

PENNSYLVANIA PUBLIC UTILITY COMMISSION

PUBLIC MEETING

THURSDAY, OCTOBER 22, 2009 (KP)

10:00 A.M.

**MAIN HEARING ROOM NO. 1
SECOND FLOOR COMMONWEALTH KEYSTONE BUILDING**

The Commission will act on various matters at today's meeting, which is open to the public. However, since adequate forums have been made available for public participation in cases before the Commission, there will be no opportunity for the public to address the Commission.

The attached agenda is complete at the time of issuance, but other items may be added and some stricken without further notice.

The listing of an item on the agenda does not necessarily mean that the Commission will take final action on it at this meeting. When the Commission does take final action, its decision---except on routine, uncontested tariff filings---will be put in writing and served on the interested parties and made public at the time it is entered and served.

All public documents---such as orders, opinions, hearing transcripts, comments, initial and recommended decisions, and the like---relating to items on the agenda, may be examined in the Commission's File Room located in Room N-201, Second Floor, this Building.

The Commissioners seated on the bench are:

COMMISSIONER	VICE CHAIRMAN	CHAIRMAN	COMMISSIONER	COMMISSIONER
Wayne E. Gardner	Tyrone J. Christy	James H. Cawley	Kim Pizzingrilli	Robert F. Powelson

THE TAKING OF PHOTOGRAPHS IS PERMITTED PROVIDED FLASH IS NOT USED.

The Next Public Meeting is Tentatively Scheduled for Thursday, November 5, 2009 at 10:00 A.M.

Minutes of the Meeting of Thursday, October 8, 2009 (TC)

*****ANNOUNCEMENTS*****

THE NEXT PUBLIC MEETING OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION IS SCHEDULED FOR THURSDAY, NOVEMBER 5, 2009 AT 10:00 A.M. IN HEARING ROOM #1, SECOND FLOOR, COMMONWEALTH KEYSTONE BUILDING, 400 NORTH STREET. AN AGENDA FOR PUBLIC MEETING WILL BE MADE AVAILABLE TO ALL COMMISSIONERS AND INTERESTED PERSONS PRIOR TO THE PUBLIC MEETING.

ALSO, THE COMMISSION WILL HOLD AN EXECUTIVE SESSION ON THURSDAY, OCTOBER 22, 2009, IMMEDIATELY FOLLOWING PUBLIC MEETING, AT APPROXIMATELY 10:30 A.M., IN THE JR. EXECUTIVE CHAMBERS, THIRD FLOOR, KEYSTONE BUILDING.

THE COMMISSION'S AGENDA WILL BE LIMITED TO:

- 1. DISCUSSING PERSONNEL MATTERS.**
- 2. CONSULTING WITH ITS LEGAL OR TECHNICAL STAFF ABOUT ACTIONS WHICH THIS COMMISSION IS LITIGATING BEFORE OTHER ADMINISTRATIVE AGENCIES OR COURTS.**
- 3. DISCUSSING CASES WHICH WILL BE COMMENCED OR ADJUDICATED BY COMMISSION ACTION.**
- 4. REVIEWING LEGALLY PRIVILEGED OR CONFIDENTIAL MATTERS.**
- 5. DISCUSSING COLLECTIVE BARGAINING ISSUES.**
- 6. CONSIDERING THE PURCHASE OR LEASE OF REAL ESTATE.**

AN AGENDA FOR THE EXECUTIVE SESSION WILL BE DISTRIBUTED TO ALL COMMISSIONERS IN ADVANCE OF THIS SESSION. THIS NOTICE IS PROVIDED IN ACCORDANCE WITH ACT 84 of 1986, KNOWN AS THE SUNSHINE ACT.

**COPIES OF CHAIRMAN AND COMMISSIONERS'
MOTIONS AND STATEMENTS WILL BE
AVAILABLE FOR PICK-UP
IMMEDIATELY AFTER PUBLIC MEETING
IN JR. EXECUTIVE CHAMBERS
3RD FLOOR KEYSTONE BUILDING**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

FINAL AGENDA

October 22, 2009

BUREAU OF TRANSPORTATION & SAFETY

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
1201789-TAS Vote 5-0.	A-00123152	PENNDOT - Application to replace existing crossing with a bridge over Norfolk Southern Railway Co., tracks in Borough of Waynesburg and Franklin Township, Green County. RECOMMENDATION: That the Commission adopt the proposed order approving the application for bridge construction.
1201901-TAS Vote 5-0.	A-00122163F0001AMA	LIFESTAR AMBULANCE, INC. - Application for amendment to its certificate which grants the right to begin to transport as a common carrier by motor vehicle, persons in paratransit service limited to vehicles with a capacity of five passengers or less. West Chester, Chester County. RECOMMENDATION: That the Commission adopt the proposed order approving the application.
2084517-TAS Vote 5-0.	C-2009-2084517	BUR OF TRANSPORTATION & SAFETY VS A PLUS TRANSPORTERS LLC - Complaint alleging failure to submit to a safety fitness review and failure to maintain adequate, efficient and safe service and facilities. RECOMMENDATION: That the Commission adopt the order directing that the complaint be sustained and the certificate be canceled.
2087227-TAS Vote 5-0.	A-2009-2087227 M-00021686	PENNDOT - Application for approval of construction of a crossing over CSX Transportation, Inc., tracks in Philadelphia County. RECOMMENDATION: That the Commission adopt the order approving the crossing construction.
2091455-TAS Vote 5-0.	R-2009-2091455	LEE LYNN ANN, INC T/A ACS MEDICOACH - Increase in rates. RECOMMENDATION: That the Commission approve Tariff Paratransit Pa. PUC No. 2.

BUREAU OF TRANSPORTATION & SAFETY

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2098079-TAS Vote 5-0.	C-2009-2098079	BUR OF TRANSPORTATION & SAFETY VS A&L CARR TRUCKING LLC - Complaint alleging failure to submit to a safety fitness review and failure to maintain adequate, efficient and safe service and facilities. RECOMMENDATION: That the Commission adopt the Order directing that the complaint be sustained and the certificate be canceled.
2101281-TAS Vote 5-0.	A-2009-2101281	DWIGHT LEWIS T/A DONUT TRANSPORTATION SYSTEM - Application for the right to begin to transport as a contract carrier by motor vehicle, persons in paratransit service, for the Medical Assistance Transportation Program (MATP) through Logisticare Solutions, LLC., Philadelphia, Philadelphia County. RECOMMENDATION: That the Commission adopt the proposed Order approving the application.
2130975-TAS Vote 5-0.	A-2009-2130975 A-2009-2130965	COREY TRANSPORT LLC - Application for the additional right to begin to transport as a common carrier by motor vehicle, persons in paratransit service. Meadville, Crawford County. RECOMMENDATION: That the Commission adopt the proposed order denying the applications.

BUREAU OF AUDITS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2105333-AUD Vote 5-0.	D-2009-2105333	CITIZEN POWER - Audit Report on the Energy Services Program for the Year 2008. RECOMMENDATION: The Commission approve the Audit Report for public release.
2128171-AUD Vote 5-0.	D-2009-2128171	MANAGEMENT AUDITS & MANAGEMENT EFFICIENCY INVEST - Annual Report, 66 PA C.S. 516 Audits for Fiscal Year 2008-2009. RECOMMENDATION: That the Commission make the Annual Report public.
2132716-AUD Vote 5-0.	M-2009-2132716	ANDREASSI GAS COMPANY - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2132731-AUD Vote 5-0.	M-2009-2132731	SERGEANT GAS CO. - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2133290-AUD Vote 5-0.	M-2009-2133290	SIGEL GAS COMPANY - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2133964-AUD Vote 5-0.	M-2009-2133964	CHARTIERS NATURAL GAS CO., INC. - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2133973-AUD Vote 5-0.	M-2009-2133973	CLARION RIVER GAS-ORWELL NATURAL GAS - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2134325-AUD Vote 5-0.	M-2009-2134325	WALLY GAS CO. - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on or after 11/1/09.

BUREAU OF AUDITS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2134330-AUD Vote 5-0.	M-2009-2134330	WALKER GAS - ORWELL NATURAL GAS - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2134335-AUD Vote 5-0.	M-2009-2134335	PINE ROE NATURAL GAS CO., INC. - Gas Cost Rates for effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2134358-AUD Motion by Commissioner Gardner. Statement by Vice Chairman Christy. Vote 5-0.	M-2009-2134358	NORTH EAST HEAT & LIGHT CO. - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2135476-AUD Vote 5-0.	M-2009-2135476	HERMAN RIEMER GAS COMPANY - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission approve the staff recommended rates to become effective with service rendered on and after 11/1/09.
2135764-AUD Vote 5-0.	M-2009-2135764	HERMAN OIL & GAS COMPANY, INC. - Gas Cost Rates effective 11/1/09. RECOMMENDATION: The Commission direct the Company to continue to fill out its currently effective GCR.

OFFICE OF SPECIAL ASSISTANTS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2074972-OSA Statement by Vice Chairman Christy. Vote 5-0.	R-2008-2074972 P-00930715F1000	VERIZON PENNSYLVANIA INC - Petition for Reconsideration and a Stay filed on 3/16/09, seeking reconsideration on certain decisions in Commission's Opinion and Order in its 2009 Price Change Opportunity filing, Order entered on 2/26/09. On 3/26/09, the Commission issued an Order granting reconsideration pending review of and further consideration on the merits of the Petition. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order which grants the Petition for Reconsideration and Stay consistent with the discussion therein.
2080381-OSA Vote 5-0.	F-2008-2080381 F-2008-2081460	PHILIPPO DELUCA VS PHILADELPHIA GAS WORKS - Formal Complaint filed on 12/12/08, alleging that upon the discovery of a foreign load on his tenant's service, an improper amount of usage was charged to his account. ALJ Nguyen issued an Initial Decision on 9/3/09, dismissing the complaint. Exceptions were filed by the Complainant on 9/11/09. Reply Exceptions were filed by the Respondent on 9/25/09. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order that denies the Exceptions and adopts the ALJ's Initial Decision that dismisses the Formal Complaint.
2126951-OSA Vote 5-0.	A-2009-2126951	WINDSTREAM PA LLC and TCG PITTSBURGH, INC. - Joint Petition filed on 9/25/09, seeking approval of an Interconnection Agreement, pursuant to Section 252(e) of the Telecommunications Act of 1996. Notice of the Joint Petition was published in the PA Bulletin. No comments were received. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order which grants the Joint Petition.

OFFICE OF SPECIAL ASSISTANTS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2126965-OSA Vote 5-0.	A-2009-2126965	WINDSTREAM PA LLC and AT&T COMMUNICATIONS OF PA LLC - Joint Petition filed on 9/25/09, seeking approval of an Interconnection Agreement, pursuant to Section 252(e) of the Telecommunications Act of 1996. Notice of the Joint Petition was published in the PA Bulletin. No comments were received. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order which grants the Joint Petition.

BUREAU OF FIXED UTILITY SERVICES

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2074972-FUS Statement by Vice Chairman Christy. Vote 5-0.	R-2008-2074972 P-00930715F1000	VERIZON PENNSYLVANIA INC - Letter filed on 9/10/09, requesting to amend the 2009 Annual Price Change Opportunity Filing. The company acknowledges an error it uncovered in the original filing and proposes a one-time credit of \$.88 to residential customer bills to correct this error. No protests were filed and no hearings were held. RECOMMENDATION: That the Commission adopt the proposed Order which approves this letter request.
2124105-FUS Vote 5-0.	A-2009-2124105	SECURE ENERGY SOLUTIONS LLC - Application filed on 8/3/09, for a license to offer, render, furnish or supply electricity or electric generation services as a broker/aggregator engaged in the business of providing energy related services to commercial, industrial and governmental customers in the service territories throughout the Commonwealth of PA. Applicant also requests a reduction in the amount of security bond. RECOMMENDATION: That the Commission adopt the proposed Order which approves the Application.
2133368-FUS Vote 5-0.	M-2009-2133368	QUARTERLY EARNINGS OF PA UTILITIES - Bureau of Fixed Utility Services report for the quarter ended 6/30/09. RECOMMENDATION: That the Commission make the earnings report public.

COMBINED BUREAU AGENDA

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2106908-FUS Vote 5-0.	R-2009-2106908	HANOVER MUNICIPAL WATERWORKS - Supplement No. 19 to Tariff Water-Pa. P.U.C. No. 3, filed on 8/28/09, proposing an annual increase in rates of \$308,586 (10.24%) for customers located outside the Borough to become effective 10/27/09. By Secretarial Letter dated 5/14/09, the Commission granted the Borough an extension to file until 8/31/09. RECOMMENDATION: That the Commission adopt the proposed Order that suspends the tariff and institutes an investigation.
2106908-OTS Reject 5-0.	R-2009-2106908	HANOVER MUNICIPAL WATERWORKS - Supplement No. 19 to Tariff-Water Pa. PUC No. 3, filed on 8/28/09, to become effective 10/27/09, proposing an increase to outside borough customers of \$308,586 or 10.2%. RECOMMENDATION: That the Commission allow the filing to become effective in its entirety.

LAW BUREAU

AGENDA NO.

2039054-LAW

Vote 5-0.

DOCKET NO.

**P-2008-2039054
P-2009-2103505**

NAME AND SUBJECT

BULLSEYE TELECOM, INC.
- Petitions filed for Protective Orders regarding its
2007 and 2008 Annual CLEC Class C Reports.
RECOMMENDATION:
That the Commission grant in part, and deny in part
the petitions for protective order.

OFFICE OF ADMINISTRATIVE LAW JUDGE

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2060020-ALJ (PP from 10/08/2009) Postponed until the Public Meeting of November 19, 2009.	C-2008-2060020	FRANCISCO VALEZ VS VERIZON SELECT SERVICES - Complaint filed on 8/18/08, alleging fraudulent charges. On 9/18/08, Respondent filed an Answer and New Matter denying the fraudulent charges. On 9/30/09, Complainant filed a Reply to New Matter. On 1/13/09, Respondent filed a Motion to Compel Responses and for Sanctions. Complainant did not respond to the Motion. COMMISSION REVIEW: That the Commission adopt ALJ Fordham's Initial Decision dismissing the complaint.
2108705-ALJ Vote 5-0.	R-2009-2108705	PECO ENERGY COMPANY-GAS - PECO filed its definitive filing proposing to increase the PGC to become effective on and after 12/01/09. The company also filed a reconciliation of previously incurred expenses and revenues. On 8/10/09, a Joint Petition for Complete Settlement was filed. COMMISSION REVIEW: That the Commission adopt ALJs' Chestnut and Koster's Recommended Decision adopting the Settlement.

PENNSYLVANIA PUBLIC UTILITY COMMISSION

CARRY-IN AGENDA

October 22, 2009

OFFICE OF SPECIAL ASSISTANTS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
1205928-OSA Joint Statement by Commissioner Pizzigrilli and Commissioner Powelson. Vote 5-0.	M-00072021	PHILADELPHIA GAS WORKS - Petition for Interlocutory Review, Answer to a Material Question and Approval of Settlement was filed to permit PGW to comply with a recent DPW directive relating to LIHEAP grants. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order which disposes of the issues raised by the Petition.
2088072-OSA Vote 5-0.	R-2009-2088072 C-2009-2091475 C-2009-2098330 C-2009-2100312	EQUITABLE GAS CO. - Proposed Tariff Supplement to Tariff Gas – Pa. P.U.C. No. 22, filed on 4/1/09, containing changes in the Purchased Gas Cost included in tariff rates resulting from projected cost of gas purchased for the 12 month period from 10/1/09 to 9/30/10, to be effective 10/1/09. Equitable, OTS and OCA reached a Joint Settlement on 6/25/09. After evidentiary hearings, the presiding ALJs Meehan and Dunderdale issued a Recommended Decision recommending approval of the Joint Settlement and disposition of one litigated issue. Equitable timely filed Exceptions to the Recommended Decision relating to the single litigated issue. The Commission modified the ALJs' Recommended Decision in its Order entered 9/30/09. On 10/5/09, Equitable advised the Commission that it is withdrawing from the portion of the settlement that was modified by the Commission. Equitable filed a Petition for Reconsideration on 10/15/09. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order that grants Equitable's Petition for Reconsideration pending review of, and consideration on, the merits.

OFFICE OF SPECIAL ASSISTANTS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2092222-OSA	M-2009-2092222	<p>METROPOLITAN EDISON COMPANY PENNSYLVANIA ELECTRIC COMPANY PENNSYLVANIA POWER COMPANY - Energy Efficiency and Conservation Plans filed on 7/1/09, per the Implementation Order of 1/16/09 regarding Act 129. Notice was published in the PA Bulletin on 7/25/09, stating that the deadline for comments. Numerous parties filed comments and intervened in the proceeding. First Energy modified the Plans on 7/31/09 and 8/31/09, and revised versions of the Plans were filed on 9/21/09. Following public input hearings in each of First Energy's service territories, ALJ Salapa held an evidentiary hearing on 8/31/09. Numerous parties filed Main and Reply Briefs. On 9/22/09, ALJ Salapa certified the record to the Commission for consideration and disposition.</p> <p>RECOMMENDATION: That the Commission adopt the proposed Tentative Opinion and Order, which tentatively approves the Plans but requires First Energy to submit revised plans for final approval.</p>
2093217-OSA	M-2009-2093217	<p>DUQUESNE LIGHT COMPANY - Energy Efficiency and Conservation Plans filed on 6/30/09, per the Implementation Order of 1/16/09 regarding Act 129. Notice was published in the PA Bulletin on 7/18/09, stating that the deadline for comments. Numerous parties filed comments and intervened in the proceeding. The Plan was referred to ALJ Nene, who held public input and evidentiary hearings. Numerous parties filed Main and Reply Briefs. On 9/2/09, ALJ Nene certified the record to the Commission for consideration and disposition.</p> <p>RECOMMENDATION: That the Commission adopt the proposed Opinion and Order which recommends, inter alia, that Duquesne Light Company's Petition for Approval of its EE&C Plan be granted, in part, and denied, in part.</p>

Statement by Vice Chairman Christy.
Statement by Commissioner Pizzigrilli.
Statement by Commissioner Powelson.
Second Statement by Commissioner Powelson.
Vote 5-0.

Statement by Vice Chairman Christy.
Statement by Commissioner Pizzigrilli.
Statement by Commissioner Powelson.
Second Statement by Commissioner Powelson.
Vote 5-0.

OFFICE OF SPECIAL ASSISTANTS

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2123951-OSA Vote 5-0.	M-2009-2123951	WEST PENN POWER CO d/b/a ALLEGHENY POWER - Smart Meter Technology Procurement and Installation Plan (SMIP) filed on 8/14/09. Allegheny proposed an accelerated two-phase schedule that seeks a Commission decision by 12/23/09. ALJ Hoyer denied Allegheny's proposal for a certified question on waiving the ALJ's initial decision on Allegheny's initial phase and a separate schedule for Allegheny's initial phase activities. The ALJ approved a single phase schedule that calls for the issuance of a Recommended Decision on 1/29/10. Allegheny filed a Petition for Interlocutory Review and Answer to a Material Question with the Commission on 9/30/09. On 10/13/09, Allegheny filed a brief in support of the Petition and the OCA, the OSBA, and the DEP filed briefs in opposition to Allegheny's Petition. RECOMMENDATION: That the Commission adopt the proposed Opinion and Order that denies Allegheny's Petition.

LAW BUREAU

<u>AGENDA NO.</u>	<u>DOCKET NO.</u>	<u>NAME AND SUBJECT</u>
2104271-LAW Vote 5-0.	M-2009-2104271	PPL ELECTRIC UTILITIES CORP RETAIL MARKETS - Petition for Clarification or Amendment of Retail Markets Order. RECOMMENDATION: That the Commission approve the proposed order which grants clarification and sets forth procedures for updating and releasing customer information.