Keystone Connection

Utility News in Pennsylvania

A Newsletter published by the Pennsylvania Public Utility Commission regarding utility news in the telecommunications, energy and water markets.

SUMMER 2010

PUC Welcomes Commissioner Coleman

The PUC welcomes John F. Coleman, Jr., Port Matilda, Centre County, to the position of Commissioner. Coleman was nominated by Gov. Rendell and was approved by the Senate on June 15. Coleman was sworn in during a ceremony at the Department of State on June 18. Coleman's term will expire April 1, 2012.

During his confirmation hearing, Coleman said, "An integral component of the PUC's mission is to protect the public interest and to educate consumers to make independent and informed utility decisions. I believe that how we process and disseminate information will be a significant measurement of our organizational effectiveness."

Since 1999, Coleman has served as president and CEO of the Chamber of Business and Industry of Centre County, based in State College, where Coleman led various multi-million dollar capital projects, including the construction of business incubator facilities, business and industrial parks, community infrastructure and related projects.

From 1986 to 1999, Coleman was executive director of the Jefferson County Department of Development. He is a member of a number of economic development-related professional organizations and holds a degree in business management from Saint Francis University in Loretto.

Chairman Cawley Sworn in for Five-Year Term

PUC Chairman James H. Cawley was recently re-nominated and confirmed for a new five-year term by the Pennsylvania Senate. Cawley was re-nominated by Gov. Edward G. Rendell in February and was sworn into the term at the Public Meeting of June 16. Cawley's term will expire April 1, 2015.

During his confirmation hearing, Cawley praised PUC employees, saying "I have unbounded gratitude and respect for our dedicated engineers, rate and

Chairman Cawley *Continued on Page 19.*

Connecting in Pennsylvania

Welcome to the 16th issue of *Keystone Connection*, a publication of the Pennsylvania Public Utility Commission (PUC) that gives a "snapshot" view of the utility markets under the jurisdiction of the Commission, and news on consumer and PUC issues.

By using the Docket Number or links referenced in some articles, readers may search on the PUC's website to find additional information related to the articles.

The PUC balances the needs of consumers and utilities to ensure safe and reliable utility service at reasonable rates; protect the public interest; educate consumers to make independent and informed utility choices; further economic development; and foster new technologies and competitive markets in an environmentally sound manner.

On the Inside

Act 129 Implementation Update

Since issuance of the Winter 2010 edition of *Keystone Connection*, the Commission has continued to implement various provisions of Act 129 of 2008, which created an energy efficiency and conservation (EE&C) program designed to reduce electricity consumption and demand in Pennsylvania. Through these efforts, the Commission:

- Approved the Smart Meter Plans on April 15, filed by Duquesne Light, FirstEnergy Companies, PECO Energy and PPL Electric Utilities on August 14, 2009, to address timelines and costs for system-wide deployment of smart meters and associated infrastructure such as meter data management systems, IT investments and networks; more information may be obtained through a search on the PUC's website of the following Docket Numbers:
  - o M-2009-2123944 (PECO Energy)
  - o M-2009-2123945 (PPL Electric Utilities)
  - o M-2009-2123950 (FirstEnergy Companies)
  - o M-2009-2123948 (Duquesne Light)
- Released the Low-Income Working Group Report on April 27, setting forth a method for assessing compliance by electric distribution companies with the statutory requirement that the number of energy efficiency measures for low-income households is proportionate to those households' share of the total energy usage in the EDC's service territory (see, for example, Docket No. M-2009-2146801 for additional details)
- Released the staff report for the Fuel Switching Working Group on May 21, and adopted various staff recommendations to allow for cost-effective fuel switching measures to be considered as a means of achieving energy efficiency and conservation goals and to provide for needed changes to the Technical Reference Manual (TRM) and Total Resource Cost Test (see Docket No. M-00051865 for more information).
- Adopted the Technical Reference Annual Update on June 3 (Docket No. M-00051865), following a review of comments filed to the proposal issued on Jan. 28, to make the manual a more effective tool for validating savings and providing support for the consumption and peak demand reduction goals, such as through:
  - o Appropriately balancing the accuracy of savings estimates with costs incurred to measure those savings;
  - o Improving calculation methods;
  - o Broadening of the scope of the TRM to enable the evaluation of a wider range of prescriptive measures so as to minimize the number of measures that must be evaluated through custom protocols;
  - o Providing stipulated hours of use and demand coincidence factors; and
  - o Establishing reasonable methods for measurement and verification of incremental energy savings.
- Continued to monitor compliance with the EE&C plans approved in October 2009, including evaluation in conjunction with the Act 129 Statewide Evaluator to verify the energy savings and demand reductions, as well as the cost-effectiveness of the energy efficiency and conservation programs.

Summer Reliability Meeting

Vice Chairman Tyrone J. Christy and Commissioner Wayne E. Gardner attended the 2010 Summer Reliability meeting on May 20, 2010.

On May 20, 2010, the Energy Association of Pennsylvania (EAP), the Electric Power Generation Association (EPGA), PJM Interconnection and Pennsylvania One Call System Inc. advised the PUC that they are expecting normal demands for electricity during the summer months while maintaining enough power for emergencies.

The presenters discussed forecasted load and capacity; inspection practices; environmental considerations; plant additions and retirements; and the effect of electric line contacts on electric reliability.

PJM, based in Pennsylvania, is the electricity grid operator for 13 states and the District of Columbia. PJM predicts that customers will drive the net peak demand this summer to 135,750 megawatts, com-

Summer Reliability *Continued on Page 7.*

CHARGE Addressing Competition Barriers

Since the beginning of 2010, the Commission's Office of Competitive Market Oversight has held biweekly conference calls with a working group called CHARGE, Committee Handling Activities for Retail Growth in Electricity, to provide an informal forum for trouble-shooting issues that are interfering with the effective development of a competitive retail market for electric generation supply. Participating in CHARGE are electric generation suppliers, electric distribution companies and consumer advocates.

In recent months, CHARGE focused a great deal of attention on draft guidelines addressing marketing and sales practices for electric generation suppliers in their interactions with residential customers. These guidelines are viewed by many CHARGE participants as important to the effective operation of the retail market so that consumers are not discouraged by inappropriate marketing and sales practices. Some issues addressed by the guidelines include background checks, training and monitoring of agents. Also under the guidelines, agents would be required to immediately present photo identification and a clear indication of the supplier for whom they are working.

The group reached a consensus on most of the issues and Commission staff submitted a recommendation to address the areas that remained in dispute including the hours during which suppliers may conduct door-to-door marketing and the details surrounding the verification process for a switch that is made during door-to-door marketing. On July 15, the Commission adopted a tentative order that set forth proposed interim guidelines for marketing and sales practices, seeking comment by Aug. 16, and permitting reply comments by Aug. 31. More information is available at docket no. M-2010-2185981.

Another issue that generated significant discussion relates to the information that is included on Eligible Customer Lists provided by electric distribution companies. The group reached consensus on the inclusion of several elements such as meter read cycle, customer name, customer address, utility rate class, load profile group indicator and load factor. Issues on which the group could not agree included telephone number, old account numbers, contact name and address, rate mitigation plan indicator, interval meter indicator, and capacity and transmission obligations. The staff submitted a recommendation to the Commission on these issues, and on July 15, the Commission adopted a tentative order that set forth proposed guidelines on the information to be included on Eligible Customer Lists, seeking comment by Aug. 4, at Docket Number M-2010-2183412.

Agendas and recaps of all meetings that have been held are available on the Commission's website at http://www.puc.state.pa.us/electric/electric_CompetitiveMarketOversight.aspx. Examples of other issues that have been discussed by CHARGE include default service bid information, gross receipts tax, historical usage requests, enrollment process and renewal notices in advance of the expiration of contracts. To participate in CHARGE, an interested party need only send an email to ra-ocmo@state.pa.us.

Allegheny Energy and FirstEnergy Merger Before the Commission

On May 14, 2010, FirstEnergy of Akron, Ohio, and Allegheny Energy of Greensburg, Pennsylvania, filed an application for approval of their proposed merger. The companies filed numerous exhibits related to their commitments to support jobs, customers, communities and retail competition in Pennsylvania, including the agreement to use the current headquarters building of Allegheny Energy as the regional headquarters of West Penn Power located in Greensburg.

The companies also filed an application of their proposed merger with the Federal Energy Regulatory Commission, and for state regulatory approval in West Virginia, Maryland and Virginia. The merger is expected to close in the first half of 2011, subject to customary closing conditions and regulatory approvals. Key points are:

- Change in control with FirstEnergy as the parent company with Allegheny Energy retaining local control in its territorial region;
- Combined revenue of $16.4 billion;
- 6.1 million electric customers covering seven states with a service territory of 67,000 square miles;
- Total generation capacity of 24 GW including 21 GW of competitive generation and 2,200 MW of renew able energy;
- 20,000 miles of transmission lines; and
- A total of 17,750 employees.

PPL Rate Increase Request

On March 31, 2010, PPL Electric Company filed Supplement No. 83 to Tariff Electric Pa. P.U.C. No. 201 with the PUC to become effective June 1, 2010. PPL requested an increase of $114.7 million, or a 2.4 percent increase in total rates. Some of the reasons given for the requested increase are the expected decline in PPL's distribution sales along with an increase in PPL's distribution operation and maintenance expenses. Further, PPL intends to invest about $1.5 billion in its delivery system over the next five years. The timing of this requested rate increase reflects PPL's intent to seek smaller increases on a more frequent basis, rather than seeking a large increase after an extended period.

A prehearing was held on May 26, 2010. Evidentiary hearings are scheduled for Aug. 9-13, 2010. The case is docketed at R-2010-2161694.

PECO Electric Base Rate Case

On March 31, PECO Energy Company filed Supplement No. 2 to Tariff Electric – Pa. P.U.C. No. 4 with the PUC seeking an increase of $316.4 million in annual electric distribution revenues. One reason PECO stated this increase was sought was that in the 21 years since its last rate case, PECO has invested $2.9 billion in its electric system. Further, PECO states that unavoidable costs increases in areas such as materials and contracting costs, employee wages, and pension and healthcare benefits have occurred, necessitating the filing of a base rate case. The company's proposal would increase the average monthly bill for a customer using 500 kWh by $8.27 from $81.53 to $89.80. The filing was suspended by operation of law pursuant to 66 Pa. C.S. § 1308(d) until Dec. 20, 2010.

A prehearing conference was held on June 9, 2010. Evidentiary hearings are scheduled to take place Aug. 16-20, 2010. The case is docketed at R-2010-2161575.

New Flashcut Estimates

In July, the PUC released its quarterly comparison between current wholesale market prices for electric generation and capped retail rates currently paid by consumers. According to these estimates, which are available on the PUC's website at http://www.puc.state.pa.us/electric/electric_price_estimates.aspx, the market has been relatively stable since the previous estimates were released in April. The PUC emphasizes that wholesale prices are subject to constant change and can be volatile. The prices may stabilize or trend upward or downward in the future.

PPL to Aquire LG&E and Kentucky Utilities

On April 28, PPL Corporation, the parent of PPL Electric Utilities Inc., announced its agreement with E.ON AG by which PPL would acquire the subsidiary E.ON U.S. LLC, the parent company of Louisville Gas & Electric (LG&E) and Kentucky Utilities (KU), from E.ON AG. The purchase price of the proposed transaction is $7.625 billion.

LG&E and KU provide electricity service to 941,000 customers, mostly in the state of Kentucky, with some customers in Virginia and Tennessee. LG&E also provides natural gas delivery service to 321,000 customers in Kentucky. E.ON U.S. has about 3,100 employees and owns and operates about 8,000 megawatts of electric generation.

PPL, headquartered in Allentown, owns or controls nearly 12,000 megawatts of generating capacity in the United States, sells energy in key United States markets and delivers electricity to about 4 million customers in Pennsylvania and the United Kingdom. The company has about 10,000 employees.

No regulatory filings are expected before the Pennsylvania PUC. The transaction will require approvals by the Kentucky, Virginia and Tennessee regulatory commissions and by the Federal Energy Regulatory Commission.

Default Auction Results

The PUC has been very active in reviewing the results of electric distribution company default service auctions. The auction results have direct effects on the prices non-shopping electric customers pay for the generation portion of their bill. The PUC analyzes the results of each auction to ensure prices correlate with wholesale and alternative energy market conditions and to verify that the auction process was implemented in line with PUC approved rules and procedures.

In 2010, the Commission has reviewed the results of approximately 14 separate auctions. Many of these auctions represent multiple categories or products (i.e. residential, large commercial, renewable energy credits). Bidder participation in the auctions has been at a minimum satisfactory, and in most cases, very competitive. The results of these auctions have been generally competitive, with prices exhibiting a high correlation to relevant energy market conditions.

Management Efficiency Investigation of Three Companies

According to a report on a Management Efficiency Investigation (MEI) released by the PUC on March 11, 2010, at Docket No. D-2009-2126811, C&T Enterprises Inc.'s (C&T) regulated utilities - Citizens Electric Co., Wellsboro Electric Co. and Valley Energy Inc. - could realize a combined one-time savings of up to $11,000 by effectively implementing the recommendation contained in the report. The MEI conducted by the PUC's Bureau of Audits examined the companies' progress in implementing 20 of the 28 original recommendations from a June 2007 Focused Management and Operation Audit.

The auditors found that the companies effectively implemented 15 of the 20 prior recommendations reviewed and has taken some action on the five remaining recommendations resulting in the realization of annual savings of approximately $3,000 and one-time savings of $800,000. Some of the changes made by the companies included:

- Allocating vehicle expenses between Wellsboro and an affiliate reflecting actual charges to each company, saving Wellsboro $2,800 in annual operating costs;
- Eliminating problematic vehicle leases with C&T and establishing their own vehicle acquisition programs resulting in one-time savings of $800,000;
- Updating various aspects of their emergency response, business continuity, physical security and cyber security plans; and
- Wellsboro implementing a multiple year tree-trimming contract that provides more flexibility and control.

Additionally, the audit report contained five follow-up recommendations for improvement. The companies' implementation plan indicated that they had already begun to implement all five of the recommendations and plan to complete implementation by the end of 2010. The Commission directed the companies to proceed with their plans to implement the follow-up recommendations. The follow-up recommendations accepted by the companies include:

- Striving to more fully comply with the spirit of general corporate governance rules and regulations by documenting the procedures for director orientation and training, requiring Finance Committee members to be independent, and documenting the committee structure and member composition at Valley;
- Revising Wellsboro's conflict of interest policy to specifically prohibit directors and employees from having direct or indirect financial interests in organizations that do business with Wellsboro;
- Allocating all expenses related to acquisition and operation of the Wellsboro's Chief Executive Officer's (CEO) vehicle between Wellsboro and Tri-County based on the methodology used to allocate the CEO's salary; and
- Preparing periodic written variance explanations by line item for the capital budget at Wellsboro and Citizens'.

Landlords' Liability in Foreign Load Cases

In *Ace Check Cashing Inc. v. Philadelphia Gas Works*, Docket No. C-2008-2056428 (order entered May 21, 2010), the Commission changed the policy it set with regard to foreign load in *Afshari v. PPL Electric Utilities Corporation*, Docket No. C-20055547 (order entered April 9, 2008). Foreign load is utility service which is not related to serving a tenant, but for which the tenant is being billed. The utility service may be benefitting the landlord or other tenants.

The policy adopted by the Commission in *Ace Check Cashing* is consistent with a plain reading of Section 1529.1 of the *Public Utility Code*, which holds the landlord/owner financially responsible for a tenant's entire account, once foreign load is verified on the tenant's service. The account is returned to the tenant after the foreign load is corrected but any arrearage stays with the landlord/owner even though the amount might exceed the portion of the arrearage attributable to the foreign load.

In *Ace Check Cashing*, the Commission found that the ultimate dispute in a foreign load case is the financial responsibility for an established amount of charges for past utility service between a landlord and a tenant. The dispute does not concern the utility or the utility's service and, therefore, its resolution does not require the Commission's regulatory expertise. By contrast, in *Afshari*, when foreign load was found, the landlord became responsible only for the portion of the tenant's arrearage that was related to foreign load. This approach was abandoned because it inserted the Commission into a dispute between the tenant and the landlord that is best left to the courts.

Update on the TrAILCo Transmission Line

Commonwealth Court affirmed the order of the Commission granting the site location of a 1.2 mile electric high voltage line and substation referred to as the 502 Junction Facilities proposed by TrAILCo. (*Energy Conservation Council of Pennsylvania v. Pa. Public Utility Commission*, No. 51 C.D. 2009, 2010 Pa. Commw.)

The Energy Conservation Council of Pennsylvania (ECC) appealed the PUC order alleging that the order finding a need for the line was not supported by substantial evidence, inappropriately considered regional concerns, and improperly applied PUC regulations and Article I, Section 27 of the Pennsylvania Constitution.

The Court held that the evidence clearly supports the PUC's finding that TrAILCo considered alternate routes and that the route chosen was reasonable and does not appear to be wanton or capricious. The Court referenced *O'Connor v. Pa. Public Utility Commission*, 582 A.2d 427, 433 (Pa. Cmwlth. 1990), in which the court ruled that the mere existence of an alternative route does not invalidate the utility's judgment. Regarding the environmental concerns of the ECC, Commonwealth Court advised that TrAILCo submitted additional evidence that the route selected for the 502 Junction Facilities crossed over only one small stream, crossed no wetlands, would only cross one quarter mile of steep soils, that there were only two residences within 500 feet of the centerline, and that there were no historic (architectural) sites within one quarter mile of the route.

Additionally, the Court noted that the Commission imposed numerous conditions requiring TrAILCo to perform additional studies and report the results of those studies before beginning construction on the 502 Junction Facilities. The Court found that the proposed route of 1.2 miles would have a minimum adverse environmental impact, particularly with the conditions the PUC imposed, and is supported by substantial evidence.

As to the regional concerns, the Court found that the PUC did not err or commit an abuse of discretion in finding a public need for the 502 Junction Facilities based on regional reliability factors. The Court reasoned that that the Code does not define need; however, Pennsylvania courts have long recognized that there is a need for regional electric service reliability and a reliable regional transmission system. The Court found the PUC properly applied Commission regulations and Article I, Section 27 of the Pennsylvania Constitution.

ECC filed a Petition for Reargument, on June 30, 2010, and the Commonwealth Court denied ECC's Petition.

Susquehanna-Roseland Order Appealed

On May 14, 2010, Energy Conservation Council of Pennsylvania filed with the Commonwealth Court a Petition for Review of this Commission's Opinion and Order of Feb. 12, 2010, in Application of PPL Electric Utilities Corporation et al., at Docket Nos. A-2009-2082652, et al.

In that order, the Commission adopted the recommended decision of an administrative law judge as modified by the order, denied, in part, and granted, in part, the exceptions filed by various parties, and approved the Pennsylvania portions of the proposed Susquehanna to Roseland Line. The line is 101 miles of new 500 kV transmission line through portions of Lackawanna, Luzerne, Monroe, Pike and Wayne Counties, plus construction of a new substation in Blakely Borough, Lackawanna County, to connect the 500 kV line to the regional transmission system in that area.

On May 21, Irwin A. Popowsky, Consumer Advocate, and Saw Creek Estates Community Association Inc., each filed a Petition for Review of the Order. Various interventions were also filed. These three appeals are docketed at 899 C.D. 2010, 951 C.D. 2010 and 969 C.D. 2010, respectively.

On June 18, the PUC filed a Motion to Consolidate the three appeals. By order of Senior Judge James R. Kelley dated June 22, 2010, the Commission's Motion to Consolidate was granted. Petitioners' briefs and Reproduced Record are due Aug. 12, and the PUC's brief is due Sept. 13, 2010.

Alternative Energy Credit Compliance Summit

On June 17, the PUC brought together representatives of the many entities that are involved in compliance with the Alternative Energy Portfolio Standards Act credit obligations. An estimated 60 participants attended the meeting or took part through a conference call.

The purpose of the meeting was to provide the opportunity for those involved in the credit compliance process to be introduced to key players and to ask questions and seek clarifications. Presentations were made by PUC staff, Clean Power Markets as the credit administrator and PJM-GATS as the credit registry. Industry

Alternative Energy Credit *Continued on Page 8.*

Summer Reliability Meeting

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pared to the all-time peak of 144,644 megawatts on Aug. 2, 2006. PJM expects to have a total reserve margin, the extra power on hand to meet unanticipated demand of 28 percent.

The EAP member companies serve over 5.6 million retail electric and natural gas customers in the Commonwealth. EAP provided updates on how Pennsylvania electric distribution companies are working to improve reliability by using existing operations more efficiently and by implementing adopted regulations pursuant to the Electricity Competition Act establishing standards for inspection and maintenance of distribution facilities.

Pennsylvania One Call noted how digging damage can affect electric service reliability. Pennsylvania One Call System is a non-profit Pennsylvania corporation created to protect the underground facilities before anyone begins to disturb the earth. Pennsylvania One Call receives requests from excavators, contractors, plumbers, builders, designers, and the general public to find out where underground lines are located. Pennsylvania One Call notifies member underground facility owners of the intent to excavate. The member underground facility owner then marks where their lines are located.

The EPGA said that coal inventories are almost 50 million tons less than last year, but are adequate to meet peak demand and accommodate short-term supply disruptions. The EPGA is a regional trade association of major electric generating companies that supply wholesale power in Pennsylvania and surrounding states.

DVREDF Memorandum of Understanding

The Delaware Valley Regional Economic Development Fund (DVREDF) entered into a Memorandum of Understanding (MOU) with the Commission on May 21, 2010, to provide a framework going forward for operating pursuant to the terms of the PECO restructuring settlement.

The DVREDF receives funds pursuant to the settlement agreement submitted under the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. §§ 2801-2812, and approved by Commission order entered May 14, 1998, Application of PECO Energy Company for Approval of its Restructuring Plan Under Section 2806 of the Public Utility Code, et al., Docket No. R-00973953 and P-00971265. Under the terms of the settlement agreement, PECO is required to fund the DVREDF from 50 percent of all transmission and distribution rates at .01 cents per kWh (less applicable gross receipts tax) on all power sold for customers beginning on Jan. 1, 1999, and ending when the PUC established new distribution rates for PECO. PECO filed a request for a rate increase on March 31, 2010.

Under the terms of the MOU, the DVREDF has agreed to:

1. Submit quarterly reports with supporting statements of accounts to the PUC's Bureau of Audits until the later of Dec. 31, 2012, or one year after the DVREDF's funding is extended by any subsequent distribution rate order;
2. Adhere to the Loan and Grant Guidelines adopted by the DVREDF and provide documentation quarterly as to DVREDF loan and grant activity;
3. Use the ratepayer funds in accordance with the Loan and Grant Guidelines and only for economic development projects which have a job impact in the PECO service territory, and to select projects that are reasonably disbursed throughout the five-county PECO service territory;
4. Have representative of DVREDF available to meet with the PUC at least semi-annually to address relevant concerns of either party;
5. Expand its Board of Directors to have representation from the five-county PECO service territory.

The PUC agreed not to initiate any action with respect to the terms of the settlement agreement or the MOU; and agreed to provide DVREDF with reasonable notice and opportunity to cure a breach before electing to initiate a proceeding to consider termination or return of the PECO ratepayer funding of the DVREDF.

NIETC Appeal Argued in the Ninth Circuit Court of Appeals

On June 8, 2010, the 9th Circuit Court of Appeals in Seattle heard arguments in the case of Wilderness Society et al v. U.S. Department of Energy (DOE). This case began in March 2008 when the PUC, Pennsylvania Department of Environmental Protection, the New York Public Service Commission, New York Attorney General as well as other states and a number of environmental organizations appealed a designation of the Mid-Atlantic National Interest Electric Transmission Corridor (NIETC) which encompasses a region extending from northern New York to southern Virginia.

This designation resulted from a 2006 DOE congestion study that concluded that this region was experiencing serious constraints/congestion on electric transmission facilities that could have serious impacts on reliability.

The NIETC designation authority was conferred on DOE under provisions of the Energy Policy Act of 2005. Another provision of this statutory enactment authorized the Federal Energy Regulatory Commission (FERC) to approve a transmission line if the state commission does not complete its review within 12 months. This is the so-called "backstop authority" provision. The net effect of the NIETC designation is to open up a large swath of the eastern United States to transmission development.

The nine separate appeals (filed in various judicial circuits) were consolidated for hearing in the 9th Circuit. The principle arguments raised by appellants were that:

1. DOE's designation was arbitrary, capricious and violates provisions of the federal administrative procedures act;
2. DOE did not adequately consult with the affected states prior to designating the NIETC ; and
3. DOE's reliance on the "source and sink" methodology was flawed.

The appellants request a remand back to DOE for a redetermination of the NIETC as well as a determination that the current NIETC designation should be vacated. Briefing concluded in June 2009 but argument was delayed until June 2010. A decision is expected by the end of the year.

DOE Issues a New Congestion Study

DOE recently issued its 2009 Congestion Study that analyzes the status of congestion and constraints in the eastern and western United States. As background, DOE is required to prepare a Congestion Study triennially pursuant to requirements of the Energy Policy Act of 2005. The initial study, issued in 2006, resulted in the designation of the Mid-Atlantic corridor as a region experiencing historic and anticipated future congestion. Additionally, the 2006 study identified a southwest corridor encompassing portions of Arizona and southern California.

The study identified two other categories of constrained areas designated Congestion Areas of Concern and Conditional Constraint Areas. The only significant change between the two studies is that the New England Congestion Area of concern was removed from the category due to additional transmission constructed since the last study. No new NIETCs were designated.

With reference to the Mid-Atlantic NIETC, the study noted that some improvements had occurred in reducing transmission congestion since the study with the recent approvals of the TrAILCo and Susquehanna-Roseland lines but that significant constraint issues existed such that no changes should occur to the NIETC designation at this point. The PUC filed comments to this study.

Alternative Energy Credit Compliance Summit

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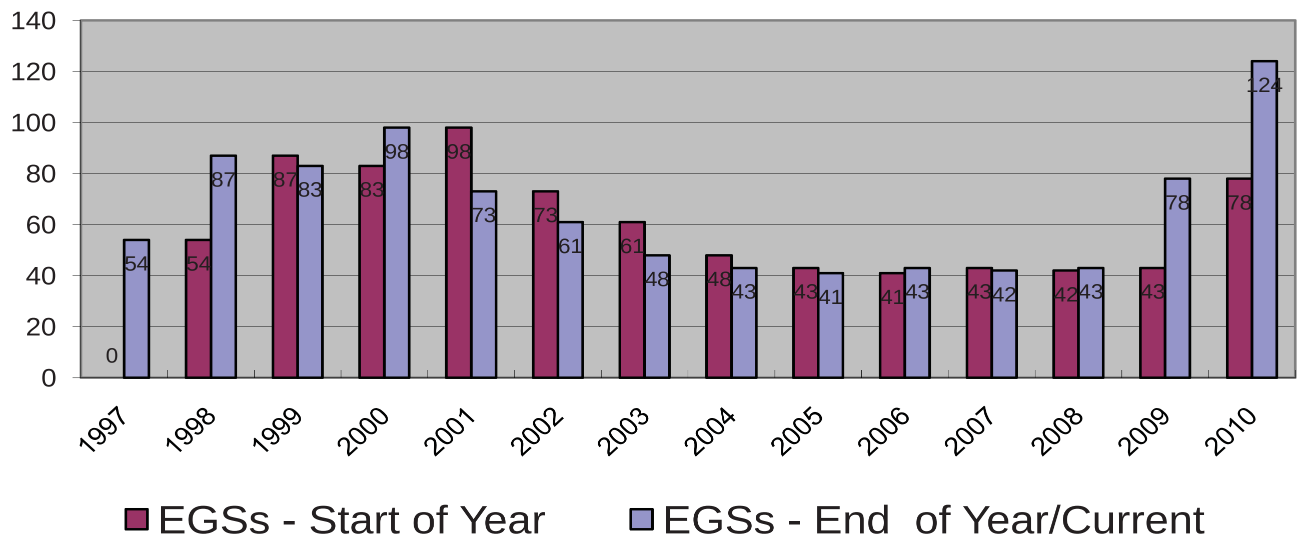
participants included representatives of the Pennsylvania electric distribution companies (EDCs) and electric generation suppliers (EGSs) serving in Pennsylvania.

The timing of the meeting was meant to coincide with several new EGSs serving in the Pennsylvania Retail Electric Market and prepare for all of the EDCs to meet their credit obligations as rate caps expire on Jan. 1, 2011.

Electric Supplier Licensing

Activity from Jan. 28, 2010, to June 17, 2010.

124 Active Licenses **1 License Cancelled** **38 Licenses Approved** **13 Applications Pending**



PUC Launches PAPowerSwitch.com

With the coming of spring came the launch of the PUC's latest vehicle to put Pennsylvania consumers on the right path when it comes to shopping for electricity.

In May the PUC teamed with WGAL-TV at events in Lancaster and Hershey to officially launch its new electric shopping website, www.PAPowerSwitch.com. The website is geared to educate consumers about the benefits of shopping and to make the process as easy as possible.

"Our goal is to make shopping for the generation portion of your electric bill quick and easy," PUC Chairman Jim Cawley told shoppers. "PA PowerSwitch is designed to make it easier for consumers to shop, switch and save. I encourage everyone to shop today and use PAPowerSwitch.com to keep up on the latest for your electric service."

Chairman Cawley was joined at the two events by WGAL-TV consumer reporter Brian Roche, the Office of Consumer Advocate, industry leaders and suppliers in welcoming several hundred Susquehanna Valley residents who shopped on the spot for their electric supplier. The Chairman noted that more than 300 people came to the first event at the Rockvale Outlets in Lancaster, with about 100 residents switching to a supplier; while more than 500 people attended the second event at the Outlets at Hershey, with about 225 people switching.

The launch events significantly increased shopping activity in electric distribution company service territories where rate caps came off in January. The statistics showed a one-week increase of 6,000 after the first launch event in Lancaster, and an increase of 8,000 in the week after the Hershey event. Prior to that, the numbers were steady between 3,000 and 4,000 customers switching per week.

The most recent shopping statistics reveal that, to date, more than 615,000 Pennsylvanians have shopped for their electric supplier.

On the heels of May's successful website launch, two additional PAPowerSwitch events were held in July in the Capital region. On July 12, while baseball's "power hitters" competed to become home run king on the All-Star diamond, Pennsylvania's "Power Switchers" were busy shopping for electricity in the atrium of the Commonwealth Keystone Building as part of an event for PUC and state employees. The following day the PUC and WGAL-TV teamed up once again to stage a PA PowerSwitch.com event for the general public in the center court at the Harrisburg mall. Approximately 400 consumers came out for this event, and about 225 switched suppliers that day.

Water and Wastewater Company Rate Increases

Rate Increases Approved
January 29, 2010, through June 16, 2010.

Utility Name	Amount($) Requested	Amount($) Granted	% of Increase	Action	Action Date
Utilities Inc. of Pennsylvania (wastewater)	378,737	242,304	42.61	Settlement	2/11/10
Birch Acres Water Works Inc.	15,804	9,889	46.50	Settlement	2/25/10
United Water Pennsylvania Inc.	4,938,178	2,600,000	8.53	Settlement	3/11/10
Lake Spangenberg Water Company	92,292	30,000	100.00	Settlement	3/25/10
Reynolds Water Company	207,503	139,000	34.00	Settlement*	4/15/10
Clean Treatment Sewage Company	221,317	-	0.00	Litigation	4/22/10
The York Water Company	6,220,428			Investigation	6/16/10
Pennsylvania-American Water Company - Clarion Wastewater Operations	968,817			Investigation	6/16/10
Pennsylvania-American Water Company - Claysville Wastewater Operations	487,486			Investigation	6/16/10
Pennsylvania-American Water Company - City of Coatesville Division (wastewater)	8,156,652			Investigation	6/16/10
Pennsylvania-American Water Company - Northeast Wastewater Operations	2,099,490			Investigation	6/16/10
City of Lock Haven - Water Department	491,423			Investigation	6/16/10
Aqua Pennsylvania Inc. (water)	43,200,000	23,600,000	6.46	Settlement	6/16/10

* This settlement agreement consisted of a two phase increase.

Serving Outside the Boundaries of the Borough of Pleasantville

On June 22, 2010, the PUC adopted a tentative order approving the Borough of Pleasantville's request that the Commission find that the Borough's provision of water service to isolated customers outside its municipal boundary does not constitute public utility service.

Pleasantville began serving these customers starting in the 1960s, after a contamination event rendered the groundwater unsafe. The Borough will apply the same rules, regulations, and rates to the customers outside the Borough's boundaries as to customers within the Borough's limits. If the tentative order becomes final, the Borough of Pleasantville will no longer be subject to the Commission's jurisdiction regarding water service to customers outside its municipal boundary. It was published in the *Pennsylvania Bulletin* at Pa.B. 3927 on July 10, at Docket No. P-201002157896. Interested parties may file comments regarding the tentative order within 20 days of publication of the notice in the *Pennsylvania Bulletin*.

Water and Wastewater Company Applications

Applications Approved

February 11, 2010, through June 15, 2010.

Utility Name	Action	Territory	Action Date
Aqua Pennsylvania Inc./Kingston Township	Additional Territory	Kingston Township, Luzerne County	2/25/10
Aqua Pennsylvania Inc./Bear Creek Township	Additional Territory	Bear CreekTownship, Luzerne County	3/25/10
PA-American Water Company/Sutton Hills	Water System Acquisition	Jackson Township, Washington County	3/25/10
Borough of Schuylkill Haven/North Manheim Township	Additional Territory	North Manheim Township, Schuylkill County	3/25/10
City of Lancaster/East Lampeter Township	Additional Territory	East Lampeter Township, Lancaster County	4/22/10
PA-American Water Company/Summit & Jefferson Townships	Additional Territory	Summit & Jefferson Townships, Butler County	6/16/10

Pennsylvania-American Water Company Rate Cases for Four Wastewater Divisions

On April 23, 2010, Pennsylvania-American Water Company (PAWC) filed rate increase requests for four of its wastewater divisions to become effective on June 22, 2010. The Office of Consumer Advocate and other parties have filed formal complaints protesting these proposed increases. On June 16, these filings were suspended for investigation until Jan. 22, 2011.

PAWC proposes to increase the rates to the City of Coatesville Division by $8,156,652 on an annual basis. This would increase the average residential customer's bill from $329 to $1,083 annually or 229 percent. PAWC states that this increase is necessary to recover approximately $57.7 million that has been invested since 2008 to improve service and reliability.

The company wants to increase the rates to the Claysville Division by $487,486 on an annual basis. This would increase the average residential customer's bill from $460 to $1,113 annually or 142 percent. PAWC states that this increase is necessary to recover approximately $940,000 invested in the system since acquiring it in July 2008.

For the Clarion Division, PAWC proposes to increase the rates by $968,817 on an annual basis. This would increase the average residential customer's bill from $258 to $484 annually or 88 percent. PAWC states that this increase is necessary to recover approximately $2.7 million invested in the system since acquiring it in October 2008.

PAWC proposes to increase the rates to the Northeast Division by $2,099,490 on an annual basis. This increase would affect customers in the Lehman Pike, Winona Lakes, and Blue Mountain Lake service areas. Average residential customer bill increases would range from 153 percent to 247 percent depending on the area served. PAWC states that this increase is necessary to recover approximately $11.5 million invested in these areas since 2002.

Commonwealth Court Affirms Commission Dismissal of Chloramine Complaints

On June 29, the Commonwealth Court of Pennsylvania, in an unreported opinion, affirmed the Commission's dismissal of complaints filed by Susan Pickford and other customers (complainants) of the Pennsylvania American Water Company. The complainants had sought to prevent the company from converting the West Shore Regional Water Treatment Plant and the Silver Spring Water Treatment Plant from chlorinated to chloraminated water until alleged health issues associated with chloramines are further studied and resolved.

Chlorination is a disinfectant process that uses chlorine to destroy harmful bacteria and may result in taste and odor issues. Chloramination is a disinfectant process that uses a combination chlorine and ammonia to reduce the taste and odor of chlorine in drinking water.

After hearings, the Commission dismissed the complaints for failure to establish a prima facie case, finding that the complainants had failed to present evidence that chloraminated water would be unsuitable for household use or that the company had abused its managerial discretion in deciding to implement the chloramination. The Commission also concluded that the complainants had not established any deficiencies in the customer notification process used by the company. As to potential health effects of chloramination, the Commission found that these issues should have been raised with the Department of Environmental Protection when the company applied for public water supply permits to make the conversion from chlorinated to chloraminated water. On July 13, the PUC requested that the Commonwealth Court opinion be published.

Aqua Pennsylvania Rate Case

On Nov. 18, 2009, Aqua Pennsylvania filed a tariff supplement that would have produced $43.2 million (11.8 percent) in additional annual revenues. On Jan. 14, the Commission instituted an investigation and suspended the tariff supplement until Aug. 18, 2010. The matter was assigned to the Office of Administrative Law Judge for hearings and the issuance of a recommended decision (Docket No. R-2009-2132019).

Aqua, Aqua Large Users Group, Masthope Property Owners' Council, the Office of Consumer Advocate, the Office of Small Business Advocate, and the PUC's Office of Trial Staff entered into settlement negotiations, and were able to reach a joint settlement. The settlement called for a revenue increase of $23.6 million (or 6.46 percent). Additionally, Aqua agreed not to file for another rate increase until Nov. 18, 2011.

In a recommended decision, issued on May 25, 2010, an administrative law judge (ALJ) recommended that the Commission adopt the joint settlement without modification. One consumer filed exceptions to the recommended decision. Several parties filed reply exceptions.

At its Public Meeting of June 16, 2010, the Commission adopted the ALJ's recommended decision, with minor modification. Aqua may now file tariffs to implement the rate increase.

PUC Enforcement Officer Serves as a Trainer

Phil Jones, a Motor Carrier Enforcement Officer assigned to the Scranton District Office, is helping to educate federal, state and local law enforcement officers all over the United States as an Associate Instructor for the Federal Motor Carrier Safety Association (FMCSA) National Training Center (NTC). Phil is certified to provide instruction for both the "Passenger Vehicle Inspection" and "General Hazardous Materials" courses.

Having the opportunity to educate others has been a long time goal of Phil's. Reaching this goal started with an opportunity given to him by his former supervisor. Phil was asked to assist with a presentation to students at the Northampton Community College Commercial Drivers School. In 2007, Phil accepted an invitation from the FMCSA for one of the PUC officers to attend the National Training Center to become a certified Passenger Vehicle Instructor, which required successful completion of the Basic Instructor Development training course.

Becoming a federal instructor is a challenging endeavor. After a candidate is accepted, the individual must complete an Advanced Instructor Development Course. Then the candidate must pass the course final exam with a score of at least 90 percent. If the candidate passes the exam, the candidate will go through three days of intensive instruction. Each day the candidate is given particular sections of the training manual from which they will prepare lesson plans in order to provide instruction to the other candidates on the next day. If at any time the NTC staff believes the candidate is not capable of providing effective instruction, the candidate is requested to leave. Despite the stress of the instructor training, Phil Jones completed the course and became part of the NTC's Associate Instructor staff.

The Passenger Vehicle Inspection and General Hazardous Materials courses, for which Phil provides instruction, are required training for all PUC Motor Carrier Enforcement Officers. The courses are three to five days in length with the instructors availability being from the start of course until its completion. Phil instructs students on the federal regulations that are applicable to the training subject. Instructors not only prepare for instruction during that week, but they must also ensure that they are up-to-date with all the changes in the safety or hazardous material regulations. Phil remarked that it has helped him have a better understanding of his job and it has also let him help his fellow officers.

Phil, husband of Tessa and father of Kaeleb and Haylei, has been employed by the PUC for the past six years.

Norfolk Southern to Build a Regional Intermodal Facility

Norfolk Southern Railway Company (NS) plans to construct a multi-million dollar terminal known as Franklin County Regional Intermodal facility on a 170 acre site adjacent to its main line track in Antrim Township, Franklin County.

The new intermodal terminal near Greencastle, Pennsylvania, will serve the Mid-Atlantic region, as part of the railroad's multi-state Crescent Corridor initiative to establish a high-speed intermodal freight rail route between the Gulf Coast and the Northeast. The $95 million facility, at which freight moving in containers and trailers will be transferred between trains and trucks, will handle more than 85,000 containers and trailers annually. The terminal will utilize the latest in gate and terminal automation technology, which shortens the waiting time for trucks entering the terminal, thereby reducing exhaust emissions and improving truck driver productivity. Four intermodal trains will serve the terminal daily.

Rail intermodal traffic uses one-third of the fuel required by long-haul trucks and greatly reduces highway congestion, greenhouse gas emissions, and highway maintenance costs. The Crescent Corridor will help the environment and reduce a large burden on state budgets. The Commonwealth of Pennsylvania has committed $45 million in public funding to the project.

In conjunction with the construction of the intermodal facility, NS proposes to eliminate two at-grade crossings and construct a new highway bridge for Hykes Road over its tracks to improve traffic flow to Interstate 81. The Rail Safety Division held a meeting at the site of the crossings on June 22, at Docket A-2010-2177354, to discuss what work is required to effectually abolish and alter the subject crossings in the interest of safety of the traveling public. NS expects that the project would be completed by the end of 2012.

The intermodal facility is expected to facilitate economic development in the area by creating new jobs and NS projects the overall cumulative regional economic impact of the facility through 2020 to be approximately $1.5 billion.

PUC Approves Plan to Implement 211 for Information and Referral Service

The PUC recently approved a plan for implementing a 2-1-1 abbreviated dialing system for access to the state's Information and Referral Services notification system.

At the Feb. 11 Public Meeting, the Commission approved the United Way of Pennsylvania's (UWP's) petition, designating PA 2-1-1 as the lead implementing agency. PA 2-1-1 will provide information and referral services in Pennsylvania for the 2-1-1 abbreviated dialing code.

In 2006, the UWP and the Pennsylvania Association for Information & Referral (PAIR) joined forces and established a taskforce called the Pennsylvania 2-1-1 Collaborative that was made up of representatives from across Pennsylvania. In 2009, PA 2-1-1 was formed as an independently incorporated Pennsylvania not-for-profit organization dedicated to providing all Pennsylvanians with access to non-emergency community information and referral services.

All jurisdictional local exchange carriers in Pennsylvania are now required to discontinue using the 2-1-1 abbreviated dialing code for purposes other than access to community information and referral services.

Mandatory Number Pooling

On July 15, 2009, the PUC filed a petition with the Federal Communications Commission (FCC) requesting authority to implement mandatory number pooling in all of the rate centers in Pennsylvania. On May 18, 2010, the FCC granted delegated authority to the PUC to implement mandatory 1K number pooling in all of the rate centers of the 215/267, 570, 610/484, 717 and 814 area codes. Thereafter, the PUC issued an order scheduling implementation meetings for mandatory pooling in the 610/484, 717 and 814 NPAs.

On June 29, 2010, Neustar Number Pooling held an implementation meeting to develop pooling milestone dates for the change of status designation from optional to mandatory in the rate centers in the 570 NPA. On July 30, 2010, NeuStar Number Pooling will hold a similar meeting for the 610/484, 717 and 814 NPAs.

Overlay Approved for the 570 Area Code

The PUC approved an all service distributed overlay as the form of area code relief in the 570 area code at the Public Meeting of July 15.

The overlay plan was approved in an effort to implement the form of area code relief that is the least disruptive. An overlay plan means that once the existing telephone numbers in the 570 area code are exhausted, new telephone services in that geographic region would be assigned telephone numbers out of the new area code. Ten-digit local dialing would then apply to all telephone calls. The Commission held a comment period, followed by public input hearings.

Many of those who participated agreed with the industry's consensus recommendation to implement an all-services distributed overlay for the geographic area covered by the 570 area code. Because two area codes reside in the same geography, the Federal Communications Commission requires that all calls must be dialed using the area code + the seven-digit telephone number (10 digits).

Because the area code is expected to exhaust in the third quarter of 2011, the Commission is directing that all NXX code holders in Pennsylvania complete network preparation of their systems for the implementation of the overlay no later than March 1, 2011.

However, if the Commission's number conservation measures prove to be effective, it is possible that the activation of the overlay could be delayed indefinitely.

When introducing a new area code, a permissive dialing period is allowed while customers adjust to the change. The permissive dialing period will commence approximately three months before the new area code becomes effective. During this time, customers may reach numbers in the area that is to be overlaid by either dialing 10 or seven digits. At that time companies will start customer education programs for the new area code, including the fact that when the new overlay area code is finally activated the FCC requires that all calls be made dialing 10 digits, dialing the area code and the seven-digit number.

At the end of the permissive period, the mandatory dialing period commences and all calls must be made using the area code plus the seven-digit number. If only the seven-digit number is dialed at this time, the customer will reach a recorded announcement stating they must hang up and redial the number using the area code plus the seven-digit number. This recording will be available permanently.

PUC Approves No Change to TRS Charge

The PUC recently voted to approve and maintain the surcharge for the Pennsylvania Telecommunications Relay Service (TRS) for residential and business access lines. The charge will be retained at $0.08/month and will be in effect from July 1, 2010, through June 30, 2011.

The monthly surcharge is based on the anticipated costs of TRS programs:

- Traditional, which includes speech-to-speech and Spanish relay;
- Captioned telephone;
- Telecommunications Device Distribution Program; and
- Print Media Access System Program.

The TRS surcharge remittance is allocated to each element based on the percentage of revenue required to fund it during the surcharge year.

In a separate matter, the Commission voted to partially approve AT&T's request for an increase in its base rate per minute of use (MOU) for traditional TRS. The proposed tariff supplement, filed on Sept. 10, 2009, asked the Commission to increase the rate per MOU that AT&T charges the TRS Fund for traditional speech-to-speech and Spanish relay services, and for related intrastate calls within Pennsylvania.

The Commission partially granted the company's request by approving a base rate per MOU for traditional TRS of 92.45 percent of the AT&T requested base rate, which is 18 percent higher than the existing and currently effective base rate per MOU for traditional TRS. The company had originally proposed an increase of 28 percent over the existing base rate per MOU. AT&T cited labor costs as the primary cost of providing TRS service, which enables people who are deaf, hard of hearing and speech impaired to communicate by phone with the hearing public.

Pennsylvania TRS is mandated by the Americans with Disabilities Act of 1990 and certified by the Federal Communications Commission. The program is regulated by the PUC and offers persons who are hearing, deaf, hard of hearing or speech impaired a way to connect using the telephone. Users may dial 7-1-1 or 1-800-654-5984 for TTY or 1-800-654-5988 for Voice to connect to a skillfully-trained Communications Assistant (CA) who follows a strict code of ethics and confidentiality. The CA then relays the message to the person on the other line.

Chapter 30 Outreach and Educational Assessments

In June 2010, the Commission approved assessments totaling $926,000 for the Fiscal Year 2010-11 on Pennsylvania's four largest incumbent local exchange carriers (Verizon PA, Verizon North, Windstream and CenturyLink) for the Broadband Outreach and Aggregation Fund (BOAF) established by Act 183 of 2004, also known as Chapter 30. The BOAF is a grant program administered by the Department of Community and Economic Development and is designed to help communities aggregate demand for broadband service and create outreach programs for the use of broadband services by public entities.

The Commission also approved assessments on the Verizon Companies and CenturyLink in the total amount of $10 million for the Educational Technology Fund, which is a grant program administered by the Department of Education. It was established to assist schools with the purchasing of services, hardware, technical assistance, and distance education.

Many Take Advantage of BFRR Programs

The PUC continues to monitor and enforce the provisions of Act 183 of 2004 requiring Pennsylvania's four-largest telephone companies – Verizon Pennsylvania Inc., Verizon North Inc., Windstream Pennsylvania LLC and The United Telephone Company of Pennsylvania LLC d/b/a CenturyLink – to offer a Bona Fide Retail Request (BFRR) Program.

A BFRR Program gives Pennsylvanians the opportunity to accelerate the deployment of broadband in their communities by registering demand with a participating telephone company. Communities demonstrating enough demand to reach the specified threshold are moved forward in the telephone company's broadband deployment plans. Additional information about the BFRR Programs can be obtained online at http://www.newpa.com/strengthen-your-community/broadband-initiatives/request-broadband-service/index.aspx.

IRRC Approves New Change of Control Regulations

On June 17, 2010, the Independent Regulatory Review Commission (IRRC) approved Final Commission rules for change of control regulations for telecommunications carriers. The new rules govern the review and approval of applications submitted to the PUC for a Certificate of Convenience for changes of control in a utility.

Commission approval is required because Section 1102 of the Public Utility Code, 66 Pa.C.S. § 1102, requires a telecommunications public utility to obtain PUC approval for any transfer of control. This usually happens with a merger.

Currently, Section 1102 has no time limit on Commission review of an application for a change of control. The filing of a formal protest triggers a Commission proceeding without any time constraints to consider a protest as well as any application.

The final rules establish timeframes for review and approval. They require publication of an application in the *Pennsylvania Bulletin* and establish a 15-day protest period. There are filing requirements and consumer notice provisions to reduce formal protests.

The final rules establish three periods for Commission review and approval. Pro Forma Review applies to an application that does not change rates, terms or conditions of service, or is a transfer of control that is less than 20 percent. Those will be reviewed and approved by the Commission through a staff-issued Secretarial Letter within 30 days after the protest period.

Abbreviated Review will apply to applications that change rates, terms or conditions of service, or is a transfer of control greater than 20 percent. Those will be reviewed and approved by the Commission at Public Meeting within 60 days after expiration of the protest period.

The final rules will limit the current practice of unlimited review only to cases where a party files a formal protest or more view is needed because of the public interest or because it presents novel issues.

Pennsylvania Receives Federal Funding for Telecommunications Projects

Since enactment of the American Economic Recovery and Reinvestment Act in 2009, the Commonwealth of Pennsylvania has been working to obtain federal funding from the National Telecommunications Infrastructure Agency (NTIA) for telecommunications infrastructure and service projects for Pennsylvania. NTIA is the federal agency charged with dispensing billions of dollars in federal funding for those kinds of projects throughout the nation.

The PUC has participated in several successful efforts on an ex officio basis since Pennsylvania began those efforts. In the first round of grants, Pennsylvania was approved for over $168 million in federal funding.

Approximately $28.8 million was awarded to the Commonwealth of Pennsylvania to construct a “middle mile” project, essentially a network that will connect other networks, covering the northern tier in Pennsylvania from Ohio to New York. NTIA also awarded Pennsylvania another $99.6 million in funding for a broadband network that will link Pennsylvania colleges and universities, research entities, and health care organizations. In addition, NTIA awarded $6.1 million to fund a “middle mile” project in Erie, Crawford, and Mercer counties and three counties in northeastern Ohio. The Commonwealth also received a $2.25 million grant to support a broadband data collection and mapping effort to identify the facilities providing broadband in Pennsylvania. Finally, the Commonwealth expects to receive a portion of the $3.7 million Latino Microenterprise TechNet and $28.5 million One Economy Corporation proposals to expand public computer access to the Latino population as well as broadband outreach efforts for residents of public housing and low-income communities throughout the country.

In the second round of awards, the City of Philadelphia was awarded a $6.4 million grant which, along with an additional $3.3 million coming from Philadelphia, will create or enhance more than 75 public computer centers located in North, West, and South Philadelphia. Philadelphia intends to provide Internet access to thousands more Philadelphians on a weekly basis.

Telephone Company Mergers

On May 14, CenturyLink (also known as Embarq), based in Monroe, Louisiana, with substantial operations in Pennsylvania, and Qwest of Denver, Colorado, filed an application seeking the approval of the Commission to merge their respective companies. The companies anticipate the closing of this transaction, subject to all regulatory approvals, in the first half of 2011. Key points of this proposed merger include:

- Combined 2009 revenues of $19.8 billion;
- Combined broadband capabilities with 173,000 miles of fiber network; and
- Combined service in 37 states with approximately 5 million broadband customers, 17 million access lines, 1.4 million video subscribers, and 850,000 wireless customers.

Both merger applications were published in the *Pennsylvania Bulletin* on May 29, 2010, with protest periods ending on June 14.

Bundled Billing Rulemaking

In May 2010, the Independent Regulatory Review Commission reviewed and approved the PUC's final rulemaking regarding consumer protections for the basic service included within a bundled billing service package. The new regulation ensures the consumer's ability to retain basic telephone service separate from the bundled plan, while preserving the carrier's flexibility in payment practices. The rulemaking has now been forwarded to the Office of Attorney General for review on form and legality. Upon final approval, the regulation was be published in the *Pennsylvania Bulletin* at 40 Pa.B. 3499 on July 26, at Docket No. L-00060179.

FCC Highlights

The Federal Communications Commission (FCC) recently issued several important decisions.

In the Matter of a National Broadband Plan for Our Future, Docket No. 09-51.

On March 16, 2010, the FCC issued the long-awaited "Connecting America: The National Broadband Plan" (NBP). The NBP focuses on Universal Service Reform, Intercarrier Compensation, Pole Attachments, Wireless Spectrum, Special Access, and the FCC's Schools & Libraries, Rural Health Care, and Lifeline programs. The aim of the NBP is to take the federal support given to providers of voice-service and give it to carriers that provide broadband networks or service.

The Commission is involved because a critical part of the FCC's plan is reformation of the Federal Universal Service Fund (FUSF), a $7 billion fund to which Pennsylvania now pays $176 million more than it gets back, to support the goal. Although there are no current plans to increase the size of the FUSF, the Commission is concerned because the FCC estimates that broadband costs could range from $20 to $350 billion depending on the speed used to define broadband.

In addition, the Commission is concerned about the equity of taking support from carriers who have deployed broadband in order to provide support to carriers in states without laws like Chapter 30 in place. Pennsylvania's Chapter 30 law authorized local rate increase opportunities to promote broadband deployment. Currently, all carriers in Pennsylvania will have broadband available by 2015. Pennsylvania's rural incumbent carriers, with the exception of Windstream and Embarq (now CenturyLink), already completed their broadband availability programs in December 2008. Windstream and CenturyLink plan to complete theirs in 2013. Verizon will complete their program in 2015.

Universal Service and Reseller Low-Income Programs. FCC Referral to the Joint Board on Universal Service, Docket No. 96-45.

In Spring 2010, the FCC asked the Federal-State Joint Board on Universal Service for recommendations on what rules and policies should govern how the Lifeline Program should be implemented nationwide. The Low Income Program is a FUSF program that provides support to low income consumers so that they can purchase telephone service. This Low Income Program

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FCC Highlights

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has grown dramatically in the past two years, primarily because pre-paid wireless carriers can now get FUSF support for wireless service. The FCC seeks recommendations on eligibility, verification, and certification of carriers.

Eligibility is a term that refers to the criteria that will govern eligibility for support from the program, particularly when the customer is getting support based only on their income instead of participation in designated programs. The FCC has also asked what procedures should govern how the states and carriers verify that a customer is eligible for Lifeline support. Finally, the FCC seeks recommendations on what carriers should be expected to do as a condition of being able to get federal support for delivering Lifeline support to eligible customers.

The Lifeline support is generally limited to providing a carrier the cost of an incumbent carriers' subscriber line charge (SLC), a surcharge collected from customers to underwrite the cost of the current telephone network. Chairman Cawley is a member of the joint board and actively involved in the development of recommendations given Pennsylvania's $176 million net contribution to the FUSF, part of which supports the Lifeline program.

In the Matter of Global NAPs Petition for Declaratory Ruling and for Preemption of the Pennsylvania, New Hampshire and Maryland State Commissions, FCC Docket No. 10-60; Palmerton Telephone Company v. GNAPS, Docket No. C-2009-2093336 (March 16, 2010).

On March 18, 2010, the FCC released a Public Notice seeking comments and reply comments on the petition filed by GNAPs. GNAPs asked the FCC to preempt an earlier Commission decision. The Commission decision required GNAPs to compensate Palmerton Telephone Company for interconnection services rendered to GNAPs. The Commission ordered Palmerton Telephone to render a final bill to GNAPs for intrastate interexchange call traffic. The Commission then ordered GNAPs to remit payment to Palmerton within 30 days after receiving the bill. The Commission also imposed a $750 penalty on Palmerton for three violations of 52 Pa.Code § 63.36. The Commission's decision rejected GNAPs' claims, among others, that calls transported using Internet Protocol (IP), and Voice over Internet Protocol (VoIP) calls in particular, are exempt from any obligation to pay a carrier for access to their network because of federal law. GNAPs then filed their petition with the FCC asking the FCC to preempt the Pennsylvania decision. Similar decisions in other states are also involved in the petition. The Commission filed detailed comments and reply comments on April 2 and April 12, 2010, respectively, contesting GNAPs characterization of the proceeding. The Commission also asked the FCC to reject GNAPs' preemption petition. The matter is still pending.

Core Communications, Inc. v. Federal Communications Commission, USDC DC CV No. 08-1365.

In January 2010, the United States District Court for the District of Columbia issued an opinion affirming the FCC's legal theory that Section 201 of federal law, 47 U.S.C. § 201, the provision giving the FCC authority to ensure that interstate rates are "just and reasonable" for interstate services. The decision upheld the FCC's determination that Section 201 gives the FCC authority to set rates for calls that clearly start and end within a state, in this case dial-up internet access calls. The decision and the FCC's order raises a critical issue of whether Section 201 now allows the FCC to override state authority to set other intrastate rates given the FCC's goal of resolving all intercarrier compensation rates as part of the National Broadband Plan. The Commission is concerned about the jurisdictional importance of this decision and petitioned for rehearing en banc in March 2010. The court denied that request in March 2010. The Commission is considering whether to file a Writ of Certiorari with the Supreme Court asking for Supreme Court review of this decision.

FERC Highlights

The Federal Energy Regulatory Commission (FERC) recently issued several important decisions.

PJM Scarcity Pricing Filing

PJM Interconnection LLC, the regional transmission organization (RTO) that coordinates the movement of wholesale electricity in 13 states, including Pennsylvania, and the District of Columbia, submitted a compliance filing with FERC Order 719. In its filing, PJM has proposed to lift the current cap of $1,000/MWh for scarcity conditions and fix the cap at $2,700/MWh. The new price cap, if approved by FERC, will take effect gradually over the next four years, starting next summer. The PJM proposal did not receive overwhelming support from the RTO's members, as it was generally favored by generators and opposed by loads. The independent Market Monitor and several other members submitted competing proposals, none of which was able to garner

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FERC Highlights

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the necessary votes. The PJM proposal, if approved, may have the effect of increasing the price of wholesale electricity and requires analysis as to whether these increased prices will yield the improvements to operating reserves, reliability and other benefits assumed by PJM.

FERC NOPR on Transmission Planning and Cost Allocation

FERC has proposed to amend Order No. 890, relating to transmission planning and cost allocation, to allow equal, open, and non-discriminatory treatment of all entities in the transmission planning and building process. To that effect, FERC has ordered that the incumbents' right of first refusal or other preferential treatment in building transmission projects be removed from FERC-approved tariffs. The NOPR also establishes new standards for cost allocation methods used for interregional and intraregional transmission facilities. The new standards require the RTOs and ISOs to establish a closer link between the entities benefiting and those paying for the lines. The NOPR leaves the decision on the actual cost-benefit formula to the regions.

The NOPR is partially the result of a complaint filed with FERC by Central Transmission LLC, a member of the LS Power Group, seeking to compel PJM to treat non-incumbent transmission expansion economic projects as reliability projects for purposes of recovering the costs through tariffed rates. In an unrelated matter, FERC ruled that a non-incumbent transmission owner must be given non-discriminatory consideration for proposals submitted to PJM's regional transmission expansion plan. By issuing the NOPR, FERC reinforced its previous decisions, which ruled that non-incumbent transmission expansion economic projects are eligible for cost of service rate treatment.

EISPC Process

Funded by ARRA stimulus monies, the Eastern Interconnection States Planning Council (EISPC) is intended to address transmission planning issues in a collaborative process among the states and in consultation with the industry. Pennsylvania has two voting members—Commissioner Christy and Secretary Hanger of DEP. EISPC is currently in the process of prioritizing whitepapers and studies that need to be performed and used in the final congestion studies and recommendations to U.S. Department of Energy (DOE). The states are expected to have an active role in the information gathering effort.

Chairman Cawley

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financial analysts, auditors, enforcement officers, pipeline safety inspectors, lawyers and administrative law judges, consumer service representatives, prosecutors, mediators, economists, and support staff who labor day-in-and-day-out to serve the people of Pennsylvania, often unappreciated and unfairly scorned."

Chairman Cawley is a 1967 graduate of St. Bonaventure University and a 1970 graduate of Notre Dame Law School. He began his legal career in 1970 as one of the seven original law clerks serving the judges of the newly-created Commonwealth Court of Pennsylvania. He was later appointed Majority Counsel to the Pennsylvania Senate Consumer Affairs Committee where he drafted several major amendments to Pennsylvania's public utility laws and assisted with codification of those laws. In 1977, he was appointed Chief Counsel to the Senate Majority Floor Leader. Thereafter, he was twice nominated and confirmed as a member of the Pennsylvania Public Utility Commission, serving from November 1979 until September 1985. Then he returned to the private practice of law with a concentration on administrative law and appellate practice. His clients included a wide array of public utilities and competitive telephone, electric and natural gas providers.

He currently serves as Adjunct Professor of Administrative Law at Widener University School of Law and is a frequent faculty member of Pennsylvania Bar Institute courses on appellate advocacy, public utility law and ethics.

On April 25, 2005, Governor Edward G. Rendell nominated him to return to the Pennsylvania Public Utility Commission. He was confirmed by the Senate of Pennsylvania on June 9, 2005, for a term ending March 31, 2010, and elected Vice Chairman by his colleagues shortly after taking office. On Aug. 19, 2008, Governor Rendell appointed him Chairman.

Management Audits of Equitable Gas and Peoples Natural Gas Company

The PUC released Management and Operations Audit (MA) reports of Equitable Gas Company at Docket No. D-2008-2072063 and The Peoples Natural Gas Company at Docket No. D-2009-2149012, in June 2010 and March 2010, respectively. The audit of Equitable was conducted by the consulting firm Shumaker and Company on behalf of the Commission and the Peoples' audit was conducted by the PUC's Bureau of Audits.

Schumaker's Stratified Management and Operations Audit report on Equitable contained 72 recommendations for improvement and identified potential annual savings of $4.3 to $7.1 million and one-time saving of $50,000 from their effective implementation. In its implementation plan, Equitable indicated that it accepted 58 recommendations, partially accepted 10 recommendations and rejected four recommendations. The recommendations accepted in full or in-part include:

- Enhancing and updating the company's affiliated interest agreements and submitting them to the PUC for review and approval;
- Developing a formal internal dividend policy;
- Performing periodic studies to determine the cost competitiveness of centralized functions and developing plans to address the results of these studies;
- Expanding the focus of disaster recovery planning efforts, expanding and formalizing business continuity planning efforts, developing a formal cyber-security plan, using an outside firm during some emergency response tabletop planning exercises; and performing annual testing of the physical security, cyber-security, business continuity and emergency response plans;
- Implementing certain efforts to ensure safe and reliable service through effective operations and maintenance practices such as striving for best-in-class performance in damage prevention, placing greater emphasis on the monitoring and management of unaccounted-for-gas, re-evaluating distribution capital and maintenance spending levels, enhancing the main replacement decision-making model by explicitly including other parameters, and placing a greater emphasis on reducing the number of outstanding class 1, 2 and 3 leaks;
- Completing new workforce management technologies within the field force areas; and
- Conducting formal information technology (IT) long-range planning and implementing a process for prioritization of IT projects and allocation of resources which overarches views among business units.

Equitable reports that it has already implemented 20 recommendations and plans to complete implementation of an additional 24 recommendations by December 2010. Equitable rejected recommendations related to developing an human resources service level agreement; providing at least two controllers on all shifts for the gas control center; recruiting a board of directors member with experience in gas distribution utilities and/or state regulatory agencies; and to evaluate and implement policies and procedures to address situations in which a significant number of employees might leave to work for affiliates.

The Audit staff's Focused Management and Operations Audit report of Peoples contained 22 recommendations for improvement and identified potential annual savings of up to $14.3 million from their effective implementation. In its implementation plan, Peoples indicated that it accepted 21 recommendations and partially accepted the remaining recommendation.

The audit recommendations include:

- Identify major sources of unaccounted-for-gas, implement programs to reduce the amount of unaccounted for-gas and establishing reduction goals, which could save up to $13.2 million annually;
- Developing more appropriate unaccounted-for-gas calculation and allocation methodologies and utilize them to accurately report unaccounted-for-gas in the PUC annual report, United States Department of Transportation annual report and other PUC filings;
- Striving to reduce facility damage by effectively modifying, tracking and enforcing the damage prevention program, determining proper line-mark ing procedures and training company and contract personnel in the damage prevention program and proper line-marking procedures;
- Expediting the replacement of bare steel facilities within the distribution system infrastructure;
- Reducing billing errors by developing more accurate tracking to determine the more significant causes and implementing appropriate process and procedure improvements;
- Initiating actions to increase collections success by properly tracking collections by collection agency, by active and inactive accounts, and initiating necessary changes to improve the collection process; and
- Reducing long-term arrearages by enhancing current policies and procedures as appropriate.

The Commission will conduct a follow-up on the companies' implementation efforts during future Management Efficiency Investigations.

Marcellus Shale En Banc Hearings

The Pennsylvania Public Utility Commission (PUC) held two special *en banc* hearings to question consumer advocates, industry and the federal government on issues related to Marcellus Shale development, safety and PUC jurisdiction.

"The extraction of the natural gas associated with the Marcellus Shale has the potential to create hundreds of thousands of jobs, while significantly stimulating the state's economy," said PUC Vice Chairman Tyrone J. Christy. "At the same time, we must guard the public interest when it comes to ensuring that the natural gas and the goods and services needed to extract it are being transported in a safe manner. These hearings mark the beginning of an ongoing dialogue at the PUC."

The PUC has created a page on its website on Marcellus Shale issues. Click on natural gas, then Marcellus Shale. Audio of the hearings are available there as well as the testimony and comments filed in the proceeding.

The Commissioners conducted the *en banc* hearings to solicit additional comments from specific parties who are being invited to testify. Interested parties also were invited to submit comments. The Commission is planning a third *en banc* hearing for later this year to gather additional testimony.

Marcellus Shale development creates numerous issues and unanswered questions, many of which impact the Commission's core functions. The *en banc* hearings are to examine these questions sooner rather than later so that the Commission can fully protect the public while not stifling economic growth. The hearings did not examine issues outside of the Commission's jurisdiction such as water quality or other environmental issues.

T.W. Phillips Rate Settlement

T.W. Phillips (TWP) filed its 1307(f) supplement on Jan. 29, at Docket No. R-2009-2145441. TWP proposed to increase its projected gas cost rate to residential retail service customers up to $7.5981 per Mcf effective Aug. 1, 2010. The Office of Consumer Advocate (OCA) and the Office of Small Business Advocate (OSBA) filed complaints. On April 23, the PUC's Office of Trial Staff, OCA and OSBA filed a Joint Petition for Settlement. Under the terms of the settlement, among other things, the increase for a residential customer will be $0.3890 instead of $0.4593 per Mcf as proposed. A recommended decision approving the settlement was issued on May 11, 2010.

PGW Rate Settlement

Philadelphia Gas Works (PGW) filed a rate increase request of $42.5 million on Dec. 18, 2009, at Docket No. R-2009-2139884. The increase was requested to provide funding for PGW's Other Post-Employment Benefits (OPEBs). The filing was also made in response to the PUC's order at Docket No. R-2008-2073938, in which the Commission granted PGW's request for $60 million annually in emergency rate relief and ordered PGW to file a base rate case by Dec. 31, 2009.

On May 12, a Joint Petition for Settlement was filed with the Commission. The signatory parties were PGW, the PUC's Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, the Philadelphia Housing Authority, the Philadelphia Industrial and Commercial Gas Users Group, the Tenant Union representative Network and Action Alliance of Senior Citizens of Greater Philadelphia, Clean Air Council, and the Retail Energy Supply Association.

If approved, the settlement will allow PGW to maintain the $60 million increase requested as part of the 2008 extraordinary rate relief proceeding. PGW would further be permitted to increase annual distribution revenues by $16 million. PGW would not be permitted to file another rate case for at least 24 months after Commission approval of the settlement. Additional safeguards put in place by the settlement include the requirement that PGW set up an irrevocable trust in which to make monthly OPEB deposits before any increase being granted to PGW and PGW will not be permitted to suspend monthly deposits into the trust without filing a Petition for Emergency Rate Relief.

PECO Base Rate Case

On March 31, 2010, PECO Energy Company filed Supplement No. 92 to Tariff Gas – Pa. P.U.C. No. 2 with the PUC seeking an increase of $43.8 million in annual gas distribution revenues. PECO stated the main reasons for the requested increase were the need to invest approximately $383 million in new gas utility plant over the next five years, customers using less gas, and unavoidable increases in areas such as employee wages, and pension and health care benefits. The company's proposal would increase the average monthly bill for a customer using 80 Ccf by $8.06 from $105.43 to $113.49. The filing was suspended by operation of law pursuant to 66 Pa. C.S. § 1308(d) until Dec. 20, 2010.

A prehearing conference was held on June 9, 2010. Evidentiary hearings are scheduled to take place Aug. 9-11, 2010. The case is docketed at R-2010-20161592.

Energy Price Forecast for July 2010

The Energy Information Agency's (EIA) June 2010 Short Term Energy Outlook reports that West Texas Intermediate (WTI) crude oil spot prices will average $79 per barrel in 2010 and will average about $83 per barrel in 2011. EIA noted that the uncertainty over the global economic recovery, especially Europe's debt crisis and China's tightening of credit, may have led to the decline in price from a high of $86 per barrel in May 2010.

Average United States price for regular-grade gasoline is expected to average $2.79 per gallon this summer driving season (April 1 to September 30), which is up from $2.44 per gallon last summer.

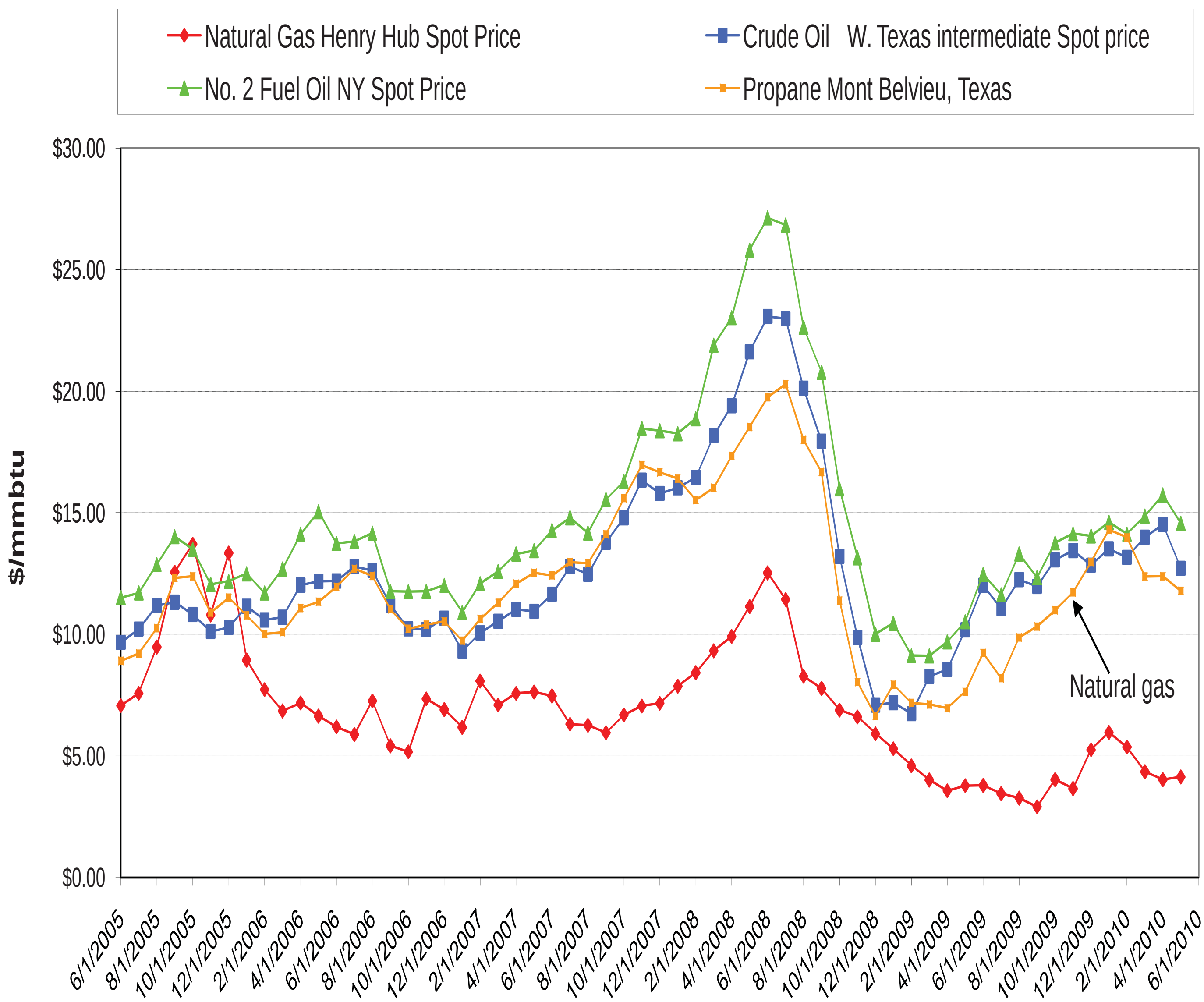
The Henry Hub (Louisiana) natural gas spot price is expected to average $4.49 per million Btu (MMBtu) this year, an increase of $0.54 per MMBtu over the 2009 average. The Henry Hub spot price is expected to average $5.06 per MMBtu in 2011.

Annual average residential electricity prices are expected to average 11.6 cents per kilowatt-hour (kWh) in 2010 and rise to 11.9 cents per kWh in 2011.

Additional forecast details can be found at: http://www.eia.doe.gov/oiaf/forecasting.html.

Wholesale Fuel Prices by Heat Content

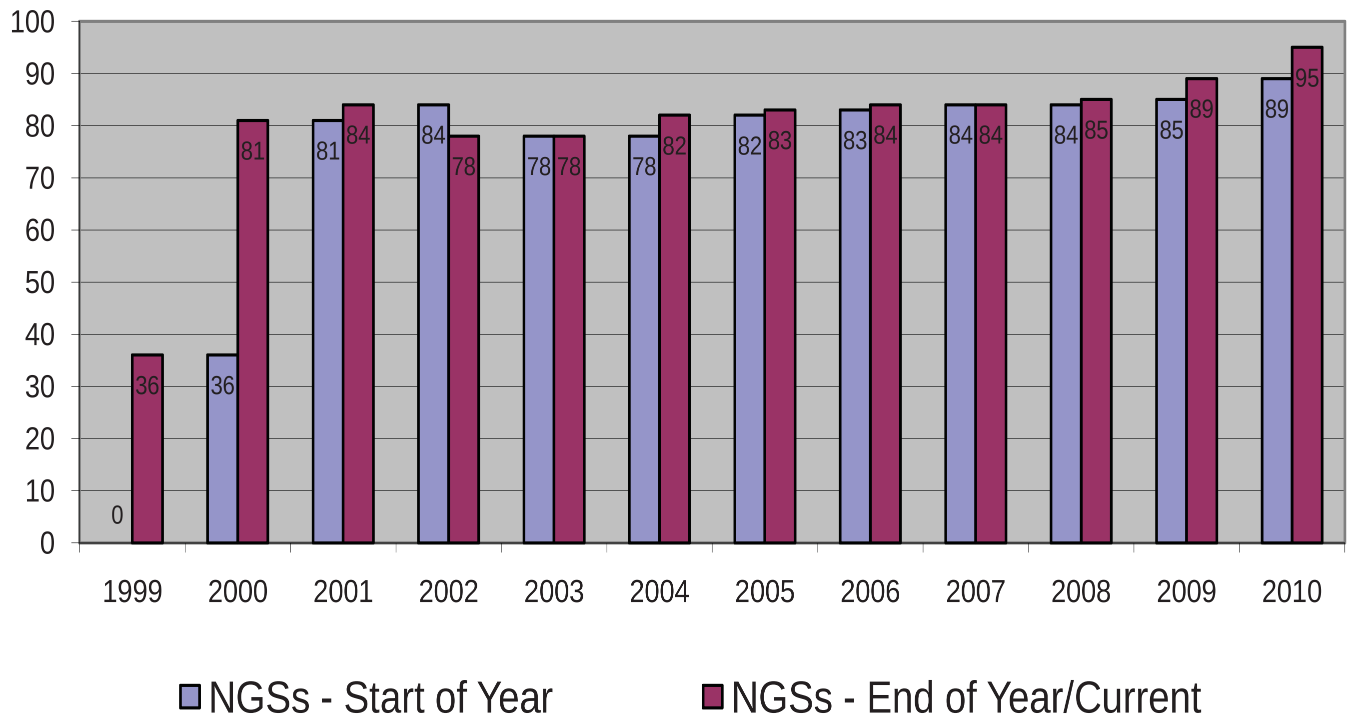
Data from EIA's *Weekly Gas Report* and *Weekly Petroleum Status Report*
(Unweighted Average)



Natural Gas Supplier Licensing

Activity from Jan. 27, 2010, to June 17, 2010.

95 Active Licenses **1 License Approved** **4 Licenses Cancelled** **4 Applications Pending**



SEARCH Update

Licensing Requirements for Natural Gas Suppliers

On June 17, 2010, the Commission issued a final rulemaking order revising the financial security requirements to obtain or maintain a natural gas supplier license. Specifically, the final rulemaking order revises Section 62.111 of the Commission regulations: (1) to permit the use of NGS accounts receivable in a PUC-approved POR program to satisfy part of, or all of a NGS's security requirement; and (2) to list possible triggering events for adjusting the security amount and reasonable criteria for the adjustment of the security amount. This section has also been revised to include a list of PUC procedures, both formal and informal, that a NGS may use to resolve a dispute over security with a NGDC, and an annual reporting requirement for NGDCs on the adjustment of security amounts.

The final regulation must be reviewed by the Office of the Attorney General, the Governor's Budget Office, and the designated standing committees of both houses of the General Assembly, and then, approved by the Independent Regulatory Review Commission. The final regulation will become effective upon publication in the *Pennsylvania Bulletin*.

The Commission believes that the final regulation better balances a NGS's ability to provide adequate security to maintain its license with a NGDC's actual risk of financial loss in the event of supplier default. The Commission anticipates that this revision to the security requirement for licensing will encourage more suppliers to participate in Pennsylvania's retail natural gas services supply market.

SEARCH Update *Continued on Page 24.*

Gas Safety Settlements

The Gas Safety Division enforces Federal (49 CFR Part 192) and PUC (52 PA Code, Chapter 59) pipeline safety regulations through vigorous inspections and incident investigations. When a Gas Safety Inspector discovers a safety violation during an inspection or an investigation, they document the violation on an inspection report. The Inspector also drafts a non-compliance letter. Both documents are evaluated by the Gas Safety Division Chief to determine whether a recommendation for prosecution of the violation should be provided to the Law Bureau.

Minor violations are usually disposed of by the issuance of a non-compliance letter to the involved natural gas distribution company (NGDC) or pipeline operator. The NGDC or pipeline operator is given 10 days to correct the violation and notify the Gas Safety Division that the violation was corrected. A Gas Safety Inspector will verify the violation correction by a subsequent re-inspection.

If the Gas Safety Chief's evaluation of the inspection or incident investigation determines that the violation(s) was serious in nature, a non-compliance letter is mailed to the utility, and the Division begins the formal complaint process. The Law Bureau makes a determination of whether to file a formal complaint and fine, or to file a proposed informal settlement with the utility. Fines for a pipeline safety violation may be up to $10,000 per day. The total fine amount from a single incident may amount to as much as $500,000. Whether a formal complaint or an informal settlement is submitted to the utility, the utility decides whether to settle with the prosecutory staff of the Law Bureau or deny the allegations and request a hearing. Once a settlement is completed, the documents are submitted to the Commission for its approval.

Over the past few months, the Commission has approved several settlements with natural gas distribution companies after Gas Safety Inspectors discovered serious safety violations during incident investigations. One company was fined $5,000 and ordered to expend $30,000 to provide an educational program for utility contractors after several pipeline damage incidents were investigated. Another utility was fined $65,000 after a Gas Safety Inspector investigated several incidents and found violations of the Commission's regulations for a damage prevention and improperly installed pipeline devices. A third utility was fined $15,000 for violation of the PUC's damage prevention regulations. Pipeline damage is the main cause for serious pipeline safety incidents in Pennsylvania, the violation that most often results in fines instituted against natural gas utilities.

The Gas Safety Division has, and will continue to focus upon damage prevention compliance not only through its inspections and investigations, but also through proactive measures that can be implemented.

SEARCH Update

Continued from Page 23.

NGDC Business Practices

The Director of Operations, working through the Office of Competitive Market Oversight, convened a meeting of the SEARCH stakeholders on June 23, 2010, to discuss the Commission's proposed rulemaking on natural distribution company (NGDC) business practices.

The proposed rulemaking seeks to increase efficiency in industry operations and facilitate the entry and participation of natural gas suppliers (NGSs) in the retail natural gas supply market by encouraging the use of a common set of business practices, operating rules and supplier coordination tariffs and other transactional documents. See Natural Gas Distribution Company Business Practice, Proposed Rulemaking Order, Docket No. L-2008-2069117.

The stakeholder process is to run concurrently with the rulemaking proceeding. The June 23 meeting was organizational in nature, and stakeholders shared their views on the scope and application of the proposed regulations, priorities for addressing specific action items and the possibility of establishing subgroups to handle the more technical tasks. Staff is reviewing stakeholder input and the comments that were filed to the proposed rulemaking order and is evaluating the best way to proceed. Staff anticipates providing SEARCH stakeholders with a plan and a meeting schedule later this summer.

The SEARCH stakeholders include NGDCs, NGSs, the Office of Consumer Advocate, the Office of Small Business Advocate and other consumer advocates, the Energy Association of Pennsylvania, and the Retail Energy Suppliers Association. To participate in SEARCH, an interested party should send an e-mail with contact information to ra-ocmo@state.pa.us.

Verizon Warm Transfer Trial

The Commission granted approval of Verizon's Warm Transfer Trial, which enables customers that contact the Commission with service complaints to opt to be transferred to a Verizon representative in order to expedite resolution of the complaint.

The trial began on Sept. 28, 2009, and as of July 9, a total of 853 customers have opted to be transferred to Verizon's Warm Transfer line. Of those, 21 returned to the Bureau of Consumer Services (BCS) because they were dissatisfied with the Warm Transfer process. These cases were taken in as informal complaints for investigation.

In June 2010, the Commission approved a 12-month extension of the trial in order to monitor the trial's effectiveness through all seasonal fluctuations. At the end of the 12-month period, BCS will report to the Commission on the conclusions and results from the trial period and make the appropriate recommendations.

Universal Service Coordination Subgroup

By Commission order entered on June 11, 2009, the Commission directed the establishment of a Universal Service Coordination Working Group to develop recommendations to coordinate the delivery of the Low Income Usage Reduction Program (LIURP), Act 129, Weatherization Assistance Program (WAP), and American Recovery & Reinvestment Act (ARRA) WAP (Docket No. M-2009-2107153).

In its report to the Commission dated Nov. 18, 2009, the Working Group recommended that the Commission direct the creation of a subgroup to further consider the joint delivery of the various low-income programs. In its response to the Working Group report dated Jan. 13, 2010, the Commission directed the creation of a subgroup to further consider the joint delivery of programs as described above.

The subgroup consisted of representatives from electric and natural gas distribution companies, the PUC, Office of Consumer Advocate, Department of Community and Economic Development, Pennsylvania Utility Law Project, Energy Association of Pennsylvania, and Conservation Consultants Inc.

The subgroup met on both March 8, and April 12, and its report to the Commission was filed on April 28, 2010. The final report includes both a narrative summary and a matrix that highlights the coordination referral opportunities. The utilities have agreed to review the subgroup's report and to address the coordination referral opportunities that are applicable to them.

Feedback

We welcome any feedback on the Pennsylvania PUC's quarterly newsletter, *Keystone Connection.*

Staff from the Bureau of Administative Services, Office of Administrative Law Judge, Bureau of Audits, Bureau of Conservation, Economics and Energy Planning, Bureau of Consumer Services, Office of Communications, Bureau of Transportation and Safety, Office of Special Assistants, Bureau of Fixed Utility Services, Office of Trial Staff, the Secretary's Bureau and the Law Bureau all contribute and write articles for this publication.

For media inquiries or to share ideas, feel free to contact Cyndi Page of the Office of Communications at (717) 787-5722.

Right to Know Law

A recent ruling of the Pennsylvania Office of Open records affirmed the confidentiality of Commission investigations. The PUC received a favorable ruling from the Office of Open Records, in which the Law Bureau defended an appeal from the denial of access to Commission records. The Office of Open Records appeals officer affirmed the decision of the Commission Right to Know (RTK) Officer, on the basis of the "noncriminal investigation" exception at Section 708(b)(17), and the supporting affidavit submitted by the Commission.

The case originated as a request pursuant to the Right-To-Know Law, seeking release of Commission records in connection with a gas line strike incident. The Commission denied release of records and claimed the "noncriminal investigative" exception to release of our "investigative materials, notes, correspondence and reports." The now final order has significance for the Commission's future decisions on release of records in any ongoing investigation.

PUC Budget Passed

The Commission's budget submission for the 2010-2011 fiscal year was approved by the General Assembly on June 30, and signed by the Governor on July 6. This year's budget was approved for $56,003,000 in state funding and $4,257,000 in anticipated federal funds for a total request of $60,260,000. The federal funds include our Gas Pipeline Safety Program, Motor Carrier Safety Assistance Program and the ARRA (Federal Stimulus) Electric Regulation Assistance Program.

The budget submission again this year maintained a ZERO increase associated with state funding for our Operating and Fixed Asset line items. The Personnel costs have risen to sustain the current approved complement of 519. Total personnel costs are $47,370,000 which is comprised of $44,950,000 from state funds and $2,420,000 in federal funds. The state funding requirement is $3,422,000 more than the amount approved in FY 2009-10 and will fund the mandatory general pay increases and corresponding required fringe benefit increases.

PUC Receives Federal Stimulus Funds

The Commission has received grant funding through the American Recovery and Reinvestment Act of 2009 (ARRA). Specifically, the PUC has received $1,068,000 in funding through the Electric Regulation Assistance Program that is made available to state public regulatory agencies to help them deal with the increased caseload that would be created by the ARRA in areas such as energy efficiency, smart grid, demand-response equipment, transmission, and electricity based renewable energy.

To date, the Commission has hired four individuals under this federal stimulus program funding:

- Two Executive Policy Specialist I positions in the Bureau of Conservation, Economics, and Energy Planning that handle inquiries and requests for information from the public, utility customers and customer generators in the areas of Act 129 program implementation and measure installment, utility net-metering, interconnection and Alternative Energy Portfolio Standards-solar installations (PA Sunshine Program) as well as Credit certification and GATS registration;
- One Information Specialist in the Office of Communications that performs public outreach work focused on electric competition and rate caps, energy efficiency and conservation, and renewable energy initiatives; and
- One Executive Policy Manager I has been hired in the Bureau of Office Trial Staff and is responsible for the development and defense (through expert witness testimony) of electric energy related issues that impact the rates that Pennsylvania electric consumers pay. This position investigates and analyzes electric utility claims that involve Act 129-related compliance filings and annual reviews.

Staff has also been afforded training opportunities with this funding. Training has focused on smart grid issues.

PUC Welcomes Rosemary Chiavetta as Secretary

The PUC announced the appointment of Rosemary Chiavetta of Harrisburg as the Secretary of the Commission. She replaced James J. McNulty, who retired in December 2009. She began serving as Secretary on April 26, 2010. "Rosemary brings many years of expertise with her to the PUC. This expertise touched a variety of fields providing her with both the Commission and industry perspective. Rosemary's expertise will serve this Commission well," said Chairman James H. Cawley.

Prior to coming back to the PUC, Chiavetta was the sole proprietor acting as legal counsel and lobbyist for Chiavetta Consulting, providing legal and strategic government relations advice to various clients with interests in Pennsylvania regarding public utility law, contract bidding, prescription drugs, coal, higher education, financial investments, and state appropriations. She previously served as legal counsel and lobbyist for Kingwood Consulting Group, in Columbus, Ohio, as well as the Director of Legislative Affairs for the PUC, and as general legal counsel to former PUC Chairman John M. Quain. She also served as assistant counsel in the PUC's Law Bureau, as counsel to the Pennsylvania House Republican Policy Committee, and as a legislative assistant to former state Representative Jeffrey E. Piccola.

Chiavetta received her bachelor's degree from College of Notre Dame of Maryland, in Baltimore and her juris doctorate from the Dickinson School of Law, Carlisle.

The Secretary is the Commission's officer over whose signature all official actions and decisions are issued. The Secretary serves as the prothonotary of the Commission and is thereby responsible for the acceptance of filings and the docketing, safekeeping, control, dissemination, retention and retrieval of all documents. All correspondence and filings before the Commission must be addressed to the Secretary.

Tips from the Secretary of the Commission

The Secretary of the Commission, Rosemary Chiavetta, has compiled some tips to help those who make filings to the PUC. Her tips include:

- When making a paper filing, bring the computer discs (CDs) at the same time! This allows staff to download a voluminous filing to our internal computer system and eventually onto the PUC website. Vital to expeditious treatment of your filing.
- When you proofread your paper filing – proofread the CDs! Although the paper filing might be in the correct order, the CDs we use to download your filing might not be correct. Proofread your simultaneous electronic submission or you slow down the process for expeditious treatment.
- Just because you filed, don't assume your filing is automatically deemed accepted. Staff must examine the filing for compliance to our regulations, scan it or download it, and then assign it a docket number. Depending on the size of the filing, the process could take a couple of hours or a couple days to complete before the filing can be published to the website.
- Do not state or promise in a press release that the filing will be available for public inspection either at the Commission or on the website by a certain date or time. A company's press release should reflect only that the filing has been made or intends to be made with the PUC.
- We publish your filing in PDF format for a reason. This prohibits hackers from changing or altering the original substance of the documents filed with the Commission.
- We submit notices to the *Pennsylvania Bulletin* every Wednesday resulting in matters published on the second Saturday following submittal. To expedite publication of your filing, try and file on a Monday or Tuesday.