

PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

# EXECUTIVE SUMMARY OF THE ANNUAL REPORT

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FISCAL YEAR 2017-2018

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## EXECUTIVE SUMMARY

The Office of Consumer Advocate (OCA) has served Pennsylvania utility consumers since its establishment by the General Assembly in 1976. Act 161 of the Pennsylvania General Assembly, 71 P.S. Sections 309-2, 309-4, as enacted July 9, 1976, authorizes the Consumer Advocate to represent the interests of consumers in matters before the Pennsylvania Public Utility Commission (PUC or Commission), any similar federal regulatory agency or any state or federal court regarding matters involving regulation by the Commission or corresponding regulatory agencies. The OCA is a statutorily independent office, administratively included within the Office of Attorney General.

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 Organization (RTO), whose decisions have a critical impact on electric prices and service in Pennsylvania. Through our consumer education outreach, website, social media posting presence and toll-free call center, the OCA 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 electric and natural gas restructuring, regulatory requirements for basic and advanced telecommunications services, and Act 11 of 2012's provisions for recovery of distribution infrastructure improvement costs outside of base rate cases, use of a fully projected future test year within base rate cases and the combination of water and wastewater revenue requirements, and the use of fair market valuation for municipal water and wastewater acquisitions authorized by Act 12 of 2016. Stemming from Act 11, several additional Distribution System Improvement Charges (DSIC) were established, four utilities asked the Commission to waive the DSIC's statutory 5% cap, and numerous utilities filed plans to significantly increase the cost of infrastructure improvements. During Fiscal Year 2017-2018, eleven utilities filed rate filings including a fully projected future test year. During Fiscal Year 2017-2018, the OCA worked on cases that were a result of more recent legislative changes, such as the legislation addressing the consolidated tax savings adjustment (Act 40 of 2016), and changes to the federal income tax rate as a result of the Tax Cuts and Jobs Act of 2017.

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 to ensure that Pennsylvania consumers receive the benefits – and avoid the potential harms – that these industry changes bring about.

In the electric industry, 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 of 2008, 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 of 2012 by electric distribution companies. During Fiscal Year 2017-2018, the OCA has been involved in distribution base rate proceedings filed by three electric distribution companies. Each company used a fully projected future test year under Act 11. The OCA has also participated in proceedings addressing changes to the calculation of taxes in the DSIC as a result of Act 40 and changes to the federal income tax rate as a result of the Tax Cuts and Jobs Act of 2017. During Fiscal Year 2017-2018, the OCA was also involved in a major transmission line siting case. At the same time, through our website, social media presence, 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 and in the activities of the PJM Interconnection.

In the natural gas industry, 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. The OCA also is involved in the ongoing quarterly DSIC filings made pursuant to Act 11 of 2012 by natural gas companies and filings by three natural gas companies to increase the DSIC cap from 5% to 10%. During the Fiscal Year 2017-2018, the OCA has participated in four gas distribution base rate cases and continued our work on natural gas main extensions and proposed abandonments of natural gas service to consumers. The OCA has also participated in proceedings addressing changes to the federal income tax rate as a result of the Tax Cuts and Jobs Act of 2017. The OCA participates in proceedings at 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 quality of service, network maintenance, and basic service pricing in Pennsylvania. During Fiscal Year 2017-2018, the OCA filed complaints against the price change opportunity filings to ensure that the impact of the Tax Cuts and Jobs Act of 2017 was fully reflected in rates. 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 as well as access to broadband services. 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, fair market value acquisitions, and other application proceedings, and mandatory takeover proceedings involving both large and small utilities. The OCA also continues to address requests from water and wastewater utilities of all sizes under Act 11 of 2012 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 Fiscal Year 2017-2018, the OCA participated in twelve base rate cases and six application proceedings involving companies' acquisitions of municipal wastewater systems using fair market valuation under Act 12 of 2016. The OCA also began its work to bring Pittsburgh Water & Sewer Authority under the Commission's jurisdiction, following from the enactment of Act 65 on December 21, 2017. The OCA's efforts included written filings, meetings and visits to the service area, with the purpose of ensuring that PWSA customers receive high quality water and wastewater service at reasonable cost. The OCA is also involved in the ongoing quarterly DSIC filings made pursuant to Act 11 of 2012 by water and wastewater companies and a filing by a water company to increase the DSIC cap from 5% to 7.5%. 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. The OCA has also participated in proceedings addressing changes to the federal income tax rate as a result of the Tax Cuts and Jobs Act of 2017. In addition, the OCA has participated in service quality cases and an application case 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.

During the last Fiscal Year, the OCA has filed extensive Comments in response to the Commission's investigation into alternative ratemaking for electric, natural gas, water, and wastewater utilities. The OCA also filed Comments in rulemakings and proceedings involving electric vehicle charging stations, electric customer choice, disclosure rules for electric generation suppliers, supplier consolidated billing, and an implementation order for municipal valuation under Section 1329. The OCA continues to work on those issues in the current Fiscal Year.

Also 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 OCA has been called on to present formal testimony in the Pennsylvania General Assembly regarding sales and marketing practices of competitive electric and natural gas retail suppliers, transportation fueling infrastructure development, microgrids and alternative ratemaking for electric and natural gas distribution companies.

The OCA also responds to individual utility consumer complaints and inquiries. The OCA maintains a toll-free calling number (800-684-6560). In addition, the OCA 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 2017-2018, 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) and its social media presence. 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 following pages highlight the key issues the OCA addressed in Fiscal Year 2017-2018. A complete listing of the OCA's case activities on behalf of consumers is provided in the Fiscal Year 2017-2018 Annual Report.

## **KEY ISSUES ACROSS UTILITY INDUSTRIES**

**Tax Cuts and Jobs Act of 2017.** Effective January 1, 2018, the TCJA substantially reduced the federal income tax expense and created excess Accumulated Deferred Income Taxes (ADIT) for most investor-owned Pennsylvania utilities. During the 2017-

2018 Fiscal Year, the OCA participated in the Commission's inquiry into the impact of the change on utility effects of the TCJA and the feasibility of reflecting such impacts in utility rates. The OCA advocated that rates should be promptly adjusted to flow the benefits of reduced tax expense to customers via negative surcharges. In May 2018, the Commission entered an Order agreeing with the OCA's position and also recommending that any savings not flowed back through the negative surcharge should be tracked and returned to customers within three years or in the utilities' next base rate proceeding, whichever is sooner. For utilities with pending or soon to be filed base rate case, the Commission recommended consideration of tax savings as part of those rate cases. The OCA has or will participate in each of those rate cases to ensure that all tax savings are returned to customers.

## KEY ISSUES FOR ELECTRIC CONSUMERS

**Least cost default service.** 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 participated in all of the default service filings of electric distribution companies in Fiscal Year 2017-2018 to ensure that those companies provide reliable default generation service to their customers at the least cost over time.

**Balancing the need for infrastructure investment with reasonable rates.** The OCA continued to be involved in the Distribution System Improvement Charge (DSIC) filings made pursuant to Act 11 by electric distribution companies and continues to work to ensure that the DSIC rate is calculated in accordance with Pennsylvania law. During Fiscal Year 2017-2018, the OCA was involved in distribution base rate proceedings filed by three electric distribution companies. In each case, the OCA worked to ensure that the tax savings generated by the Tax Cuts and Jobs Act of 2017 are flowed back to customers.

**Ensuring adequate Universal Service programs.** The OCA continued its participation in proceedings addressing the Universal Service and Energy Conservation Plans filed by two electric utilities, focused on Customer Assistance Program outreach, consumer education and cost-effectiveness of the plans. During Fiscal Year 2017-2018, the OCA participated in Universal Service advisory groups that work on the details of program implementation.

**Consolidated supplier billing.** During the 2017-2018 Fiscal Year, the OCA continued its participation in proceedings stemming from a request by energy generation suppliers to bill electric customers directly for the utilities' distribution charges, the EGS' charges and additional EGS services such as home security, HVAC maintenance, surge protection, prepaid service and flat bills. The OCA opposed this request because it is

likely to increase costs to consumers, would require a complex and confusing division of responsibilities for utility service, is unnecessary under current PUC practices and procedures, and provides no discernible benefits to ratepayers. The case is pending before the Commission.

**Federal issues of importance to Pennsylvania utility customers.** The OCA has continued its expanded participation at PJM Interconnection because much of the decision-making that affects Pennsylvania electric consumers occurs at the regional level. The OCA has also continued its expanded work at FERC where transmission rates for Pennsylvania customers are set.

**Smart shopping.** 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. During the Fiscal Year, the OCA participated in the Commission's proposed rulemaking to strengthen customer protections and to ensure that customers receive the necessary information to make informed decisions when shopping in the retail electricity market.

A full listing of the OCA's electric-related case activities on behalf of consumers is provided in the Fiscal Year 2017-2018 Annual Report.

## KEY ISSUES FOR NATURAL GAS CONSUMERS

**Reasonable rates for infrastructure investments to provide safe and adequate service.** In Fiscal Year 2017-2018, the OCA participated in four base rate cases involving natural gas utilities. In each case, the OCA worked to ensure that the tax savings generated by the Tax Cuts and Jobs Act of 2017 are flowed back to customers. The OCA was involved in the ongoing quarterly infrastructure surcharge rate filings made pursuant to Act 11 by natural gas companies. In all cases, the OCA worked to ensure that rates are as low as possible and adequate to support prudent investment by natural gas utilities.

**Helping to make the retail markets work for consumers.** 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. In Fiscal Year 2017-2018, the OCA continued to represent consumers across Pennsylvania in the annual PUC review of every major natural gas distribution company's purchased gas costs. Over the last few Fiscal Years, the OCA has been involved in a number of PUC proceedings related to the retail gas market,

where the OCA has worked to improve the market for the benefit of customers and ensure that changes are cost-justified.

**Preserving natural gas service.** The OCA continued to participate in two proceedings where existing natural gas customers in Washington and Greene Counties were potentially being abandoned and worked to ensure that all affected customers continued to receive safe and reliable natural gas service at affordable rates.

**Ensuring adequate Energy Efficiency and Universal Service programs.** During Fiscal Year 2017-2018, the OCA submitted Comments on the Universal Service and Energy Efficiency plans filed by two natural gas distribution utilities, focused on Customer Assistance Program outreach, consumer education and cost-effectiveness of the plans. The OCA also addressed universal service issues in four other natural gas distribution utilities' base rate proceedings. The OCA participated in Universal Service advisory groups that work on the details of program implementation.

**Federal issues of importance to Pennsylvania utility customers.** The OCA participated in proceedings at the Federal Energy Regulatory Commission that involve the major interstate pipelines that serve Pennsylvania's retail natural gas distribution companies.

A full listing of the OCA's natural gas-related case activities on behalf of consumers is provided in the Fiscal Year 2017-2018 Annual Report.

## **KEY ISSUES FOR WATER AND WASTEWATER CUSTOMERS**

**Working for safe and reliable service at reasonable rates.** In the water and wastewater industries, the OCA represented consumers in six base rate increase cases involving large, medium and small companies. In each case, the OCA worked to ensure that the tax savings generated by the Tax Cuts and Jobs Act of 2017 are flowed back to customers. The OCA continues to work to ensure that the DSIC rate is calculated in accordance with Pennsylvania law. In addition, the OCA continued its participation in three service quality cases to ensure that consumers are receiving safe and adequate water and wastewater service.

**Ensuring benefits and consumer protection in water and wastewater consolidation.** During the 2017-2018 Fiscal Year, the OCA participated in eleven acquisition, application and mandatory takeover proceedings involving both large and small utilities. In all of these cases, the OCA worked to ensure that existing and acquired customers were protected and benefitted from the transaction.

**Fairly sharing costs.** 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. Recently enacted Section 1329 of the Public Utility Code provides for fair market valuation of municipal utilities. The OCA filed Comments in response to the Commission's proposed procedures and guidelines to address the application process and carry out the ratemaking provisions of Section 1329. During the 2017-2018 Fiscal Year, the OCA participated in five application proceedings filed under Section 1329 by large wastewater utilities. In each proceeding, the OCA made recommendations to ensure the valuation is consistent with standard financial and utility ratemaking practice. The OCA appealed the Commission's approval of the first application, asking the Court to adopt its position that the Commission must consider the rate impact of 1329 acquisitions and require applicants to provide notice of that rate impact to existing and acquired customers. 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.

**PUC regulation of Pittsburgh Water and Sewer Authority.** During the Fiscal Year 2017-2018, the Public Utility Code was amended with the effect of bringing the Pittsburgh Water and Sewer Authority under the jurisdiction of the PUC on April 1, 2018. The OCA has actively participated in all proceedings arising from this change, with the goal of ensuring that PWSA customers receive high quality water and wastewater service at reasonable cost.

**Supporting lead control programs.** During Fiscal Year 2017-2018, the OCA continued its participation in the proceeding by a large water utility seeking Commission approval of its proposal to allow tariff waivers and recovery of costs for replacing customer-owned service lines containing lead. The OCA has supported the utility's concept to replace customer-owned service lines to protect the public health of customers and worked to ensure that the costs are fairly shared between the utility and consumers. In addition, the OCA has focused on the need for customer outreach and education to ensure that consumers are informed about the risks of lead contamination, how to identify whether they have a lead service line, and information about their utility's lead control projects.

**Extending public water service.** The OCA has worked to balance the need to extend public water service at a reasonable cost to unserved areas, with the interest of existing water and wastewater customers in maintaining the quality and affordability of their service.

A full listing of the OCA's water and wastewater-related case activities on behalf of consumers is provided in the Fiscal Year 2017-2018 Annual Report.

## KEY ISSUES FOR TELECOM CONSUMERS

**Reliable and affordable service for all Pennsylvanians.** In Fiscal Year 2017-2018, the OCA participated in cases involving basic service pricing and quality of telephone service in Pennsylvania. At the federal level, the OCA supported preservation of the Lifeline program to provide eligible consumers with access to voice and broadband services, improved notice for consumers subject to network changes from copper to fiber, and allocation of federal universal service funding for broadband infrastructure. The OCA continued 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 preserving 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.

**Meeting the Chapter 30 broadband obligation.** The OCA continued to monitor consumer complaints and inquiries regarding the availability of broadband pursuant to Chapter 30 of the Public Utility Code in areas throughout the Commonwealth.

**Federal issues of importance to Pennsylvania utility customers.** At the federal level, the OCA worked extensively with the National Association of State Utility Consumer Advocates to provide the consumers' perspective in proceedings before the Federal Communications Commission.

A full listing of the OCA's telecommunication-related case activities on behalf of consumers is provided in the Fiscal Year 2017-2018 Annual Report.

## CONSUMER EDUCATION SUMMARY

**Shopping guides.** The OCA continued to compile 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.

**Electric shopping statistics.** The OCA continued to compile the number and percentage of customers and customer load that are being served by alternative

suppliers throughout Pennsylvania. Each quarter, the OCA posts those statistics on its website.

**Outreach events.** During Fiscal Year 2017-2018, the OCA participated in 69 consumer outreach events across Pennsylvania, many of which were sponsored by members of the General Assembly. The OCA helped plan and participate in consumer presentations, roundtables, and forums across the Commonwealth to help educate consumers about their utility service.

**OCA website, call center and mailings.** The OCA continued to provide consumer information and education through its website at [www.oca.state.pa.us](http://www.oca.state.pa.us) and its toll-free phone number (800-684-6560). The OCA continues to maintain its website and, in the first quarter of 2017, the OCA launched on social media platforms, Twitter and Facebook. During the 2017-2018 Fiscal Year, the OCA received 9,959 customer contacts through its call center. The OCA also kept consumers and members of the General Assembly informed through regular letters and bulletins about upcoming cases and public hearings.

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