ANNUAL REPORT

OF THE

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OFFICE OF SMALL BUSINESS ADVOCATE

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I. INTRODUCTION

Business and residential customers generally have a similar interest in keeping a proposed utility rate increase as small as possible. However, their interests often conflict on the issue of rate structure (*i.e.*, the share of a rate increase to be borne by each particular category of customer).

Historically, the Attorney General's Office of Consumer Advocate ("OCA") has represented residential ratepayers in rate structure disputes. Furthermore, large commercial and industrial customers frequently have had their own attorneys and expert witnesses. In contrast, because they did not have—and could not afford—their own representation, small business customers often received a disproportionate share of the rate increase. The legislature sought to level the playing field by creating the Office of Small Business Advocate ("OSBA").

The OSBA operates under the act of December 21, 1988 (P. L. 1871, No. 181), known as the Small Business Advocate Act, 73 P.S. §§399.41 *et seq*. (the "Act").

The Act directs the OSBA to represent the interests of small business consumers of utility services before the Pennsylvania Public Utility Commission (the "PUC" or "Commission"), before comparable federal agencies, and in the courts. For purposes of the Act, a small business consumer is defined as "a person, sole proprietorship, partnership, corporation, association or other business entity which employs fewer than 250 employees and which receives public utility service under a small commercial, small industrial or small business rate classification."

Under the Act, the Small Business Advocate is granted broad discretion concerning whether or not to participate in particular proceedings before the PUC. In exercising that discretion, the Small Business Advocate is to consider the public interest, the resources available, and the substantiality of the effect of the particular proceeding on the interests of small business consumers.

The OSBA is administratively included within the Department of Community and Economic Development ("DCED"). However, the Act specifically provides that the Secretary of DCED is not in any way responsible for the policies, procedures, or other substantive matters developed by the OSBA to carry out its duties under the Act.

Because of the office's success in utility litigation, additional duties were assigned to the OSBA as part of the 1993 reforms to Pennsylvania's Workers' Compensation Act. Specifically, Article XIII of that revised statute, 77 P.S. §§1041.1 *et seq*., authorizes the Small Business Advocate to represent the interest of employers in proceedings before the Insurance Department that involve filings made by insurance companies and rating organizations with respect to the premiums charged for workers' compensation insurance policies. Those duties require the Small Business Advocate to review the "loss cost"

filings that are made each year by the Pennsylvania Compensation Rating Bureau and the Coal Mine Compensation Rating Bureau of Pennsylvania.

The OSBA's budget for fiscal year 2007-2008 is $1,167,000. That budget is funded by assessments on utilities and on workers' compensation insurers, in proportion to the office's expenses in relation to each group. At the present time, utility company assessments account for about 85% of the budget and insurance company assessments for about 15%. None of the OSBA's budget is financed by General Fund tax revenue.

The OSBA's authorized employee complement consists of seven persons, including five attorneys (the Small Business Advocate and four Assistant Small Business Advocates) and two support staff personnel.

After being nominated by Governor Edward G. Rendell and confirmed by the state Senate, William R. Lloyd, Jr., began serving as Small Business Advocate on November 24, 2003.

II. THE UTILITY RATEMAKING PROCESS

Historically, utility companies have been viewed as natural monopolies which, in the absence of regulation, could charge excessive rates to their customers. Under the Public Utility Code, the PUC is responsible for setting rates which are "just and reasonable," *i.e.*, rates which cover the utility's costs and provide an opportunity for the utility to earn a fair profit.

Under the traditional ratemaking process, the PUC first measures the dollar amount of the utility's investment, *e.g.*, the utility's physical plant. Then, the PUC determines the return on that investment which will enable the company to service its debt and offer a stock price and dividends which are sufficient to attract equity investors. Next, the Commission awards the utility a rate increase in an amount which yields the required return on investment (after the utility has paid its operating expenses). Finally, the PUC decides how much of the rate increase is to be paid by each class of customers, *e.g.*, residential, small commercial and industrial, and large commercial and industrial.

Although the Commission continues to regulate water and wastewater utilities largely through the traditional ratemaking process, Pennsylvania has departed significantly from that process with regard to telephone, electric, and gas service. This departure is in response to changing federal requirements and to three statutes enacted by the General Assembly in the 1990s.

First, a 1993 state law (commonly referred to as "Chapter 30") ended rate regulation of those telecommunications services for which there was deemed to be competition. Furthermore, Chapter 30 provided for the similar deregulation of additional services if competitive markets develop.

In addition to deregulating certain services, Chapter 30 required the local telephone company to deploy high-speed broadband throughout its service area. To help pay for the broadband deployment, the utility was allowed to increase its rates for non-competitive services each year in an amount roughly equivalent to the rate of inflation less a productivity adjustment. These annual price increases are commonly referred to as "Price Change Opportunities," or "PCOs." A 2004 state law reenacted Chapter 30 and provided for larger annual rate increases as an incentive to accelerate broadband deployment.

Second, a 1996 state law ended traditional regulation of the portion of the electric rate which covers the cost of generating electricity. After a transition period, the generation rates charged by the utility are to reflect "prevailing market prices." Customers who are not satisfied with the utility's generation rates also have the opportunity to buy their electricity from power plants other than those selected by the utility. However, the charge for transporting the electricity from the power plant to the utility's service territory (the "transmission rate") and the charge for delivering that

electricity from the transmission line to the customer's premises (the "distribution rate") remain subject to traditional ratemaking.

Third, a 1999 state law gave all customers the right to buy natural gas from either the local utility or a competitor of the local utility. If a customer chooses to buy from the local utility, the rate for that service is set by the PUC after a review to assure that the utility is paying the "least cost" for the gas and for the transportation of the gas from the well to the utility's service territory. However, regardless of whether the customer buys gas from the utility or from a competitor, the utility remains responsible for delivering the gas from the interstate pipeline or the local gas well to the customer's premises. The PUC sets that delivery (or "distribution") rate through the traditional process.

III. UTILITY ACQUISITIONS AND MERGERS

Largely because of changes in federal statutes and in federal regulatory policies, there has been a significant increase in the number of utility mergers and acquisitions. Approval from the PUC is required before a Pennsylvania utility may be sold, acquired, or merged with another utility. In general, Commission approval is contingent upon a finding that the proposed transaction would result in "affirmative benefits" to the public.

Specifically, Section 1102(a) of the Public Utility Code, 66 Pa. C.S. § 1102(a), requires that the Commission issue a certificate of public convenience as a legal prerequisite for the transfer or acquisition of certain property. The statute provides, in pertinent part:

> (a) Upon the application of any public utility and the approval of such application by the commission, evidenced by its certificate of public convenience first had and obtained, and upon compliance with existing laws, it shall be lawful:
>
> * * *
>
> (3) For any public utility or an affiliated interest of a public utility as defined in section 2101 … to acquire from, or to transfer to, any person or corporation, including a municipal corporation, by any method or device whatsoever, including the sale or transfer of stock and including a consolidation, merger, sale or lease, the title to, or the possession or use of, any tangible or intangible property used or useful in the public service….

66 Pa. C.S. § 1102(a)(3).

Section 1103(a) of the Public Utility Code provides, in pertinent part:

> A certificate of public convenience shall be granted by order of the commission, only if the commission shall find or determine that the granting of such certificate is necessary or proper for the service, accommodation, convenience, or safety of the public.

66 Pa. C.S. § 1103(a).

In *City of York v. Pennsylvania Public Utility Commission*, 449 Pa. 136, 295 A.2d 825 (Pa. 1972), the Pennsylvania Supreme Court provided the legal standard for granting a certificate under Section 1103(a) in public utility merger and acquisition cases.

Specifically, the Supreme Court stated:

> [A] certificate of public convenience approving a merger is not to be granted unless the Commission is able to find affirmatively that public benefit will result from the merger …. [T]hose seeking approval of a utility merger [are required to] demonstrate more than the mere absence of any adverse effect upon the public …. [T]he proponents of a merger [are required to] demonstrate that the merger will affirmatively promote the 'service, accommodation, convenience, or safety of the public' in some substantial way.

City of York, 449 Pa. at 141, 295 A.2d at 828.[1]

Under Section 1103(a), "[t]he commission, in granting such certificate [of public convenience], may impose such conditions as it may deem to be just and reasonable." Consistent with Section 1103(a), the PUC has held that "[i]n order to ensure that a proposed merger is in the 'public interest,' the Commission may impose conditions on its granting of the certificate of public convenience." *Joint Application for Approval of the Merger of GPU, Inc. with FirstEnergy Corp.*, Docket No. A-110300F0095, 2001 Pa. PUC Lexis 23 (Order entered June 20, 2001). Consequently, by imposing conditions pursuant to Section 1103(a), the PUC may approve a transaction which would not meet the *City of York* standard without those conditions.[2]

[1] Although *City of York* involved a merger, its holding is equally applicable to an acquisition. Section 1102(a)(3), which imposes the certificate of public convenience requirement, makes no distinction based on whether property is acquired by the "sale or transfer of stock," a "consolidation," a "merger," a "sale," or a "lease."

[2] In a recent decision approving the merger of Verizon and MCI, the Pennsylvania Supreme Court endorsed the use of conditions as a way to enable the PUC to approve a transaction which would not satisfy *City of York* without those conditions. However, the Court also stated that the PUC may impose conditions even if the transaction would not require those conditions in order to satisfy *City of York*. *Popowsky v. Pennsylvania Public Utility Commission*, Pa. Supreme Court Docket Nos. 71 and 72 MAP (Opinion issued December 27, 2007).

IV. THE OSBA'S PUC-RELATED ACTIVITIES

The OSBA participates before the PUC in major rate cases, merger cases, and other non-rate proceedings that have a significant impact on small business consumers. The following is a summary of some of the most significant cases which were active in 2007:

A. Electric Highlights

1. Base Rates

PPL Electric Utilities Corporation
Base Rates (2004)
Docket No. R-00049255

PPL's March 2004 filing before the Commission proposed a $164 million increase in distribution rates and the flow-through of a $57 million transmission rate increase approved by the Federal Energy Regulatory Commission ("FERC"). In addition, the Company proposed that the allocation of its proposed distribution and transmission rate increases should not result in a rate increase of 10% or more for any customer class on a "total-bill basis" (which included the default service generation rate, stranded cost recovery, transmission costs, and distribution costs).

The electric bill that a customer pays each month includes three basic charges related to the utility's ongoing cost of providing service. One of the charges is for the generation of the electricity itself. Another of the charges is for the transmission service that transports the electricity from the generation facilities to a receipt point on the utility's system. The final charge is for the distribution service that delivers the electricity from the receipt point to the customer's premises. In addition to these three charges, the customer's bill also includes a charge related to so-called "stranded costs" that the utility prudently incurred prior to electric restructuring but can not recover through market-determined prices.

As part of PPL's March 2004 filing, the Company performed a cost of service study to determine what share of PPL's distribution costs are properly borne by each of the Company's various customer classes. Generally speaking, if a cost of service study shows that a customer class is paying more than necessary to cover its share of that utility's costs, the customer class is said to be "overpaying its cost of service." On the other hand, if a cost of service study shows that a customer class is paying less than necessary to cover its share of that utility's costs, the customer class is said to be "underpaying its cost of service." In effect, a customer class that is "overpaying" its cost of service is providing a subsidy to the customer classes that are "underpaying" their cost of service. One goal of utility ratemaking is to eliminate, or at least reduce, such subsidies.

Although PPL did, in fact, perform a cost of service study for its distribution costs, the Company did not allocate its distribution rate increase on the basis of that study. Instead, the Company relied on the 10% total-bill basis as the primary constraint on its allocation of the distribution rate increase among the customer classes. This constraint, when coupled with the transmission rate increases, limited PPL's ability to correct interclass distribution revenue allocation inequities identified by the Company's cost of service study.

The Commission upheld PPL's interclass distribution revenue allocation by evaluating the rate increase on a total-bill basis. The Commission concluded that it is not necessary to adhere strictly to a cost of service study and that, on the facts of the case, sufficient progress was being made toward cost-based distribution rates. According to the Commission, it was relevant that PPL's generation rates were still capped.

In its appeal to the Commonwealth Court, the OSBA pointed to the GS-1 customer class, which received a higher-than-system average distribution rate increase despite having an above-system average rate of return under the rates in effect at the time of the March 2004 filing.

In reversing the Commission's distribution and transmission revenue allocation decisions, the Commonwealth Court held "that rates and rate structures [must] be set for each service primarily on a cost-of-service study." *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006), *appeals denied*, 916 A.2d 1104 (Pa. 2007). Although the Court indicated that the Commission may consider other factors, such as gradualism, the Court characterized cost of service as the "polestar" of ratemaking concerns.

In addition, the Court rejected the Commission's decision to limit the rate increase for each customer class to less than 10% on a total-bill basis. Although the Commission had attempted to justify the 10% rule on the grounds of gradualism, the Court stated that gradualism may not be permitted to trump cost of service. The Court also pointed out that the Commission had articulated no rationale for selecting 10% rather than some other percentage. Finally, the Court held that evaluating distribution and transmission rate increases on a total-bill basis violated the mandate of Section 2804(3) of the Public Utility Code, 66 Pa. C.S. §2804(3), that generation, transmission, and distribution rates be unbundled.

Rather than approving any party's proposed revenue allocation, the Court "vacated as to the appeals by PPLICA and the OSBA regarding the issue of the Distribution and Transmission Service Charges" and "remanded to the Commission to set non-discriminatory reasonable rates and rate structure for each service."

Both the Commission and PPL filed petitions for allowance of appeal in the Supreme Court, seeking review of several issues decided by the Commonwealth Court.

The OSBA and PPLICA filed briefs in opposition to the two petitions. On January 31, 2007, the Supreme Court denied the petitions. Therefore, the matter was returned to the Commission to fashion a remedy in compliance with the Commonwealth Court's decision.

The remand proceeding was resolved by a settlement among the parties. As a result of the settlement, the GS-1 customer class received an increase in distribution rates that was less than the system average increase. Therefore, progress towards cost of service was obtained for the GS-1 customer class in the remand proceeding.

The immediate effect of the OSBA's appeal to the Commonwealth Court was that distribution rates for the GS-1, GS-3, GH-1, and GH-2 customer classes were set about $9.3 million per year lower than under the 2004 Commission order. Because these lower rates were set in 2007 and were retroactive (with interest) to January 1, 2005, the GS-1, GS-3, GH-1, and GH-2 customer classes saved about $30 million.

On June 29, 2007, the ALJ issued her recommended decision approving the remand settlement.

On July 25, 2007, the Commission entered an order approving the remand settlement.

PPL Electric Utilities Corporation
Base Rates (2007)
Docket No. R-00072155

On March 29, 2007, PPL Electric Utilities Corporation ("PPL") submitted a filing that asked the Commission to increase PPL's retail distribution rates by $83.6 million per year.

The OSBA filed a complaint alleging that PPL's proposed distribution rate increase was unjust, unreasonable, unduly discriminatory, and otherwise contrary to law. The OSBA also filed direct, rebuttal, and surrebuttal testimony.

Ultimately, the OSBA and the other parties reached a settlement that allowed PPL an additional $55 million in annual distribution rate revenue.

Under the settlement, PPL's GS-1 small commercial and industrial class received a rate decrease. PPL's GS-3 and GH small commercial and industrial customer classes each received a rate increase that was less than the system average rate increase. Because those three classes, on a relative basis, were over-paying their distribution costs before the rate increase, the settlement reduced the size of the subsidy that PPL's small business customers are providing to residential and lighting customers.

The settlement was a compromise between the revenue allocation proposed by the OSBA and the revenue allocation proposed by the OCA. Under the settlement, the rates of GS-1, GS-3, and GH customers are $11.4 million per year lower than proposed by the OCA.

This case is the second proceeding promised by PPL as the mechanism for phasing out interclass subsidies, as required by *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeals denied*, 916 A.2d 1104 (Pa. 2007).

The Commission approved the settlement on December 6, 2007.

First Energy Companies
Base Rates, Merger Savings, and Rate Cap Exception
Appeal to Commonwealth Court at
Docket Nos. 587 C.D. 2007, 700 C.D. 2007, and 701 C.D. 2007

Last year's annual report focused on the First Energy cases ("Met-Ed" and "Penelec") consolidated before the Commission at Docket Nos. R-00061366, R-00061367, A-110300F0095, A-100400F0040, P-00062213, and P-00062214. As pointed out in that report, in January 2007, the Commission adopted most of the ALJs' recommendations, resulting in the companies receiving an overall increase in rates of about 5.1% (Met Ed)/ 4.6% (Penelec) in comparison to the 19% (Met-Ed)/ 15% (Penelec) they had requested. In summary, the OSBA joined with numerous other parties in successfully holding the Companies to commitments made in the restructuring settlement. The OSBA and the other customer groups were unsuccessful in requiring the Companies to flow through previously accrued merger savings. However, the OSBA and the industrial customer group successfully resisted the Companies' proposal to make business customers share in paying for the residential-only universal service program. Restricting the universal service funding obligation to residential customers only will save small business ratepayers about $9.3 million per year.

Met-Ed and Penelec, the OCA, and the large industrial customers ("MEIUG/PICA") all filed petitions for reconsideration with the Commission. These petitions were subsequently denied by the Commission. These parties then filed petitions for review with the Commonwealth Court, which assigned the docket numbers referenced above and consolidated the three cases. The OSBA has intervened in each of the appeals.

The parties have filed briefs on the issues being appealed. The OSBA has filed (1) a brief in opposition to the Commission's decision to permit the Companies retroactively to recover deferred 2006 transmission costs with interest; (2) a brief supporting the Commission's decision to deny the Companies an exception to the

generation rate caps and its decision to assign universal service costs only to residential ratepayers; and (3) a reply brief responding to the argument put forth by the Companies and the Commission that the issue of recovery of interest on the transmission costs was not properly preserved for appeal. Oral argument on these issues before the Commonwealth Court is tentatively scheduled for April 2008 in Harrisburg.

Citizens' Electric Company of Lewisburg, PA
Wellsboro Electric Company
Valley Energy, Inc.
Base Rates
Docket Nos. R-00072348, R-00072350, R-00072349

In May of 2007, Citizens' Electric Company of Lewisburg, PA ("Citizens'") filed a tariff requesting a distribution rate increase of $898,363 per year, a 28% increase in annual distribution revenues. Wellsboro Electric Company ("Wellsboro") filed a tariff requesting an increase in total distribution revenues of $900,537 per year, a 27% increase. Valley Energy, Inc. ("Valley") filed a tariff requesting an increase in annual gas distribution revenues of $638,025, an 18% increase. The three companies requested that their cases be consolidated. The OSBA filed a complaint in each of the three cases, alleging that the proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable, and unlawfully discriminatory.

In July of 2007, the OSBA and other parties filed prehearing memoranda with the Commission. The OSBA took the position that it could support the consolidation of the Citizens' and Wellsboro cases (the Companies are commonly owned), but that the Valley case, being a gas distribution case, had enough different issues that it should proceed separately. (Valley is also owned by the common owner of Citizen's and Wellsboro.) The ALJ agreed with the OSBA position and consolidated the Citizens' and Wellsboro cases while keeping the Valley case separate.

After the filing of testimony, the parties negotiated a settlement in the Valley case. During the course of negotiations, Valley had reduced its request for a $638,025 increase to $565,157. The increase agreed to by the settling parties was $297,000.

Of particular interest to the OSBA in the Valley case were two specific issues of rate design. With respect to universal service costs, the current costs were subtracted from the current residential rates, the approved rate increase was allocated to rate classes across-the-board, and then the new universal service increase was allocated to the residential class, in keeping with the Commission's decision in the last Valley rate case. In addition, Valley agreed to the OSBA's position with respect to Bill-to-Book ratios, which is to apply to proposed rates the same Bill-to-Book ratio as used at present rates.

The parties were also able to settle the Wellsboro rate case. Wellsboro's requested distribution rate increase of $900,537 per year was reduced to $690,000, which the OSBA viewed as appropriate considering Wellsboro's reduced risk as a result of finalizing its default service provider case, and the Company's failure to account for increases in forfeited discount revenues.

The OSBA's recommendations for treatment of universal service costs and the Bill-to-Book ratio were accepted by Wellsboro, as was the rate design methodology proposed by Wellsboro and accepted by the OSBA for assigning an across-the-board increase to Rate Schedules 3 and 4, thus insuring that all commercial customers receive the same rate increase.

The Citizen's case has been partially settled. The parties have agreed to a reduction in the proposed rate increase from $898,363 to $699,000, resulting in an increase of approximately 5.7% rather than the 7.4% originally proposed. The Company has agreed not to file for another distribution increase prior to January 1, 2010.

Citizens' and the OSBA were not able to agree on the rate design proposed by Citizens' for the GLP-1 rate class, the small commercial class represented by the OSBA. Citizens' proposed to redesign the GLP-1 rate schedule by consolidating the current two-block demand structure to one block and replacing the declining three-block energy rate structure with a single energy charge. The Company also proposed to add a $21 customer charge and a $2.88 demand charge where there previously had been none. After analyzing Citizens' proposal, the OSBA opposed the changes, because they would impact different customers within the GLP-1 rate class in a disproportionate fashion without having any basis in the cost of providing service to those customers.

The OSBA and Citizens' filed main briefs and reply briefs on the issue of the GLP-1 rate design. The ALJ issued his recommended decision on December 14, 2007. The recommended decision adopted nearly all of the OSBA's arguments and recommended that the Commission reject Citizens' proposed GLP-1 rate design and keep the current design, as proposed by the OSBA. However, the matter is awaiting a decision by the Commission.

2. POLR (or Default) Service

POLR (or Default) Service
Rulemaking
Docket No. L-00040169

Historically, the local electric utility company was responsible for generating or purchasing electricity for its customers and delivering that electricity to the customers'

premises. However, Act 138 of 1996 (the Electricity Generation Customer Choice and Competition Act), 66 Pa.C.S. Ch. 28, allowed customers to purchase electricity either from their local utility or from other entities known as "electric generation suppliers" or "EGSs." The local utility (now known as the "electric distribution company" or "EDC") is responsible for delivering the electricity to those customers who choose to buy from an EGS. In addition, the EDC is responsible for both acquiring and delivering electricity for those customers who do not shop or whose EGS fails to provide the promised electricity.

When an EDC acquires electricity for customers not served by an EGS, the EDC is functioning as the provider of last resort ("POLR") (also known as the "default service provider"). At present, the rates most EDCs charge for that electricity are capped. However, once an EDC's cap has expired, 66 Pa.C.S. § 2807(e)(3) requires that EDC to acquire electricity for POLR (or default service) customers at "prevailing market prices."

Under Section 2807(e)(2), the PUC is required to promulgate regulations defining the obligation to acquire electricity after each EDC's rate cap has expired. The OSBA and other interested parties submitted several rounds of comments on the PUC's proposed regulations. In 2007, the Commission received final approval of the regulations and put them into effect.

The following are the key points raised by the OSBA regarding the proposed POLR (or default service) regulations and an indication of how the PUC resolved those issues in the final regulations:

- Contrary to the urging of the EGSs, the EDC should continue to serve as the POLR (or default service provider) in its service territory. [Disposition: The PUC adopted the position supported by the OSBA.]

- To mitigate any historical interclass subsidies, the POLR (or default service provider) should acquire electricity through a competitive procurement process that separately determines the market price for each class of customer. [Disposition: The PUC adopted the position supported by the OSBA.]

- To get the lowest possible price, the POLR (or default service provider) should seek bids on POLR electricity which includes the mandated amount of electricity generated from alternative energy sources. [Disposition: The PUC adopted the position supported by the OSBA.]

- To assist in budgeting, POLR (or default service) should be offered to small business customers at a fixed price for at least one year. [Disposition: The PUC rejected the position supported by the OSBA and required that rates for small business customers be adjusted at least quarterly.]

- To mitigate intraclass subsidies and facilitate shopping, the POLR (or default service provider) should move to flat rates for small business customers, *i.e.*, eliminate the demand charge and declining block rates. [Disposition: The PUC adopted the position supported by the OSBA.]

- The PUC should be cautious about forcing small business customers to pay seasonal rates, in that many small business customers are unable to shift their usage from high-price periods to low-price periods. [Disposition: The PUC did not resolve this issue.]

Policies to Mitigate Potential Electricity Price Increases
Default Service
Docket No. M-00061957

On May 19, 2006, the Commission commenced a proceeding to develop policies to address potential electric rate increases upon the expiration of generation rate caps. The Commission presided over an *en banc* hearing, solicited public comments on appropriate price mitigation strategies, issued a tentative order that identified proposed policies for addressing rising energy costs, and issued a final order after consideration of the public comments.

In the Commission's final order, the Commission ordered that its Office of Communications and stakeholders develop recommendations regarding the scope, objectives, duration, budget, design and cost-recovery of a statewide consumer education campaign.

The OSBA has been participating in the meetings regarding such an education plan.

Energy Conservation, Efficiency, Demand Side Response
Default Service
Docket No. M-00061984

The Demand Side Response Working Group ("DSR Working Group") was originally created in 2001. In 2006, the Commission reconvened the DSR Working Group and initiated an investigation into reasonable, cost-effective programs that can be implemented for all customers. The investigation was also to include an analysis of advanced metering infrastructure and appropriate ratemaking mechanisms that may remove any barriers to the development of energy efficiency, conservation, and demand side response ("DSR"). One goal of the Commission is to help mitigate the rate increases expected when the generation rate caps expire.

The DSR Working Group held subgroup meetings on the following topics: programs, advanced metering, and consumer education. The DSR Working Group participants were asked to submit white papers or strawman proposals on the above mentioned topics. The OSBA submitted strawman proposals on "Focusing DSR Programs" and "The Cons of Time-of-Use Metering."

After numerous meetings and the submission of comments on an outline, the Commission staff circulated a draft of the DSR Working Group Report, to which the OSBA submitted comments.

Thereafter, the Commission staff submitted recommendations in the form of a draft tentative order for consideration by the Commission. However, the matter has been postponed pending the outcome of the General Assembly's special session on energy.

Duquesne Light Company
Default Service
Docket No. P-00072247

On January 25, 2007, Duquesne Light Company ("Duquesne" or "Company") filed a default service plan for the period from January 1, 2008, through December 31, 2010.

The OSBA filed a notice of intervention and an answer. Subsequently, the OSBA filed three rounds of testimony through its expert witness. The OSBA also actively participated in the negotiations which led to the filing of two stipulations for settlement of the case.

As originally proposed by Duquesne, residential customers would receive a fixed rate for three years and would, therefore, not be exposed to any market risk in that period. In contrast, Duquesne proposed periodic adjustments in the rates of small commercial and industrial ("Small C&I") customers. The General Stipulation provides a three-year fixed rate for Small C&I customers which have a maximum registered peak demand of less than 25 kW and are served under rate schedules GS/GM and GMH. Although not truly fixed on an individual customer basis, the *average* POLR rate for this group of Small C&I customers will be fixed. Individual customers in that group will experience annual rate changes on January 1, 2009, and January 1, 2010, to reflect the phase-out of the demand charge and declining block rates.

Pursuant to the terms of the General Stipulation, Duquesne will offer fixed rates for 2008 to Small C&I customers on schedules GM and GMH with peak demands of 25 kW to 300 kW. The POLR rates for those customers will then be subject to two market price adjustments (every six months, for a total of four adjustments) in calendar years 2009 and 2010, respectively. In an effort to avoid hurricane-related price spikes, the

General Stipulation provides that the January 1, 2009, and January 1, 2010, market price rate adjustments will be based on the 20 trading days prior to December 1st and not the 20 trading days prior to October 1st (as originally proposed by Duquesne).

The General Stipulation retains Duquesne's original proposal to eliminate declining blocks for Small C&I customers on rate GS as of January 1, 2008, and to phase out the demand charge and declining block rates by January 1, 2010, for those Small C&I customers on rates GM and GMH with peak demand less than 25 kW. However, the General Stipulation will eliminate the demand charge and declining blocks for Small C&I customers with peak demand of 25 kW or greater on January 1, 2008, rather than phase them out by January 1, 2010 (as originally proposed by Duquesne). Generally, demand charges and declining blocks produce a wide disparity in the average generation rates paid by Small C&I customers. However, such disparities have not been shown to be market-based. Accordingly, the accelerated elimination of such charges for the larger Small C&I customers will assist in making the POLR rates more reflective of the market than they would have been under Duquesne's original proposal.

Pursuant to the second stipulation, the OSBA agreed to participate in a collaborative with Duquesne, Direct Energy Services, and other interested parties for purposes of exploring the possibility of establishing a Market Share Threshold ("MST") program for Small C&I customers with peak demand under 25 kW. The OSBA agreed to participate in this collaborative because of the possibility of increasing shopping opportunities for low load factor customers (by reducing EGS marketing costs) without denying those Small C&I customers the benefits of fixed POLR rates.

The Commission approved the settlement on June 21, 2007.

Duquesne Light Company
Default Service (PJM to MISO)
Docket No. P-00072338

On October 9, 2007, Reliant Energy filed a petition asking the Commission to declare state jurisdiction over Duquesne Light Company's ("Duquesne") withdrawal from PJM Interconnection, L.L.C. ("PJM").

The OSBA filed a brief in support of Reliant's petition. The OSBA argued that the Commission need not address the question raised by Reliant Energy regarding whether the Federal Energy Regulatory Commission ("FERC") or the Commission has jurisdiction over Duquesne's proposed move out of PJM and into Midwest Independent Transmission System Operator ("MISO").

Instead, the OSBA pointed out that Duquesne is obligated to remain in PJM through December 31, 2010, because the company entered into a default service settlement with the OSBA which assumes continued PJM membership.

The ALJ issued an initial decision that denied the petition and rejected the OSBA's argument.

The OSBA filed exceptions to the ALJ's initial decision. The matter is currently pending before the Commission.

PPL Electric Utilities Corporation
Default Service
Docket No. P-00062227

On August 2, 2006, PPL Electric Utilities Corporation ("PPL") filed a plan to provide default service in 2010. The cap on PPL's generation rates will expire on December 31, 2009. The essence of PPL's plan is to contract in 2007, 2008, and 2009 for electricity to be delivered in 2010.

The OSBA generally supported PPL's proposals. Of particular importance, PPL proposed to conduct a request for proposal ("RFP") process to obtain POLR supply for three separate rate classes: residential; small commercial and industrial; and large commercial and industrial. By definition, bidding by rate class will produce rates for each class that are consistent with prevailing market prices for that class at the time of the bid and will avoid interclass subsidies.

PPL also proposed to eliminate the demand charges and the declining block energy charges that currently exist as part of a customer's generation charge. In their place, PPL proposed a generation supply charge that will be a flat "cents per kilowatt hour" charge. The OSBA supported this proposed change in rate design.

PPL proposed to conduct PPL's RFP process through six separate bids spread out over three years for all customer classes except for the Large C&I class. The OSBA observed that this is a reasonable methodology by which PPL could mitigate the price volatility associated with purchasing all of the required electrical energy at one time.

PPL proposed that POLR suppliers will be responsible for all ancillary transmission service charges, will be responsible for all transmission congestion charges, and will be required to deliver their electricity to the PPL zone within the PJM service territory. The OSBA supported these proposals as the best way to assign responsibility for transmission service charges.

On February 21, 2007, the ALJ issued her recommended decision approving PPL's plan. On May 17, 2007, the Commission entered an order approving the plan.

PPL Electric Utilities Corporation
Phase-In of Default Service Rates
Docket No. TN-100

In November of 2007, PPL filed a petition for approval of a plan to phase-in the increased rates that will result when PPL's generation rate caps expire at the end of 2009. PPL proposed to enroll most of its customers in an opt-out program where the customers would make partial payments in 2008 and 2009 against the expected 2010 rate increase in addition to their current payments. The customers then would receive those partial payments back (with 6% interest) as credits toward the increased rates when they go into effect.p

The OSBA filed a notice of intervention and an answer to PPL's petition. In its answer, the OSBA noted that despite the representations of PPL to the contrary, the program was not voluntary, since it would automatically enroll customers who would then have to "opt-out" if they did not wish to participate. Further, PPL did not demonstrate that 6% interest was a reasonable return on the prepaid billings.

The case is in its beginning stages. The matter is likely to be litigated before the Commission in 2008.

Pike County Light & Power Co.
Default Service
Docket No. P-00072245

In January of 2007, Pike County Light & Power Company ("Pike" or "Company") filed a petition for expedited approval of its default service implementation plan to establish default service rates for the period beginning January 1, 2008. The OSBA intervened in the proceeding in an attempt to convince the Commission to make changes in Pike's plan.

Pike proposed that it meet its default service obligations for 2008-2010 by purchasing financial hedges at auctions in combination with its affiliate, Orange and Rockland. The Company's proposal was complicated by the fact that since June of 2006, most of Pike's customers have taken their generation supply from Direct Energy Services, LLC ("Direct Energy") under an opt-out retail aggregation program. In 2006, the Commission approved the aggregation program through December 31, 2007, but gave Direct Energy an option to extend the opt-out aggregation program for an additional 17

months, through May 31, 2009. Consequently, the OSBA argued that Pike's auction proposal was unnecessary, and that straight spot market purchases of electricity would be a practical solution for meeting whatever minimal load requirement remains on default service. The OSBA also argued that the term of Pike's default service plan should be for only 17 months rather than for three years, to coincide with the extended term of Direct Energy's aggregation program.

In his Recommended Decision, the ALJ agreed with the revisions proposed by the OSBA. The Commission upheld the ALJ's Recommended Decision. Direct Energy subsequently opted to extend its aggregation program through May 31, 2009. Therefore, Pike will supply its minimal default service requirements through purchases of electricity on the spot market, while Direct Energy will service the majority of the load in Pike's territory with a fixed-term, fixed-price aggregation program.

While Pike's default service proceeding has concluded, certain issues raised by Direct Energy in its aggregation program still need resolution. In October of 2007, Direct Energy filed a letter with the Commission explaining how it proposed to continue to serve the customers it had acquired in the aggregation program on a month-to-month opt-out basis after the expiration of the extended term of the aggregation program on May 31, 2009. The OSBA filed an answer to Direct Energy's letter, asserting that Direct Energy's opt-out proposal was not authorized by the Commission, that it constituted unfair competition, and that the customers should be returned to default service with Pike on June 1, 2009, unless the customers affirmatively opted-in to service with Direct Energy. This issue is still before the Commission.

Citizens' Electric Company of Lewisburg, PA
and Wellsboro Electric Company
Default Service
Docket Nos. P-00072306 and P-00072307

On May 18, 2007, Citizens' Electric Company of Lewisburg, PA ("Citizens'"), and Wellsboro Electric Company ("Wellsboro") (collectively, "the Companies") filed with the Commission their Petition for Approval of Expedited Schedule for Review of a Default Service Plan and Waiver of Certain Proposed Regulations.

Thereafter, the Companies hired Aces Power Management LLC ("APM"), a wholesale trading and risk management firm, to assist in the development of a procurement methodology. With the guidance of APM, Citizens' and Wellsboro initially proposed a procurement plan ("the Scheduled Procurement Plan") that consisted of a 25 MW 7x24 block product and a 25 MW 5x16 block product to be purchased each quarter. The remainder of the Companies' default service requirements were to be purchased through the PJM spot market.

However, at the hearing, the Companies presented rebuttal testimony which significantly modified their original position in the case and proposed a new procurement plan ("the Stratified Procurement Plan"). Under the Stratified Procurement Plan approach, the Companies proposed to purchase power via an annual 7x24 block product for approximately 20 to 25 MW of load, with the remainder of the load met through monthly contracts of mostly 5 MW increments plus spot market purchases.

The OSBA supported the Scheduled Procurement Plan and opposed the Stratified Procurement Plan. In the OSBA's view, the Stratified Procurement Plan gave the Companies too much discretion as to when to buy power and how much to buy in each purchase. In theory, this discretion would enable the Companies to "time the market" in order to get lower prices than under the more rigid Scheduled Procurement Plan. However, the Stratified Procurement Plan did not subject the Companies' decisions to a prudence review, whereby recovery of the purchase price of any procurements could be denied if the Companies made unsound choices. Without a prudence review, the risk of mistakes by the Companies would fall entirely on the ratepayers.

On October 3, 2007, the Commission entered an Opinion and Order, which approved the Companies' Stratified Procurement Plan for the period of January 1, 2008, through May 31, 2010. Rather than impose a requirement for prudence review, the Commission ordered that the Companies, the OTS, the OCA, and the OSBA initiate a collaborative process to develop portfolio performance benchmarks and reporting requirements for those benchmarks.

In accordance with the Commission's directive, the Companies, the OSBA, the OCA, and the OTS attempted to develop consensus performance benchmarks. The parties agreed that the following three performance benchmarks should be used:

1) The total power, transaction, and administrative costs incurred under the Companies' Stratified Procurement Plan will be compared to the total power, transaction, and administrative costs that would have been incurred if all of the power had been purchased in the spot market.

2) The total power, transaction, and administrative costs incurred under the Companies' Stratified Procurement Plan will be compared to the total power, transaction, and administrative costs that would have been incurred under the Companies' Scheduled Procurement Plan, *i.e.*, the purchase each quarter of a 25 MW 7x24 block and a 25 MW 5x16 block and the purchase of the remainder of the Companies' default service requirements on the PJM spot market.

3) The total power, transaction, and administrative costs incurred under the Companies' Stratified Procurement Plan will be compared to total power, transaction, and administrative prices that could have been obtained through an RFP for long-term, full requirements contracts.

However, the parties could not reach a consensus on how the third benchmark should be constructed in order to obtain a valid proxy for the costs associated with long-term, full requirements contracts to serve the Companies' default service customers. The parties also could not reach a consensus on the timing and frequency of the Companies' submission of the benchmark reports.

The Companies, the OCA, and the OSBA submitted comments to the Commission regarding the two benchmark issues on which they had been unable to agree. The benchmark proposals are awaiting a decision by the Commission.

Pennsylvania Power Company
Default Service
Docket No. P-00072305

On May 2, 2007, Pennsylvania Power Company ("Penn Power" or "Company") filed a default service plan for the period from June 1, 2008, through May 31, 2011.

The OSBA timely filed an answer and a notice of intervention.

The OSBA took issue with Penn Power's proposal for reconciliation, which would have resulted in an unreasonable quarterly "bump" in commercial default service rates. Additionally, the OSBA raised concerns about the length of time between the proposed procurement dates and the corresponding times that power supplies would be utilized. Finally, the OSBA sought to have more specific information included in the RFP manager's report.

The OSBA took part in negotiations which led to the filing of a settlement which should result in a procurement plan that is more favorable to commercial customers than Penn Power's original proposal. Relative to pricing and rate design issues, Penn Power will procure supply separately for residential and commercial customers. That proposal eliminates the possibility of cross-subsidies among the major rate class groups.

In the event of supplier default, Penn Power will rely on spot market purchases until the Commission approves another contingency plan. The OSBA will have an opportunity to review any alternative arrangements which Penn Power submits for small business customers in the future.

The settlement addresses a number of technical issues raised by various parties with respect to the Supplier Master Agreement ("SMA"). Two of the issues were of concern to the OSBA, namely the issue of compliance with the Alternative Energy Portfolio Standards Act ("AEPS Act") and the issue of MISO transmission tariff increases. The settlement shifts the risk of changes in the AEPS Act requirements and increases in MISO transmission rates to Penn Power, with any related cost increases to be

recovered from customers through higher default service rates. The OSBA anticipates that this change will result in a lower risk premium, and therefore lower bid prices from wholesale suppliers.

Penn Power proposed to procure a mix of one-year and two-year supplies for commercial customers. While the OSBA believes that position was consistent with the Commission's default service regulations, several EGSs proposed quarterly adjustments. The settlement represents a compromise, with all commercial supplies being procured for one-year terms.

The timing of the commercial procurements raised concerns about the effects of procurements during hurricane season. The settlement mitigates those concerns in two ways. First, the duration of the purchases has been limited to one year for commercial customers, thereby reducing the period for which rates would be affected by a hurricane. Second, the settlement will allow the Company to withdraw or terminate the RFP in the case of unforeseen circumstances, such as hurricanes or adverse market conditions.

Penn Power proposed to implement a customer education program and to recover the costs for the program through an administrative fee in the default service rider. The OSBA was concerned about the ability to match program costs and benefits. The settlement addresses the latter concern by assigning costs on a class basis. The settlement also limits the cost of the program for commercial customers to $40,000 unless the OSBA agrees to some larger amount.

The Commission approved that part of the settlement applicable to commercial and industrial customers. However, the Commission rejected the settlement with regard to residential customers and remanded to the ALJ for the development of a new residential procurement plan relying on a portfolio approach. In addition, the Commission issued a set of directed questions, seeking comments on specific issues regarding the portfolio approach. The OSBA is continuing to participate in this proceeding to protect the interests of small business customers.

West Penn Power Company d/b/a Allegheny Power
Default Service
Docket No. P-00072342

On or about October 25, 2007, West Penn Power Company, d/b/a Allegheny Power ("Allegheny" or the "Company") filed with the Commission a plan for providing default service beginning on January 1, 2011. The key feature of the plan is a proposal to contract prior to January 1, 2011, for a substantial portion of the electricity to be delivered in the first several years beginning on that date.

The OSBA filed a notice of intervention and a protest.

Hearings have been scheduled for 2008.

Pennsylvania State University
(West Penn Power Company d/b/a Allegheny Power)
Default Service
Docket No. P-_____

On or about December 3, 2007, The Pennsylvania State University ("Penn State") filed with the Commission a Petition for Declaratory Order Concerning the Generation Rate Cap of the West Penn Power Company dba Allegheny Power.

The OSBA filed a notice of intervention.

The Commission has not yet acted on Penn State's petition.

3. Alternative Energy

Alternative Energy Portfolio Standards Act
Rulemaking
Docket Nos. M-00051865, L-00050174, L-00050175, and L-00060180

The act of November 30, 2004 (P.L. 1672, No. 213), known as the Alternative Energy Portfolio Standards Act ("AEPS Act"), requires that increasing percentages of the electricity sold in the Commonwealth be generated from designated alternative energy sources.

The act of July 17, 2007 (P.L. __, No. 35), amended the AEPS Act. The amendments require changes in the net metering regulations previously promulgated by the Commission and changes in an omnibus package of alternative energy proposed regulations.

In response to the Commission's invitation, the OSBA submitted comments regarding the changes required as a result of Act 35 of 2007.

Non-Utility Generators
Alternative Energy
Docket No. P-00052149

On February 22, 2005, Metropolitan Edison Company ("Met-Ed") and Pennsylvania Electric Company ("Penelec") (jointly, the "Companies") filed a Petition for Declaratory Order ("Petition") with the Commission seeking a declaration that the Companies are entitled to ownership of the Alternative Energy Credits ("AECs") associated with the electricity purchased from the York County Solid Waste and Refuse Authority ("York Authority"). York Authority is a non-utility generation ("NUG") facility.

Various parties intervened in the proceeding, including the OSBA, PPL Electric Utilities Corporation ("PPL"), and NUGs other than York Authority.

The Alternative Energy Portfolio Standards Act, 72 P.S. §§ 1648.1-1648.8 ("AEPS Act"), requires that a percentage of the electricity sold to retail customers by EDCs and EGSs be derived from certain alternative energy sources. To comply with the Act, EDCs and EGSs may purchase the required proportion of their total energy requirements from alternative energy sources, or they may purchase an equivalent number of AECs in the marketplace.

This dispute arose after the AEPS Act was signed into law in late 2004. Over the last two decades, Met-Ed, Penelec, and PPL had entered into long-term power purchase agreements ("PPAs") with various NUGs like York Authority. Now that the AECs have been statutorily created, the NUGs claim that they own the AECs and are free to sell them to third parties even though the NUGs are contractually obligated to sell the electricity itself to Met-Ed, Penelec, or PPL. In contrast, Met-Ed, Penelec, and PPL argue that the EDCs own the AECs and can use them to meet the requirements of the AEPS Act. The OSBA has argued that the AECs belong to the EDCs and must be used for the benefit of ratepayers.

The prices paid by Met-Ed, Penelec, and PPL to the NUGs have been in excess of the market price of electricity. Consequently, retail customers have been paying higher rates than they would have paid if the EDCs had not been required to enter the PPAs. If ownership of the AECs is awarded to the NUGs, Pennsylvania retail customers will see an increase in their electric bills because the EDCs will continue to be obligated to purchase the electricity generated by the NUGs but will also be required to purchase replacement AECs from other entities in order to comply with the AEPS Act.

On July 5, 2006, the ALJ issued her recommended decision. The ALJ recommended that the Petition be granted and that ownership of the AECs be awarded to the Companies.

On February 12, 2007, the Commission adopted the ALJ's recommendation.

On June 28, 2007, ARIPPA appealed the Commission's order to the Commonwealth Court at 1198 C.D. 2007. York Authority also filed an appeal on that date. However, York Authority withdrew its appeal one month later.

The matter is currently awaiting the filing of ARIPPA's brief.

PECO Energy Company
Alternative Energy
Docket No. P-00072260

On March 19, 2007, PECO Energy Company ("PECO" or "Company") filed with the Commission a petition for approval to acquire alternative energy credits ("AECs") during the generation rate cap period and to recover the related costs after the cap expires.

The OSBA filed a notice of intervention and an answer. The OSBA also filed testimony and briefs.

PECO accepted the OSBA's proposal to cap the price paid for an AEC at $45 per MWh to limit the exposure of customers to unreasonable prices. However, the OSBA and PECO disagreed over a narrow statutory interpretation issue which defined what credits could be banked during the period in which the Company is under rate caps. Specifically, PECO's plan assumed that any otherwise eligible AEC would qualify for banking because PECO did not sell electricity generated from alternative energy sources during the base year, *i.e.*, February 28, 2004, through February 27, 2005, which is the twelve-month period immediately preceding the effective date of the Alternative Energy Portfolio Standards Act ("AEPS Act"). While not disputing that PECO had a right to bank credits, the OSBA noted that there are different provisions in the AEPS Act governing the procurement of credits *during* and *after* the rate cap period. The OSBA's interpretation of the plain language of the AEPS Act was that, in order for PECO to bank an AEC during the rate cap period, that AEC must be associated with electricity which exceeds the total amount of electricity that the seller of the AEC delivered to its Pennsylvania customers from Tier I and Tier II sources during the base year.

The Commission ultimately agreed with PECO.

West Penn Power Company d/b/a Allegheny Power
Wind Energy
Docket No. P-00072349

On or about November 19, 2007, West Penn Power Company d/b/a Allegheny Power ("Allegheny" or the "Company") filed with the Commission a petition seeking

approval of a wind energy tariff supplement to be available to ratepayers on a voluntary basis.

The OSBA filed an answer and a notice of intervention.

The Commission has not yet acted on Allegheny's petition.

4. Low-Income Programs

There has been an ongoing controversy between advocates for low-income residential customers and advocates for business customers over whether all customer classes should be required to contribute toward the cost of universal service programs.

Advocates for spreading universal service costs over all rate classes argue that there is a "societal good" or an "economic self-interest" justification for making business ratepayers contribute to the cost of universal service programs.

On the other hand, the OSBA argues that funding universal service programs through utility rates (rather than through taxes) is similar to the concept of insurance: ratepayers pay "premiums" when they can afford to do so in exchange for "benefits" to help them pay their utility bills when their individual economic circumstances require. Because all residential ratepayers theoretically could need such assistance, it is logical to make all residential ratepayers contribute toward the program's costs. However, because commercial and industrial customers are ineligible for assistance through universal service programs, it would be unfair to divert business ratepayer dollars to cover the cost of universal service programs.

Except for the Philadelphia Gas Works ("PGW"), the PUC has generally not required business ratepayers to pay for universal service programs.[3] However, the issue was again joined in PPL's 2004 distribution case. In response to OCA's effort to spread the costs to all rate classes, the Commission expressly held that universal service program costs should be funded only by the residential class. In reaching that conclusion, the Commission noted that the advocates of spreading the costs more broadly had failed to support their position with "concrete evidence in the form of cost studies."

In addition to ruling in specific cases, the Commission also conducted a generic proceeding on cost recovery and other issues related to universal service and energy

[3] In the case of PGW, the universal service funding model was *inherited* by the PUC, *i.e.*, the funding program was approved by the Philadelphia Gas Commission before PGW became subject to PUC jurisdiction. The PUC has deferred the decision regarding whether non-residential customers should be relieved of paying for PGW's universal service programs.

conservation programs.[4] In that generic proceeding, the Commission voted to continue the policy of allocating CAP costs to the only customer class whose members are eligible to participate in the program, *i.e.*, residential customers.

In reaffirming its prior policy, the Commission specifically disagreed with the OCA's interpretation of legislative intent regarding recovery of CAP costs from business customers. While acknowledging that there are a few exceptions in which CAP costs are recovered from customers other than the residential class, the Commission recognized that none of the exceptions constitutes legal precedent because each involves a settlement or, in the case of PGW, a mechanism that was constructed prior to the Commission's having jurisdiction over the utility. Finally, the Commission referred to its PPL ruling that "[u]niversal service programs [such as CAP], by their nature, are narrowly tailored to the residential customers and therefore, should be funded only by the residential class."

The OCA has raised its statutory construction and legislative intent arguments before the Commonwealth Court as part of the pending appeals from the Commission's January 2007 decision in the Met-Ed/Penelec consolidated rate case. A decision by the Commonwealth Court may be forthcoming in 2008.

5. Miscellaneous

Metropolitan Edison Company
Power Purchase Agreement
Docket No. P-00072259

In March of 2007, Met-Ed filed a petition requesting approval to amend a power purchase agreement with Northampton Generating Co., a non-utility generating ("NUG") facility supplying power to Met-Ed under a contract running through September of 2020. In exchange for releasing Northampton from its obligation to supply the power after the end of 2010, Met-Ed would receive an up-front payment, which it proposed to apply to both NUG and non-NUG stranded costs.

The OSBA intervened in the proceeding and filed an answer with new matter in response to Met-Ed's petition. During the litigation of the case, the OSBA took the position that the purported benefits claimed by Met-Ed were illusory; that ratepayers would receive little, if any, benefit as a result of giving up nearly ten years of low-cost power from Northampton; and that ratepayers would continue to pay for NUG stranded

[4] *See Customer Assistance Programs: Funding Levels and Cost Recovery Mechanisms*, Docket No. M-00051923 (Order entered December 18, 2006).

costs for the original duration of the power purchase agreement without receiving the reciprocal benefit of the low contract rates.

In his recommended decision, the ALJ disagreed with the position taken by the OSBA and recommended that Met-Ed's petition be granted, with the modification that Met-Ed should apply the up-front payment only to its NUG stranded costs. The OSBA filed exceptions and reply exceptions to the recommended decision.

By order entered on January 24, 2008, the Commission rejected the ALJ's recommendation and denied Met-Ed's petition.

First Energy Companies
NUG Accounting Methodology
Docket No. P- 00062235

In January of 2006, Met-Ed and Penelec unilaterally altered the Non-Utility Generator ("NUG") stranded cost accounting methodology that had been in place since 1999. The implementation of that change, retroactive to January 1999, was incorporated into the Companies' consolidated rate filing at Docket Nos. R-00061366, P-00062213, R-00061367, P-00062214, A-110300F0095 and A-110400F0040. The retroactive implementation of the change would have benefitted the Companies in an amount exceeding $25 million. However, the prospective effect was likely to cost ratepayers substantially more than $25 million.

The change was discovered by the Bureau of Audits of the Commission during the audit of the Companies' annual reports for the year ending December 31, 2005, regarding the recovery of NUG stranded costs. After comments were filed by interested parties and replies were received from the Companies, the Commission entered an order directing the Companies to revert back to their original accounting methodology until such time as the Commission approved a change. Thereafter, the Companies filed a petition at Docket No. P-00062235 for approval to revise the NUG accounting methodology.

The OSBA filed a notice of intervention and an answer in response to the Companies' petition. The matter was assigned to an ALJ and was fully litigated. The OSBA took the position that the Companies were not entitled unilaterally to change their accounting methodology that had been agreed to by the parties to the Companies' restructuring settlement and that had been in place since 1999. Further, the OSBA argued that, when accounting for the stranded costs to be recovered from ratepayers, the Companies are required to "net" the amount by which costs under the NUG contracts are above the market price of electricity in any time period against the amount by which those NUG contract costs are below the market price in all other time periods. Under the Companies' view, Met-Ed and Penelec are entitled to keep the amount by which NUG costs are below the market price.

The ALJ agreed with the position taken by the OSBA and recommended that the Companies' petition be denied. Met-Ed and Penelec filed exceptions, and the OSBA and several other parties filed reply exceptions. The Commission entered an order denying the petition and the exceptions of Met-Ed and Penelec, and adopting the initial decision of the ALJ. Met-Ed and Penelec did not file for reconsideration with the Commission nor did they file a petition for review with the Commonwealth Court; therefore, the case is over. As a result of this case, the Companies' ratepayers have benefitted by not having to pay $25 million in stranded costs on a retroactive basis and what is likely to be a substantially larger sum through 2020.

Duquesne Light Company
Merger
Docket Nos. A-110150F0035 and A-311233F0002

In September of 2006, an application was filed by Duquesne Light Company ("DLC") and DQE Communications Network Services LLC seeking approval of the acquisition of their parent company—Duquesne Light Holdings, Inc. ("DLH")—by the Macquarie Consortium. The Macquarie Consortium is comprised of numerous investment funds, most of which are managed by Macquarie Bank Limited. Macquarie Bank Limited is headquartered in Australia.

The OSBA intervened in this matter and filed a protest against the application. The OSBA's principal issues of concern included (a) whether transferring ownership of a Pennsylvania electric distribution company to an overseas entity would be consistent with Commission policy; (b) whether ratepayers would benefit from the predicted enhanced access to capital; and (c) whether ownership by an equity fund would result in the excessive diversion of DLC revenues to Macquarie Consortium investors.

After extensive discovery, the filing of testimony, and several rounds of discussions, the parties entered into a settlement in February of 2007. The OSBA's issues of concern were resolved through conditions limiting the diversion of DLC revenues to Macquarie and requiring DLC to meet specified reliability benchmarks. The Commission approved the merger, subject to the conditions set forth in the settlement.

Duquesne Light Company
Seams Surcharge
Docket No. R-00050662

On June 17, 2005, the Duquesne Light Company ("Duquesne") filed a tariff that proposed to charge ratepayers the Seams Elimination Charge Adjustment ("SECA") billed to Duquesne by PJM Interconnection, Inc. ("PJM"), the entity that manages the transmission of electricity throughout most of Pennsylvania. The proposed SECA charge

was calculated to collect $0.001557 per kWh from all customers that purchase Duquesne's transmission services. Duquesne estimated that $7 million would be collected from its customers, including the company's small business customers.

The parties in this proceeding reached a settlement of all issues despite the fact that there is ongoing litigation of the SECA mechanism before the Federal Energy Regulatory Commission ("FERC"). The parties agreed that, regardless of the final outcome of this issue before FERC, Duquesne has collected roughly sufficient revenue from its transmission service customers to pay for the final SECA charge. Therefore, Duquesne has ceased collecting the SECA surcharge from its customers. Furthermore, the parties agreed upon a reconciliation mechanism to address the final SECA charge once the FERC litigation is complete, as the final SECA payment by Duquesne will likely be slightly above or below the amount collected by Duquesne through the SECA surcharge. Once the amount is known, Duquesne's transmission customers will either be refunded any over-collection of the SECA charge, or charged for any under-collection.

On November 13, 2007, the ALJ recommended adoption of the settlement. On December 24, 2007, the Commission entered an order approving the settlement.

Strategic Energy, Select Energy, and Dominion Retail Assessment Challenges
Docket Nos. M-00061940, M-00061941, and M-00061948

As noted in last year's annual report, in February of 2006, Dominion Retail, Inc. ("Dominion") and Select Energy, Inc. ("Select") filed petitions for refund of assessments, seeking recovery of all assessments paid to the Commission as electric generation suppliers ("EGS") for fiscal years 2001-2002 (Dominion only), 2002-2003, 2003-2004 and 2004-2005. The challenges covered the assessments paid for the operation of the Commission, the OSBA, and the OCA. The OSBA intervened in these matters, which were subsequently consolidated before the Commission. In the view of OSBA, Dominion and Select were not entitled to refunds because they neither objected to the assessments nor otherwise followed the procedures to protect their rights while the appellate courts were considering the relevant legal question in an appeal by other EGSs.

The ALJ issued an initial decision agreeing with the OSBA's position. The Commission subsequently entered an order denying Dominion's and Select's petitions for refunds and denying their exceptions.

In March of 2006, Strategic Energy LLC. ("Strategic") filed a petition for refund, similar to the petitions filed by Dominion and Select. Strategic sought a refund of assessments allegedly levied upon Select by the Commission for fiscal years 1998-1999, 1999-2000, 2001-2002, 2002-2003, 2003-2004, and 2004-2005 for the operation of the Commission, the OSBA and the OCA. The OSBA intervened. The ALJ assigned to the

Strategic case issued his initial decision, which essentially agreed with the initial decision in the Select and Dominion cases. Subsequently, the Commission entered an order adopting the initial decision and denying Strategic's exceptions.

The decision in the Dominion/Select case was appealed to Commonwealth Court at Docket Nos. 2039 CD 2006 and 2040 CD 2006 and the cases were consolidated. Likewise, the Strategic case was appealed to Commonwealth Court at Docket No. 2321 CD 2006. That case was also consolidated with the Dominion and Select cases.

In May of 2007, the Commission, Strategic, Select and Dominion agreed to settle the case, with the Commission paying a partial refund of assessments to the three EGSs. The OSBA did not participate in the settlement; however, the EGSs waived any claim to the assessments made on behalf of the OSBA by the Commission. By early July of 2007, all of the appeals had been discontinued in the Commonwealth Court.

B. Gas Highlights

PPL Gas Utilities
Base Rates
Docket No. R-00061398

On April 27, 2006, PPL Gas Utilities Corporation ("PPL" or "Company") requested an increase in distribution rates of $12.8 million per year, an increase of 6.2% over the then-current levels. The OSBA filed a complaint.

PPL's cost of service study ("COSS") showed GS-Small as the only class with a rate of return above the system average at both present and proposed rates. Premised upon the approval of PPL Gas' COSS, the OSBA proposed that if the Commission awarded a smaller rate increase than proposed by PPL, a first-dollar relief approach be used to reduce the subsidy provided by the GS-S class. The basic theory of first-dollar relief is that none of the rate increase goes to customer classes that are overpaying for utility service unless the rates of underpaying classes are increased enough to cover the actual cost of providing service to those underpaying classes. In contrast, a straight scale back of the Company's rate increase, as proposed by the OCA, would have perpetuated the subsidy problem and would actually have moved the GS-Small class farther away from its cost of service, since that was the result of PPL's original proposal.

In an order entered February 8, 2007, the Commission found that first-dollar relief was supported by the record evidence and was a reasonable method of progressing

toward cost-based rates. As a result, the rates approved by the Commission for the GS-Small customers were at least $800,000 per year lower than they would have been if the rate increase had been allocated among the customer classes as proposed by PPL.

Philadelphia Gas Works
Base Rates
Docket No. R-00061931

On December 22, 2006, Philadelphia Gas Works ("PGW" or the "Company") filed a tariff seeking approval of rates and rate changes to increase the distribution revenues of PGW by $100 million per year.

The OSBA filed a complaint against the proposed increase. The OSBA's primary concerns revolved around the size of the requested increase and the manner in which the Company proposed to allocate the rate increase across the classes of customers. The evidence reflected that PGW's business customers were overpaying based on the actual cost of service prior to the rate increase and would be overpaying to an even greater extent after the rate increase. At the same time, the evidence reflected that PGW was under-recovering its costs from the residential classes.

The OSBA successfully argued that there was a substantial inequity in the way PGW proposed to collect its rate increase. The Commission agreed with the OSBA that commercial customers were subsidizing residential customers. As a remedy, the OSBA and the OTS argued that if the Commission awarded PGW less than a $100 million increase, first-dollar relief should be provided to the overpaying classes to mitigate the subsidy. The basic theory of first-dollar relief is that none of the rate increase goes to customer classes that are overpaying for utility service until the rates of underpaying classes are increased enough to cover the actual cost of providing service to those underpaying classes.

The Commission ultimately awarded PGW only a $25 million annual increase in distribution revenues. Because the Commission adopted first-dollar relief, none of the $25 million rate increase was allocated to business customers. Therefore, the Company's small business customers are saving about $6.8 million per year.

The Commission rejected the OSBA's proposal to phase out the allocation of universal service costs to non-residential customers over a three-year period. The OSBA's proposal was rejected because the Commission concluded that the combined effect of allocating the $25 million rate increase solely to the residential classes and phasing out the requirement that non-residential customers share in paying universal service costs would amount to rate shock for the residential customers. However, the Commission did acknowledge that the Commission's policy is to allocate universal

service costs solely to the residential class, thereby preserving the opportunity for the OSBA to argue this issue in future cases.

Additionally, the Commission directed the Company to submit a cost-based rate for Interruptible Transportation ("IT") customers. The result of the redesign of the IT rate (from a market-based to a cost-based rate) resulted in a revenue shortfall of $2.671 million. In its compliance filing, PGW proposed to assign the entire revenue shortfall to the residential classes.

The OCA excepted to PGW's proposed allocation of the $2.671 million shortfall. However, the OSBA agreed with PGW. As the OSBA pointed out, the Commission was aware that the revenue shortfall created by moving IT rates to cost of service would have to be made up by a class or classes other than IT, but the Commission neither stated nor implied that the responsibility for the shortfall should be allocated differently than the responsibility for the $25 million rate increase.

In approving first-dollar relief, the Commission had acknowledged that "the record before us reflects a *substantial inequity* in rates between the residential classes and the non-residential firm sales customers." That inequity, which the Commission sought to address by awarding first-dollar relief, would be exacerbated if the $2.671 million shortfall were recovered from any class but the residential classes. The Commission agreed with the OSBA and allocated the shortfall to the residential classes, thereby saving small business consumers about $500,000 per year in increased rates.

PGW filed an appeal with the Commonwealth Court at 1914 C.D. 2007. The OSBA has filed a notice of intervention in the Commonwealth Court proceeding. The case is now in the briefing stage.

National Fuel Gas Distribution Corporation
Low Income Energy Funding
Docket No. R-00072019

On May 31, 2007, National Fuel Gas Corporation ("NFG") filed a supplement to the company's tariff which made a series of changes to NFG's low income customer assistance program.

On July 16, 2007, the OSBA filed a complaint to assure that NFG continues to recover the costs of the Company's customer assistance programs from only the residential customer class. Any expansion of that cost recovery to the commercial and industrial customer classes would be in contravention of PUC policy because only residential customers are eligible to receive customer assistance benefits.

The parties entered into a settlement that did not assign any of the low-income program's costs to NFG's small business customers. The OSBA did not oppose the settlement.

The Commission approved the settlement on November 29, 2007.

Equitable Gas Company
Low-Income Energy Funding
Docket Nos. P-00062240 and M-00061959

On October 6, 2006, Equitable Gas Company ("Equitable") filed with the Commission a petition to increase funding for its Customer Assistance Program and to implement a mechanism to recover the associated expenses.

On July 13, 2007, Equitable, the OTS, the OCA, the OSBA and ACORN/MVUC, submitted to the Commission a fully executed settlement and corresponding statements in support of the settlement. Of particular interest to the OSBA was the fact that the settlement did not impose the cost of a liberalization of the universal service program on small business customers.

On September 27, 2007, the Commission approved the settlement.

Equitable Resources, Inc.
Acquisition
Docket No. A-122250F5000

On March 31, 2006, Equitable Resources and The Peoples Natural Gas Company ("Dominion Peoples") filed an application seeking Commission approval for Equitable Resources to acquire Dominion Peoples and Hope Gas, Inc. d/b/a Dominion Hope ("Hope").

The OSBA filed a notice of intervention and protest. In its protest, the OSBA requested that the Commission reject the application as filed or, in the alternative, impose those terms and conditions as necessary to ensure that the proposed acquisition would be in the public interest; provide substantial, affirmative benefits to customers; not adversely affect retail natural gas competition in Pennsylvania; and comply with the Public Utility Code.

Subsequent to the evidentiary hearing on December 1, 2006, Equitable and numerous other parties submitted a non-unanimous settlement agreement to the Commission for approval. The OSBA opposed the settlement because the settlement appeared to permit Dominion Peoples and Equitable Resources' own local utility

(Equitable Gas) to combine at least part of their operations and to blend their rates without prior Commission approval of a merger of Dominion Peoples and Equitable Gas. The OSBA was particularly concerned that any blending of rates would negatively affect Dominion Peoples' ratepayers, because the current rates charged by Dominion Peoples are lower than the rates currently charged by Equitable Gas.

On April 13, 2007, over the continued objections of the OSBA, the Commission issued an order approving the non-unanimous settlement.

The OSBA filed two appeals in the Commonwealth Court. The appeals were docketed at 872 C.D. 2007 and 933 C.D. 2007. In response to a Commission motion, the Commonwealth Court quashed the OSBA's appeals. However, the Court specifically preserved for future proceedings the question of whether Commission approval of a merger of Equitable Gas and Dominion Peoples is required before the rates of those two companies can be blended.

In a press release issued on January 14, 2008, Dominion Resources and Equitable Resources announced that they are abandoning the acquisition due to delays in regulatory approvals.

Equitable Resources, Inc.
Corporate Reorganization
Docket Nos. G-00071218 and A-121100F0006

On or about January 8, 2007, Equitable Resources filed with the Commission an application for approval of a corporate reorganization and for approval of a mechanism to raise capital for Equitable Resources and its subsidiaries. As part of the reorganization, Equitable Resources' local gas utility (Equitable Gas) would become a subsidiary of Equitable Resources rather than a division.

The OSBA filed a notice of intervention and protest, highlighting the portion of the application which seemed to suggest that Equitable Resources' directors had given approval of a potential assignment of ownership of The Peoples Natural Gas Company ("Dominion Peoples") to Equitable Gas without the need for Commission approval of a merger of Dominion Peoples and Equitable Gas.

On January 7, 2008, Equitable, the OTS, the OCA, and the OSBA submitted to the Commission an executed settlement. Of particular interest to the OSBA was the fact that the settlement contains language which specifically precludes Equitable Gas from acquiring an ownership interest in Dominion Peoples until or unless the Commission authorizes such a transaction in a future merger proceeding pursuant to the Public Utility Code.

The settlement is awaiting action by the Commission.

Equitable Resources, Inc.
Affiliated Interest Agreement
Docket No. G-00071281

On October 2, 2007, Equitable Resources filed a proposed affiliated interest agreement pertaining to services to be provided by and to Equitable Resources and its affiliates.

Equitable Resources is a publicly-held Pennsylvania corporation and an integrated energy company. Equitable Gas Company ("Equitable Gas") is a Commission-certificated natural gas distribution company ("NGDC"), which currently operates as a division of Equitable Resources and provides service to all classes of customers in Western Pennsylvania.

The Peoples Natural Gas Company ("Dominion Peoples") is a Commission-certificated NGDC, which currently operates as a subsidiary of Dominion Resources and provides service to all classes of customers in Western Pennsylvania. Dominion Resources is an integrated energy company based in Richmond, Virginia.

The OSBA filed a notice of intervention. Of particular concern to the OSBA was the possibility that Equitable Gas would, in effect, begin operating Dominion Peoples without approval from the Commission to merge the two NGDCs.

This matter is still pending before the Commission.

C. Telephone Highlights

Verizon Pennsylvania Inc.
Price Change Opportunity (2005)
Docket No. R-00051228

On December 30, 2005, Verizon Pennsylvania Inc. ("Verizon PA") submitted its annual Price Change Opportunity ("PCO") filing. Such filings are authorized by Chapter 30, and allow incumbent local exchange telephone companies (like Verizon PA) to increase their non-competitive service revenues by the rate of inflation, minus a small productivity offset. Verizon PA's 2006 PCO filing proposed to increase the companies' annual revenue by $16,765,000.

The OSBA filed a complaint against Verizon PA's 2006 PCO filing. The OSBA also filed direct and surrebuttal testimony, and main and reply briefs.

The ALJ issued his recommended decision on December 13, 2006. The ALJ ruled in favor of the OSBA on most issues, including: that Verizon PA does not have unfettered discretion to allocate its rate increase as it sees fits; that Verizon PA improperly included competitive access charge revenue in its noncompetitive service revenue total; and that Verizon PA improperly made assumptions about its customer count when allocating its annual rate increase.

The Commission agreed with the ALJ, and decided that Verizon PA improperly included competitive access charge revenue in its noncompetitive service revenue totals and that Verizon PA improperly made assumptions about its customer counts rather than using the actual counts from the relevant time period. The OSBA PCO adjustments saved the residential and business customers of Verizon PA and Verizon North a total of $2.5 million in the combined 2006 PCO proceedings.

Verizon PA appealed the Commission order on these two issues to the Commonwealth Court at 988 C.D. 2007.

The OSBA submitted a Commonwealth Court brief on November 21, 2007.

The matter is awaiting oral argument before the Commonwealth Court.

Verizon North
Price Change Opportunity (2005)
Docket No. R-00051227

On December 30, 2005, Verizon North Inc. ("Verizon North") submitted its annual Price Change Opportunity ("PCO") filing. Such filings are authorized by Chapter 30, and allow incumbent local exchange telephone companies (like Verizon North) to increase their non-competitive service revenue by the rate of inflation, minus a small productivity offset. Verizon North's 2006 PCO filing proposed to increase the companies' annual revenue by $3,257,000.

The OSBA filed a complaint against Verizon North's 2006 PCO filing. The OSBA also filed direct and surrebuttal testimony, and main and reply briefs.

The ALJ issued his recommended decision on December 13, 2006. The ALJ ruled in favor of the OSBA on most issues, including: that Verizon North does not have unfettered discretion to allocate its rate increases as it sees fits; that Verizon North improperly included competitive access charge revenue in its noncompetitive service revenue total; that Verizon North improperly included inter-company telephone settlements in its noncompetitive service revenue total; and that Verizon North improperly made assumptions about its customer count when allocating its annual rate increase.

The Commission agreed with the ALJ, and, among other issues, decided that Verizon North improperly included competitive access charge revenue in its noncompetitive service revenue total, and that Verizon North improperly made assumptions about its customer counts. The OSBA PCO adjustments saved the residential and business customers of Verizon PA and Verizon North a total of $2.5 million in the combined 2006 PCO proceedings.

Verizon North appealed the Commission order on these two issues to the Commonwealth Court at 988 C.D. 2007.

The OSBA submitted a Commonwealth Court brief on November 21, 2007.

The matter is awaiting oral argument before the Commonwealth Court.

Verizon PA
Price Change Opportunity (2006)
Docket No. R-00061915

On November 1, 2006, Verizon Pennsylvania ("Verizon PA") submitted its annual Price Change Opportunity ("PCO") filing. Such filings are authorized by Chapter 30, and allow incumbent local exchange telephone companies (like Verizon PA) to increase their non-competitive service rates by the rate of inflation, minus a small productivity offset. Verizon PA's 2007 PCO filing proposed to increase the companies' annual revenue by $19,829,000.

The OSBA filed a complaint against Verizon PA's 2006 PCO filing. The OSBA also filed direct testimony.

The parties reached a settlement of all issues in this proceeding. In the settlement, Verizon PA agreed to remove certain competitive service revenue from the company's revenue increase calculations based upon the OSBA's winning this issue in the Verizon PA 2006 PCO case. Consequently, this OSBA adjustment saved Verizon PA's residential and business customers $3,041,000. In addition, the parties reached an agreement as to the timing of the annual PCO filings submitted by Verizon PA.

On September 4, 2007, the ALJ issued her recommended decision approving the settlement. On October 12, 2007, the Commission entered an order approving the settlement.

Verizon North
Price Change Opportunity (2006)
Docket No. R-00061914

On November 1, 2006, Verizon North Inc. ("Verizon North") submitted its annual Price Change Opportunity ("PCO") filing. Such filings are authorized by Chapter 30, and allow incumbent local exchange telephone companies (like Verizon North) to increase their non-competitive service rates by the rate of inflation, minus a small productivity offset. Verizon North's 2007 PCO filing proposed to increase the companies' annual revenue by $3,420,000.

The OSBA filed a complaint against Verizon North's 2007 PCO filing. The OSBA also filed direct testimony.

The parties reached a settlement of all issues in this proceeding. In the settlement, Verizon North agreed to remove certain competitive service revenue from the company's revenue increase calculations based upon the OSBA's winning this issue in the Verizon North 2006 PCO case. Consequently, this OSBA adjustment saved Verizon North's residential and business customers $22,000. In addition, the parties reached an agreement as to the timing of the annual PCO filings submitted by Verizon North.

On September 4, 2007, the ALJ issued her recommended decision approving the settlement. On October 12, 2007, the Commission entered an order approving the settlement.

Verizon Pennsylvania Inc.
Access Charges
Docket No. C-20027195

This proceeding is the latest in a series of cases beginning with the 1999 *Global Order* at Docket Nos. P-00991648 and P-00991649, the 1999 Verizon North and Verizon Pennsylvania ("Verizon" or the "Company") *Merger Order* at Docket No. A-310200, and the 2002 *Generic Access Charge Investigation* at Docket No. M-00021596.

On March 21, 2002, AT&T filed a complaint against Verizon North seeking to have that company's access charges reduced to the levels of Verizon Pennsylvania, as required by the *Merger Order*. AT&T's complaint was docketed at C-20027195.

During litigation, Verizon and the OCA submitted a settlement that limited the *total* local exchange rate increase that could be recovered from the company's residential customers on a combined Verizon North and Verizon Pennsylvania basis. In addition, *specific* residential rate increases would be held to $1.00 per month or less. The settlement provided for Verizon's business customers to pay the balance of the remaining

local exchange rate increase, on a combined Verizon North and Verizon Pennsylvania basis.

The OSBA opposed the Verizon-OCA settlement. The OSBA argued that Verizon did not meet its burden of proof because the company failed to detail how business rates would be affected by the Verizon-OCA settlement. However, in the October 31, 2003, Recommended Decision ("RD"), the administrative law judge ("ALJ") recommended that the Verizon-OCA settlement be approved because six of the seven parties that presented witnesses agreed with portions of the settlement.

The OSBA filed exceptions and reply exceptions to the RD.

On February 26, 2004, Verizon, the OCA, and the OSBA reached an agreement on the issues litigated by the OSBA. The Verizon-OCA-OSBA settlement limited the *specific* business rate increase to less than $1 per business line per month, and provided that the average increase for business local exchange lines could not be greater than the average increase for residential local exchange lines.

On July 28, 2004, the Commission entered an order that adopted the Verizon-OCA-OSBA settlement. In addition, the Commission remanded the case to the Office of Administrative Law Judge for the further development of a record, and issuance of a recommended decision, on issues that were not decided in the July 28, 2004, Opinion and Order. The issues on remand include (but are not limited to) the consideration of specific access charge reduction proposals, the removal of implicit subsidies from access charges, and the reduction or elimination of the carrier charge.

On December 7, 2005, the ALJ issued an RD in the remand proceeding. Thereafter, the OSBA submitted exceptions and reply exceptions in response to the RD.

The OSBA and several other parties argued that the Verizon Access Charge Remand case should be stayed pending the outcome of the *In re Developing a Unified Intercarrier Compensation Regime,* (FCC Rel.: March 3, 2005), CC Docket No.01-02, *Further Notice of Proposed Rulemaking*, FCC 05-33 ("*Unified Intercarrier Compensation*") proceeding at the Federal Communications Commission ("FCC"). The ALJ recommended against waiting for the Unified Intercarrier Compensation proceeding to conclude.

The ALJ recommended that Verizon's carrier charge be eliminated. The OSBA argued against this recommendation, observing that the contribution of the interexchange carriers ("IXCs") to the cost of the local loop is already far below their appropriate share of those costs. Eliminating the carrier charge will simply exacerbate that problem. The ALJ also recommended reducing Verizon's other access charges to their interstate levels, which the OSBA opposed for the same reasons it opposed elimination of the carrier

charge. In addition, the OSBA opposed the ALJ's recommendation that all access charge reductions occur over a very short time period.

If access charges are eliminated or reduced, Verizon will suffer a loss of revenues. Under Chapter 30, Verizon may seek to replace those lost revenues by requesting an increase in its local exchange rates. The ALJ recommended that Verizon's non-contract customers pay for the entire offsetting local exchange rate increases caused by Verizon's loss of access charge revenue and that none of the increased rates be borne by Verizon's contract customers. The OSBA opposed this recommendation as a violation of the express language of 66 Pa. C.S. § 3016(f)(1), which forbids requiring non-competitive services to subsidize competitive services.

In addition, the ALJ recommended that rate caps be placed upon Verizon's residential customers, so that any local exchange rate increase will be capped for residential customers, but not for business customers. There is no record evidence to support the ALJ's recommendation. The OSBA has opposed this recommendation and has argued that the matter of the proper allocation of any rate increase should be addressed in a further proceeding.

On January 8, 2007, the Commission ordered that this case be stayed pending the outcome of the FCC's *Unified Intercarrier Compensation* proceeding or January 8, 2008, whichever arrived first. The Commission expressed concern the FCC proceeding may impact this case in significant and unpredictable ways, and concluded that coordinating its actions with those of the FCC would be the best way to proceed.

In the fall of 2007, Verizon and certain other parties petitioned the Commission to extend the stay, while several other parties opposed any additional stay. This proceeding is presently awaiting a Commission decision on the petition to extend the stay until January 8, 2009, or a final outcome in the FCC's *Unified Intercarrier Compensation* proceeding, whichever occurs first.

Rural Local Exchange Carriers
Access Charges
Docket No. I-00040105

On December 20, 2004, the Commission entered an Order instituting an investigation into whether there should be further intrastate access charge reductions and intraLATA toll rate reductions in the service territories of rural incumbent local exchange carriers. The investigation was instituted as a result of the Commission's prior Order entered July 15, 2003, at Docket No. M-00021596, which discussed implementing continuing access charge reform in Pennsylvania. The July 15, 2003, Order also

provided that a rulemaking proceeding would be initiated no later than December 31, 2004, to address possible modifications to the Pennsylvania Universal Service Fund regulations.

The December 20, 2004, Order directed that the Office of Administrative Law Judge conduct a proceeding to develop a record and present a recommended decision on a variety of questions related to access charge reform.

The ALJ conducted two prehearing conferences in February and April 2005.

On May 23, 2005, the OSBA and other parties filed a Motion to Defer this proceeding. Specifically, the parties requested a stay of the investigation because it would be unreasonable for the Commission to take action prior to the conclusion of the FCC's Unified Intercarrier Compensation proceeding. The FCC proceeding has the potential to impact directly, if not render moot, the universal service and access charge issues in this proceeding.

On August 30, 2005, the Commission granted the Motion to Defer.

On August 30, 2006, certain parties petitioned the Commission to further stay this proceeding for another 12 months, or until the conclusion of the FCC's *Unified Intercarrier Compensation* proceeding, whichever arrived first. On November 15, 2006, the Commission granted that petition and further stayed this proceeding.

The Commission is currently considering whether to grant another request by certain parties to further stay this proceeding for another 12 months, or until the conclusion of the FCC's *Unified Intercarrier Compensation* proceeding, whichever occurs first.

Verizon/MCI
Merger
Docket Nos. 701 C.D. 2007 (Commonwealth Court)
Docket Nos. 71 and 72 M.A.P 2007 (Supreme Court)

On March 7, 2005, Verizon Communications ("Verizon") and MCI, Inc. ("MCI") filed a joint application for approval of a merger which would result in MCI's becoming a wholly-owned subsidiary of Verizon.

Numerous parties intervened, including the OSBA. The OSBA opposed the merger on the grounds that Verizon's takeover of MCI would eliminate a competitive alternative for small business customers and would make it easier for Verizon to raise its rates. The OSBA argued that the Commission should not approve the merger without imposing a cap on Verizon's rates for services classified as "non-competitive" and for services previously declared to be "competitive." Under the OSBA's proposal, Verizon

would have been able to raise its rates for a particular service only if Verizon could show there actually was workable competition in the market for that service or if Verizon could show that a rate increase was necessitated because of rising costs.

On January 11, 2006, the Commission issued its final order. In that order, the Commission rejected the arguments of the OSBA and other merger opponents and approved the merger without conditions.

Thereafter, the OCA filed an appeal in Commonwealth Court. The Commonwealth Court reversed the Commission and remanded the case for the imposition of conditions or the denial of the merger application. However, upon petition by both the Commission and Verizon, the Pennsylvania Supreme Court agreed to hear an appeal from the Commonwealth Court's decision.

In the Supreme Court, the OSBA filed an *amicus curiae* brief in support of the Commonwealth Court's decision. Nevertheless, on December 27, 2007, the Supreme Court reversed the Commonwealth Court and affirmed the Commission's decision to approve the merger.

North Pittsburgh Telephone Company and Penn Telecom, Inc
Acquisition
Docket Nos. A-310071F0004 and A-312550F0002

On July 16, 2007, North Pittsburgh Telephone Company ("NPTC") and Penn Telecom, Inc. ("PTI") filed a joint application with the Commission seeking approval to transfer control of NPTC and PTI to Consolidated Communications Holdings, Inc. ("Consolidated"). Specifically, the application sought approval for Consolidated to acquire ownership of NPTC, North Pittsburgh Systems, Inc. ("NPSI"). NPSI is the corporate parent of NPTC and PTI.

The OSBA filed a notice of intervention and protest. The OSBA was concerned that the proposed acquisition of NPTC and PTI may affect the rates, terms, and conditions under which small business customers receive telecommunications service. The OSBA was particularly aware that the principal benefit claimed for this transaction was more rapid deployment of video services. Unfortunately, video services are generally of more value to residential customers than to small business customers. Therefore, the OSBA filed its intervention to assure that the interests of the small business customers served by NPTC and PTI were adequately represented and protected.

The OSBA took part in negotiations which led to the filing of a settlement. Under the settlement, NPTC will forego annual increases in local exchange rates for two years, thereby saving business ratepayers about $2 million.

The Commission approved the settlement on December 5, 2007.

Commonwealth Telephone Company
Change of Control
Docket Nos. A-310800F0010, A-311095F0005, and A-311225F0003

On September 29, 2006, an application was filed by Commonwealth Telephone Company ("CTCo") and numerous affiliates (collectively, the "Joint Applicants"), seeking approval for the acquisition of their parent company—Commonwealth Telephone Enterprises, Inc. ("CTE")—by Citizens Communications Company ("Citizens"). At the time, Citizens owned six incumbent local exchange carriers ("ILECs") serving Pennsylvania customers ("the Frontier Companies").

The OSBA filed a notice of intervention and a protest. The OSBA voiced two main concerns about this proposed acquisition. First, the proposed acquisition could allow Citizens to divert revenues from CTE in order to service Citizens' $990 million debt. Second, Citizens was projecting $30 million in synergy savings each year, but the application did not propose to share those savings with ratepayers.

After extensive negotiations, the parties submitted a settlement proposal to the Commission. That settlement included provisions to prevent the diversion of revenues to Citizens which are needed for the operation of CTCo. The settlement also capped the annual rate increases for CTCo and the Frontier Companies in 2007-2009. Furthermore, the settlement provided that the rates for business customers in those years would increase by less than the rates for residential customers. Because of the settlement, business customers will save an estimated $12.6 million over three years.

On March 1, 2007, the Commission approved the settlement.

D. Water and Wastewater Highlights

Aqua-PA Water Company
Base Rates
Docket No. R-72711

In November of 2007, Aqua Pennsylvania, Inc. ("Aqua-PA") filed a tariff seeking approval of rates and rate changes which would increase total operating revenues by $41,700,000 per year, an increase of 13.6%. The OSBA filed a complaint alleging that the proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable, and unlawfully discriminatory.

The case is in its beginning stages and is expected to be litigated in 2008.

United Water Pennsylvania, Inc.
Change of Control
Docket No. A-210013F0017

In November of 2006, an application was filed by United Water Pennsylvania Inc. ("UWPA"), seeking approval for the proposed merger of UWPA's ultimate parent company—Suez SA—with Gaz de France.

Suez SA is a publicly-traded French corporation which produces electricity, trades and sells gas and power, provides gas transportation and distribution services, and provides environmental services (including water, sanitation and waste management) to customers around the world. Suez SA is the indirect sole shareholder of UWPA's corporate grandparent, United Water Resources. Suez SA's control of United Water Resources and UWPA was approved by the Commission in 2000 at Docket Nos. A-210013F0014 and A-230077F0003.

Gaz de France, which would be the surviving entity in this proposed merger, was formerly a public-sector entity, but currently is a government-owned corporation conducting business as an integrated energy utility. The surviving entity would be partly owned by the French government.

The OSBA has filed a notice of intervention and protest in this matter. The issues which concern the OSBA include whether transferring ownership of a Pennsylvania water company to an entity substantially owned by a foreign government would be consistent with Commission policy and whether ratepayers would benefit from the increased size of the international company.

The merger, and this proceeding, were put on "hold," pending the outcome of the French presidential election, which resulted in the election of Nicholas Sarkozy to the presidency. The newly elected president subsequently gave the "go-ahead" for Suez and Gaz de France to proceed with the merger.

As finally proposed, the merger is somewhat different than originally planned, at least from the perspective of UWPA. The merger resulted in the spin-off of 65% of the shares of Suez Environment in an initial public offering to Suez shareholders. Suez Environment is the arm of Suez SA that specializes in water and wastewater, among other environmental services. The French government will hold approximately 35.6% of the shares of the merged companies and, therefore, will indirectly control approximately 12% of Suez Environment (and UWPA).

UWPA has filed an amended application seeking approval of the merger and adding United Water Bethel, Inc., another subsidiary of United Water Resources (the corporate grandparent), as a party to the application. The proposed merger is scheduled to be litigated before the Commission in 2008.

United Water Bethel, Inc.
Base Rates
Docket No. R-00072744

In November of 2007, United Water Bethel, Inc. ("UWB") filed a tariff seeking approval of rates and rate changes which would increase total operating revenues by $79,445 per year, an increase of 6.31%. The OSBA filed a complaint alleging that the proposed rates, rate design and cost and revenue allocation are or may be unjust, unreasonable, and unlawfully discriminatory. The OSBA has intervened in this case primarily because of UWB's status as an applicant in the amended application for approval of the merger of Suez SA and Gaz de France.

The case is in its beginning stages. The proceeding will be litigated before the Commission in 2008.

Pennsylvania American Water Company
Change of Control
Docket No. A-212285F0136

On May 5, 2006, Pennsylvania-American Water Company ("PAWC") filed an application which requested that the Commission allow Thames Water Aqua Holdings GmbH ("Thames GmbH") to sell up to 100% of its shares of common stock of American Water Works Company, Inc. ("American Water"), and allow Thames Water Aqua US Holdings, Inc. ("Thames US") to merge into American Water. American Water, the surviving corporation, would be the new corporate parent of PAWC.

The OSBA filed a protest alleging that PAWC's application was insufficient to justify the proposed transaction; did not demonstrate any affirmative public benefit; and was unjust, unreasonable, and otherwise contrary to law. The OSBA also filed direct and supplemental direct testimony.

Several parties, but not the OSBA, reached a settlement with PAWC. The ALJ cancelled the originally scheduled evidentiary hearings and briefs, and substituted in their place hearings and briefs on the non-unanimous settlement. The OSBA filed supplemental direct testimony on the non-unanimous settlement.

PAWC, throughout the application proceeding, claimed that the divestiture will have a beneficial effect on PAWC's cost of debt. The cost of debt is a critical issue,

because, as other parties testified, PAWC will have to finance extensive repairs to its system over the near term. High cost of debt will make that a costly proposition. The OSBA advocated that customers be held harmless if PAWC's cost of debt goes up because of the divestiture. The OSBA also advocated that if the cost of debt goes down because of the divestiture (as PAWC predicted), PAWC must use that lower cost of debt to set future rates. However, the OSBA's cost of debt proposal was not made part of the non-unanimous settlement.

On June 19, 2007, the ALJ issued his initial decision. The ALJ disagreed with the OSBA on the cost of debt issue, and concluded that the divestiture was in the public interest and should be allowed to proceed. However, the ALJ agreed with the OSBA on an issue that was raised in the non-unanimous settlement: whether main extensions to certain townships should be built without the customer contributions required by PAWC's tariff. The ALJ ruled that the extensions would be in violation of PAWC's tariffs, and therefore illegal.

On August 22, 2007, the Commission approved the divestiture as being in the public interest. The Commission also approved new tariff language that was submitted by PAWC in order to address the concerns raised by the OSBA regarding the provision of service in violation of the company's tariffs.

Pennsylvania American Water Company
Distribution System Improvement Charge
Docket No. P-00062241

On October 17, 2006, Pennsylvania American Water Company ("PAWC" or "Company") filed with the Commission a Petition for Approval to Implement a Tariff Supplement Revising the Distribution System Improvement Charge. The Distribution System Improvement Charge ("DSIC") is a mechanism for raising rates between cases in order to expedite recovery of costs related to certain capital projects.

The OSBA filed a notice of intervention, an answer to the Company's petition, and a protest.

The OSBA's main concerns in the case were: (1) whether allowing PAWC to raise the cap on its DSIC from 5% to 7.5% would violate the safeguards previously adopted by the Commission to mitigate the negative effect of single-issue ratemaking; (2) whether PAWC's DSIC cap increase would permit PAWC to circumvent the traditional ratemaking process; (3) whether PAWC's DSIC cap increase would actually aid PAWC in fixing its aging water distribution system; (4) whether PAWC's claimed benefit of the increased DSIC cap (*i.e.*, that PAWC would file less frequent rate cases) is really a benefit in light of the Commission's decision to initiate an investigation of PAWC's water main breaks; (5) whether an increase in PAWC's DSIC cap would reduce the Company's incentive to be cost-efficient when improving its distribution system; and (6)

whether any increase in PAWC's DSIC cap would be accompanied by a reduction in PAWC's authorized rate of return to reflect the Company's reduced risk.

The ALJ agreed with the OSBA, the OCA, and the OTS and recommended that PAWC's petition be denied. However, on August 14, 2007, the Commission reversed the ALJ and approved PAWC's petition.

Pennsylvania American Water Company
Service Investigation
Docket No. I-00060112

On December 14, 2006, State Senator Jay Costa wrote a letter to the Commission requesting an investigation of a water line break affecting the areas of West Mifflin, Homestead, Munhall, and the City of Pittsburgh. The water line break occurred on or about December 10, 2006, in the service territory of Pennsylvania American Water Company ("PAWC"). Senator Costa's letter alleged that: (1) as of December 14, 2006, PAWC's water service had not been fully restored; (2) PAWC had not provided sufficient information and detail as to the cause of the break, whether there was or continued to be a sufficient reserve of water, and when the water would be fully restored to all affected areas and customers; and (3) residents, school districts, and businesses had all been impacted by the water line break.

Senator Costa also submitted a letter to the OSBA on December 14, 2006, requesting the OSBA's assistance. In response, the OSBA filed a petition requesting a Commission investigation and appropriate remedies if the Commission determined that PAWC's service was inadequate. On December 21, 2006, the Commission instituted an investigation into PAWC's Pittsburgh area outages and also PAWC's outages in Lackawanna County. As part of the investigation, the OSBA participated in public input hearings in Pittsburgh on January 22, 2007.

On June 21, 2007, the Commission issued a tentative investigation order and staff report regarding the outages in Pittsburgh. According to the report, the Pittsburgh outage was caused by "a sequential break of several large mains in a concentrated area." The repair of the breaks was aggravated by the location of the mains. The Commission directed the Company to: (1) reevaluate its staff complement in the Pittsburgh district office on an annual basis; (2) contact its customers through bill inserts and direct mail to ensure the Company has updated customer information; (3) develop an effective process for providing updates to customers, local officials, emergency services and the media as to the status of main breaks and service interruptions; (4) maintain – at a minimum – daily contact with municipal and state offices in affected areas, using e-mails when possible; (5) meet with affected municipalities and emergency management agencies in the Pittsburgh district within six months to discuss further the appropriate notification requirements; (6) review and update the training of customer service center personnel; (7)

establish direct communication with all critical care customers in the Pittsburgh district; (8) complete the reduction of the various pressure zones in the Pittsburgh district; (9) continue efforts to minimize the occurrence of pressure surges originated from the Hay Mine production plant; and (10) adjust the weighting factors related to main size so that the replacements of small diameter mains are given higher priority in the selection of capital projects.

The OSBA is awaiting a second report to be issued by the Commission on the problems in Lackawanna County.

Pennsylvania American Water Company
Base Rates
Docket No. R-00072229

On April 27, 2007, Pennsylvania American Water Company ("PAWC" or the "Company") filed a tariff seeking approval of rates and rate changes to increase the total operating revenues of PAWC by $59,236,366 per year.

The OSBA and the other parties reached a settlement that allowed PAWC an increase in annual operating revenues of only $36 million.

Under the settlement, the proposed revenue increase was scaled back in such a way that the final rates applicable to small business customers were set almost exactly at cost of service on a class basis. This result was consistent with *Lloyd v. Pennsylvania Public Utility Commission*, 904 A.2d 1010 (Pa. Cmwlth. 2006), *appeals denied*, 916 A.2d 1104 (Pa. 2007), wherein the Commonwealth Court held that cost of service is the "polestar" criterion for setting utility rates.

The settlement provided that PAWC will not be permitted to file another general water rate increase under Section 1308(d) of the Public Utility Code, 66 Pa. C.S. §1308(d), until April 24, 2009.

The settlement further provided that the Company's 5/8-inch through 3-inch customer charges would be increased by 4.35 percent. During the proceeding, the OTS had proposed what was, in effect, a decrease in the Company's 5/8-inch through 3-inch customer charges. The OSBA opposed OTS's position because it would be inappropriate to reduce the Company's currently effective customer charges since doing so would result in an undue shift in revenue responsibility from smaller-than-average to larger-than-average customers.

The settlement required PAWC to answer questions posed by the OSBA regarding private fire protection service as part of the filing in the Company's next rate case. The

answers to these questions will enable the OSBA to determine if the quality of private fire service justifies the rates charged by the Company for that service.

The Commission approved the settlement by Order entered June 22, 2007.

E. Legislation

Section 9 of the Small Business Advocate Act, 73 P.S. § 399.41-399.50, requires the OSBA to make reports to the Governor and the General Assembly regarding matters within the OSBA's jurisdiction. In addition to testifying at a budget hearing before the House Appropriations Committees, the Small Business Advocate also testified before the House Consumer Affairs Committee (twice) and the Senate Consumer Protection and Professional Licensure Committee on electric energy issues. The OSBA also responded to inquiries from individual legislators and legislative staff members.

F. List of Proceedings

1. 2007 Rulemaking Proceedings

The OSBA participates in rulemaking proceedings before the Commission. In many instances, the OSBA files comments that advocate positions of particular importance to small business customers. Including the POLR (or default service) and alternative energy proceedings discussed under Electric and Gas Highlights, the OSBA filed comments in 2007 in the following proceedings:

Rulemaking Re Electric Distribution Companies' Obligation to Serve Retail Customers at the Conclusion of the Transition Period Pursuant to 66 Pa.C.S. §2807(e)(2)
Docket No. L-00040169

Default Service and Retail Electric Markets
Docket No. M-00072009

Policies to Mitigate Potential Electricity Price Increases
Docket No. M-00061957

Investigation of Conservation, Energy Efficiency Activities, and Demand Side Response by Energy Utilities and Ratemaking Mechanisms to Promote Such Efforts
Docket No. M-00061984

Retail Electricity Choice Activity Reports
Docket No. L-00070184

Implementation of the Alternative Energy Portfolio Standards Act of 2004
Docket No. L-00060180

Revisions to the Net Metering and Interconnection Regulations at 52 Pa. Code §§75.1 *et seq.* to Conform with the Language of Act 35 of 2007
Docket Nos. M-00051865, L-00050174, and L-00050175

Proposed Rulemaking Regarding Implementation of the Public Utility Confidential Security Information Disclosure Protection Act
Docket Nos. L-00070185 and M-00072014

Proposed Rulemaking to Permit Electronic Filing
Docket No. L-00070187

2. 2007 PUC Cases

The OSBA participates in major rate increase cases before the Commission, the annual Gas Cost Rate cases for Pennsylvania's 10 largest gas companies, and a number of other formal proceedings involving disputes over the kinds of services made available to, or the prices charged to, the small business customers of electric, gas, telephone, water, and wastewater utilities. In addition to continuing to participate in cases carried over from preceding years, the OSBA entered its appearance in the following new proceedings in 2007:

Electric

Petition of Pike County Light & Power Company for Expedited Approval of Its Default Service Implementation Plan
Docket No. P-00072245

Petition of Duquesne Light Company for Approval of Default Service Plan for the Period January 1, 2008 Through December 31, 2010
Docket No. P-00072247

Petition of Metropolitan Edison Company Requesting Approval of an Amendment to the Power Purchase Agreement With Northampton Generating Company, L.P.
Docket No. P-00072259

Petition of PECO Energy Company for Approval of (1) A Process to Procure Alternative Energy Credits During the AEPS Banking Period and (2) a Section 1307 Surcharge and Tariff to Recover AEPS Costs
Docket No. P-00072260

Pennsylvania Public Utility Commission v. PPL Electric Utilities Corporation
Docket No. R-00072155

Petition of Pennsylvania Power Company for Approval of Interim Default Service Supply Plan
Docket No. P-00072305

Citizens' Electric Company of Lewisburg, PA; 2007 Distribution Base Rate Filing, Supplement No. 29 to Tariff Electric – Pa PUC No. 14
Docket No. R-00072348

Wellsboro Electric Company 2007 Distribution Base Rate filing, Supplement No. 31 to Tariff Electric – Pa PUC No. 8
Docket No. R-00072350

Joint Default Service Plan for Citizens' Electric Company of Lewisburg, PA and Wellsboro Electric Company for the Period of January 1, 2008 Through May 31, 2010
Docket Nos. P-00072306 and P-00072307

Pennsylvania Power Company Universal Service Rider Tariff filing
Docket No. R-00072347

Petition of Reliant Energy, Inc. For a Declaratory Order Regarding the Pennsylvania Public Utility Commission's Jurisdiction Over Duquesne Light Company's Withdrawal From PJM Interconnection, L.L.C.
Docket No. P-00072338

Petition of the West Penn Power Company d/b/a Allegheny Power for Approval of its Retail Electric Default Service Program and Competitive Procurement Plan for Service at the Conclusion of the Restructuring Transition Period
Docket No. P-00072342

Petition of Allegheny Power for Implementation of Wind Energy Tariff Supplement on Less than Statutory Notice
Docket No. P-00072349

Petition of The Pennsylvania State University for Declaratory Order Concerning the Generation Rate Cap of the West Penn Power Company d/b/a Allegheny Power
Docket No. P-0007_____

Petition of PPL Electric Utilities Corporation for Approval of a Rate Stabilization Plan
Docket No. TN-100

Gas

Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-00061931

Homewood Residential LP v. The Peoples Natural Gas Company, d/b/a Dominion Peoples
Docket No. C-20066693

Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corporation
Docket No. R-00072043

Pennsylvania Public Utility Commission v. T. W. Phillips Gas and Oil Company
Docket No. R-00061961

Application of Equitable Resources, Inc. for Approval of Reorganization of Equitable Resources, Inc. Into a Holding Company Structure with the Equitable Gas Company Division Becoming a Separate Legal Entity, and Participation in a Money Pool Agreement
Docket Nos. A-121100F0006 and G-00071218

Pennsylvania Public Utility Commission v. Philadelphia Gas Works
Docket No. R-00072110

Pennsylvania Public Utility Commission v. The Peoples Natural Gas Company, t/a Dominion Peoples
Docket No. R-00072109

Pennsylvania Public Utility Commission v. Equitable Gas Company
Docket No. R-00072111

Pennsylvania Public Utility Commission v. Columbia Gas of Pennsylvania, Inc.
Docket No. R-00072175

Valley Energy, Inc. 2007 Distribution Base Rate Filing, Supplement No. 10 to Tariff – Gas Pa PUC No. 2
Docket No. R-00072349

Pennsylvania Public Utility Commission v. UGI Penn Natural Gas
Docket No. R-00072334

Pennsylvania Public Utility Commission v. UGI
Docket No. R-00072335

Pennsylvania Public Utility Commission v. PPL Gas Utilities Corporation
Docket No. R-00072333

Pennsylvania Public Utility Commission v. PECO Energy Company
Docket No. R-00072331

Pennsylvania Public Utility Commission v. National Fuel Gas Distribution Corporation
Docket No. M-00072019

Proposed Affiliated Interest Agreement Among Equitable Gas Company, a Division of Equitable Resources, Inc., The Peoples Natural Gas Company, and Affiliates
Docket No. G-00071281

Complaint of National Fuel Gas Corporation and Petition for an Order to Show Cause Why New Mountain Vantage GP, LLC and Others Acting in Concert With It Should Not Be Required to Apply for a Certificate of Public Convenience Approving the Acquisition of Control of National Fuel Gas Distribution Corporation
Docket No. P-00072343

Telephone

Joint Application of North Pittsburgh Telephone Company and Penn Telecom, Inc., for all approvals for the Acquisition by Consolidated Communications Holdings, Inc. of all of the stock of the joint Applicants' corporate parent, North Pittsburgh Systems, Inc., and Joint Application for the Approval of an Affiliated Arrangement Among North Pittsburgh Telephone Company, Penn Telecom, Inc., Consolidated Communications, Inc., Consolidated Communications Holdings, Inc. and all other guarantors of and Grantors of collateral for the Aforesaid Loan Facilties
Docket Nos. A-310074F0004, A-312550F0002, G-00071259, and G-00071260

Pennsylvania Public Utility Commission v. Verizon North, Inc.
Docket No. C-20078514

Pennsylvania Public Utility Commission v. Verizon Pennsylvania, Inc.
Docket No. C-20078513

Water

Pennsylvania-American Water Company's Main Breaks in the Pittsburgh Area and Related Incidents Statewide
Docket No. I-00060112

Pennsylvania Public Utility Commission v. Pennsylvania-American Water Company
Docket No. R-00072229

Pennsylvania Public Utility Commission v. Aqua Pennsylvania, Inc.
Docket No. R-00072711

Pennsylvania Public Utility Commission v. United Water Bethel, Inc.
Docket No. R-00072744

Gary H. & Sharon A. Mead, Sr., Complainants v. Pennsylvania American Water Company, Respondent
Docket No. C-20078328

3. 2007 Appellate Court Cases

Under the Small Business Advocate Act, the OSBA is authorized to appear before the appellate courts regarding matters under the PUC's jurisdiction. In addition to participating in cases begun in prior years, the OSBA appeared in the following new appellate court cases in 2007:

Pennsylvania Supreme Court

Irwin A. Popowsky, Consumer Advocate, Appellee v. Pennsylvania Public Utility Commission, Designated Appellant, and Verizon Communications, Inc., Designated Appellee
Docket Nos. 71 MAP 2007 and 72 MAP 2007

Pennsylvania Commonwealth Court

Metropolitan Edison Company and Pennsylvania Electric Company, Petitioners v. Pennsylvania Public Utility Commission, Respondent
Docket No. 700 CD 2007

Irwin A. Popowsky, Consumer Advocate, Petitioner v. Pennsylvania Public Utility Commission, Respondent
Docket No. 701 CD 2007

Met-Ed Industrial Users Group and Penelec Industrial Customer Alliance, Petitioners v. Pennsylvania Public Utility Commission, Respondent
Docket No. 587 CD 2007

William R. Lloyd, Jr., Small Business Advocate, Petitioner v. Pennsylvania Public Utility Commission, Respondent
Docket No. 872 CD 2007

William R. Lloyd, Jr., Small Business Advocate, Petitioner v. Pennsylvania Public Utility Commission, Respondent
Docket No. 933 CD 2007

Verizon Pennsylvania, Inc. and Verizon North, Inc., Petitioners v. Pennsylvania Public Utility Commission, Respondent
Docket No. 988 CD 2007

York County Solid Waste and Refuse Authority, Petitioners v. Pennsylvania Public Utility Commission, Respondent
Docket No. 1195 CD 2007

ARIPPA, Petitioner v. Pennsylvania Public Utility Commission, Respondent
Docket No. 1198 CD 2007

G. Small Business Consumer Outreach

In addition to its litigation caseload, the OSBA also handles individual small business consumer problems. Small business consumers usually contact the OSBA as a result of the OSBA's web page, referrals by the PUC, and referrals by legislators.

V. THE OSBA'S WORKERS' COMPENSATION ACTIVITIES

The OSBA's workers' compensation duties involve a review and evaluation of, and the submission of comments on, the "loss cost" filings that are submitted to the Insurance Department each year by the Pennsylvania Compensation Rating Bureau ("PCRB") and the Coal Mine Compensation Rating Bureau of Pennsylvania ("CMCRB"). The "loss cost" portion of a workers' compensation premium reflects the cost of paying wages for employees whose injuries prevent them from working. The "loss cost" portion of the premium also reflects the cost of medical care for injured workers. Individual workers' compensation insurers are not permitted to begin using the filed "loss costs" until the Department has approved the respective bureau's filing.

PCRB Filing

After an independent analysis of the PCRB's filing for the year beginning April 1, 2007, the OSBA recommended an overall 6.44% decrease in statewide industrial loss costs in lieu of the 2.95% increase requested by the PCRB. However, the Insurance Department approved the PCRB's proposal.

CMCRB Filing

After an independent analysis of the CMCRB's filing for the year beginning April 1, 2007, the OSBA recommended an overall reduction of 5.8% in traumatic loss costs in lieu of the 8.8% increase requested by the CMCRB. After the CMCRB amended its filing to request an increase of only 1.3%, the Insurance Department approved CMCRB's proposal.

VI. OSBA STAFF

William R. Lloyd, Jr. (11/24/03 to present)
Small Business Advocate

Steven C. Gray (10/11/94 to present)
Assistant Small Business Advocate

Sharon E. Webb (6/20/05 to present)
Assistant Small Business Advocate

Daniel G. Asmus (11/21/05 to present)
Assistant Small Business Advocate

Lauren M. Lepkoski (6/10/06 to present)
Assistant Small Business Advocate

Terry Sneed (7/5/05 to present)
Administrative Officer

Theresa Gillis (10/9/07 to present)
Legal Assistant