Fund Phase I support. In December 2013 and March 2014, the FCC announced that Pennsylvania carriers CenturyLink, Windstream, and Marianna and Scenery Hill Telephone (Fairpoint) qualified for Phase I, Round 2 support of about \$6 million. NASUCA recommended changes to the FCC cost model through comments and ex partes. The FCC released a revised cost model in March 2014. Based on the revised cost model, the FCC identified Pennsylvania carriers and unserved areas as eligible for roughly \$50 million in Phase II Connect America Fund support, subject to the carrier’s acceptance and commitment to extend broadband service over six years. Verizon North declined the Phase II support. In August 2015, the FCC approved the requests of Pennsylvania carriers Windstream, Fairpoint, Frontier, CenturyLink and Consolidated Communications to receive roughly \$28 million in annual Phase II support to expand broadband to unserved areas over six years.

In March 2016, the FCC issued a Report and Further Notice of Proposed Rulemaking to address further reform of high cost support available to incumbent local exchange carriers subject to rate of return ratesetting at the interstate level (RoR ILECs). This category includes many of Pennsylvania’s smaller, rural incumbent ILECs. Consistent with some NASUCA comments, the FCC determined that the return input used in calculating the RoR ILEC’s revenue requirement should be reduced, from 11.25% to 9.75% on a phased in basis. The FCC has proposed a new level of high cost support for those RoR ILECs that commit to upgrade and expand their voice and broadband networks to offer broadband at 10 Mbps down and 1 Mbps up minimums, in areas

without an unsubsidized competitor. NASUCA and OCA are monitoring the comments and petitions for reconsideration filed in response to the FCC's March 2016 Report and FNRPM.

WC Docket Nos. 12-353, 13-5, RM-211358. The FCC has opened a number of interrelated proceedings that bear directly on the ability of Pennsylvania and other consumers to receive quality voice telephone service over the public switched telephone network – and any successor network – that is reliable and universally available. Incumbent local exchange companies (ILECs) continue to modify their networks, retiring traditional copper facilities powered from a central office and replacing them with fiber connections. Some ILECs have asked the FCC to rule that the changes in network from copper to fiber networks and “Internet Protocol (IP)” based voice communications should result in reduced regulations and reporting requirements.

In 2014, an ILEC trade group, the U.S. Telecom Association petitioned the FCC to grant forbearance so as to eliminate certain ILEC obligations as Eligible Telecommunications Carriers (ETCs), including the fundamental obligation to offer voice service throughout their ILEC service territory. (USTelecom Petition for Forbearance (WC Docket No. 14-192). NASUCA filed comments in opposition in December 2014 and to refresh the record in September 2015, with OCA's assistance. In December 2015, the FCC ruled to grant forbearance of certain statutory requirements related to the opening of the long distance market to competition, which occurred a decade ago. The FCC preserved the statutory obligation of ILECs to offer non-discriminatory access to poles and wires, by competitors. Consistent with NASUCA's position, the FCC preserved the obligation of price cap carrier ILECs to serve as ETCs so their retail customers may continue to have access to voice service and at rates reasonably comparable to urban areas. Industry participants continue to request that the FCC reduce their obligations and reporting requirements as ETCs in other filings and cases. NASUCA continues to monitor and respond, to preserve ETC obligations for the benefit of consumers.

PS Docket No. 14-174. In November 2014, the FCC issued a Notice of Proposed Rulemaking to address the need for consumer protections as telecom carriers transition their networks from copper to fiber, including minimum standards for backup battery power, where the network change eliminates the central-office powered benefit of service over a copper connection to the home. NASUCA, of which the OCA is a member, filed comments and reply comments which urged the FCC to adopt final regulations to protect and educate consumers who purchase a voice service that is not line-powered as to the options for battery backup power, to assure the ability to contact 911 even during a power outage. In August 2015, the FCC adopted new regulations which would require voice service providers, including landline, fixed wireless, and VOIP, to provide consumers with the option of purchasing backup power equipment at the point of sale that is capable of 8 hours of standby power. The FCC proposed to

increase the standby power requirement to 24 hours in 3 years. The new FCC regulations would take effect 180 days for larger voice service providers and 360 days for voice service providers with smaller customer bases. NASUCA, with support from other consumer interest groups, filed a petition for reconsideration in November 2015. NASUCA asked the FCC to revise its final rulemaking to be more in line with the proposed rulemaking order. NASUCA opposed the final rules which unreasonably transfer the responsibility for ensuring the reliability of 911 and other emergency communications from the provider to the consumer, and undermine the public safety and policy goals of Section 151 of the federal Communications Act. NASUCA filed reply comments in January 2016. NASUCA emphasized that public safety and the need for universal installation of backup power of adequate duration are not concerns that can be solved by 'market forces.' In Spring 2016, NASUCA reviewed industry comments and replies to FCC staff queries regarding the availability of battery back-up solutions for wireline, over-the-top or voice-over-internet-protocol (VOIP) calling services that depend on a broadband internet service connection, cable telephony, and wireless voice services. The NASUCA petition for reconsideration is pending before the FCC.

WC Docket Nos. 11-42, 03-109. In 2012, the FCC implemented significant reforms to the federal Lifeline universal service program, through a Report and Notice of Further Rulemaking (FNPRM). NASUCA, with the OCA's assistance, filed comments in reply to the FNPRM in 2012, 2013 and 2014, recommending improvements and clarifications. In June 2015, the FCC issued a Report, Order and Second FNPRM which ruled on some outstanding issues, proposed additional reforms to prevent fraud, and proposed to allow Lifeline support for broadband services. The FCC ruled that data reported by Eligible Telecommunications Carriers regarding the number of Lifeline consumers served should be public information, consistent with 2013 NASUCA comments. NASUCA filed comments and reply comments in August and September 2015 in response to the Second FNPRM. NASUCA encouraged the FCC's to allow eligible Lifeline consumers to apply Lifeline support to reduce the cost of voice and/or broadband services, with protections to assure that such consumers could at a minimum keep a voice service connection. NASUCA supported the FCC's proposal to set minimum standards for broadband services that could be offered with the Lifeline discount. In March 2016, NASUCA filed an ex parte in support of the National Association of Regulatory Utility Commissions (NARUC). NARUC, joined by NASUCA, urged the FCC to not reduce or impede the vital role played by state commissions in designating carriers eligible to offer Lifeline service. In April 2016, the FCC released its Third Report and Order outlining significant reforms to the Lifeline program. The FCC determined that Lifeline support, in delining amounts, would be available to for voice services through 2021. Starting in December 2016, the FCC would allow Lifeline consumers to apply the \$9.25 per month support to broadband services, on a stand-alone basis or as part of a bundle of services. To encourage the participation of more

broadband service providers, the FCC decided to create a federal “Lifeline Broadband Provider Designation.” The FCC did act on earlier NASUCA comments and revised the regulatory definition of “income” to avoid counting public assistance benefits as income. NASUCA supports many of the FCC’s reforms but has identified some potential adverse impacts to the ability of eligible consumers to preserve voice service with Lifeline support. In June 2016, NASUCA filed a petition for reconsideration. NASUCA is also monitoring an appeal filed by NARUC.

The efficient operation of the Lifeline universal service program is of vital importance to Pennsylvanians. The federal USF paid out \$1.31 billion in 2015 for Lifeline discounted service nationwide, in non-tribal areas. That amount included \$50 million for discounted Lifeline service to eligible Pennsylvanians. Other consumers support the federal Universal Service Fund through surcharges on interstate telephone services.

## **FEDERAL ENERGY REGULATORY COMMISSION (FERC)**

### **Potomac-Appalachian Transmission Highline Co. (PATH)**

ER08-386, ER12-2708. The PATH project is a proposed high voltage transmission line project that was seeking formula rates and incentive rate treatment at FERC. The OCA joined with a group of state consumer advocates in the PJM region to intervene in the proceeding. The consumer advocate group specifically objected to PATH’s request for a return on equity of 14.3% when the 200 basis points of incentive adders are taken into account. FERC approved the 14.3% return on equity for the company without hearings. On March 31, 2008, the OCA joined with a group of state consumer advocates in filing a Request for Rehearing of this FERC Order. FERC granted the Request and agreed with the consumer advocate position that further hearings were necessary to determine a reasonable base return on equity.

FERC assigned the matter to a settlement judge. On October 27, 2011 a settlement was achieved in this matter and approved by FERC, which resulted in the Company issuing a one-time refund of approximately \$2.7 million to customers within the PJM region and would have reduced equity interest by 190 basis points, which would have saved PJM customers tens of millions of dollars in total costs over the expected life of the PATH Project. Mid-year, 2012, however, PJM determined that PATH was no longer necessary and has cancelled the Project. On September 28, 2012, PATH filed for abandonment recovery of \$121 million at FERC.

The OCA joined with the original Joint Consumer Advocate (JCA) group to file a Petition to Intervene and Protest in this matter. On November 30, 2012, FERC issued an Order, holding that PATH is eligible to recover its prudently incurred costs, but agreed with the JCA that the Company had failed to support its request for the entire \$121 million.

On December 28, 2012, PATH filed a Request for Rehearing, arguing that it should be entitled to collect an additional 50 basis points for being a PJM member, even though it has no transmission facilities in service, and with the abandonment of its current \$2 billion project – will never have any. On January 14, 2013, the OCA, on behalf of the JCA, filed an Answer objecting to the Request because it would increase costs for PJM customers. The JCA filed testimony and briefs providing that PATH's requested ROE of 10.4% is well overstated, and a more reasonable return under current market conditions is approximately 9.0%. The JCA testimony also challenged the prudence of PATH's outright purchase of large tracts of land, and its continued spending of large sums of money on the Project after December, 2009, when revised sensitivity analysis done by PJM showed that the Project would either be suspended or delayed much farther into the future. Further, JCA challenged the excessive legal fees incurred by PATH and prudence of same.

The Initial Decision issued September 14, 2015 concluded that:

- The Applicants could recover those attorney fees for which the JCA received the discovery data as requested, and 2) the Applicants could not recover from ratepayers those attorney fees for which the JCA was denied or did not receive the requested discovery data;
- The Applicants' purchase of the property on which they planned to locate the Kemptown substation was prudent;
- The losses that the Applicants sustained on sales of land that was purchased for the PATH Project was not recoverable;
- Any future land transactions (whether in the form of transfers to an affiliated entity or sales to third parties) must be accomplished by commercially reasonable procedures if any resulting losses are to be recovered from ratepayers;
- The Applicants were not imprudent in not asking that the PATH Project be stayed or terminated before August 2012;
- A just and reasonable ROE for the PATH Companies was 6.27%;
- A five-year amortization period for the abandonment costs was just and reasonable; and
- The Applicants should be allowed to recover the attorneys' fees they incurred with respect to the pro se interveners' formula rate challenges.

The OCA, as part of the JCA group, filed Exceptions and Reply Exceptions to various parts of the Initial Decision.

On December 17, 2015, the Commission issued an Order Denying PATH's December 28, 2012 request for rehearing on the issue of denying PATH the ability to recover a 50 basis point adder for RTO participation. The Commission's denial will prevent PATH from recovering a significant additional amount of money from ratepayers once the Commission determines the final amount of PATH's prudently incurred costs (the amount ratepayers will save just as a result of the disallowance of the 50 basis point adder will amount to millions of dollars).

The overarching matters at issue are in front of the FERC for final determination.

### **National Fuel Gas Supply Corp.**

Docket No. RP12-88. National Fuel's current rates were established pursuant to a May 22, 2012 settlement (2012 Settlement) that resolved National Fuel's last filed Natural Gas Act (NGA) Section 4 general rate case. Under Article V of the 2012 Settlement, National Fuel agreed to file an NGA Section 4 general rate case no later than January 1, 2016. National Fuel began planning for such a rate case early in 2015.

On May 7, 2015 National Fuel posted a notice on its website that it was undertaking discussions with customers and interested parties about the possibility of extending the comeback date of its 2012 Settlement. National Fuel subsequently engaged in separate settlement discussions with its shippers, the state commissions, and consumer advocates (including the PA OCA) to review its proposal. Discussions were held on June 16, 2015 and on August 14, 2015 with all interested parties. National Fuel responded to information requests from the interested parties and provided responses to ten sets of data requests. Following the August 14, 2015 meeting, parties exchanged settlement drafts and held a final discussion on September 18, 2015. The Settlement was filed with the Commission on September 29, 2015.

As a result of settlement discussions between National Fuel, current and future shippers, state regulators, and the PA OCA, the 2015 Settlement, if approved, eliminates the need for a general rate case filing by National Fuel in accordance with Article V of the 2012 Settlement. The 2015 Settlement also provides rate relief for National Fuel's shippers and eliminates the burden on all parties and the Commission associated with a rate case filing. National Fuel believes the 2015 Settlement is supported or not opposed by all of the interested parties.

The proposed 2015 Settlement, if approved, provides for an immediate two percent (2%) reduction in National Fuel's currently effective base reservation, capacity, demand and deliverability rates, effective November 1, 2015. An additional two percent (2%)

reduction will be made effective on November 1, 2016 for a cumulative reduction of four percent (4%). As well, the 2015 Settlement authorizes National Fuel to implement a new tariff mechanism to recover pipeline safety and greenhouse gas costs for costs associated with new legislation and regulatory requirements issued after August 14, 2015. National Fuel has also agreed to update and share an earlier storage study regarding winter season firm injection rights, including data through the 2015-2016 winter season, and discuss that study and potential related tariff revisions with interested parties. Also, National Fuel may not file a new NGA Section 4 general rate case before September 30, 2017, nor can it file any proposed modernization tracker mechanism to replace the pipeline safety and greenhouse gas tracker until that date. The “comeback” date by which National Fuel is required to file an NGA Section 4 general rate case is revised to on or before December 31, 2019.

The Settlement awaits FERC determination.

## REGIONAL

### **PJM Interconnection LLC**

As noted above, the OCA either individually or in a coalition with other state consumer advocates and parties representing the interests of electricity consumers, participated in a number of Federal Energy Regulatory Commission proceedings arising out of filings made by PJM or by PJM members regarding wholesale market issues. In addition, the OCA participates in the following PJM Committees and User Groups:

- Members Committee (MC) – This is the governing authority of the PJM stakeholder process. PJM’s members have substantial authority over the FERC-approved PJM Operating Agreement. All Committees, Subcommittees and Task Forces fall under the authority of the Members Committee. The OCA is a voting member of PJM but a special section of the Operating Agreement exempts the OCA and other state advocate offices from the financial liability shared by all other members.
- Markets and Reliability Committee (MRC) – This committee is responsible for developing and forwarding to the Members Committee all proposals falling under either the PJM Tariff or the Operating Agreement. The work is done through the Market Implementation Committee, Planning Committee and Operating Committee. The MRC also resolves significant disagreements that cannot be handled through the subsidiary committees. Finally, the MRC is responsible for final approval of detailed, operational Business Rules that specifically implement provisions of the Tariff and Operating Agreement.
- Market Implementation Committee (MIC) – The MIC is responsible for developing

policies and solutions related to PJM's markets. Development is frequently done by task forces created by the MIC. Preparation of final recommendations for the MRC is done by the MIC.

- Transmission Expansion Advisory Committee (TEAC) – The TEAC reviews the current state of transmission expansion for reliability and economics. The TEAC is responsible for providing comments to the Board regarding the impacts and advisability of transmission projects.
- Public Interest / Environmental Organizations Users Group (PIEOUG) – The PIEOUG consists of state consumer advocates and environmental organizations. The PIEOUG exists to convey the specific concerns of its members to the PJM Board and to PJM's senior management. The PIEOUG meets annually with the PJM Board to present concerns and discuss the Board's plans. There are periodic meetings with PJM management designed to inform the PIEOUG members about current issues.
- Finance Committee (FC) – The FC reviews PJM's consolidated financial statements, budgeted and actual capital costs, operating budgets and expenses, and cost management initiatives and in an advisory capacity submits to the PJM Board its analysis of and recommendations on PJM's annual budgets and on other matters pertaining to the appropriate level of PJM's rates, proposed major new investments and allocation and disposition of funds consistent with PJM's duties and responsibilities as specified in the PJM Operating Agreement. An OCA staff person was elected to serve a three-year term as an End Use Customer representative on this Committee in 2015.
- Liaison Committee – This committee serves to foster better communications between the PJM Board of Managers and PJM Members. Meetings are held three to four times per year and are attended by the full PJM Board and by representatives of each of PJM's five stakeholder sectors. The OCA participates periodically as a representative of the End Use Customer Sector.

## UNITED STATES SUPREME COURT

### **Federal Energy Regulatory Commission v. Electric Power Supply Association**

Docket No. 14-840. In this case, the Supreme Court was asked to determine whether the Federal Energy Regulatory Commission (FERC) has authority under the Federal Power Act (FPA) to regulate the compensation paid by Regional Transmission Organizations (RTOs) to demand response (DR) providers in connection with the wholesale energy markets run by the RTOs. The Court of Appeals for the D.C. Circuit had ruled that FERC lacked this authority under the FPA. In particular, the Court of

Appeals found that FERC's rule governing compensation for DR violated the provisions of the FPA prohibiting FERC from regulating retail sales of energy. The Court of Appeals viewed DR as an activity entirely within the sphere of the retail electric market. If upheld, this ruling would preclude DR, with its ability to have a dampening effect on wholesale prices, from participation in the wholesale markets, a result contrary to consumer interests.

The OCA took the lead in drafting the legal arguments for reversal as part of an Amicus Brief filed on behalf of consumer advocates from seven states and the District of Columbia. Amici specifically argued that FERC's actions regarding DR compensation fell squarely within what is termed the FPA's "affecting" jurisdiction conferred on FERC. Specifically, the FPA requires FERC to ensure that all rates charged by public utilities in connection with wholesale sales of electricity are "just and reasonable." In addition, the FPA requires that "all rules and regulations affecting or pertaining to such rates" must be just and reasonable. The Brief argued that FERC's DR compensation scheme directly affected wholesale rates and was therefore lawful. The Brief also argued that the Energy Policy Act of 2005 (EPAAct) established a national policy of eliminating barriers to DR participation in energy markets and thereby acknowledged a role for FERC in regulating DR in wholesale energy markets.

In a January 25, 2016 decision, the Supreme Court reversed, finding that the FPA did confer authority on FERC to regulate DR compensation in wholesale markets. As argued in the Amicus Brief, the Court found that authority within the FPA's "affecting" jurisdiction. The Court determined that regulation of DR compensation "directly affected" wholesale rates and was therefore within FERC's statutory authority. The Court's use of the phrase "directly affected" was significant as it endorsed an earlier decision of the D.C. Court of Appeals in which that court ruled that FERC's jurisdiction under the FPA's "affecting" language was to be construed as "directly affecting." That earlier decision was cited in the Amicus Brief.

With regard to the lower court's finding that FERC's regulation of demand response compensation was an unlawful intrusion into state-regulated retail market activity, the Supreme Court held that every aspect of FERC's regulation of DR compensation happens exclusively at the wholesale market level. The Court acknowledged that actions taken at the wholesale level inevitably affect retail rates. However, it stated that, "When FERC regulates what takes place on the wholesale market, as part of carrying out its charge to improve how that market runs, then no matter the effect on retail rates, [the FPA] imposes no bar." The Court determined that FERC's regulation of DR compensation fit within this description.

While the Court did not rely on the language in EPAAct (cited by Amici) for its holding, it used that language in rejecting several arguments put forward by respondent EPSA.

## CONSUMER AND LEGISLATIVE OUTREACH

### Testimony, Presentations and Speaking Engagements

Acting Consumer Advocate Tanya McCloskey, Consumer Liaison Heather Yoder, and other members of the OCA Staff participated in the following public forums during the last Fiscal Year:

7-15-15	Senior Expo sponsored by Senator Don White, Senator Kim Ward and Representative Tim Krieger	Delmont, PA	Staff an exhibitor's booth, answer questions and distribute materials
7-15-15	7 <sup>th</sup> Annual Kidz Fair sponsored by Representative Peter Daley	Brownsville, PA	Staff an exhibitor's booth, answer questions and distribute materials
7-27-15	7 <sup>th</sup> Annual Senior Expo sponsored by Representative Carl Walker Metzgar	Somerset, PA	Staff an exhibitor's booth, answer questions and distribute materials
8-1-15	Community Day sponsored by Senator Rob Teplitz	Harrisburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
8-6-15	Senior Expo sponsored by Senator Lloyd Smucker and Representative Keith Greiner	Lancaster, PA	Staff an exhibitor's booth, answer questions and distribute materials
8-7-15	Senior Expo sponsored by Representative Martin Causer	Bradford, PA	Staff an exhibitor's booth, answer questions and distribute materials
8-12-15	Senior Expo sponsored by Senator Jake Corman	Lewistown, PA	Staff an exhibitor's booth, answer questions and distribute materials
8-12-15	Senior Expo sponsored by Representative David Millard	Bloomsburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
8-14-15	Sixth Annual Nifty Sixty Baby Boomer Expo sponsored by Representative Donna Oberlander	Clarion, PA	Staff an exhibitor's booth, answer questions and distribute materials

8-28-15	Senior Expo sponsored by Representative R. Lee James	Franklin, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-1-15	Senior Expo sponsored by Senator Don White, Representative Jeff Pyle and Representative Donna Oberlander	Kittanning, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-9-15	3 <sup>rd</sup> Annual Senior Fair sponsored by Representative Ed Gainey	Pittsburgh, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-10-15	Senior Expo sponsored by Senator John Yudichak and Representative Doyle Heffley	Jim Thorpe, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-10-15	Senior Expo sponsored by Representative Parke Wentling	Girard, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-10-15	Senior Expo sponsored by Representative Tarah Toohil	Hazleton, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-15-15	Senior Expo sponsored by Representative Garth Everett and Senator Gene Yaw	Pennsdale, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-15-15	Lifeline Awareness Week Event	Harrisburg, PA	Remarks regarding the importance of Lifeline to Pennsylvania consumers
9-16-15	Cresson Senior Center	Cresson, PA	Presentation on Electric Shopping
9-17-15	Senior Expo sponsored by the Southwestern Pennsylvania Area Agency on Aging and co-hosted by Senator Camera Bartolotta, Representative Brandon Neuman, and the Washington County Commissioners	Washington, PA	Staff an exhibitor's booth, answer questions and distribute materials

9-18-15	Senior Expo sponsored by Representative Julie Harhart	Cherryville, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-18-15	Senior Expo sponsored by Senator Randy Vulakovich and Representative Hal English	Allison Park, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-19-15	Senior Living Expo sponsored by Representative Warren Kampf	Wayne, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-25-15	Senior Fair sponsored by Representative Rob Kauffman	Chambersburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-25-15	Flu/Pneumonia Shot & Senior Clinic sponsored by Senator Wayne Fontana	Pittsburgh, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-25-15	Senior Expo sponsored by Representative Susan Helm	Harrisburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
9-25-15	Senior Health and Services Fair sponsored by Representative Frank Dermody	Tarentum, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-1-15	Senior Expo sponsored by Senator Christine Tartaglione	Philadelphia, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-1-15	Senior Expo sponsored by Representative Mark Keller	Newport, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-2-15	Senior Citizen Health Expo sponsored by Representative Dan Deasy	Pittsburgh, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-2-15	Senior Health Fair sponsored by Representative Patty Kim	Harrisburg, PA	Staff an exhibitor's booth, answer questions and distribute materials

10-8-15	Senior Expo sponsored by Representative Susan Helm	Halifax, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-8-15	Senior Expo sponsored by Representative Bill Kortz	Pittsburgh, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-9-15	Senior Expo sponsored by Representative Mark Mustio	Moon Township, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-9-15	Senior Expo sponsored by Representative Martin Causer	Roulette, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-9-15	Senior Expo sponsored by Senator John Sabatina	Philadelphia, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-13-15	Patton Senior Center	Patton, PA	Presentation on Electric Shopping
10-15-15	Senior Expo sponsored by Senator Christine Tartaglione	Philadelphia, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-15-15	Senior Expo sponsored by Senator Kim Ward	Greensburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-15-15	2015 Luzerne County Senior Expo sponsored by Senator Lisa Baker and Senator John Yudichak	Kingston, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-22-15	Senior Expo sponsored by Senator Don White, Representative Dave Reed and Representative Cris Dush	Indiana, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-22-15	Senior Expo sponsored by Representative Gene DiGirolamo	Bensalem, PA	Staff an exhibitor's booth, answer questions and distribute materials

10-23-15	Veteran-Senior Fair sponsored by Representative Tim Mahoney	Uniontown, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-23-15	Senior Expo sponsored by Representative Todd Stephens	Montgomeryville, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-24-15	55+ Senior Expo sponsored by Senator Elder Vogel	Monaca, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-24-15	Alpha Kappa Alpha Sorority Energy Forum	Harrisburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-27-15	Jackson Township Senior Center	Mineral Point, PA	Presentation on Electric Shopping
10-29-15	Lackawanna & Wayne County Senior Expo sponsored by the Salvation Army	Waymart, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-30-15	Senior Fair sponsored by Representative Dom Costa	Pittsburgh, PA	Staff an exhibitor's booth, answer questions and distribute materials
10-30-15	Senior Expo sponsored by the Warren-Forest Eldercare Council	Warren, PA	Staff an exhibitor's booth, answer questions and distribute materials
11-24-15	PUC Consumer Advisory Council	Harrisburg, PA	Presentation on the Office of Consumer Advocate
12-16-15	PCN program "Focus on Aging Adults"	Harrisburg, PA	Discussion of winter heating issues/programs for older adults
1-5-16	Mary Taylor House at the Hickman	West Chester, PA	Presentation on low-income electric and telephone programs

3-4-16	OAG Consumer Fair	Erie, PA	Staff an exhibitor's booth, answer questions and distribute materials
3-8-16	OAG Consumer Fair	Harrisburg, PA	Staff an exhibitor's booth, answer questions and distribute materials
3-8-16	OAG Consumer Fair	Pittsburgh, PA	Staff an exhibitor's booth, answer questions and distribute materials
3-31-16	NAWC Staff Water Policy Forum	Albuquerque, NM	Panel on "Adapting Regulation to Current Challenges: Emerging Issues"
4-15-16	Senior Expo sponsored by Representative Daryl Metcalfe	Cranberry Township, PA	Staff an exhibitor's booth, answer questions and distribute materials
4-15-16	Senior Expo sponsored by Senator Richard Alloway	New Oxford, PA	Staff an exhibitor's booth, answer questions and distribute materials
4-15-16	Senior Expo sponsored by Representative Scott Petri	Ivyland, PA	Staff an exhibitor's booth, answer questions and distribute materials
4-20-16	WSBA Radio Interview	York, PA	Discussion regarding various public utility topics
4-29-16	Senior Fair sponsored by Representative Dan McNeill and Senator Lisa Boscola	Bethlehem, PA	Staff an exhibitor's booth, answer questions and distribute materials
5-2-16	Delmont Lions Club	Delmont, PA	Presentation on the Office of Consumer Advocate

5-13-16	Senior and Disability Resource Expo sponsored by Senator Randy Vulakovich	Springdale, PA	Staff an exhibitor's booth, answer questions and distribute materials
5-19-16	Healthy Earth, Healthy You Fair sponsored by the PA Department of Military and Veterans Affairs	Annaville, PA	Staff an exhibitor's booth, answer questions and distribute materials
5-19-16	Senior Expo sponsored by Representative Jeff Wheeland	Williamsport, PA	Staff an exhibitor's booth, answer questions and distribute materials
5-20-16	Senior Fair sponsored by Representative Peter Schweyer, Representative Mike Schlossberg and Representative Steve Samuelson	Allentown, PA	Staff an exhibitor's booth, answer questions and distribute materials
5-20-16	Senior Expo sponsored by Senator Pat Stefano	Somerset, PA	Staff an exhibitor's booth, answer questions and distribute materials
6-21-16	Mid-Atlantic Conference of Regulatory Utilities Commissioners (MACRUC) Annual Education Conference	Williamsburg, VA	Panelist on "Retail Therapy: Innovation and Education."
6-22-16	National Conference of Regulatory Attorneys Annual Conference	Tampa, FL	Sharing the Bounty – Developments in Water

## Call Center

The OCA's toll free number – **800-684-6560** – was implemented in the year 2000, to aid consumers who have questions about or problems with their utility service. The OCA's consumer service representatives staff the toll free number Monday through Friday. The toll free number with consumer service representatives is another way to expand our outreach to all Pennsylvania utility consumers on the continuing changes in utility regulation.

During Fiscal Year 2015-2016, we had a total of 13,979 consumer contacts in the Call Center, including requests for shopping guides, phone calls, letters and emails.

Summarized here are examples of our assistance to individual consumers:

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We assisted a consumer in cancelling service with an electric generation supplier (EGS). Upon receipt of an agreement from the EGS, there was a question of whether or not the customer signed up for the service. When the consumer cancelled the service within the specified period outlined in the agreement, they were charged an early cancellation fee by the EGS. We contacted the EGS and they corrected the matter. They processed the cancellation without a fee and they issued a “notice of warning and retraining of the customer representative.”

We assisted a consumer who was trying to establish new gas service. Prior to contacting our office, the customer contacted the company several times for them to install a meter and start the service. They were given service appointments but the company never showed up. We contacted the company on the consumer’s behalf. They scheduled a service visit and the service started within three days.

We assisted a consumer who had his electric power disconnected. The customer said he was in the process of paying the bill when the technician showed up to terminate the service and the technician would not accept the payment confirmation. Under the law, the company had 72 hours to restore the service but we were able to have them send out a crew the next day to restore the service.

We assisted a consumer who had been with DSL service for two weeks. When they first reported the issue, the technician advised it may take a week for the service to be restored. Upon subsequent calls to the company the consumer got conflicting information about the status of the service. We contacted the company and asked them to investigate the problem. The service was restored and the company gave the customer a \$20 credit on his account for the time he was out of service.

We assisted a consumer who had an unexplained charge on her gas bill. She contacted the company but they were unable to explain the charge. We contacted the company on the consumer’s behalf. They found a data entry error which caused the charge to be added to the wrong account. The erroneous charge was removed from the consumer’s account.

We assisted a consumer who was having difficulty understanding and paying her electric bill. She had made a payment arrangement with the Company but when she was not billed the amount she agreed to as part of the arrangement she could not afford the full payment and received a termination notice. We contacted the Company on the consumer’s behalf. They contacted the consumer and reviewed the bill with her. They explained the bill in detail and made some adjustments to her payment arrangement to make the monthly bill more affordable.

We assisted a consumer with a telephone quality of service issue. The consumer experienced poor call quality or loss of service in wind, rain or snow. A company technician visited the property and made a repair but it only worked temporarily. We contacted the Company on the consumer’s behalf. The Company discovered a bad

wire going to the house. The Company replaced the wire and the service quality improved.

We assisted another consumer who was without telephone service for three weeks. The consumer reported the problem to the Company several times. On each occasion they said they would be out to repair the service but a technician never visited her home. We contacted the Company on the consumer's behalf and the service was restored that day. The Company issued a one month credit to her account.

We assisted a consumer who was being charged \$25 to change the name on her gas account following the death of her husband. We contacted the Company on the consumer's behalf. They waived the fee and advised that the transfer fee should not apply since the consumer lived in the home and is not considered a new applicant.

We assisted a small commercial customer with a problem related to switching to an alternative electric generation supplier (EGS). The customer had inadvertently switched from his EGS to another supplier and was assessed a \$2,000 early termination fee. He realized the error and attempted to switch back to his original EGS but was unsuccessful and he could not resolve the issue with either EGS or his electric distribution company. We contacted the customer's original EGS on his behalf. They were unable to resume service to his account but they agreed to waive the \$2,000 early termination fee.

We assisted a consumer who was being charged a different package price by her telephone company. The consumer called each month and the Company adjusted the bill but never made the correction in the system. We contacted the telephone company on the consumer's behalf. The Company corrected the package price in the system and the consumer began receiving accurate bills.

We assisted an elderly consumer who did not realize that she committed to a three year contract when she switched to a new supplier. The consumer sought to switch back to default service and was going to be charged an early cancellation fee by the current supplier. The consumer contacted the current supplier and was unsuccessful in having the early cancellation fee waived. We contacted the current supplier on the consumer's behalf. The company cancelled the service, waived the cancellation fee and put the consumer's name on their do not call list.

We assisted a consumer who signed up for a fixed rate with an EGS however, the supplier failed to adequately explain that there was an early cancellation fee. The customer tried to contact the company to cancel but was unsuccessful in his attempt. We contacted the company on the customer's behalf. They agreed to cancel the agreement and waive the early cancellation fee and they confirmed he would go back to his EDC for electric supply service.

We assisted a consumer who was having an internet outage. The consumer called the telephone company daily for several weeks to fix his service but the outage continued. We contacted the company on the consumer's behalf. The company discovered faulty equipment in the central office and, upon repair, restored the consumer's service. They issued a credit for the time he was out of service, and they assisted him with setting up his wireless router connection.

We assisted a customer who was not billed the advertised rate for her high speed internet service. She contacted her telephone company about the error but they told her that they were unable to assist her. We contacted the company on the customer's behalf. The company found the promotional code to reduce her internet price per month had been deactivated. The company reactivated the promotional code and gave the customer a credit for the erroneous bills.

We assisted an elderly couple who had their water terminated due to a leak on their service line. They did not have the money to have the line repaired. We contacted several different social service agencies to see if they were able to offer assistance and we provided the customer with this information. The work was completed the following day and the water service was restored.

## **SERVICE TO PENNSYLVANIA AND THE NATION**

### **Participation in NASUCA and in Other Consumer Interest Organizations**

On the national level, members of the OCA staff continued to serve in leadership positions with the National Association of State Utility Consumer Advocates (NASUCA). NASUCA has members from more than 40 states and the District of Columbia and provides valuable input on consumer utility issues.

- Senior Assistant Consumer Advocate Christine Maloni Hoover and Senior Assistant Consumer Advocate Erin Gannon participate in the Water Committee.
- Assistant Consumer Advocate Barrett Sheridan is part of a five member steering group that directs the work of the NASUCA Telecommunications Committee.
- Assistant Consumer Advocate Christy Appleby and Consumer Liaison Heather Yoder participate in the Consumer Protection Committee.
- Assistant Consumer Advocate Christy Appleby and Senior Assistant Consumer Advocate Aron Beatty participate in the Gas Committee.
- Assistant Consumer Advocates David Evrard and Candis Tunilo participate in the Electric Committee.
- Regulatory Analyst Ashley Everette participates in the Tax and Accounting Committee.

Additionally, OCA staff members serve in an advisory role on committees at the federal level.

- Acting Consumer Advocate Tanya McCloskey and Assistant Consumer Advocate David Evrard represent the OCA on the following PJM committees or groups: Members Committee, Markets and Reliability Committee, Market Implementation Committee, Transmission Expansion Advisory Committee, Regional Planning Process Working Group, Public Interest/Environmental Organizations Users Group, Finance Committee, and the Liaison Committee.
- Ms. Sheridan is the NASUCA representative on the Lifeline Across America Working Group, a joint effort with the Federal Communications Commission and National Association of Regulatory Utility Commissions. Ms. Sheridan also serves as a member of the advisory staff for the Consumer Representative on the Federal-State Joint Board for Universal Service which advises the FCC.
- Senior Assistant Consumer Advocate Darryl Lawrence was elected to serve a third term as a small consumer representative on the Planning Committee of the North American Electric Reliability Corporation (NERC).

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

- Acting Consumer Advocate Tanya McCloskey serves on the Board of the Pennsylvania Sustainable Energy Fund, serves as the OCA's representative on the Pennsylvania Energy Development Authority Board of Directors, and represents the OCA on the Department of Human Services LIHEAP Advisory Committee.
- Ms. Sheridan represents the OCA on the 911 Task Force, a joint effort between the PUC, PEMA, and members of the Public Safety community
- Ms. Hoover represents consumer interests in issues related to water systems. She serves as a member of the PUC's Small Water Company Task Force. Ms. Hoover also serves 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.

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**OCA STAFF**

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**Acting Consumer Advocate**

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Erin L. Gannon  
Christine Maloni Hoover  
Darryl A. Lawrence  
**Senior Assistant Consumer Advocates**

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Heather R. Yoder  
**Consumer Liaison**

Ashley E. Everette  
**Regulatory Analyst**

Sheri R. Steigleman  
Kevin R. Yiengst  
**Consumer Service Representatives**

November 2016

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