

# Keystone Connection

Utility News  
in Pennsylvania

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

Winter/Spring 2008

## Most of Pennsylvania Designated as Part of National Interest Electric Transmission Corridor by DOE



The Energy Policy Act of 2005 directed the United States Department of Energy (DOE) to conduct national electric transmission congestion studies and, if warranted, to designate National Interest Electric Transmission Corridors (NIETCs). On Oct. 2, 2007, DOE made final designations of NIETCs in the Mid-Atlantic and Southwestern parts of the country. The Mid-Atlantic NIETC includes 52 of Pennsylvania's 67 counties and portions of New York, Virginia, West Virginia, Ohio, Maryland, Delaware and the District of Columbia.

The NIETC designation is to alleviate transmission congestion in critical congestion areas in the Mid-Atlantic Region. The designation remains in effect for 12 years. The designation gives the Federal Energy Regulatory Commission (FERC) the authority to approve new power lines in the corridors. If a utility does not receive state approval to build a proposed transmission project in a NIETC within a year, the utility can apply to FERC to authorize the line and give the utility eminent domain authority.

The Pennsylvania PUC filed a request for a rehearing of DOE's Mid-Atlantic NIETC designation. The Commission's request was denied by DOE. In addition, in November, the Commission filed a challenge to the Mid-Atlantic designation in the United States District Court for the Middle District of Pennsylvania. Two subsequently filed challenges by environmental organizations have been consolidated with the Commission's cases. There is a similar challenge to the Southwest corridor filed in federal court in California.

The PUC has filed several Federal court actions seeking guidance as to whether DOE has abused its discretion. The PUC asserts that DOE has exceeded the scope of discretionary powers delegated to DOE by Congress in Section 1221 of the Energy Policy Act of 2005. The PUC continues to assert that DOE has failed to make necessary findings and has vastly overreached its limits of discretion in making its the final NIETC designation. The courts will ultimately resolve whether DOE has appropriately complied with Congress' direction in the Energy Policy Act of 2005 to confine itself to designating only those transmission corridors that are clearly in the national interest.

The Commission believes DOE failed to follow the specific statutory requirements in the Energy Policy Act, and the resulting corridor is more of a "transmission park" than a path. The result preempts traditional state authority over transmission siting. To view the corridor map, go to the DOE's website at: [http://www.energy.gov/media/MidAtlantic\\_Corridor\\_Map091707.pdf](http://www.energy.gov/media/MidAtlantic_Corridor_Map091707.pdf)

## Connecting in Pennsylvania

Welcome to the ninth 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: electric, natural gas, transportation, telecommunications, water and the major issues that affect each industry.

The publication contains coverage of all utilities, including news on consumer issues and general information on PUC happenings.

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.

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## New PPL 500kV Transmission Line

In 2008, PPL Electric Utilities will begin preliminary siting activities for a 500 kV (kilovolt) electric transmission project to run from a PPL substation in Berwick, Pennsylvania, to a Public Service Electric and Gas substation near Roseland, New Jersey. The line is known as the Susquehanna-Roseland Project. The need for the line was determined by the PJM Interconnection Inc.'s Regional Transmission Expansion Planning process and is to address forecasted overload situations on existing lines. PPL estimates that the line will run approximately 100 miles in Pennsylvania and 50 miles in New Jersey. The estimated cost of the line is between \$300 and \$500 million.

The Pennsylvania portion of the line will require the approval of the Commission before construction begins. PPL's public statements indicate they expect siting activities to be under way in 2008, construction to begin in the fourth quarter of 2009, and the line to be in service on June 1, 2012.

The Web site for the transmission line can be found at: <http://www.pplreliablepower.com/index.htm>.

## Application of the Trans-Allegheny Interstate Line Company (TrAILCO)

The Commission conducted numerous hearings in August and September 2007, to solicit public input on the application of Trans-Allegheny Interstate Line Company's (TrAILCO) proposed 500-kilovolt (kV) transmission line in western Pennsylvania at Docket No. A-110172. Initial and further hearings in this case, originally scheduled for Jan. 23-25 and 28-30, 2008, were canceled.

However, 15 days of technical evidentiary hearings have been rescheduled for late March and early April. All of the hearings are to be held at the 16th floor Hearing Room of the Pittsburgh State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222. The specific hearing dates and times are available on the PUC's Web site, under Daily Actions and Hearings, Hearing Calendar.



## General Assembly's Special Session on Energy Policy

The Pennsylvania General Assembly continues to move forward with its Special Session on Energy Policy. More than 100 special session bills have been introduced in the Senate and House.

In the Senate, the Energy Policies Committee held a hearing on SS SB 1, creating the Alternative Energy Investment Act. This bill passed the Senate on Dec. 12, 2007, by a vote of 44-5 and was referred to the House Environmental Resources and Energy Committee. Other bills that have passed in the Senate and are in the House include SS SB 22 (Alternative Fuels Incentive Act), SS SB 25 (amending the Alternative Energy Portfolio Standards Act) and SS SB 36 (providing for the study and mandated content of biodiesel fuel).

In addition, there has been activity in the House of Representatives on special session legislation. The House has passed several bills including SS HB 5 (providing for a High-Performance Buildings Tax Credit), SS HB 8 (excluding the sale of an Energy Star qualified compact fluorescent lamp, also known as a compact fluorescent light bulb or CFL, from the sales tax) and SS HB 11 (excluding from sales tax the sale at retail of a clothes washer, dishwasher, refrigerator, room air conditioner and ceiling fan purchased during the exclusion period of the first full calendar weekend of October 2008 and February 2009). Both these bills are in the Senate Energy Policies Committee.

Likewise, SS HB 1 was amended in the House and passed on March 11, 2008, by a vote of 126-74 and has been referred to the Senate Energy Policies Committee. This bill amends Title 64 (Public Authorities and Quasi-Public Corporations) to state that indebtedness by the Commonwealth Financing Authority would not exceed \$600 million to the Energy Development Fund and \$250 million to the Clean Energy Program. The bill would also create the Energy Development Authority.

Finally, the House Environmental Resources and Energy Committee held a public hearing on SS HB 54 on Feb. 12, 2008. Commissioner Christy testified at this hearing. SS HB 54 amends Title 66 (Public Utilities) extending the rate caps on electricity rates until Jan. 1, 2013. If the PUC approves an increase in the generation component of a utility's charge to customers prior to Dec. 31, 2007, the utility may increase the generation component charged to customers, and such increased charge would be capped until Jan. 1, 2013. Also, it provides for the implementation of a least-cost portfolio approach at the end of the rate cap period. This portfolio would include an appropriate mix of long-term, short-term and spot market purchases.

To read more on the Commissioner's testimony, see the related article on Page 25.

## PUC Releases Audits of Several Electric Companies

The PUC released management and operations audits for:

- PECO Energy Company in August 2007;
- West Penn Power Company in February 2008; and
- Citizens' Electric Company and Wellsboro Electric Company, as well as natural gas company Valley Energy Inc. in July 2007, which are owned by C&T Enterprises Inc. (C&T Companies), who in turn is jointly owned by two electric cooperatives.

The audit reports identified potential annual savings for PECO, West Penn, and the C&T Companies of up to \$6.6 million, \$8.4 million, and \$233,400, respectively; and additional one-time savings of none, \$371,000, and up to \$241,000, respectively, by fully implementing recommendations contained in the reports.

PECO's Implementation Plan submitted in response to the management audit report indicated acceptance of 51 recommendations, partial acceptance of one recommendation, and rejection of one recommendation. Some of the most significant recommendations accepted or accepted-in-part by PECO included:

- Evaluating its annual overtime costs for reasonableness and efficiency;
- Proactively assessing hiring needs to manage the projected attrition of experienced field operations employees over the next several years;
- Increasing vegetation management funding;
- Developing a program to periodically and systematically evaluate the use of shared services within the Exelon organization versus outsourcing options;
- Implementing formal quality-assurance activities for major projects; and
- Implementing measures to improve the effectiveness of its energy theft of service program.

The company rejected the recommendation to organize all primary financial functions, specifically accounts payable and payroll, under Exelon's financial organization.

West Penn's Implementation Plan indicated acceptance of 16 recommendations, partial acceptance of one recommendation, and rejection of four recommendations.

Some of the most significant recommendations accepted or accepted-in-part by West Penn included:

- Developing an improvement plan to ensure that the Commission's reliability standards are met;
- Sufficiently staffing lineman positions and determine the best practices for utilizing contractors;
- Effectively tracking and enforcing its underground damage prevention program;
- Charging its affiliate pole attachment fees consistent with the rates charged to non-affiliates;

- Accurately accounting for recoveries on finaled accounts; and
- Intensifying efforts toward attaining full representation of women and minorities.

West Penn rejected recommendations to:

- Limit its dividend payments to its parent Allegheny Energy;
- Achieve returns on finaled customer accounts equivalent to affiliates in other states;
- Reorganize the reporting relationship of the internal audit function; and
- To change its independent accounting firm at least every 10 years.

The C&T Companies' Implementation Plan indicated acceptance of all 28 recommendations. Some of the most significant recommendations accepted or accepted-in-part by the C&T Companies included:

- Developing charters for the companies' boards of directors committees;
- Revising Citizens' budget billing process;
- Reducing excess inventory;
- Submitting contracts for services from C&T Enterprises and lease agreements between affiliates for PUC approval;
- Changing the vehicle lease agreements to be more cost effective and in compliance with affiliated interest agreements; and
- Ensuring that reviews and updates of the emergency response, business continuity, cyber security and physical security plans are periodically performed.

The Commission's Bureau of Audits will conduct a follow-up on all five energy companies' implementation efforts during future management efficiency investigations.

## PECO Substation

In December 2007, PECO announced that it had decided on a site for a new substation in Worcester Township in Montgomery County, which will alleviate future energy congestion concerns and ensure continued reliable electric service to its customers. The proposed site is a nine-acre piece of company-owned property located under the intersection of two sets of existing transmission lines.

This site was chosen due to a number of factors including proximity of the proposed substation to existing transmission lines, impact to surrounding customers and accessibility of the site. The proposed substation will contain transformers and circuit breakers connected by above ground connection wires, a control house and structures to support incoming aerial lines. Construction will begin after Commission approval and is expected to be completed in 2010. The estimated cost of the project is \$50 million.

## Electric Generation Rate Caps Near Expiration

Fears that the end of the era of caps on electric generation rates have sparked a number of responses in the Commonwealth. Under the existing Electricity Generation Customer Choice and Competition Act price caps on electric generation would expire generally in 2010. For some electric distribution companies (EDCs) those caps have already expired.

One such response is House Bill 54 which was introduced as part of the Legislature's special session on energy. The bill, now before the House Environmental Resources and Energy Committee, would mitigate the impact of much higher costs for electric generation once the current caps on prices are lifted by operation of current law. It does this by removing language establishing a rate cap for nine years from the Act which was to be in place until transition or stranded costs were no longer being recovered.

The bill creates a new cap on generation rates effective Dec. 31, 2007, which shall remain in place for five years until Jan. 1, 2013. It would impose the new cap on rates which were in place prior to Dec. 31, 2007.

Another change in the bill deals with an amendment to current law which requires EDCs or PUC-approved alternative generation suppliers to provide power at prevailing market prices. The bill substitutes the requirement that energy be purchased for service to these customers through "a portfolio of electric generation resources." This portfolio is to include a mix of long-term, short-term and spot market purchases and comply with the Alternative Energy Portfolio Standards Act.

The bill imposes a new standard which states that the portfolio "shall be designed to ensure reliable service at the lowest reasonable rates to customers on a long-term basis," but does not provide a standard to make such a determination. The Commission would review and approve the portfolio of resources which may include auctions, requests for proposals, spot market purchases, long-term purchase power contracts to support the construction of generation facilities, bilateral contracts negotiated at arms length with affiliated or nonaffiliated suppliers, EDC generation with costs comparable to the wholesale market prices.

The EDC or alternative supplier would be allowed to recover all costs related to these contracts unless the contract does not comply with the PUC-approved portfolio plan or if the Commission determines there has been fraud, collusion, market manipulation or abuse of market power. Additionally, the EDC or

alternative supplier must offer all customers a fixed rate that will change no more than once a year with reconciliation of over- and under-collections.

PUC Vice Chairman James H. Cawley and Commission Tyrone J. Christy have addressed the proposed extension of the rate caps in appearances before different House committees. In response to questions, the Vice Chairman said that extending rate caps would be unwise because the gap between capped rates and market prices is manageable now but is likely to widen by the end of 2009 and 2010. Commissioner Christy saw extension of the rate caps as only a short term solution and advocated for legislation that would encourage the construction of new generation facilities in the Commonwealth.

## PPL Rate Stabilization Plan

On Nov. 30, 2007, PPL Electric Utilities Corporation filed a petition, at Docket No. 2008-2021776, requesting that the PUC approve a Rate Stabilization Plan (RSP). PPL described the proposed plan as helping customers better manage the expiration of generation rate caps in 2010. Specifically, PPL sought to implement a phase-in of its currently estimated average 2010 rate increase in excess of 25 percent for provider of last resort service.

Various parties filed a joint petition for settlement on Feb. 27, 2008, seeking to fully resolve all issues associated with the RSP. The Office of Administrative Law Judge issued a recommended decision on March 6, 2008, recommending approval of the joint petition, which provides for implementation of an RSP under various terms and conditions. As outlined by the signatories, PPL would collect an RSP charge on a monthly basis from participating customers from July 2008 through December 2009. These amounts, plus interest, would then be paid back to the participating customers in the form of an RSP credit on each customer's bill from January 2010 through December 2011. Also, under the proposed settlement, the RSP would be available on an opt-in basis to certain residential, small commercial, small industrial and street lighting customers. This differs from PPL's original filing which would have required customers to opt-out of the plan.

On March 18, 2008, the Commission reopened the record for the purpose of holding a public input hearing on the RSP and proposed settlement, noting the significant legislative and media attention that these issues have garnered over the past year. A public input hearing has been scheduled in Bethlehem, PA on April 2, 2008, starting at 3 p.m. Commission action on the joint petition is expected at the public meeting of April 9, 2008.

## Settlement Approved for Citizens' Electric

On April 30, 2007, Citizens' Electric Company of Lewisburg, a utility which provides electric service in Union and Northumberland counties, filed a request for a base distribution rate increase of \$898,363 per year (7.4 percent) to become effective July 29, 2007. Various statutory parties and individuals consumers filed complaints to the request at Docket Number R-00072348, *et al.*

On Oct. 15, 2007, an evidentiary hearing was held to inform the presiding administrative law judge (ALJ), about the terms of a proposed partial settlement. One issue, the proposed rate design for Rate GLP-1, was not included as part of the settlement.

On Dec. 14, the ALJ recommended that:

1. The partial settlement be adopted;
2. The current design for GLP-1 not be changed; and
3. The GLP-1 rate be revised to recover a specific increase in revenues consistent with the settlement.

Citizens' filed exceptions to the recommended decision. On Feb. 14, 2008, the PUC voted 4-0 to deny the company's exceptions and approve the settlement. This action allowed Citizens' to increase its distribution rates by about \$699,000 (5.7 percent) a year for service rendered on or after Feb. 29. Under the settlement, the average residential customer using 1200 kWh a month would see their monthly distribution charge increase by about \$4.04 from \$21.40 to \$25.44.

The increase affects about 5,800 residential customers and 1,100 commercial and industrial customers in Lewisburg Borough, and Buffalo, East Buffalo, Kelly and West Chillisquaque Townships. The settlement prohibits Citizens' from filing for another distribution rate increase before Jan. 1, 2010.

## Rate Cap Study Begins

On Jan. 16, 2008, the Pennsylvania House of Representatives adopted House Resolution No. 506, urging the PUC and the Department of Environmental Protection to identify and evaluate measures taken in other states to manage the transition to an environment in which electric consumers are not protected by rate caps. The agencies are asked to focus on efforts taken elsewhere to minimize the effect of this transition on individual residential consumers. In addition, HR 506 requests written suggestions on how the state's laws may be changed to minimize rate shock. The PUC has convened an internal multi-bureau group to undertake the requested review.

## AEPS 2007-08 Annual Report

Electric distribution companies (EDCs) and electric generation suppliers (EGSs) subject to 2007 compliance standards under the Alternative Energy Portfolio Standards Act (AEPS) of 2004 purchased the requisite number of credits to meet their obligations for the first reporting period, according to an annual report prepared by the PUC Bureau of Conservation, Economics and Energy Planning.

Between Feb. 28, 2007, and May 31, 2007, Penn Power, UGI-Electric and five suppliers sold 1,452,807 megawatt hours of electricity and purchased 82,877 credits to meet their obligations. The suppliers include Constellation New Energy, Dominion Retail, Sempra, FirstEnergy Solutions and Strategic Energy.

During this reporting period, 5.7 percent of electricity sold to retail customers in the two utility service areas was generated from alternative energy resources. Tier I resources, such as wind, low-impact hydro and solar energy made up 1.5 percent. Solar photovoltaic energy sales represented 0.0018 percent of the Tier 1 percentage. Tier II resources, such as waste coal, made up 4.2 percent. The law established requirements of 1.5 percent and 4.2 percent for Tier I and II resources, respectively, and 0.0013 percent for solar photovoltaic resources.

By 2021, EDCs and EGSs must supply 18.5 percent of electricity using alternative energy resources. The percentage of Tier I, Tier II and photovoltaic resources gradually increases over this period. Compliance is verified through the purchase of alternative energy credits. Each credit represents one megawatt hour of alternative energy generation.

## West Penn Power Company Files Wind Tariff Supplements

On Nov. 19, 2007, West Penn Power Company filed tariff supplements proposing to implement a voluntary mechanism for the company's distribution customers to contribute to the development of wind energy sources, through wind energy service riders. Simultaneously, the company filed a petition with the Commission, for approval of the implementation of the tariffs on less than 60 days notice, with an effective date of Jan. 1, 2008. The tariff supplements were voluntarily postponed until Jan. 25, 2008. The PUC's Office of Trial Staff, the Office of Consumer Advocate, the Office of Small Business Advocate, and industrial interveners filed notices of appearance and responses to the petition. At the public meeting of Jan. 24, the Commission voted to assign the case to the Office of Administrative Law Judge for scheduling of hearings as may be necessary culminating in the issuance of a recommended decision.

## December Winter Storm

A severe winter ice storm entered Pennsylvania early on the morning of Sunday, Dec. 16, 2007, and continued throughout the day into early Monday, Dec. 17. The severe storm event consisted of freezing rain, sleet, snow and high winds. The Harrisburg, Lehigh Valley, Lancaster, Lebanon, Frackville, and Scranton regions were hit hardest by the wintry mix and high winds. The last customer outage was restored about 1:30 a.m. on Dec. 21, 2007.

During the event, the PUC Emergency Management Team staffed the Pennsylvania Emergency Management Agency (PEMA) Emergency Operation Center from Saturday, Dec. 15, until Monday, Dec. 17.

In the PPL service territory, there were 179,744 customer service interruptions. MetEd experienced 182,699 customer service interruptions. West Penn and PECO experienced 26,731 and 108,262 customer outages, respectively.

Because of the severity of the damage, Pennsylvania utilities asked for and received assistance from utilities and contractors from New Jersey, Ohio, New York, North Carolina, South Carolina, Maryland, West Virginia, Virginia, Tennessee, Kentucky and Georgia.

To put some perspective on the magnitude of the ice storm, in terms of customer outages, this event ranked as the seventh worst for PPL since 1991. Since 2001, only Hurricane Isabel caused more customer outages for the Pennsylvania FirstEnergy companies.



## Penn Power's IDSSP Settlement

On May 2, 2007, Penn Power filed a petition, at Docket No. P-00072305, for approval of its Interim Default Service Supply Plan (IDSSP) for the period June 1, 2008, through May 31, 2011. On Oct. 1, 2007, a joint petition for settlement was filed by Penn Power, the Office of Consumer Advocate (OCA), the Office of Small Business Advocate (OSBA), Dominion and Constellation. The administrative law judge (ALJ) recommended approval of the settlement, and the PUC's Office of Trial Staff (OTS) filed exceptions.

At the Dec. 6, 2007, public meeting, the PUC requested the parties to submit comments regarding the acquisition of default service supply. The comments invited to be submitted by Dec. 14, 2007, were to address the possibility of utilizing a portfolio approach to the acquisition of default supply. The settlement provided for a full services contract for default supply. At public meeting of Dec. 20, 2007, the PUC remanded this matter to the ALJ to develop a further record on whether to adopt the portfolio approach to the acquisition of default supply to serve the residential class.

Penn Power, Constellation, SEL, the OSBA and the OCA submitted remand direct testimony on Feb. 5, 2008. Rebuttal testimony was submitted by Dominion Retail, Constellation, SEL, the OSBA and the OCA on Feb. 15. Hearings for the remanded issue were held on Feb. 26. On Feb. 29, the parties filed main briefs and the ALJ issued an order certifying the record of the remand proceeding. At the public meeting of March 13, 2008, the PUC adopted the settlement's full requirements contract approach for acquisition of default service supply for the residential class.

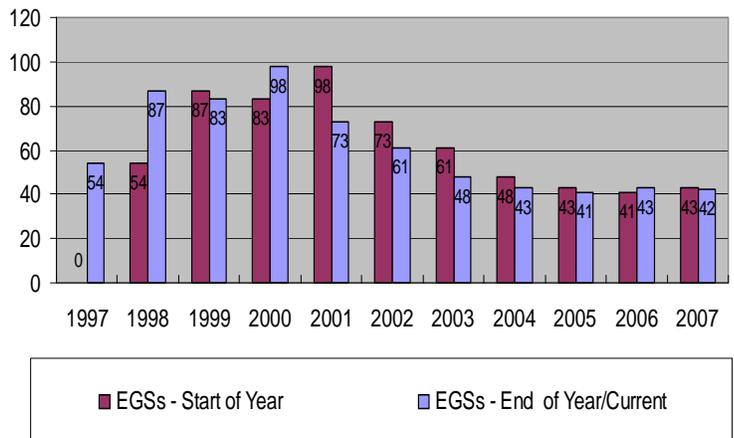
## Electric Supplier Licensing

Activity from Nov. 1, 2007 to March 19, 2008.

### 41 Active Licenses

- 1 license canceled
- 1 license approved
- 3 applications pending

## Number of Licensed EGSs



## Water and Wastewater Company Applications Approved

**Applications Approved**  
**Nov. 1, 2007, through March 15, 2008**

Utility	Action	Territory	Approval Date
Southern Berks Water Company	New Company	Robeson & Caernarvon Townships and New Morgan Borough, Berks County	11/08/07
Aqua Pennsylvania Inc.	Additional Territory	Texas Township, Wayne County	11/08/07
Rostraver Preferred Properties Inc. (Wastewater)	Abandonment	Rostraver Township, Westmoreland County	11/29/07
Pennsylvania-American Water Company/Three Lane Utilities Inc.	Acquisition/Abandonment	Westfall Township, Pike County	11/29/07
The York Water Company	Acquisition & Additional Territory	West Manheim Township, York County and Oxford, Mount Pleasant & Union Townships, Adams County	12/20/07
Pennsylvania-American Water Company	Additional Territory	Connoquenessing Township, Butler County	01/10/08
Aqua Pennsylvania Inc.	Additional Territory	Edgmont Township, Delaware County	01/24/08
Columbia Water Company	Additional Territory	East Donegal Township, Lancaster County	02/14/08
Pennsylvania-American Water Company	Acquisition & Additional Territory	Borough of Claysville and Donegal Township, Washington County	02/14/08
United Water Pennsylvania Inc.	Acquisition & Additional Territory	Penn Township, Perry County	02/14/08
Pennsylvania-American Water Company/Mountain Top Estates Property Owners Association	Acquisition & Additional Territory	Middle Smithfield Township, Monroe County	03/13/08

## Clarendon Water Fined for Service Quality Issues

A Clarendon Water Company customer filed a formal complaint (Docket No. C-20067108) alleging poor water quality, specifically hot water that turns black and caused stains. The customer requested an adjustment to her account. The PUC's administrative law judge (ALJ) found that Clarendon had provided inadequate and unreasonable service in violation of Section 1501. The ALJ calculated a credit to the account but did not impose a fine because Clarendon was working with the Pennsylvania Department of Environmental Protection to improve its service.

By tentative opinion and order, entered Sept. 17, 2007, the Commission increased the amount of the credit to the customer in order to compensate her for the excess water she used and the poor quality. The Commission also imposed a \$1,000 fine on Clarendon for chlorination deficiencies and manganese levels, in addition to instituting a non-prosecutory investigation to be conducted by the Commission's Law Bureau and Bureau of Fixed Utility Services. Comments to the tentative opinion and order were filed by Clarendon on Oct. 3, 2007. A final order adopting the tentative order was entered on Jan. 24, 2008, and a staff investigative report is pending.

## PUC Grants Hearing Requests by PAWC Customers

In September 2007, 23 formal complaints were filed by customers of Pennsylvania American Water Company (PAWC), protesting PAWC's proposal to convert its West Shore Regional Water Treatment Plant and its Silver Springs Water Treatment Plant from chlorinated water to chloraminated water. The Pennsylvania Department of Environmental Protection (DEP) had issued permits to PAWC that approved the PAWC plan to change from chlorine to chloramine water treatment.

PAWC filed preliminary objections asking that each complaint be dismissed by the Commission for lack of subject matter jurisdiction. By an initial decision issued on Oct. 5, 2007, the administrative law judge (ALJ) granted PAWC's preliminary objections and dismissed the complaints. Exceptions were filed by Susan K. Pickford and 22 other customers, and the Office of Consumer Advocate on Oct. 25, 2007. Reply exceptions were filed by PAWC on Nov. 5, 2007.

On March 13, 2008, the PUC voted to grant the request of the PAWC customers to hold hearings on the health and safety impacts of PAWC's decision to treat its water in Cumberland and York counties using chloramines. The Commission directs that hearings be scheduled on an expedited basis so that this matter can be resolved quickly.

In addition to DEP's review, the PUC also has a statutory obligation to address other aspects of water quality to ensure the provision of adequate, safe and reasonable service under the Public Utility Code. The public interest requires that a hearing be granted to allow complainants an opportunity to challenge the issues of water quality and service.

## Deer Haven Seeks to Purchase Two Water and Wastewater Systems

In May 2004, Deer Haven LLC entered into an agreement to purchase two Pike County problem water and wastewater companies from the Gawron Group, then owners of Lakeside Water Systems Inc. and Edwin Inc. In June 2004, shortly after executing that agreement, Deer Haven began providing water and wastewater services to Lakeside and Edwin's former customers. Deer Haven also began making improvements to the systems to bring them into compliance with DEP regulations. On March 8, 2006, Deer Haven LLC filed applications at the Commission seeking formal approval for the acquisition of common stock, assets and customers of Lakeside Water Systems and Edwin. On April 10, 2006, the Gawron Group petitioned to intervene and protest the applications. On March 2, 2007, Deer Haven filed amended applications withdrawing its requests for stock transfer approvals. In all other respects, the applications remained the same. On June 15, 2006, Law Bureau prosecutory staff filed a notice of appearance in the proceeding on behalf of Deer Haven.

Hearings were held and briefs and reply briefs were filed. Subsequently, in an interim order dated Feb. 14, 2008, the PUC administrative law judge (ALJ) denied the Gawron Group's request to file supplemental briefs and to reopen the record. In addition, the ALJ directed Deer Haven to provide the documentation required by 52 Pa. Code § 3.501 in order to have a complete application for review. Deer Haven was given until April 18, 2008, to complete its amended application. An initial decision from the ALJ is expected following Deer Haven's supplement of the record.

## Update on PAWC Outages

On Dec. 10, 2006, approximately 1,000 Pennsylvania American Water Company (PAWC) customers in the Pittsburgh area and two nearby schools experienced extended water outages. These outages in the Pittsburgh area continued for several days. Similar extended outages had occurred in November 2006, when 2,000 PAWC customers in portions of Lackawanna County lost their water service.

As a result of these events, the PUC, at the public meeting of Dec. 31, 2006, adopted a motion that called for an investigation of these outages to examine the utility's compliance with the Public Utility Code and the PUC's regulations regarding safe and reliable water service in the Commonwealth.

The PUC's Law Bureau, in conjunction with the Bureau of Fixed Utility Services, prepared a report relating to the Pittsburgh outages that was submitted to the Commission in April 2007. On June 21, 2007, the report, which contained 15 directives for PAWC to implement, was released to the public for comment.

On July 26, 2007, the Commission's final order after comments was entered. Commission staff is continuing to collect data for a second joint staff report relating to the extended outages in Lackawanna County and other portions of PAWC's service territory. This report is scheduled to be submitted to the Commission by April 2008.

## W.P. Water and Wastewater Update

In the Autumn 2007 issue of *Keystone Connection*, it was reported that WP Water and Sanitary Companies are involved in a consolidated Section 529 investigation which was then in mediation. The article addressed in detail the procedural history of this problem company's litigation. To date, there is no change in the status of that proceeding and the parties are continuing to negotiate in good faith.

## Water and Wastewater Rate Increases

### Rate Increase Request Summary November 1, 2007 through March 15, 2008

Utility Name	Amount(\$) Requested	Amount(\$) Granted	% of Increase	Action	Action Date
Glendale Yearound Sewer Company	142,655	0	0.00%	Withdrawn	11/29/07
Pennsylvania-American Water Co.	59,236,366	36,000,000	8.95%	Settlement	11/29/07
Little Washington Wastewater Company - Rivercrest Division	63,573	54,500	80.87%	Settlement	11/29/07
Little Washington Wastewater Company - Twin Hills Division	67,749	51,500	28.98%	Settlement	11/29/07
United Water Bethel, Inc.	79,445			Investigation	12/20/07
Total Environmental Solutions, Inc. - Treasure Lake Water Div.	272,121			Investigation	12/20/07
Total Environmental Solutions, Inc. - Treasure Lake Wastewater Div.	286,615			Investigation	12/20/07
Borough of Ambler - Water Dept.	454,798	339,146	33.31%	Settlement	12/20/07
Aqua Pennsylvania, Inc.	41,700,000			Investigation	1/10/08
Village Water Company, Inc.	42,575	30,000	42.98%	Settlement	1/10/08
Wonderview Sanitary Facilities	18,577	11,550	18.12%	Settlement	1/10/08
Birch Acres Water Works, Inc.	6,230	6,230	37.00%	Settlement	2/14/08

## Aqua America Water Company Rate Increase Request

In November 2007, Aqua American Water Company filed for a \$41.7 million overall rate increase.

According to the company, the increase is the result of its investment of \$253.6 million to improve water quality, service and reliability for its customers since its last rate increase in 2006, as well as increases to various operating expenses such as salaries and wages, pension and health care.

On Jan. 10, 2008, the Commission voted 4-0 to open an investigation and assigned the request to an administrative law judge for public input hearings, evidentiary hearings and a recommended decision. The Commission will make a final decision by Aug. 21, 2008.

Under the company's proposal, the annual bill for an average residential consumer using 51,600 gallons of water would increase in the range of 8.4 to 49.9 percent. An average residential consumer using 55,200 gallons of water would see increases in the range of 9.8 percent to 40.4 percent. An average residential user using 58,200 gallons of water would experience increases in the range of 7.1 percent to 27.2 percent. The average annual bill for customers in the Roaring Creek Division using 55,200 gallons of water would decrease about 0.3 percent. The rate change would affect all of Aqua's 403,235 customers in some way, dependant on their usage and service area.

## PUC Releases Water Company Audit Reports

The PUC released the audit reports on the Management Efficiency Investigations (MEI) of Newtown Artesian Water Company (NAWC) and United Water Pennsylvania (UWPA), in August 2007 and December 2007, respectively, which examined the companies' progress in implementing recommendations from prior Focused Management and Operation Audits and their emergency preparedness efforts. Both audits were conducted by staff from the PUC's Bureau of Audits. The MEIs identified 10 new recommendations for each company.

UWPA had combined potential annual and one-time savings of up to \$316,300 and \$280,000, respectively, by implementing the recommendations.

The audit staff found that NAWC has effectively implemented five of the 13 recommendations reviewed from its August 2004 management audit and had taken some action on the other eight prior recommendations. As a result of its implementation efforts, NAWC is realizing annual savings of about \$86,000 and has experienced one-time savings of \$67,000.

Some of the changes made by NAWC since the 2004 audit include:

- Implementing a distribution system valve inspection and maintenance program;
- Reducing the size of its Board of Directors;
- Expanding its code of ethics to address key corporate governance issues;
- Conducting lease versus buy analysis when making vehicle purchases; and
- Reducing its fleet by two vehicles.

NAWC's Implementation Plan submitted in response to the MEI indicated acceptance of all 10 follow-up recommendations. NAWC also indicated that it had already completed three of the 10 recommendations and plans to complete the remainder by mid-2008. Some of the most significant recommendations accepted by NAWC included:

- Complying with regulations for development of physical security plans, cyber security plans and business continuity plans and implementing vulnerability assessment recommendations;
- Continuing efforts to contain Board of Directors' fees; and
- Establishing a formal competitive bid/quote policy for purchases of goods and services.

The audit staff found that UWPA has effectively implemented four of the 12 recommendations reviewed from its April 2004 management audit and had taken some action on the eight remaining prior recommendations. Some of the changes made by UWPA since the 2004 audit include:

- Completing a Vulnerability Assessment and updating Emergency Response Plans for each of its operations;
- Implementing an automated customer complaint tracking system and monitoring the quality of customer service provided;
- Achieving female and minority employment at, or above, its labor market availability in all equal employment opportunity (EEO) job categories; and
- Completing a study to measure the cost effectiveness of services provided from affiliates versus market prices.

UWPA's Implementation Plan submitted in response to the MEI indicated acceptance of seven follow-up recommendations and partial acceptance of the remaining three. UWPA reported that it had already completed three of the 10 recommendations and plans to complete the remainder by the year-end 2008. Some of the most significant recommendations accepted or accepted-in-part by UWPA included:

- Striving to reduce its statewide lost water;
- Accelerating its main replacement program;
- Striving to ensure all emergency preparedness plans and procedures are complete, up-to-date and site specific;
- Striving to reduce its inventory levels; and
- Updating inter-company allocation data on an annual basis.

## PAWC Rate Increase Request

In April 2007, Pennsylvania American Water Company (PAWC) filed to increase water rates by \$59.2 million or a 14.7 percent increase. The Commission voted to open an investigation and assign the proposal to a PUC administrative law judge for a hearing and recommended decision. The parties were able to come to an agreement and a joint petition for settlement was submitted on Oct. 10, 2007.

The Commission approved the settlement unanimously, which was reached between the company and the state's Office of Consumer Advocate, the state's Office of Small Business Advocate, the PUC's Office of Trial Staff, Pennsylvania American Water Large Users Group, AK Steel, Commission on Economic Opportunity and consumers who had filed formal complaints.

Under the settlement, the company raised water rates by about \$36 million (8.9 percent) effective Nov. 30, 2007. Under the terms of the settlement, the company may not file for a rate increase until April 24, 2009. The company also agreed to increase its low-income customer charge discount from 50 percent to 65 percent and the shareholder's funding for the PAWC's low-income hardship grant program from \$100,000 to \$150,000. The rate increase affects all 630,185 customers in the 35 counties where service is provided. The company's previous increase went into effect on Jan. 29, 2004.

## PUC Prevails in Core Appeal

*Commonwealth Court Agrees that Transmission Path Service to a Limited Class is Telecommunication Public Utility Service under Pennsylvania and Federal Law.*

On Jan. 24, 2008, the Commonwealth Court issued an opinion upholding the PUC's authority to grant a certificate of public convenience to Core Communications Inc. The court affirmed the Commission's Dec. 6, 2006, decision that allowed Core, a competitive local exchange carrier (CLEC) in Verizon's service territory, to expand its operations into the service territories of Pennsylvania's rural carriers. The PUC's decision authorized Core to provide competitive services, primarily wholesale transmission service for dial-up Internet service providers, in the rural carriers' service territories just like Core was providing in Verizon's service territory.

In affirming the Commission's decision, the Commonwealth Court rejected the appeals of the Rural Telephone Company Coalition (RTCC) and the Pennsylvania Telephone Association (PTA). The appellants had claimed that the Public Utility Code prohibits the Commission from amending Core's authority so as to expand its telecommunications service from Verizon's service territory into the rural telephone companies' service territories. They had also claimed that Core was providing information service rather than telecommunications service under state and federal law. Further, the appellants had argued that Core was technically, financially, and managerially unfit to provide service in the territory of Pennsylvania's rural telephone companies.

The court upheld the Commission's determination that Core is a facilities-based carrier fit to provide wholesale transmission service and agreed that VNXX, the use of local numbers at a tandem instead of a central office, constitutes local exchange service under Pennsylvania and federal law. Noting, as the PUC had, that Core was already providing wholesale transmission service in Verizon's service territory, the court found there was no reason to deny Core the right to expand its operation to provide the same services in the rural carriers' service territories. The court also agreed with the Commission that a February 2007, decision of the FCC correctly concluded that wholesale transmission path service is a telecommunications service based on Pennsylvania law under *DQE v. North Pittsburgh Telephone Company* at File No. EB-05-MD-027.

## Comcast Business Communications Filed to Expand its CLEC Authority

This year, Comcast Business Communications LLC (Comcast), which does business under the trade name of Comcast Long Distance, filed for approval to expand its competitive local exchange carrier (CLEC) operating authority into four rural carriers' territories – Windstream, Frontier/Commonwealth, Consolidated/North Pittsburgh and Conestoga. Comcast is currently certificated to provide service in the territories of Verizon Pennsylvania, Verizon North and Embarq.

Comcast requests certification to provide local interconnection service, providing connectivity to the public switched telephone network to cable-based voice over Internet protocol (VoIP) carriers. This service appears to be similar in nature to the wholesale services the Commission authorized Sprint Communications to provide to facilities-based telecommunications providers in 2006. Unlike in the Sprint application, though, Comcast has requested that its voice over Internet protocol (VoIP) customers, which will provide the telecommunications services to the end-use consumers, not be subject to the Commission's rules and regulations.

If its application is approved, Comcast expects that more than 200,000 households in rural Pennsylvania will have access to competition for telecommunications services. Comcast also touts its business plan as bringing a commitment to investing in and expanding E9-1-1 service and Pennsylvania's Universal Service Fund as well as creating new jobs in the Commonwealth. Comcast expects to begin providing service in July 2008.

Comcast's application to expand its operating authority comes at the same time that Comcast Digital Phone, an affiliate of Comcast, is in the process of discontinuing the provision of traditional CLEC service to its customers in the Pittsburgh area. The Comcast application is still pending in the Bureau of Fixed Utility Services for recommendation to the Commission or referral to the Office of Administrative Law Judge, should any protests be filed.

## Access Charge Investigation

The Commission is currently considering a joint motion by the Rural Telephone Company Coalition (RTCC), the state's Office of Consumer Advocate (OCA), the PUC's Office of Trial Staff (OTS), and The United Telephone Company of Pennsylvania d/b/a Embarq Pennsylvania (Embarq Pennsylvania) (f/d/b/a Sprint) requesting a further stay of the Commission's intrastate access charge investigation at Docket No. I-00040105.

The Office of Small Business Advocate (OSBA) filed an answer and new matter averring that the motion should be granted in its entirety and that the caps on R-1 and business rates should remain in effect throughout the stay. Verizon Wireless and numerous other wireless carriers and Interexchange carriers (IXCs) filed as intervenors opposing the joint motion.

The OSBA filed an answer agreeing with the joint movants that the Federal Communications Commission's (FCC's) *Unified Inter-carrier Compensation* proceeding and pending Congressional legislation could significantly impact the issues raised in the instant proceeding.

Additionally, in a related matter, the Commission is considering OCA's petition for reconsideration of the Commission's Dec. 7, 2007, order at Docket No. R-00981430F1000, et al. The OCA requests that the Commission reconsider its granting of a waiver that permits the three D&E companies to increase its basic service rates so as to recover increases allowed under their Chapter 30 plans. The Commission is expected to rule on both matters by the end of April.

## Voice Over Internet Protocol Regulation Legislation

The Senate recently approved Senate Bill (SB) 1000, a bill that would comprehensively prohibit the Commission from regulating Internet protocol (IP), IP-enabled, or voice over Internet protocol (VoIP) service.

The Senate's approval followed the earlier introduction of several bills dealing with VoIP. Although the others are still pending, the Senate approval effectively sent SB 1000 to the House for further action.

On March 10, 2008, Chairman Wendell F. Holland testified before the Pennsylvania House Consumer Affairs Committee to present his views and comments on SB 1000.

Other pending bills include Senate Bill 385 that would require VoIP providers to collect monthly contributions from their customers to support county 911 functions. In addition, Senate Bill 460 (regarding caller ID fraud involving any telecommunications or VoIP service) would provide additional consumer protections.

## PUC Focuses on Final EAS Regulations

In 2006, the Commission started a rulemaking to revise the Commission's extended area service (EAS) regulations at 52 Pa. Code §§ 63.71-63.77. The PUC's EAS regulations govern the circumstances under which the Commission will order an extension of a carrier's local calling area, the area in which a consumer can place a call without incurring a toll charge. An important issue under consideration is a proposal to eliminate the requirement for biennial traffic studies, a requirement under the current regulations aimed at reducing the number of formal EAS proceedings.

The Commission is currently reviewing the detailed comments filed to the initial rulemaking proposal. The comments raise a number of issues beyond the elimination of the traffic study requirement.

The Commission intends to act on the proposed regulations by June 2008, so that final regulations addressing EAS can be in place. The final EAS regulations would provide the regulated community and consumers with the needed predictability in light of the considerable changes in technology and service providers that have occurred since 1993, when the Commission last revised these regulations.

## NPTC and PTI Acquired by Consolidated

On July 16, 2007, North Pittsburgh Telephone Company (NPTC) and Penn Telecom Inc. (PTI) filed a joint application with the Commission seeking approval for a proposed transfer of control of the companies to Consolidated Communications Holdings Inc., by which Consolidated acquired ownership of the companies' corporate parent, North Pittsburgh Systems Inc.

NPTC is an incumbent local exchange carrier that offers local, toll, broadband and switched and special access services, as well as access to adjunct services such as custom calling features, operator service, and directory assistance service, within its franchised service territory in portions of Allegheny, Armstrong, Butler and Westmoreland counties. NPTC has now changed their name to Consolidated Communications Inc.

PTI is a competitive local exchange carrier that provides a similar range of services, primarily focused on the enterprise business market in the Pittsburgh area within the service territories of Verizon, Verizon North and Embarq Pennsylvania.

An initial decision approving a settlement agreement was issued by the PUC's Office of Administrative Law Judge on Nov. 16, 2007, and approved without further Commission action on Dec. 5, 2007.

## PUC Prevails in Verizon-MCI Merger Supreme Court Case

In December 2007, the Pennsylvania Supreme Court issued an order upholding the PUC's decision in the Verizon-MCI merger appeal. The Supreme Court decision reversed the earlier decision of the Commonwealth Court that had reversed the PUC's decision. The Supreme Court decision reinstated the Commission's order, which had approved the Verizon-MCI merger with conditions other than financial concessions. The PUC's order also rejected the need for service-quality measures or accelerated broadband rollout in Verizon's rural areas.

In its Feb. 20, 2007, decision, the Commonwealth Court reversed a PUC decision that approved the merger of MCI and Verizon. The Commonwealth Court found, consistent with arguments advanced by the Office of Consumer Advocate, that the Commission had not appropriately analyzed the merger's impact on competition in Pennsylvania.

The Commonwealth Court also said that the PUC had failed to identify how the public would benefit as required by the Pennsylvania Supreme Court decision in *City of York v. Pa. PUC*, 295 A.2d 825 (Pa. 1972).

The PUC had appealed the Commonwealth Court decision to the Supreme Court citing several facts that supported the PUC's analysis of the merger's impact in Pennsylvania. The Commission claimed that the court incorrectly weighed the record evidence to reach a different result that could require future parties in mergers to deliver concessions in a way not authorized by *City of York*. The PUC reiterated the facts supporting a determination that the public would benefit in a substantial way from the merger as required by the *City of York* case.

The Supreme Court's decision affirmed the PUC's conclusion that the public interest benefit requirement of the *City of York* can be met by taking a broad prospective of "public benefit" as opposed to a narrower approach that focuses on rate concessions, service quality measures, or broadband deployment acceleration. The Supreme Court decision also included broad language supporting the PUC's policy making prerogatives.

## Audit of Verizon's Network

The Liberty Consulting Group is conducting an audit of Verizon Pennsylvania's network modernization plan (NMP) implementation progress as reported in its biennial NMP update of June 30, 2007, representing its progress as of Dec. 31, 2006. Liberty concluded its field work and is beginning to draft its report which is expected to be released in summer 2008. Liberty's work included visits to selected test locations to verify the accuracy of Verizon's records of deployed broadband equipment; their location next to schools, health care facilities and business parks; and testing for broadband speed accuracy.

## Designation of Eligible Telecommunications Carriers

The Telecommunications Act of 1996 (TA-96) established the federal Universal Service Fund (USF) as a means to promote universal dial-tone telephone service and competition to further the goal of advanced infrastructure deployment to all areas for the benefit of all United States citizens. Under the USF program, a federal per-access-line surcharge is imposed upon wireline, wireless and voice over Internet protocol (VoIP) customers across the nation. Surcharge collections are administered by the quasi-governmental USF Administrator.

Telecommunications carriers can secure disbursements from the USF high-cost fund to offset the cost to provide telecommunications services in areas in which they seek to serve. In order to obtain USF high-cost support funding, a carrier must first seek approval from the state commission or Federal Communications Commission (FCC) via what is known as designation as an eligible telecommunications carrier (ETC).

Generally, the Commission follows the mandatory minimum guidelines for ETC designations set forth by the FCC in March 2005. However, the burgeoning size of the high-cost fund and the manner by which the USF funds are dispersed has raised concerns that the funding is not achieving the goals of TA-96. The Commission is particularly concerned because Pennsylvania is a net contributor to the fund. The Commission believes that there may be a need to make fundamental changes in the methods for awarding funding and intends to become involved in recent reform proposals currently pending at the FCC. Two collateral issues in this regard are the designation of wireless carriers as ETCs and multiple ETCs in a common service territory.

To date, the Commission has issued letters declining to exercise jurisdiction over wireless carriers for purposes of ETC designation; however, the Commission has expressly retained the right to exercise jurisdiction at a future point. Several wireless carrier petitions for ETC designation in Pennsylvania are pending at the FCC and the Commission is involved. In Pennsylvania, a wireline carrier, Cordia Communications, currently has pending for Commission consideration a formal petition for ETC designation. That wireline petition will effectively present the Commission with the opportunity to re-examine the issue of ETC designations.

## Columbia Gas Rate Increase Request

Columbia Gas of Pennsylvania filed on Jan. 28, 2008, for an increase in base rates of \$59.9 million or a 10.3 percent increase. The proposed request, comparable with other recent utility distribution requests across the state, reflects increased cost of providing service, including the company's ongoing infrastructure upgrade and replacement program. More specifically, Columbia has implemented a program to replace all of its unprotected bare steel and cast iron mains.

Columbia Gas is among the larger local natural gas distribution companies in the state, providing service to more than 410,000 customers in 26 counties. Under the proposed increase of \$59.9 million annually (10.3 percent increase in annual revenues), residential customers using 7.2 Mcf per month would pay \$113.94, up \$10.99 or less than 11 percent. Commercial customers using 43.5 Mcf per month would now pay \$557.89 per month, up \$23.13. Industrial customers using 500 Mcf per month would now pay \$6,029.45 per month, up \$241.11.

The proposed new rates reflect costs the company claims to have incurred over the last several years to maintain their delivery system and other factors, including increased fuel costs, health care and wages, insurance, newer technology, billing and customer service, and more. Since its last rate request in 1996, the company has invested more than \$280 million to provide service.

In addition, the company has pledged to expand its weatherization and customer assistance efforts. The company has a team of in-house social service workers and partners with hundreds of nonprofit organizations to offer conservation, weatherization and payment assistance for low income customers.

The company recently announced plans to invest more than \$1.4 billion to replace the aging pipes and facilities that deliver gas to its customers. The company's investment is among the first major, systematic natural gas infrastructure replacements of this magnitude in Pennsylvania and the country. The company's goal is to replace approximately 600,000 feet of aging underground pipes and distribution facilities each year. For every project, Columbia will try to coincide with existing infrastructure improvement projects with municipalities, other utilities, and the state to minimize community impact and reduce costs.

## Understanding Purchased Gas Rate Costs

There are 10 major natural gas distribution companies (those with gross revenues in excess of \$40 million) serving over 2.5 million customers within Pennsylvania. The annual 1307(f) proceedings are applicable to these 10 major companies and this year's reviews began with the Feb. 1 filings of National Fuel Gas Distribution Company Inc. and T.W. Phillips Gas and Oil Company. These filings were followed by Philadelphia Gas Works on March 1, 2008. The balance of the companies file in accordance with the schedule set annually and posted in the *Pennsylvania Bulletin*. In addition to Feb. 1, 2008, and March 1, 2008, the filing period includes April 1, 2008, and June 1, 2008.

The 1307(f) proceedings were introduced in the mid-1980s and represent a major departure from the traditional manner of recovering natural gas costs through base rates. The 1307(f) proceeding eliminates the complexity, expense and frequency of base rate proceedings necessary to recover gas costs. The wildly fluctuating gas costs of recent years reinforces the value of this recovery mechanism as it allows companies to adjust prices according to the market and thereby sending the proper price signals to consumers. Furthermore, price signals can be kept current because gas costs can be adjusted quarterly in order to minimize the effect of the volatility of gas costs.

Each annual 1307(f) filing requires that the natural gas distribution company file statements indicating the total revenues received pursuant to this section, the total natural gas costs incurred and how the costs incurred were part of a least cost procurement strategy as required by 66 PA C.S.A. §1318. This reporting requirement is done first with prefiled documentation submitted 30 days before the second, more detailed, definitive filing. These filings set off the statutorily mandated investigation that includes an evaluation of claimed costs, identification of any over or under collections and the proper application of interest to the revenues collected by the company. These calculations are reviewed and become a part of the company's projected costs.

A 1307(f) investigation includes a review of the company's historical practices along with an evaluation of its projected costs. This review is done to ensure that ratepayers are protected by allowing the company to only recover its prudently incurred gas costs. As investigations are mandated in these proceedings, the Office of Trial Staff in its role of protecting the public interest, is a formal participant in each 1307(f) proceeding.

Investigations are completed with recommendations from the administrative law judge followed by Commission action. Approved rates are then set according to the prescribed procedures governing these proceedings.

## Energy Price Forecast for March 2008

The Energy Information Agency's (EIA's) March 2008 *Short Term Energy Forecast* reports that rising consumption, the continued effects of production cuts by members of the Organization of Petroleum Exporting Countries (OPEC), and supply concerns in several oil exporting countries have pulled oil inventories down. Oil prices averaged \$95 per barrel in February and is expected to average \$102 in March (the spot price of oil closed at nearly \$108 per barrel on March 10, 2008, but is expected to decrease over the second half of the month). Retail prices for motor gasoline are expected to average \$3.21 per gallon or 40 cents above the 2007

price. The monthly average gasoline price is projected to peak near \$3.50 per gallon this spring.

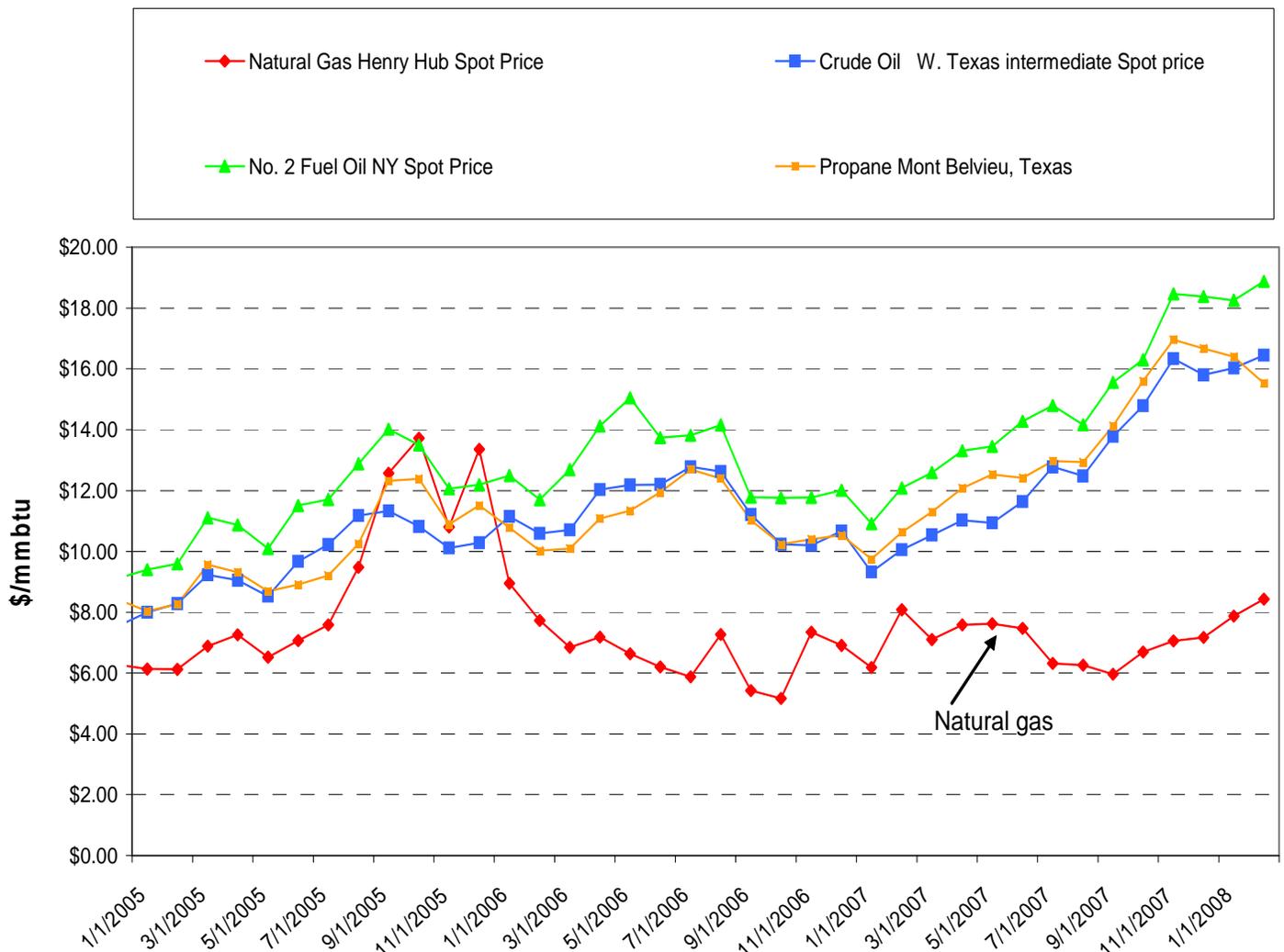
West Texas Intermediate crude oil (WTI) is the benchmark crude oil in the United States. In 2006 WTI crude averaged \$66.02 a barrel. WTI crude oil averaged \$72 per barrel in 2007 and is expected to average \$94 in 2008.

EIA shows that Henry Hub (Louisiana) wholesale natural gas prices averaged \$6.41 per Mcf in 2006 and \$7.17 per Mcf in 2007. For 2008, the Henry Hub average price is projected to move up to an average of \$8.18 per Mcf.

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)



## National Fuel Gas Corporate Control Issue

Recently, National Fuel Gas Distribution Corporation (NFG) raised a novel change of control issue in a petition/complaint filed with the PUC. In that petition, filed Nov. 8, 2007, NFG asked the Commission for an order to show cause why New Mountain Vantage GP LLC (NMV) should not be required to apply for a certificate of public convenience prior to acquiring control of NFG.

In brief, NFG claimed that the NMV entities were seeking control of NFG through a series of steps that included nominating, and electing, three of the NMV entities' representatives to the board of directors at the upcoming annual shareholders' meeting. NFG asserted that under the PUC's statement of policy at 52 Pa. Code § 69.901(b)(2), if the NMV entities gained control of at least 20 percent of the common stock of NFG's parent, they are presumed to control the parent directly and NFG indirectly, which would require the NMV entities to file an application to obtain a certificate of public convenience pursuant to 66 Pa. C.S. § 1102.

NMV filed a petition to intervene and preliminary objections, asking that NFG's petition be dismissed because the NMV entities only control 9.7 percent of the common stock, which meant that they did not have a controlling interest as defined in the statement of policy.

By order entered Dec. 26, 2007, the PUC denied NMV's preliminary objections and gave interested parties additional time to intervene and file answers. The PUC stated that based on the answers received, it would then determine whether a hearing was necessary to address and resolve any disputed factual issues.

Following the issuance of the order, NFG and NMV negotiated a settlement, and, on Jan. 30, 2008, NFG filed an agreement with the PUC, along with a petition to withdraw its complaint and petition. The settlement provided that NFG agreed to increase the size of its board of directors from 10 to 11 and to nominate a NMV candidate to fill the position and to provide NMV with an opportunity to meet with NFG's board on a semi-annual basis to discuss ideas. For its part, NMV agreed through Sept. 2009, not to acquire any additional NFG stock, to call a meeting of shareholders, or to obtain additional representation to the board. On Feb. 5, 2008, the PUC issued a Secretarial Letter allowing NFG to withdraw its petition.

## Equitable Resources' Acquisition of Dominion Peoples and Dominion Hope Called Off

In January 2008, Dominion and Equitable Resources Inc. called off Equitable's purchase of Dominion natural gas distribution subsidiaries Dominion Peoples and Dominion Hope for \$970 million. Equitable and Dominion had announced the transaction in March 2006, and received Commission approval in April 2007. The parties cited as the reason the continued regulatory delays due to the Federal Trade Commission's (FTC's) court challenge of the transaction.

After the Commission approved the purchase in April 2007, the FTC sought an injunction against the sale. In May 2007, the United States District Court in Pittsburgh denied the FTC's request for an injunction and the FTC appealed to the Third Circuit Court of Appeals. On June 1, 2007, the Third Circuit granted the FTC an injunction pending appeal. The case was argued before the Third Circuit in October, but the court had not addressed the appeal when the parties terminated the transaction. The Commission participated in the federal court proceedings as an *amicus curiae*.

## Gas Supplier Licensing

Activity from Oct. 31, 2007, to March 19, 2008.

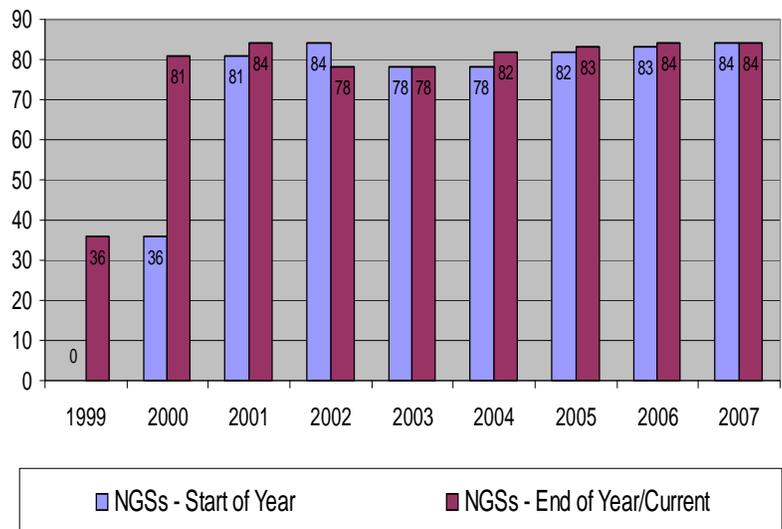
### 84 Active Licenses

1 license canceled

0 licenses approved

0 applications pending

## Number of Licensed NGs



## Gas Safety Continues Damage Prevention Efforts

The Gas Safety Division is again participating with the Pennsylvania One Call System and Verizon in 2008 to provide safety education to contractors, municipalities and other utilities as Verizon pursues installing fiber optic lines to residences across the Commonwealth. The safety training meetings began during the first week of February and will continue through the year until excavation for the fiber optic lines is discontinued.

Each Gas Safety inspector participates in the meetings which are normally held in a county in which the program is about to commence. The Gas Safety representative provides training about gas pipeline safety, and also provides damage prevention information about other utilities that may have underground lines such as electric, gas, telephone, water and sewer. The programs are well attended by municipal governments, contractors, utilities and Pennsylvania One Call. The goals of the meetings are improved communication between stake-holders, as well as safety education particularly for the contractors. The meetings occur weekly in all regions of the Commonwealth. The Gas Safety Division has seen a reduction in underground facility damages associated with the Verizon FTTP (Fiber to the Premise) since the safety meetings have commenced.

The Verizon FTTP program is the largest construction program in the state. Verizon will average approximately 43 miles of fiber installation a day. The program is statewide, however, the focus in 2008 will be in Cumberland, York, Dauphin, Lebanon, Allegheny, Beaver, Bucks, Berks, Chester and Washington counties.

## Intermodal Transportation in PA



Pennsylvania is truly the Keystone State when it comes to transportation. It has a very efficient network of highways and rail lines that are attractive to freight distribution centers. To distribute the large volume of freight efficiently, a system of partnerships has developed over the years called intermodal transportation. Intermodal is the movement of shipping containers and truck trailers by rail with at least

one other mode of transportation, usually trucks and/or ocean going vessels. Many of the containers that travel on rail cars are now "double stacked" allowing for even more efficiency.

The PUC rail engineering staff was involved in the mid-1990s when Pennsylvania started a railroad clearance improvement project. The project involved increasing the clearance of approximately 148 bridges and tunnels to accommodate double stacked containers and trailers on rail flat cars.

Railroad-trucking intermodal transportation combines the door-to-door convenience of trucks with the long-haul economy of railroads. Intermodal terminals have been established throughout the state, such as Bethlehem, Harrisburg, Chambersburg and Philadelphia. The PUC rail safety inspectors have adapted their inspection techniques and schedules to ensure proper safety oversight. The terminals are inspected frequently for operations and equipment regulatory compliance. The intermodal industry has developed many innovative and unique rail cars, so the inspectors must learn and apply safety standards for this ever-changing industry.

Today, intermodal accounts for 23 percent of revenue for Class I railroads, having passed coal in 2003. Rail intermodal transports a large variety of consumer goods. From supplier to terminal via truck, then across country to another terminal via train, then to your local store via truck again. This mode of transportation has become a very efficient, important and profitable business in Pennsylvania.



## Educational Outreach to Amish Transportation Providers

Representatives of the PUC have been holding informational meetings in the counties of Armstrong, Clearfield, Jefferson and Indiana, for persons who transport the Amish and other interested parties. Meetings were held on Nov. 19, 2007, in Luthersburg, Clearfield County and on Jan. 28, 2008, in Dayton, Armstrong County. The meetings were requested for the purpose of addressing concerns of the Amish community and the transportation providers.

Both meetings included a summary of the PUC's regulations regarding transportation of persons, information for obtaining operating authority, and a time for questions and answers.

The primary objection raised at both meetings was that persons providing transportation service for the Amish did not consider themselves operating a business, but just acting as good neighbors and friends to the Amish. In the course of the discussions, many admitted that they are transporting on a regular basis and do receive compensation. The PUC representatives emphasized the difference between somebody providing an act of kindness and individuals providing transportation on a regular basis, i.e., holding themselves out to transport any person who requests the service.

Another common objection was the manner in which PUC enforcement officers conduct their investigations. Both the Amish and their carriers have accused the PUC's officers of "profiling," i.e., stopping vehicles only because the officers see persons wearing Amish attire. In response to this claim, the audience was informed that vehicles are not stopped at random. Persons operating vehicles carrying Amish are investigated only when a detailed complaint has been filed.

Throughout the meetings, the audience was informed of the concerns the Commission has for the well-being of the public. These concerns include:

- **Inadequate insurance coverage.** Many of those transporting the Amish are unaware that their personal automobile insurance likely will not pay claims arising from an accident because the person is operating in furtherance of a commercial enterprise.
- **Condition of the vehicles being used.** While many of the vehicles may have passed a standard vehicle inspection, the owners may fail to maintain the vehicles properly afterward.
- **Fitness of those operating the vehicles.** Many of the operators may not qualify as drivers in commercial transportation.

During the portions of the meeting in which applications were addressed, it was discovered that the public was also misinformed regarding the application procedures. Common misconceptions are:

- **The filing fee of \$350 must be paid every year.** The filing fee is paid only at the time of application and authority must not be renewed each year.
- **The application process takes several years.** The application process can usually be completed within 60 to 90 days if the applicant timely provides all necessary information.
- **A PUC number is required for every vehicle.** A carrier does not need a separate number for each vehicle. A carrier's authority can cover as many vehicles as the carrier owns and uses for the service.

Though some persons attending the meetings did not agree with having PUC regulatory oversight, the audiences were generally

cooperative. At the close of both meetings, many applications were distributed, and some people even requested assistance from PUC representatives in completing the applications. The Motor Carrier Services and Enforcement Division continues to encourage this type of dialogue in order to inform and educate members of the public.

## Statewide Radio System for PUC

The statewide radio network (PA-STARNet) continues to be implemented across Pennsylvania. The PA-STARNet system has the capability to provide coverage across the state, for each of the state's 67 counties. It is used by more than 13,000 users including the PUC's Motor Carrier Division.

The Motor Carrier Division has been involved with statewide radio project since its inception. Currently the enforcement officers' vehicles are equipped with a "dash mount" radio, while the supervisors and management staff have access to portable radios. Each district office has a V-TAC mobile unit that can be used to extend the use of portables at the scene of an operation by repeating signal, or use as a stand alone base of operations. This could be of significant importance in the event of a relocation of PUC operations due to an emergency. Also the PUC has a VIP (Voice Internet Protocol) station operational at PEMA for use by our emergency response staff during an emergency. The console has interoperability with other agencies and the enforcement staff.

Officers have their own region voice group that corresponds to their respective district, as well as a statewide (SW) voice group to share information between regions. The regions are based on the district geographical locations. The radios scan the SW voice group and a tactical group while on their own voice group. Officers also have the ability to select an officer from another district by using the microphone keypad and dialing a User ID.

The Motor Carrier Division has the potential to extend its use of the radio system by adding data service that would permit officers to have access to the state's CLEAN (Commonwealth Law Enforcement Assistance Network) system. STARNet also offers the potential for the installation of VIP consoles at each district office, which permits voice communications between field staff and district offices.

## FCC Highlights



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

### **Verizon's Petitions for Forbearance in the Boston, New York, Philadelphia, Pittsburgh, and Virginia Beach Metropolitan Statistical Areas, WC Docket No. 06-172, DA 06-1869.**

On Dec. 5, 2007, the FCC issued an order that denied Verizon's petition for forbearance under federal law from common-carrier obligations. The FCC decision denied Verizon's request to forbear, or waive, the obligation Verizon has under federal law to offer access to its facilities at rates approved by the FCC. The FCC's December 2007 decision rejected Verizon's reliance on the FCC's earlier *Omaha Forbearance Order*, WC Docket No. 04-233 (Dec. 2, 2005). In the *Omaha Forbearance Order*, the FCC granted limited forbearance, or waiver, of similar federal legal requirements.

In this proceeding, the PUC filed comments that opposed Verizon's forbearance request because of a concern that any grant of forbearance by the FCC could overturn conditions that the Commission had imposed on Verizon in the Commission's order approving the merger of Verizon and MCI. The PUC also opposed Verizon's request because forbearance could hurt competition from several providers, particularly in the Philadelphia area, that rely on tariffed access to Verizon's facilities to compete against Verizon.

On Jan. 14, 2008, Verizon challenged the FCC's decision by filing an appeal at Docket No. 08-1012 with the United States District Court of Appeals for the District of Columbia Circuit. Verizon claims the FCC's decision is contrary to law, exceeds the FCC's jurisdiction or authority, violates the Communications Act of 1934 or the Administrative Procedures Act, and is arbitrary, capricious, and/or an abuse of discretion.

On Feb. 14, 2008, the Commission filed a petition to intervene in support of the FCC decision. The federal court has not yet acted on the Commission's intervention request or upon the appeal.

### **Verizon's Petitions for Forbearance, WC Docket No. 04-440**

The PUC filed comments in a proceeding at Docket No. WC 04-440 supporting requests that ask the FCC to issue an order clarifying what forbearance Verizon received. In this case, Verizon's request for forbearance was "deemed granted" under federal law because the FCC failed to act within the time set out for a decision.

In December 2007, the United States District Court for the District of Columbia issued an opinion saying that the "deemed granted" forbearance Verizon received was not a final appealable order. Since then, several parties filed

pleadings with the FCC asking the FCC to issue a final order.

### **Rulemaking Re. Procedural Requirements to Govern Proceedings for Forbearance Under Section 10 of the Communications Act of 1934, as Amended, WC Docket No. 07-245.**

On Nov. 30, 2007, the FCC issued a Notice of Proposed Rulemaking (NPR) seeking input on the processes that should be used for future forbearance proceedings at the FCC. The FCC acted in light of the number of forbearance proceedings and the questions that arose about the role of state commissions, the timing for filing information to support forbearance, and how to handle presentations at the FCC after the comment period expires. In Pennsylvania, the *ex parte* rule does not allow parties to discuss a contested on the record proceeding with the Commission except in pleadings and on the record. Federal law allows the FCC to hear *ex parte* comments and presentations after a record closes so long as the public has notice; this has happened many times in FCC forbearance proceedings.

Comments to the NPR were due March 7, 2008, and reply comments on March 24, 2008. The Commission filed comments on March 7, 2008, and also filed in support of the shared comments of the MACRUC states.

### **In the Matter of High-Cost Universal Service, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, WC 05-337.**

On Jan. 29, 2008, the FCC issued three separate notices on proposals to reform the federal universal service support program for telephone service. Previously, the PUC submitted filings asking the FCC to adopt a cap on the high-cost fund. Pennsylvania is a net contributor to the federal universal service fund in excess of \$124 million. Most of the increased costs of the federal program are because wireless carriers are now getting support that was once only given to local wireline phone companies. Several carriers and national trade associations have filed comments suggesting how the FCC should address the growing cost of universal service.

The January FCC notices seek input on high-cost, the use of reverse auctions (which would limit costs by giving universal service support for a specific service territory to a single telephone company that offered to provide the service at the lowest price), and a proposal to include limited support for rural broadband deployment from the federal fund.

Comments and reply comments are due after publication in the *Federal Register*. The Commission is awaiting publication and will most likely participate in these proceedings given the large cost of universal service to Pennsylvania ratepayers and companies.

*FCC Highlights Continued on Page 20.*

## FCC Highlights

Continued from Page 19.

### **Petition of NEP Cellcorp Inc. for Designation as an ETC in Pennsylvania, CC Docket No. 96-45, DA 07-3602.**

On Aug. 15, 2007, the FCC released a notice soliciting comments on the request of NEP Cellcorp Inc. to receive federal funding to provide wireless service in Pennsylvania. The PUC filed a reply comment opposing designation because other carriers were already receiving federal support in some of the same areas served by NEP.

The Commission expressed concern that the large increases in the federal universal service fund will continue to increase costs to Pennsylvania consumers because Pennsylvania ratepayers pay into the federal fund more than the total support received by Pennsylvania service providers. The Commission also expressed concern that multiple carriers should not all be getting federal support to serve the same territories, but that support might be a good idea where no carrier is providing services.

Attorneys for NEP Cellcorp filed a motion to strike the Commission's reply comments on the ground that was not a reply comment. The Commission filed an *ex parte* letter with the FCC in December 2007, asking the FCC to allow NEP Cellcorp to file any response as opposed to striking the Commission's comments. The letter emphasized that the cost and complexity of high-cost universal service, including support for wireless carriers, required more not less information. The Commission and NEP are awaiting FCC action.

### **Petition of TracFone Wireless Inc. for Designation as an ETC in Pennsylvania, CC Docket No. 96-45, DA 08-57.**

On Dec. 11, 2007, the FCC issued a notice seeking comments on a petition by TracFone Wireless Inc. for eligible telecommunications carrier (ETC) designation in Pennsylvania. TracFone wants support under Section 214(e)(6) of the Communications Act of 1934, as amended, throughout the entire Commonwealth of Pennsylvania, including both rural and non-rural telephone company service areas.

TracFone claims that it wants ETC designation solely to provide Lifeline service to qualifying customers in Pennsylvania. TracFone claims it does not have to own facilities, a requirement under current federal rules before a carrier can get universal service support, because the FCC granted TracFone forbearance from that requirement in 2005. TracFone further claims that it will offer free, not reduced-rate, wireless service if granted ETC designation. The PUC submitted an *ex parte* in opposition to the TracFone petition, and is currently awaiting FCC response.

### **Petition of Virgin Mobile USA (Virgin Mobile) for Designation as an ETC in Pennsylvania, CC Docket No. 96-45, DA 07-4983.**

On Dec. 13, 2007, the FCC issued a notice seeking comment on petitions filed by Virgin Mobile, a reseller of wireless services, seeking support from the federal universal service fund for wireless services for lower-income citizens in Pennsylvania, New York and Virginia. Virgin Mobile also asked the FCC to forbear from enforcing the Section 214(e)(1)(A) requirement of federal law and FCC regulation requiring that an ETC that gets money from the universal service fund to provide services must do so using its own facilities or a combination of its own facilities and resale of another carrier's services.

Virgin Mobile claims that it will use ETC designation and federal support only to participate in the Lifeline/Link-Up programs aimed at supporting telephone service for lower income consumers. Virgin Mobile did not ask for ETC designation to offer services supported by the high-cost universal service program.

The Commission filed a comment opposing the Virgin Mobile request. The Commission expressed concern that these kinds of ETC requests would increase the federal universal service fund to which Pennsylvania already pays \$124 million more in support than it receives. The Commission also noted that Virgin Mobile never provided notice of its filing to the Commission, as required, and that this underscored the need for the FCC to develop procedures governing forbearance petitions. Finally, the Commission noted that providing support for lower-income Pennsylvanians, a goal few would dispute, in areas where other providers are already getting support to provide services would unnecessarily increase costs to Pennsylvania ratepayers.

The Commission is awaiting an FCC decision on the Virgin Mobile request.

### **In the Matter of TRS and STS Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03-123.**

On Nov. 19, 2007, the FCC issued an order regarding federal support for Telecommunications Relay Service (TRS), Speech-to-Speech (STS) and Internet Protocol (IP) enabled services to individuals with hearing and speech disabilities. In the order, the FCC adopted a new cost-recovery method for federal TRS and STS based on an industry proposal. The order also adopted a new cost-recovery method for captioned telephone service (CTS), interstate and intrastate IP-captioned services, and video relay service (VRS). The FCC also addressed what costs are supported by the federal fund and resolved issues about the management and oversight of the federal fund. The order established a new way to calculate the cost to provide service to persons with hearing and speech disabilities because, under federal

*FCC Highlights Continued on Page 27.*

## FERC Highlights

*The Federal Energy Regulatory Commission (FERC) recently issued several important decisions that impact Pennsylvania.*

### **Duquesne Light Company, 122 FERC ¶ 61,039 (Jan. 17, 2008)**

On Jan. 17, 2008, FERC conditionally approved Duquesne Light Company's request to withdraw from PJM Interconnection L.L.C., and move to the Midwest ISO (Independent System Operator). Duquesne asserted that the move was necessary because of the severe financial impact of PJM's capacity costs, (known as RPM) on itself and its customers. However, FERC sent the case to mediation to resolve exit cost and allocation issues. Mediation continues.

### **Smart Grid Technology**

On Feb. 14, 2008, FERC announced that it was convening a formal federal/state dialog on the creation of next generation "Smart Grid" technology designed to improve the efficiency, reliability and environmental impact of the interstate power system. Smart Grid is short hand for a variety of control technologies that permit better monitoring and control of transmission and distribution facilities, permitting the most efficient use of generation and transmission resources and giving retail customers more usage options.

### **Wholesale Competition NOPR - at Dockets AD07-7-000 and RM07-19-000**

On Feb. 21, 2008, FERC issued a notice of proposed rulemaking (NOPR) based upon the comments received in the prior advanced notice of proposed rulemaking (ANOPR) - Wholesale Competition ANOPR. The Wholesale Competition NOPR proposes rules to address a set of specific concerns regarding the design of existing organized wholesale electricity markets and regional transmission organizations (RTOs). The specific areas addressed are:

1. Demand response and market pricing during periods of operating reserve shortage;
2. Long-term power contracting;
3. Market-monitoring policies; and
4. The responsiveness of RTOs and ISOs.

The PUC filed comments in the ANOPR and will be filing follow-up comments in the NOPR. Comments are due April 21, 2008.

### **Potomac-Appalachian Transmission Highline, L.L.C., 122 FERC ¶ 61,188 (Feb. 29, 2008)**

On Feb. 29, 2008, FERC summarily accepted, without hearing and left largely unmodified, the proposed new tariff formula rates and incentive rate of return requested by AEP's Potomac-Appalachian Transmission Highline (PATH) which plans to build a new 765 kV transmission line across portions of West Virginia, Maryland and New Jersey. FERC granted PATH's request for an return on equity of 14.3 percent, as

well as a number of other rate incentives. Requests for rehearing are due to be filed with FERC within 30 days of issuance of this order.

### **Gas Transmission Provider Standards of Conduct NOPR**

On Jan. 18, 2007, FERC requested comments upon and on March 20, 2008, it issued new gas transmission provider standards of conduct in a NOPR intended to improve competition in the wholesale gas industry. The new rule, among other things:

- Restricts marketing functions employees to those actually engaged in marketing functions, rather than all employees of a marketing affiliate, as was the case under the previous corporate functional approach;
- Eliminates the need for the concept of shared employees between the transmission provider and the marketing affiliate;
- Eliminates obstacles to efficiency resulting from overly broad restrictions;
- Encourages compliance by applying a common-sense approach; and
- States that supervisors are not transmission function or marketing function employees unless they are actively and personally engaged in such activities.
- Prohibits all employees from passing restricted information to marketing function employees;
- Prohibits transmission providers from using a conduit to pass restricted information to prohibited employees; and
- Prohibits marketing function employees from receiving transmission function information.

### **PJM Interconnection L.L.C., Docket ER08-516-000, et al.**

On March 6, 2008, the PUC participated in the filing of a protest with FERC of a PJM proposal to modify its RPM tariffs to increase the "cost of new entry" component of RPM, thereby raising the cost of future capacity obligations. The protest included an affidavit from an expert discussing the flaws of PJM's proposal and its effect on customers. The matter is pending.

### **Allegheny Electric Cooperative, Inc., et al 122 FERC ¶ 61,257 (March 21, 2007)**

On March 21, 2008, FERC accepted a comprehensive forward looking settlement of a number of complaints filed against PJM Interconnection L.L.C. in early 2007 regarding the

*FERC Highlights Continued on Page 27.*

## Consumer Decision Highlights

### ***Cynthia Truesdell v. Columbia Gas of Pennsylvania*** **Docket No. F-02118007**

At the Jan. 24, 2008, public meeting, the Commission fined Columbia Gas of Pennsylvania \$2,500 for violations of the Commission's regulations, 52 Pa. Code §§ 56.11 and 56.14 and Section 1501 of the Public Utility Code, 66 Pa. C.S. § 1501. Section 56.11, which addresses billing frequency, requires a utility to render a bill to a customer once every billing period. In Section 56.14, it requires that if the utility is billing for service that was previously unbilled because of a utility billing error or previous underestimated bills (a make-up bill), the utility must explain the bill to the customer and offer a payment agreement on the charges.

In this case, the Commission declared that the utility obligation to comply with § 56.14 is triggered when a make-up bill exceeds at least 50 percent and \$50 of the normal estimated bill for the billing period during which the make-up bill is issued. The Commission also declared that to comply with its obligations under § 56.14, a utility must do more than simply include a footnote on the customer's bill raising the possibility of a payment agreement if the customer is unable to pay the bill in full by the due date.

Finally, the Commission ruled that the utility engaged in a protracted pattern of conduct that together constituted a single failure to provide reasonable and adequate service under Section 1501. This pattern of conduct included Columbia's failure to respond timely and appropriately to several telephone calls from the complainant about her missing bills.

### ***PUC Law Bureau Prosecutory Staff v. PECO Energy Company*** **Docket No. M-00072051**

At the Feb. 14, 2008, public meeting, the Commission issued for comment a settlement between the Commission's independent prosecutory staff and PECO Energy Company concerning allegations that the company violated portions of the Public Utility Code and the utility's tariff.

The Commission's prosecutors allege that PECO Energy failed to provide the required 72-hour advance notice of termination to approximately 2,000 accounts and failed to restore service within 24 hours to accounts that had been terminated in error. Under the terms of the settlement, PECO Energy will provide bill credits of between \$60 and \$120 to each of the affected customers with the total amount of the credits equaling approximately \$206,800.

## Failure to Comply with Payment Agreement

A case, at Docket No. C-20066348, arose involving National Fuel Gas (NFG) Distribution and a service termination after the customer failed to comply with payment agreements negotiated with the company. The Bureau of Consumer Service (BCS) determined that service should be restored if the customer paid a small amount on his arrearage and a reconnection fee.

The PUC's administrative law judge (ALJ) vacated the BCS informal decision, concluding that, pursuant to 66 Pa. C.S. § 1407, the utility may demand payment of the entire outstanding balance and a reconnection fee when the customer has been terminated for defaulting on payment agreements. The ALJ determined that because the terminated customer was no longer a "customer," neither BCS nor the Commission could exercise the options available under Section 1405. NFG requested clarification regarding:

1. The precedential value of initial decisions, which become final by operation of law, on future BCS informal decisions; and
2. Whether the ALJ's application of Section 1407 to payment arrangements applied only to this specific case and customer or to every case or situation brought before the BCS.

The PUC held that pursuant to statute and existing case law, ALJ initial decisions, which become final by operation of law, are to be given the same value as Commission orders which proceed through the Commission's public meetings. It was further determined that Subsection 1405(a) gives the Commission the authority, generally, to establish payment agreements between public utilities, customers, and applicants. The PUC held that Subsection 1407(c) in no way divests the PUC of its duty to act as the final arbiter of a utility consumer's rights with respect to payment disputes.

Nevertheless, the facts in this case did not warrant an order to reconnect gas service due to the customer's income, lack of good faith effort to pay the bill, and failure to establish good cause for non-payment.

## Comments on Chapter 56 Rulemaking

On Nov. 30, 2006, the Commission approved an Advance Notice of Proposed Rulemaking Order (Docket No. L-00060182) inviting comments on the Chapter 56 provisions impacted by Chapter 14 and asking how the Commission should revise Chapter 56 to comply with Chapter 14 (66 Pa.C.S. §§ 1401-1418). Chapter 14, *Responsible Utility Customer Protection*, became part of Title 66 in late 2004. It applies to electric distribution companies, water distribution companies and larger natural gas distribution companies, those with annual operating income exceeding \$6 million. Chapter 14 does not apply to steam or wastewater utilities.

The Commission was especially interested in receiving comments on 10 specific areas listed in the Advance Notice of Proposed Rulemaking Order's appendix including:

- The termination process;
- Winter termination rules;
- Application and credit procedures;
- Service restoration requirements; and
- Collection reporting requirements.

However, parties could comment on other issues they believe the Commission should address regarding Chapter 56, as the last revisions were in 1990. Electronic billing and payment, the Internet, and email have advanced since then. The order encouraged comments to incorporate these advances into the regulations.

The Commission has already received and posted comments on the Web site from 22 parties including industry, consumer groups, and advocates. To access the comments on the PUC's Web site, just enter docket number L-00060182 through the "Search for Documents" feature. The Commission's next step is to propose new regulations through a Proposed Rulemaking Order, considering both the law and all comments submitted. The *Pennsylvania Bulletin* publishes the order and sets a timeline for more public comments. The Independent Regulatory Review Commission and the PUC's oversight committees in the General Assembly and the Office of Attorney General review and must approve the proposed regulations. The process and the regulations become final when the Commission issues a final rulemaking order, determining the official revised regulations.

## Quarterly Updates to UCARE

A quarterly update to the annual UCARE (Utility Consumer Activities Report and Evaluation) report was included on the PUC's Web site under Publications and Reports. The annual UCARE report provides information about customer service performance for jurisdictional utilities in the electric, gas, water and telephone industries. The quarterly updates will provide a more streamlined version of the annual data. The first edition presents data for the first three quarters of 2007.

In response to company requests for more up-to-date numbers, the Bureau of Consumer Services (BCS) produced revisions which present a more efficient and user-friendly report. The information will be published on the PUC's Web site every three months in a rolling year-to-date format. The updates provide an overall snapshot of BCS activity including the volume of consumer complaints, payment arrangement requests (PARs) and inquiries. Industry specific tables show the volume of activity for the major utilities within the electric, gas, water and telephone industries.

The quarterly update contains current information that is easily accessible to utility companies, consumers and Commission staff. The PUC will continue to produce a hard copy of the annual UCARE report as a means of satisfying the statutory reporting requirements.

## 2007 Cold Weather Survey

On Dec. 19, 2007, the PUC released the results of the annual Cold Weather Survey showing that about 13,762 households entered the winter season without heat-related utility service. Another 3,095 residences used potentially unsafe heating sources, bringing the total homes not relying on a central heating system to 16,857. Potentially unsafe sources of heat include kerosene heaters, kitchen stoves or ovens, electric space heaters, fireplaces and heat brought from neighbors' homes through extension cords.

The winter survey assesses the number of households where the utility has shut off heat-related service. The PUC requires natural gas and electric utilities to attempt to check up on those residential properties through telephone calls and in-person visits to the homes.

The survey results showed that 3,892 electric households and 12,965 gas households remained without service, for a total of 16,857. A total of 42 percent or 7,043 of the total "off" accounts were in the Philadelphia area. And 17,294 households appear to be vacant and without utility service.

On Feb. 4, 2008, the Commission released the results of the Cold Weather Re-Survey of the company's "still off" accounts. As of Feb. 1, the total number of homes still not using a central heating system or using a potentially unsafe heating system was 11,495, down 32 percent from Dec. 15.

The Re-Survey shows that 11,495 households remain without service (5,710 in the Philadelphia area); 2,361 without electric and 9,134 without gas; 18,052 households appear to be vacant and without utility service.

## PUC Prepares for Consumer Education on Energy Conservation

The expiration of rate caps on electric generation has the potential of causing increases in electricity rates for many consumers in Pennsylvania.

On May 17, 2007, the Commission entered a final order outlining the need for a statewide consumer-education campaign to prepare electricity ratepayers for potential increases, as well as provide information about energy efficiency, conservation and demand side response. The PUC convened interested stakeholders – who include representatives of electric distribution companies, academic institutions, private business, professional associations, non-profit agencies, and Pennsylvania state government and government affiliates – to develop this campaign. Communications hosted stakeholder meetings in June, August and October 2007, and January 2008. PUC staff and stakeholders also are directed to research the best practices of other states that have similar campaigns.

Based on the recommendations of the stakeholder group, the PUC submitted a \$5 million request to the Governor and General Assembly, for the first year of the campaign, as part of its Fiscal Year 2008-09 budget request. The Governor has not included this \$5 million in his budget request submitted to the General Assembly.

The Commission has created a special Web page to keep stakeholders apprised of ongoing activities:  
[www.puc.state.pa.us/electric/electric\\_enbanc\\_price\\_increases.aspx](http://www.puc.state.pa.us/electric/electric_enbanc_price_increases.aspx).

## PUC Establishes Process for Approving EDC Plans on Rate Caps

Pursuant to the Commission's May 17, 2007, final order, each electric distribution company (EDC) under the PUC's jurisdiction has filed a proposed consumer-education plan that is tailored to their service territory. These plans were all filed by the deadline of Dec. 31, 2007.

The Commission will review each plan and issue a tentative order approving, rejecting or modifying each plan. Thereafter, the EDC and interested parties will have 15 days to file comments or request an evidentiary hearing before the Office of Administrative Law Judge (OALJ). If no comments or petitions are filed within the 15-day period, the tentative order will become final. If comments or petitions are filed, the Commission will consider the comments and issue a final order and/or refer the matter to the OALJ for hearings.

Plans are available for Allegheny Power (West Penn Power), Citizens' Electric Company, Duquesne Light Company, FirstEnergy Companies (Met-Ed, Penelec and Penn Power), PECO Energy Company, Pike County Light & Power Company, PPL Electric Utilities, UGI Utilities, and Wellsboro Electric Company.

Each plan is available at:  
[http://www.puc.state.pa.us/electric/EDC\\_Plans.aspx](http://www.puc.state.pa.us/electric/EDC_Plans.aspx).

## PUC Makes MLK Day a Day of Utility Service

Consistent with the Commission's now 5-year-old "Prepare Now" campaign and an upcoming effort to prepare electric consumers for potentially higher bills, the PUC launched a short-term public awareness initiative to encourage Pennsylvanians to make Martin Luther King Day in January a Day of Service.

The PUC asked utility customers to help people in their community save energy and "Prepare Now" for winter heating bills. Radio ads were recorded by Chairman Wendell F. Holland, and Commissioners Tyrone J. Christy and Kim Pizzingrilli, ran statewide and asked listeners to contact the PUC by calling 1-800-782-1110 or logging on at [www.puc.state.pa.us](http://www.puc.state.pa.us). The ads were paid for with existing Commission funds.

The Commission has created fact sheets that consumer-education specialists distribute related to conservation and energy efficiency. These are available on the PUC's Web site at <http://www.puc.state.pa.us/general/consumereducation.aspx>.

During Black History Month in February, the Pennsylvania PUC's Day of Utility Service inspired national policy with the endorsement of the National Association of Regulatory Utility Commissioners.

## PUC Educate Visitors to 2008 Farm Show



For the second year, the PUC staffed a booth at the Pennsylvania Farm Show. Thanks to the efforts of about 30 volunteers from throughout the PUC, the booth was staffed from 8 a.m. to 9 p.m. each day. The hot topic this year was electricity rate caps, with Farm Show visitors approaching PUC staffers about potentially higher energy prices and ways that they can conserve.

## InfoMAP Update



During the first quarter of 2008, the PUC has implemented the first phase of the Information Management and Access Project, or InfoMAP, which has replaced an antiquated case management system with a more modern document and case management system. It also automates workflows and reduces reliance on paper copies.

The Secretary's Bureau has scanned all filings made since Dec. 3, 2007, except confidential documents. Also, many scanned filings are now posted on the PUC's Web site, and all will soon be accessible by any interested party.

By the summer of this year, the Commission expects to make electronic filing available. The technology is currently under development, and proposed regulations setting forth the rules applicable to e-filings are pending review and approval by the Independent Regulatory Review Commission. These proposed rules were the product of an extensive stakeholder process, which significantly reduced the number and magnitude of comments. This should facilitate the necessary approvals to allow timely implementation of e-filing capabilities.

## PUC Appoints Director of Bureau of Administrative Services

The PUC appointed Robert C. Gramola of Lancaster as the Director of the Bureau of Administrative Services. In January, Gramola replaced Director Peter B. Dalina, who has retired. Gramola's appointment was effective on Jan. 7.

"The Public Utility Commission is an agency of experts. Technical and legal experts in utility regulation," Chairman Wendell F. Holland said. "He brings to the PUC his expertise in business management, administration, procurement and budgeting. Bob Gramola brings to the PUC a reputation for getting the job done."

Gramola most recently served as the Director of the Bureau of Driver and Vehicle Program Services, which services about 1,200 employees, for the Pennsylvania Department of Transportation (PennDOT).

The Bureau of Administrative Services provides support for administrative matters in the daily operation of the Commission. The bureau is comprised of the Assessment Section, the Fiscal Office, Management Information Services and Office Services. The bureau is responsible for the preparation of the PUC budget, collection of assessments, contracts, travel-related services, management information services support, mail distribution, inventory control and automotive services.

## Update on the Budget

PUC Commissioners testified before House and Senate committees in support of their budget request seeking authorization for \$54,726,000, including \$2,564,000 in federal funds. The amount for state funding contained in this request, of \$52,162,000, represents an increase of \$679,000 or 1.3 percent above the level approved for the current fiscal year. This increase is attributable to two factors, including contractually required salary increases (\$296,000) and Philadelphia State Office Building relocation costs (\$383,000).

The Commissioners addressed the House Appropriations Committee on Feb. 25, and the Senate Consumer Protection & Professional Licensure Committee on March 12.

In addition to clarifying certain aspects of the budget request, the Commissioners answered questions on a variety of issues, including electric prices and rate caps, transportation assessments, consumer education, new telecommunications services, infrastructure improvements, service terminations and taxi regulations.

"As Commissioners, we continue to be engaged individually and collectively in the special legislative session on energy policy," PUC Chairman Wendell F. Holland in his statement submitted to the House Committee. "We have testified individually and as a group before various House and Senate committees and caucuses. And we continue to be available for technical advice on the many issues before you. As new laws are enacted, the Commission stands ready to implement any legislative changes.

"This past fall, I joined Appropriations Chairman (Dwight) Evans (D-Philadelphia) and House Consumer Affairs Chairman (Joseph) Preston (Jr., D-Allegheny), to promote a bill that would establish a Distribution System Improvement Charge to pay for natural gas infrastructure improvements. As you know, Pennsylvania's water DSIC is a model for other states and one of the most important regulatory tools of the past decade."

Vice Chairman James H. Cawley told House members that rate-mitigation strategies and consumer education can help lessen the impact of rising electricity prices after customers' bills no longer reflect rate caps.

In the House hearing, Commissioner Tyrone J. Christy discussed the PUC's active implementation of Alternative Energy Portfolio Standards, which includes net metering regulations and standard interconnection agreements.

*Budget Update Continued on Page 26.*

## Budget Update

*Continued from Page 25.*

When asked by a Senator about whether the PUC was prepared to respond to new telecommunications technologies and challenges, Commissioner Pizzigrilli noted that the PUC has effectively implemented the requirements of three major pieces of legislation in the past few years (Acts 201, 213 and 283 of 2004).

House Consumer Affairs Committee Minority Chairman Robert W. Godshall (R-Montgomery) said he appreciated the ability to work with the PUC on issues and acknowledged the Commission's open working relationship with his committee.

House Consumer Affairs Committee Majority Chairman Preston agreed, citing the positive working relationship and the PUC's attentive and good staff.

Sen. Lisa M. Boscola (D-Northampton), Minority Chair of the Senate Consumer Protection & Professional Licensure Committee, told the Commissioners: "Thank you for the last several months and working with my office on this rate-cap issue. You've been wonderful, and I appreciate it."

Sen. Jake Corman (R-Centre), Vice Chairman of the Senate Consumer Protection & Professional Licensure Committee, told the Commissioners: "I think you are performing magnificently. When we ask you questions, you give us well-thought and researched responses that aren't politically motivated in any way and are well-researched. I want to congratulate you and thank you for your service."

## Visitors from Telecom Egypt



*Yasser Soliman Hassan Rashwan (left) and Waled Mohamed Abdel Aziz (right), shown with FUS Telco staff member Eric Jeschke (center), visited with the PUC for 10 days to learn how the PUC regulates the telecommunications industry. This visit was a part of the Telecom Egypt Leadership Development Program V.*

## Commissioners Testify on Special Session on Energy Legislation



As part of the Commission's ongoing efforts to respond to legislative inquiries and requests for technical assistance related to various measures introduced via the special legislative session on energy policy, Vice Chairman James H. Cawley and Commissioner Tyrone J. Christy each testified at separate hearings recently on pending bills.

Vice Chairman Cawley testified before the House Consumer Affairs Committee on Jan. 31, 2007, on House Bill 2200 and House Bill 2201. House Bill 2200 requires the PUC to develop a program to provide for the implementation of cost-effective programs that reduce energy demand and consumption, directs energy utilities to be more energy efficient in their operations, and provides for smart meters. House Bill 2201 deal with consumer education, rate-increase phase-in plans, smart meters and microgrids.

Vice Chairman Cawley told the committee that the members of the Commission support and promote consumer education, energy efficiency, demand side response and energy conservation. "These bills give needed impetus and support for these and other vital energy issues, and we therefore welcome the legislative guidance contained in these bills," said Vice Chairman Cawley.

Commissioner Christy addressed the House Environmental Resources and Energy Committee hearing on Special Session House Bill 54 on Feb. 12, 2008. Special Session House Bill 54 would extend rate caps by two years.

Commissioner Christy cautioned that the reliance on the dysfunctional wholesale market is misplaced as it is not producing reasonable prices for customers. He urged the passage of legislation to require utilities to plan capacity additions to serve their customers at the lowest reasonable cost on a long-term basis, and to authorize the Commission to require the issuance of competitive solicitations for the construction of new power plants to serve Pennsylvania customers.

## FCC Highlights

*Continued from Page 20.*

law, they cannot be charged a full cost of service if that cost of service exceeds the cost to provide comparable services for persons that do not have hearing and speech disabilities.

The FCC order required states to submit by Feb. 14, 2008, a statement of costs to provide those services. The PUC submitted the required cost calculations for traditional TRS and captioned telephone TRS (CTRS) because those are the services supported in Pennsylvania.

The FCC will use the state-submitted data to set a new interstate cost of service for compensating state providers, including the services that AT&T provides in Pennsylvania. Although the FCC continues to fund both interstate and intrastate IP-captioned services, the FCC said that it may revisit the issue of whether the state or the FCC should support intrastate IP captioned services in the future.

## FERC Highlights

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structure and independence of the PJM Market Monitoring Unit (MMU). A series of allegations made by the Market Monitor during a FERC technical conference in 2007 led to the filing of complaints with FERC, including complaints by the PUC and other state commissions as well as the Organization of PJM States Inc., state consumer advocates, electric co-ops and large retail customers. Subsequent investigation and review of documents and emails uncovered a disturbing pattern of behavior and actions by PJM management towards the Market Monitor and staff— who were at that time, employees of PJM. An initial order by FERC on the complaints found no violation of tariff, but FERC set forward looking market monitoring independence and structural issues for mediation. The subsequent mediation proceedings in which the PUC extensively participated resulted in a comprehensive settlement of the market monitor's role, independence and future structure, creating the MMU as an independent outside market monitor free from direct PJM management or board control.

However, FERC declined to review past PJM management behavior, dismissing all complaints and stating:

Given that the settlement addresses the remedies requested by the complaint and establishes a market monitoring plan that the rehearing requesters support, there is no reason to expend the time and expense of litigating whether PJM may be deemed to have violated its tariff in the past. Establishing an historic violation only has meaning if it would lead to prospective relief; here the rehearing requesters and

the other parties already have agreed to prospective relief.

The settlement agreement provides comprehensive tariff and contractual revisions to the current structure of the PJM market monitoring unit's relationship with PJM and also adds specificity to the role of the market monitor. The MMU will operate external to PJM under an initial contract term of six years. Under the proposed arrangement, the MMU will operate independently from PJM management, can participate in the stakeholder process with other PJM stakeholder groups, will be able to bring concerns to PJM stakeholders and the Commission through defined processes, and will issue reports contemporaneously to PJM members, management, state commissions, and the Commission.

## Feedback



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

Staff from the 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 and the Law Bureau all contribute and write articles for this publication.

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