Keystone Competition

Competition News in Pennsylvania

A newsletter published by the Pennsylvania Public Utility Commission regarding competition in the telecommunications and energy markets.

Autumn 2003

Winning Bids Announced for PECO's Residential MST Process

On Sept. 26, 2003, PECO Energy announced that two companies had submitted valid bids for the residential Market Share Threshold Bidding and Assignment Process (MST Process). Dominion Retail Inc. and It's Electric and Gas will have the opportunity to serve 264,000 and 3,000 PECO residential Rate R customers, respectively, for one year beginning in December 2003. The assignment process was voluntary, and customers had the opportunity to opt-out of their assignment if they chose. As of Nov. 4, 37,650 customers had elected to decline the offer of assignment. Enrollments of the remaining customers commenced Nov. 10. Customers did have some incentive to accept the assignment, though, as the winning bidders offered a 1.5 percentage discount from PECO's capped rate for unbundled generation and transmission service for the duration of the term of service.

The available customer account pool for the residential MST Process was approximately 375,000 accounts. No bids were submitted for either Rate RH (residential heating) customers or those accounts that were reserved during the bidding process for renewable energy suppliers only.

The MST Process was required by a provision of PECO's 1998 restructuring settlement. It provided that, if less than 50 percent of PECO's residential and commercial customers were receiving electric service from alternative providers on Jan. 1, 2003, the PUC would implement a one-time process to assign customers to alternative suppliers. The PUC entered orders on Feb. 1, 2003, and May 6, 2003, that approved MST Processes for both commercial and residential customers, respectively. The commercial MST Process was completed in March 2003 and resulted in the assignment of more than 64,000 small commercial customers to alternative generation suppliers. Approximately 15 percent of the commercial customers elected to decline their assignment and remain with PECO.

New Federal Standards for Wholesale Access to Local Phone Networks

Recently, the Federal Communications Commission (FCC) released its *Triennial Review Order* detailing the standards for unbundled network elements. The standards apply to the Pennsylvania Public Utility Commission's (PUC) consideration of wholesale access to incumbent telephone networks.

The PUC will be taking a more granular approach than previously used. Variations in geographic location, customer class, and the type and capacity of facilities are all considered in determining whether a competitor is impaired without access to the incumbent's network, as competition is taking place today between wireline providers and providers of services on other platforms such as cable and wireless.

New Federal Standards *Continued on Page 7.*

Competition in Pennsylvania

Welcome to the second issue of Keystone Competition, a quarterly publication of the Pennsylvania Public Utility Commission (PUC) that gives a "snapshot" view of the energy and telecommunications competitive markets and the major issues that affect each industry.

In addition to showing aggregated basic market data, this publication summarizes key Commission decisions affecting competition and discusses legislative activities at the federal and state levels. Additionally, it highlights notable developments at federal agencies, as well as state and federal courts.

The PUC ensures safe, reliable and reasonably priced electric, natural gas, water, telephone and transportation service for Pennsylvania consumers, by regulating public utilities and by serving as responsible stewards of competition. Industry monitoring is a crucial part of this mission.

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PUC Staff Continues to Examine POLR Models

Building upon the proposed principles circulated and discussed by the stakeholders earlier this year, Commission staff continues to work on a proposal for the Provider of Last Resort (POLR) Working Group relating to regulations that would govern the provision of default generation supply service to non-shopping electric consumers after the transition period.

Over the past few months, staff has been studying various models that are being used in other states for the provision of default service, as well as key aspects of plans being followed by some companies in Pennsylvania. Upon completion of this phase of the process, staff intends to circulate a proposal to the working group members and then convene meetings of small groups of stakeholders with similar interests before the end of the year. After receiving input in that manner, staff expects to hold another meeting of the entire working group in early 2004.

Although the Electric Choice and Competition Act sets forth some of the basic principles that will form the foundation of the rules for default service, many of the details must be addressed by the PUC through regulations. For instance, the Commission must determine whether certain procurement practices should be followed by electric distribution companies or Commission-approved default suppliers in acquiring supply for customers who decline to shop or subsequently return to the provider of last resort for generation service.

Similarly, the PUC must decide what process will be used to evaluate the acquisition activities of the provider of last resort, as well as how to define reasonable costs and allow for their recovery by the provider of last resort. These are among the issues that will be discussed by the working group.

Electric Supplier Licensing

Quarterly Activity for the period of July 1 to September 30, 2003.

50 Active Licenses
5 licenses canceled
0 license approved
0 applications pending

DSR Group Discusses Possible Infrastructure Proceeding

On Nov. 6, the Demand Side Response (DSR) Working Group convened to discuss proposals advanced by PUC staff in correspondence circulated to the working group on Oct. 1, and to obtain updates from the electric distribution companies regarding summer DSR programs.

The staff sought the working group's input on the idea of a PUC-initiated proceeding that examines the costs associated with building the infrastructure necessary to make DSR tools available to all customers over the next several years. Additionally, staff asked the working group participants to identify the potential benefits to consumers and to offer suggestions for how customer savings or reductions in the system peak might be measured. At the meeting, staff focused the discussion on how such a proceeding might be structured and what issues should be explored by the PUC. Staff's objective was to gather information that will assist in the development of a recommendation for the PUC's consideration.

PA Electric Shopping Statistics

These are the results of the Pennsylvania Office of Consumer Advocate's (OCA) survey of Pennsylvania's electric distribution companies to determine the number and percentage of customers served by alternative generation suppliers. The data in these tables reflect information as of October 2003. The information is updated on a quarterly basis at OCA's website (www.oca.state.pa.us).

Number of Customers Served by an Alternative Suppliers

Company	Residential	Commercial	Industrial	Total	Total %
Allegheny Power	857	88	0	945	0.1
Duquesne Light	133,311	12,203	593	145,907	24.9
MetEd/Penelec*	2,488	131	68	2,687	0.3
PECO Energy**	87,071	62,607	140	149,818	9.8
Penn Power	548	36	0	584	0.4
PPL	1,759	1,860	91	3,710	0.3
UGI	62	3	0	65	0.1
Totals	**266,096**	**76,928**	**892**	**303,716**	

* FirstEnergy companies formerly a part of GPU.
** Includes 29,078 residential customers assigned to Competitive Discount Service (CDS) and 46,672 commercial customers on the Market Threshold Program (MST). This does not include 148,003 former CDS customers now served by PECO on a CDS rate.

Interconnections Group to Convene

In January 2001 the PUC formed an Interconnections Working Group (IWG) to focus on streamlining the process that is used to connect small generators to the distribution grid. Specifically, the PUC charged the IWG with exploring the development of uniform standards and the elimination of unnecessary barriers. Some members of the IWG pointed to inconsistency in the electric companies' tariffs, a difficulty in determining what must be submitted with a request, and the timeframe

Interconnections *Continued on Page 5.*

PUC to Commence Natural Gas Investigation

The Natural Gas Choice and Competition Act requires the Commission to initiate an investigation or other appropriate proceeding after July 1, 2004, to determine whether effective competition for natural gas supply exists in Pennsylvania. The statute also provides for the participation by all interested parties and obligates the PUC to report its findings to the General Assembly.

If the Commission concludes that effective competition does not exist, it must reconvene the stakeholders to explore avenues, including legislative, for encouraging increased competition in Pennsylvania.

PUC staff has begun to discuss the manner in which this proceeding should be initiated and has identified various issues that should be addressed in determining whether "effective competition" exists. Some possible measures being examined by staff are the number of customers and amount of load that is shopping, as well as the number of alternative suppliers making offers, the effect of competition on prices, the extent and nature of complaints being filed by consumers, and the willingness of consumers to shop for natural gas supply.

Staff expects to seek input from stakeholders about these issues prior to the initiation of a proceeding by the Commission.

Pennsylvania Natural Gas Shopping Statistics

These are the results of the Pennsylvania Office of Consumer Advocate's (OCA) survey of Pennsylvania's gas distribution companies to determine the number and percentage of residential customers served by alternative gas suppliers. The data in these tables reflect information as of Oct. 1, and is updated on a quarterly basis at OCA's website (www.oca.state.pa.us). About 90 percent of industrial customers and 50 percent of commercial customers are purchaseing gas from competitive suppliers

Company	Total Residential Customers	Total Customers Served by Alternative Suppliers	Percent of Customers Served by Alternative Suppliers
Columbia Gas	341,464	80,715	23.6
Dominion Peoples	325,007	90,393	27.8
Equitable Gas	235,795	20,646	8.8
National Fuel Gas	194,252	0	0
PECO Gas	412,762	1,594	0.4
PG Energy	138,182	0	0
PGW*	478,612	0	0
PPL Gas	64,781	0	0
TW Phillips	55,394	0	0
UGI Gas	261,686	3,683	1.4
Valley Cities, NUI	4,583	0	0
Totals	**2,512,518**	**197,031**	**7.8**

*PGW opened to natural gas choice on Sept. 1, 2003.

Commission Rules on PGW Filings

The Commission recently ruled on three filings submitted by Philadelphia Gas Works (PGW). The Natural Gas Choice and Competition Act of 1999 required PGW to initiate a restructuring process to implement customer choice and to bring itself into compliance with Commission regulations relating to public utility service. The Commission entered an order on March 31, 2003, that approved PGW's restructuring filing with some modifications.

On Sept. 5, 2003, the Commission entered an order approving an implementation plan for PGW's Field Operations Initiative (FOI). The FOI is a plan by which PGW would comply with PUC regulations pertaining to line leak surveys, and the reading, testing and replacement of meters. The FOI was the result of a settlement agreement between PGW and the parties to the restructuring proceeding that was previously approved by the Commission on Jan. 23, 2003.

On Sept. 18, 2003, the Commission approved PGW's compliance filing, with some modifications. On Oct. 3, the Commission entered a motion directing that its previous order be modified in one respect.

The Commission also ruled on a petition of PGW to amend the restructuring order as it related to the Senior Citizen Discount (SCD). The PUC had previously approved PGW's proposal to close the SCD program to new entrants as of Sept. 1, 2003. Subsequent to this, PGW, the Mayor and City Council of Philadelphia, and various other parties negotiated an agreement by which the SCD program would continue to admit new applicants on a means tested basis.

PGW asked that the Commission approve this proposal, which would limit participation to future participants to those at or below 250 percent of the federal poverty level. The Commission held that the petition raised important issues regarding the cost of the SCD program and referred the matter to the Office of Administrative Law Judge for expedited hearings and a recommended decision.

Natural Gas Supplier Licensing

Quarterly Activity from July 1 to Sept. 30, 2003.

75 Active licenses

3 licenses canceled

0 licenses approved

6 applications pending

En Banc Hearing on Natural Gas Supplies and Prices

On Sept. 18, the PUC conducted a public inquiry into the state of already high prices for natural gas and possible strategies for coping with these costs during the coming winter. The Commissioners heard testimony from the different segments of the natural gas industry, consumers and business representatives. The nearly 20 people who testified in the three-hour hearing made it clear that higher prices for natural gas would have a detrimental effect on the state's economy.

Natural gas prices could be 20 to 30 percent higher this winter than they were last year, said Consumer Advocate Sonny Popowsky. "For typical home heating customers, this could mean that bills over the course of this coming winter could be as much as $30 to $45 per month higher," he said. He recommended that consumers prepare for higher prices by getting on utility budget billing plans to moderate the price spikes and by following simple programs at home to conserve energy usage. Popowsky asserted that utilities are not helpless to control these costs. They can take steps to minimize increased costs by hedging against the high costs and using forward contracts with varying pricing terms in an effort to help stabilize and possibly moderate commodity costs.

Pam Witmer, president and CEO of the Pennsylvania Chemical Industrial Council, offered a different perspective. She noted that some of her member companies spend as much as $19 million a year on natural gas and are faced with price increases ranging from 20 to 40 percent. These industrial users support some 73,000 manufacturing jobs with above-average wages in Pennsylvania. She also recommended conservation, energy efficiency measures, and national initiatives which promote increased drilling for natural gas supplies.

Carl M. Carlotti, vice president of National Fuel Gas Distribution Corporation, a natural gas distribution company, expressed similar concerns. He observed that while drilling for natural gas is prohibited by law beneath the Great Lakes in the United States, in the Canadian waters of Lake Erie, there are "hundreds of natural gas wells sunk in the bottom of Lake Erie - all drilled by the environmentally conscious Canadians." He also noted that Pennsylvania currently prohibits drilling for natural gas on 2.1 million acres of state managed land. Allowing these areas to produce natural gas is one way of helping alleviate the high cost of natural gas.

PUC Campaign to Raise Awareness of Gas Prices

Acting on testimony heard during a special public hearing in September on natural gas prices, the PUC voted unanimously to create an inter-agency coordination working group related to the natural gas.

To identify those agencies in which the Commission could improve or, in some instances, initiate communications and enhance the fulfillment of our collective duties, the Commission directed its staff to formulate an internal working group with representatives from all appropriate bureaus to draft a report for the Commission's review and consideration that outlines a proposal for achieving enhanced inter-agency coordination on matter related to the natural gas industry.

The PUC is also working with the Council for Utility Choice to implement a short-term consumer-education campaign to raise awareness about rising gas prices and programs to help gas customers pay their bills.

In response to the testimony, a new Council for Utility Choice consumer-education campaign was launched to raise awareness about potentially high natural gas prices and inform gas customers about programs to help them pay their bills.

Beginning the week of Oct. 13, the aggressive campaign delivered the following messages:

- Prepare now for higher costs of natural gas this winter;
- Save money by learning how to conserve energy;
- Contact your local gas company to set up a budget billing plan to spread out your winter bills over the course of the year;
- If you are on a limited income, call your gas company about funds to help you heat your home; and
- For more information on natural gas prices, visit www.utilitychoice.org or call 1-888-PUC-FACT.

The messages are being delivered through:

- Drive-time radio advertisements statewide;
- Advertising in minority media; and
- A comprehensive governmental and media-relations effort that will include information kits for legislators' offices and news media, partnerships with state associations, Editorial Board meetings, TV and radio talk show tours, public service announcements, and a "Conservathon" with TV consumer reporters.

Heating Oil and Natural Gas Market Begin to Stabilize

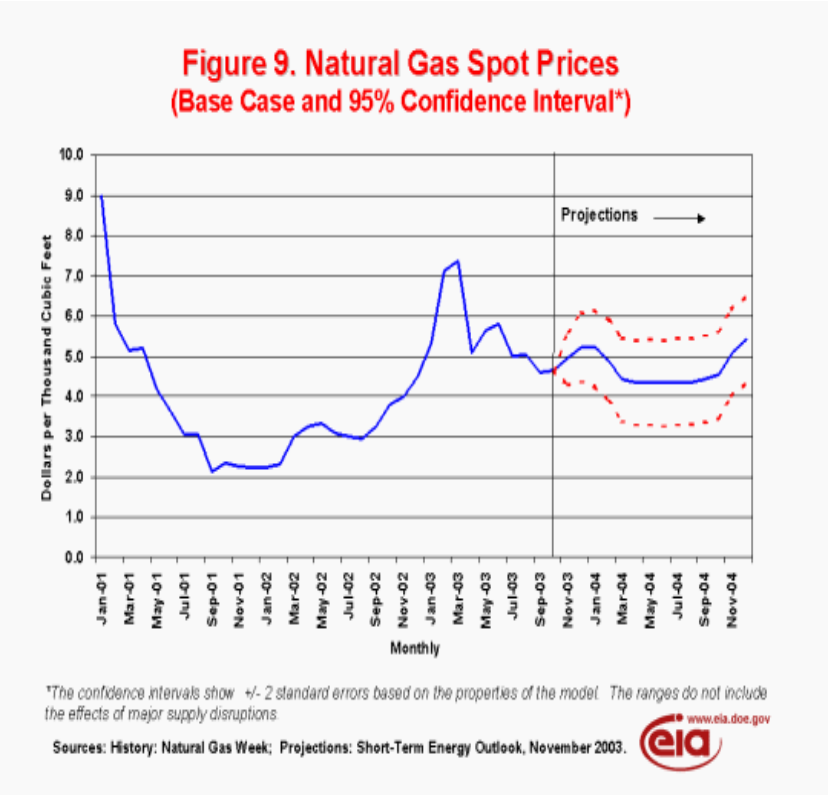
Heating Oil

The October 2003 Energy Information Agency's (EIA) short-term forecast predicts that heating oil prices will be about $1.33 per gallon for this winter. This is about the same as last year. Increases in world oil prices or a cold snap on the East Coast could push prices up. Cold weather could add an additional 8-16 cents per gallon to the price. World crude oil stocks are near a five-year low but fuel oil inventories are close to normal.

Natural Gas

Last year's high prices were the result of declining gas production, cold weather and low storage levels. Mild weather and decreased industrial demand have now pushed natural gas prices lower. Heating demand for October was about 30 percent lower than normal. High levels of natural gas in underground storage are also helping to moderate prices. Storage provides a cushion between supply and demand. In April 2002, gas storage was 40 percent below the five-year average, and, as of mid-October, storage levels are slightly higher than the five-year average.

As the heating season is beginning, wholesale prices at the Henry Hub are at $4.50 per MCF (thousand cubic feet). This is still high compared to past years, but is lower than the $8 and $10 prices of last winter. Prices were above $6, even in June 2003. Assuming normal weather, the EIA's short term forecast puts spot prices in the $4.50 to $5 per million Btu (British thermal unit) range for the winter of 2003-04.



Interconnections

Continued from Page 2.

for processing interconnection applications as barriers that should be eliminated. Other participants noted the importance of many of the existing requirements for ensuring the safety and reliability of the distribution grid.

The IWG was dormant while waiting for the outcome of the rulemaking proceeding initiated by the Federal Energy Regulatory Commission (FERC) on standard interconnection requirements for connecting generators to transmission facilities. That proceeding recently resulted in the issuance of uniform standards, and the PUC has determined that the time is right for our IWG to be revitalized.

PUC staff is currently reviewing the FERC standards and studying models being used in other states and the National Association of Regulatory Utility Commission. Staff expects to hold meetings with groups of stakeholders having similar interests prior to reconvening the IWG in early 2004.

Anyone who is interested in participating in the Interconnections Working Group should contact PUC Deputy Executive Director Karen Moury at kmoury@state.pa.us.

Feedback

We welcome any feedback on *Keystone Competition.*

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

President Signs Do Not Call Registry

On Sept. 29, 2003, President Bush signed this important piece of legislation into law. The registry allows Americans to shield their home and cell phone numbers from most unwanted telemarketing calls. To register a phone number, or file a complaint with the Federal Trade Commission visit the National Do Not Call Registry website at www.donotcall.gov or call 1-888-382-1222 (TTY 1-866-290-4236).

Pennsylvania's Do Not Call program is administered by the Office of Attorney General. To register a phone number, or file a complaint in enforcement of Pennsylvania's law visit www.nocallsplease.com or call 1-888-777-3406. If you are enrolled on Pennsylvania's Do Not Call list, then you are currently protected from unwanted telemarketing calls. The federal rule mirrors Pennsylvania's existing law in terms of who can and cannot call you.

Pennsylvania Carrier Working Group

The Pennsylvania Carrier Working Group (PA CWG) meets on the first Tuesday of each month. Membership is open to all local exchange carriers (LECs) in the state and other interested parties. Details are on the Commission's website at www.puc.paonline.com/telecomm/PMOII/PACWG_Main.htm.

The PA CWG is overseeing implementation and transition to second-generation New York (NY)-style metrics and remedies. The PA CWG continues to work with outside consultants on a review of the first three months of Verizon PA's performance under the NY-style metrics and remedies. Third-generation NY-style metrics and remedies will be addressed in the group shortly.

A subgroup is working on directory listings and white pages (DL/WP) performance issues. Another subgroup will be working on migration guidelines and business rules for all LECs. Various other projects are on the agenda for future meetings.

Update on Area Code Relief

On July 17, the Pennsylvania PUC dismissed the pending area code relief plans for the 717 and 570 NPAs (Numbering Plan Areas) based on recent data demonstrating that there was sufficient numbering resources currently available to carriers operating in the geographic areas. Based on industry data, the projected exhaust date produced by the North American Numbering Plan Administrator (NANPA) in June 2003, for the 717 area code is fourth-quarter 2007, or nearly four years away.

In addition, NANPA's projected exhaust date for the 570 area code is third-quarter 2008, or almost five years away. The PUC dismissed the relief plans, which recommended that both the 717 and 570 area codes be overlaid with an additional area code, as unnecessary at this time.

Also, on Sept. 18, 2003, the Commission dismissed the pending area code relief plan for the 215/267/445 area codes in Southeastern Pennsylvania based on recent data demonstrating that there was sufficient numbering resources available to carriers operating within those area codes. Based on industry data, the projected exhaust date produced by the NANPA in June 2003 for the 215/267/445 area codes is fourth quarter 2008, approximately five years away. The PUC dismissed the relief plan, which recommended an additional area code be overlaid on the current 215/267 NPAs, as unnecessary at this time.

In addition, the Commission returned the proposed overlay code of 445 to NANPA since it will not be implemented in Pennsylvania in the near future. The PUC further directed that all jurisdictional telecommunications carriers providing service in Southeastern Pennsylvania must inform their customers by bill insert that the 445 NPA will not be introduced but that 10-digit dialing will continue in the 215/267 NPAs.

Forum Helps Resolve Telecom Issues

Carriers competing with Verizon in the local retail telecommunications market may also depend upon Verizon as their wholesale supplier. Verizon's role as retail competitor and wholesale provider is a result of legal requirements imposed by Congress in 1996. The law requires Verizon to provide retail competitors with nondiscriminatory access to the pre-ordering, ordering, provisioning, maintenance and repair, and billing functions of Verizon's operations support systems.

If a dispute arises, the companies attempt to resolve it without involving the Commission, pursuant to interconnection agreements approved by the PUC. However, sometimes disputes are unavoidable. In order to promote the development of competitive markets, and to reach an efficient and expedient resolution of the dispute, the Commission has offered carriers a structured, but informal (non-binding), forum for airing the issues. The forum is known as "OP-12," a shorthand for the ordering paragraph number in the structural separation order from which the forum was created.

The PUC's Office of Executive Director, with assistance from the Law Bureau and other staff, facilitates regular meetings between Verizon and interested carriers, as needed. The cooperation has produced resolution of a number of issues over the last year. A sampling of areas covered includes: billed directory advertising; populating ANI field; bill credit identification; misapplied taxes; missing usage data; and provisioning issues.

Network Modernization Plans

On July 31, 1998, the Pennsylvania Telephone Association's Small Company Group, consisting of 19 incumbent local exchange companies, filed with the PUC a petition for Approval of an Alternative and Streamlined Form of Regulation. As required by Chapter 30 of the Public Utility Code, these companies also filed their Network Modernization Plans (NMPs) as part of their petition.

In 2001, the PUC approved the petition and the NMPs. Chapter 30 also requires a phone company to file updates to its NMP every two years, which was done on July 30, 2003. The PUC is in the process of reviewing these NMPs.

EAS Task Force

In April, the Commission created the EAS Task Force to review and evaluate the extended area service (EAS) regulations for any necessary changes or updates in light of the changing telecommunications market. The EAS regulations are the Commission's guidelines for determining the need for expanding telephone company's local calling area. Typically, as communities grow and the populations expand geographically, the area that customers need for their local calling area also expands. These regulations were designed to provide the guidance and criteria for making that determination.

The EAS Task Force is comprised of representatives from incumbent local exchange carriers (ILECs), competitive local exchange carriers (CLECs), and interexchange carriers (IXCs) industries, as well as the Office of Consumer Advocate (OCA), and PUC staff. The first meeting was in May. The members were given an overview of the purpose and process that the task force would follow in the coming months. At the next meeting, each representative was given an opportunity to present their list of potential issues that should be addressed by the committee.

During the ensuing meetings the task force members proceeded to complete a section by section review of the entire EAS regulations, changing language as could be agreed to by the entire committee, and presenting differing versions where there was no agreement. The task force completed it review at its meeting of Aug. 26.

PUC staff is now preparing a report to the Commission that describes the efforts of the task force, indicating the areas of agreement and noting the areas that could not be agreed to by the various parties. Staff will also be making its own recommendations for needed updates to the regulations. The report is due to the Commissioners in November. If the PUC decides that changes are necessary, a proposed rulemaking for the regulatory changes should follow.

Voice Over Internet Protocol

Voice Over the Internet Protocol (VoIP) is a relatively new technology that allows two or more parties to use a network such as the Internet or cable television to talk without the use of telephones. Real-time audio is transmitted and received in a digital format through the use of IP data packet transmission. On May 1, the PUC initiated a proceeding to gather information from interested parties about various aspects of VoIP particularly with respect to the Commission's jurisdiction over this service.

Many interested parties filed comments, with several embracing the new technology as a fast and inexpensive way to talk. Other commentors have concerns about the use of VoIP, urging the PUC to regulate it as a telephone service. The comments also provided information from a technical perspective that will help the PUC define VoIP and determine how it may be offered in the state. The PUC is currently reviewing the comments and will make a decision regarding these issues.

Pennsylvania is not alone, with other states including Montana and California also examining the use of VoIP. The same conflicts have arisen in those states. Vonage Inc., a company active in Pennsylvania, has said that it might not do business in California. In Montana, a court stopped the state from treating VoIP like telephones.

Congress is considering a law that would prevent states from taxing any service provided through the Internet, which would include VoIP. In Pennsylvania, Senator Corman (R-State College) proposed a law that precludes VoIP taxation for five years.

New Federal Standards

Continued from Page 1.

The FCC eliminated most unbundling requirements for broadband to make it easier for companies to invest in new equipment and deploy high-speed services that consumers desire. For now, incumbents must continue to unbundle most network elements associated with narrow-band services.

State commissions are asked to review local conditions to determine whether marketplace conditions support the continuing obligations to unbundle loops, switching and transport elements. The PUC has agreed to undertake the necessary analysis in Pennsylvania and has initiated several investigations for completion within the statutory deadline.

One investigation is under way to make a recommendation on access to local switching for large business customers at Docket I-00030100. Another investigation is considering Verizon's petition to limit access to its switching for mass market customers and transport at Docket I-00030099. Meanwhile, PUC staff is also conducting a technical conference at Docket M-00031754 to develop a process for the efficient migration of loops, perhaps through a batch hot cut process.

Telecommunications Initiatives

On Sept. 23, 2003, the PUC issued a secretarial letter reminding competitive local exchange carriers (CLECs) that offer bundled service packages of their obligation to list the charge for basic service separately on customer bills in accordance with PUC regulations at 52 Pa. Code § 56.21, or to request a waiver of the regulation. The letter also informed CLECs of circumstances under which the PUC had granted waivers of this requirement.

Waivers of this regulation have been granted where the charge for basic service would be disclosed to current customers subscribing to a bundled service package and to applicants for such service, and where a customer's basic service would not be immediately terminated for failure to pay the total charge for the bundled service package.

The Commission explained that displaying the charge for basic service on a customer's monthly bill provides important information that allows the customer, when individual circumstances warrant, to act to protect basic service. The Commission recommended, if a CLEC could not or would not comply with this billing requirement, that the CLEC should petition the PUC for a waiver on the same basis as those that were already granted.

The secretarial letter was issued on the recommendation of an internal troubleshooting group, chaired by Deputy Executive Director Karen Moury and comprised of staff members of the Bureau of Consumer Services, the Bureau of Fixed Utility Services, the Office of Special Assistants and the Law Bureau. The group meets monthly to deal with telecommunications issues. The secretarial letter was issued at Docket No. M-00031747.

Chapter 30 Scheduled to Sunset on December 31

Chapter 30 provides for an alternative form of regulation of telecommunications services and establishes various requirements for network modernization to promote the deployment of broadband facilities throughout the Commonwealth. Under its express terms, it will expire on Dec. 31 unless it is re-enacted by the Pennsylvania General Assembly prior to that time.

Two bills were recently introduced in the Senate concerning Chapter 30. Senate Bill 30 accelerates network modernization by Verizon to 2008, while Senate Bill 900 establishes a new separate administrative agency to address telecommunications issues. A key aspect of Senate Bill 30 is the provision for economic incentives for accelerated broadband deployment. It also provides for a bona fide consumer request program, under which the incumbent local exchange carrier (ILEC) would be required to give priority to requests for broadband service that are submitted by 25 or more customers, a municipality or political subdivision, or public service institutions.

Three bills relating to Chapter 30 are pending in the House. House Bill 1669 provides for various amendments to Chapter 30, including the creation of a broadband infrastructure authority and a funding mechanism to support universal broadband deployment. Containing similar language is House Bill 1010, which also includes worker protections. House Bill 30 seeks to amend Chapter 30 by eliminating language relating to telephone competition, altering the nature and scope of ILECs' universal broadband availability to rural customers and removing the quality and reliability of telephone service from the Commission's jurisdiction.

Pennsylvania Telephone Company Access Lines

for 1999-2002

YEAR	Competitive Local Exchange Carrier (CLEC)	%	Incumbent Local Exchange Carrier (ILEC)	%	Total All Carriers
1999	479,012	5.5	8,295,531	94.5	8,774,543
2000	831,052	9.1	8,265,178	90.9	9,096,230
2001	1,153,781	12.8	7,887,594	87.2	9,041,375
2002	1,257,849	14.4	7,455,906	85.6	8,713,755

The above chart shows the trends in access line counts over the last several years. Access lines are defined as a telephone line reaching from the telephone company's central office to a point usually on the customer's premises. As can be seen, access lines for the local incumbent carriers have declined in this period, while access lines for the local competitive carriers have increased. However, total overall access lines have decreased. The above numbers are as reported by the companies.

Holland Joins PUC as Newest Commissioner

Commissioner Wendell F. Holland

Wendell F. Holland was sworn in on Sept. 19 as the newest Pennsylvania Public Utility Commissioner. Gov. Edward G. Rendell nominated Holland to the post on May 30. The Senate unanimously confirmed Commissioner Holland on Sept. 16. He replaces Aaron Wilson Jr., whose term expired.

Commissioner Holland recently named the following staff to his office: Teri Mathias, Carol A. Kozloff; Frank E. Sparrow; and Verdina Y. Showell.

Commissioner Holland previously served as a PUC Commissioner from 1990 to 1993, and prior to that in the Commission's Law Bureau and as an Administrative Law Judge.

Commissioner Holland most recently was a lawyer in private practice with Obermayer Rebmann Maxwell & Hippel LLP.

He is married to Anita, and they have three children.

Commission Acts to Improve Electric Reliability

The Commission has initiated a rulemaking proceeding at Docket No. L-00030161 to increase the frequency of the amount of information required in electric distribution companies' reports. Primarily, the Commission has focused on amending 52 Pa. Code §§57.192- 57.195, which establishes Electric Reliability Standards, in its proposed rulemaking order that was entered on June 27, 2003.

On the same day the Commission entered a tentative order that amends the benchmarks and standards for reliability performance of electric distribution companies at Docket No. M-000991220. The tentative order strengthens the existing standards. The benchmarks are being revised for some, but not all, companies due to a proposed change in the definition of a "major event" and the replacement of the term "operating areas" with "service territory" in the regulations.

The comment period for the tentative order expired on Oct. 10 and the comment period on the proposed rulemaking order expires on Dec. 3, 2003. Both orders and their comments are posted on the home page of the Commission's website for easy reference.

Natural Gas Standards of Conduct

The Commission adopted an order on Sept. 18, 2003, commencing the formal rulemaking process for the establishment of Natural Gas Standards of Conduct. The Standards of Conduct will govern relationships between natural gas distribution companies (NGDCs) and affiliated natural gas suppliers (NGSs). The Natural Gas Choice and Competition Act requires the PUC to adopt permanent standards of conduct as part of the restructuring of the natural gas industry to promote competition among independent sellers of natural gas in the retail market.

The standards are intended to ensure that NGDCs do not give their affiliated NGSs preferences that independent NGSs do not enjoy. Following passage of the Act in 1999, the Commission established a working group that drafted binding interim standards of conduct which were then adopted. In its order of Sept. 18, the Commission largely accepted the recommendation of the working group that the interim standards be adopted as permanent regulations. The proposed regulations are essentially the same as the interim standards.

Following publication in the *Pennsylvania Bulletin*, the public will have 30 days to file written comments on the proposed regulations. If the Commission approves the regulations, they will be reviewed by the standing committees of the Pennsylvania General Assembly and the Independent Regulatory Review Commission before becoming effective.

Telecommunications News

Verizon Pennsylvania Inc.'s 2003 PCO
M-00021596 et al July 15, 2003 Public Meeting

This concerns Verizon PA's Nov. 26, 2002, Price Change Opportunity (PCO) filing and the joint procedural stipulation filed by AT&T Communications of PA, MCI WorldCom, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, the Rural Telephone Company Coalition, The United Telephone Company of PA, Verizon PA, and Verizon North.

The stipulation: (1) provides for additional access charge reductions and gradual increases in local rates by the rural telephone companies on a revenue neutral basis, as contemplated by our *Global Order*; (2) allows for the continuation of the Pennsylvania Universal Service Fund (PaUSF) to remain in effect until a further PUC rulemaking proceeding prior to Dec. 31, 2004; and (3) provides that AT&T's complaint against Verizon PA's PCO filing should be resolved separately from the stipulation on cross-motions for summary judgment without the need for a hearing on the issue. The PUC granted the stipulation in its entirety and further directed staff to issue another request for proposal to hire an administrator of the PaUSF for a contractual period from Jan. 1, 2004, through Dec. 31, 2006.

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FCC Activity

Notice of Inquiry

In April 2003, the Federal Communications Commission (FCC) issued a Notice of Inquiry (NOI) seeking comment on the use of existing electrical power lines to provide Internet and broadband services to homes and offices. The FCC issued the NOI to address access over medium voltage power lines and in-house use of existing electrical utility lines to computers within a particular building. The FCC issued the inquiry as part of its ongoing effort to promote nationwide access to broadband services.

Long Distance Services

In May 2003, the FCC issued a report which indicated that revenues from long distance services dropped in 2001 to $99 billion from $110 billion a year earlier. In addition, the FCC noted that the average customer payment per minute of toll service also continued to decline, falling to 8 cents per minute in 2001 from 9 cent per minute in 2000. In 2001, AT&T's market share was 38 percent, MCI's was almost 24 percent, Sprint's 9 percent, the regional Bell Operating Companies long distance affiliates had over 6 percent, and more than 1,000 other long distance companies had nearly 24 percent of the remaining market.

Performance Goals Payments

In May 2003, the FCC's Enforcement Bureau denied a request from Verizon Communications Inc. for a change in how the Commission calculates the "voluntary payments" the company must make when it misses its performance goals. Verizon had asked for a change in the formula previously set by the FCC in the Bell Atlantic and GTE merger order. The FCC's merger order established a formula for calculating the payment Verizon would make when it missed its service quality goals while providing services to competitive local exchange carriers. The Enforcement Bureau denied Verizon's request because the plain language of the formula did not support the company's request.

Wireless Number Utilization

In June 2003, the FCC denied a petition by the wireless companies to keep the utilization thresholds for numbering resources at the current level of 65 percent. The FCC ruled that the planned increase to 75 percent by June 2004 was necessary to ensure that carriers obtain numbering resources only when they are needed to provide service. As of June 2003, telecommunications carriers have to use 70 percent of their allotted numbers before applying for additional numbering resources. The Pennsylvania PUC filed comments to the petition requesting that the FCC remain committed to its scheduled utilization threshold increases.

Local Number Portability

In June 2003, the FCC issued its Fourth Report and Order on Numbering Optimization. The FCC affirmed that carriers must deploy local number portability (LNP) in switches within the 100 largest Metropolitan Statistical Areas (MSAs) for which another carrier has made a specific request for LNP. Also, the FCC delegated authority to state commissions to require certain carriers operating in the 100 largest MSAs who have not received a request for LNP, to offer LNP on a case-by-case basis.

The FCC also concluded that all carriers, except those exempted under special circumstances, are to participate in thousands-block number pooling in accordance with the FCC's national pooling schedule. The FCC also included a Notice of Proposed Rulemaking seeking comments on whether a pooling exemption should apply to carriers providing service in rate centers with two service providers.

In addition, on Nov. 10, the FCC issued an order that provided guidance on issues related to wireline-to-wireless (intermodal) portability. The order indicates that wireline-to-wireless portability should take place by Nov. 24, 2003, in the top 100 MSAs. Companies outside the top 100 MSAs have until May 24, 2004, to implement intermodal portability.

Local Telephone Competition Report

In June 2003, the FCC released its local telephone service competition report. The report states that total competitive local exchange carrier end-user switched access lines increased by 14 percent during the second half of 2002, from 21.6 million to 24.8 million lines. During this same time period, cable telephony lines increased by 15 percent or three million lines, from 2.6 million. Incumbent local exchange carriers reported providing about 37 percent more UNE loops with switching (10.2 million compared to 7.5 million) to other carriers at the end of December 2002.

Proposed Rulemaking to Review UNE Pricing

The FCC is seeking comment on a variety of unbundled network element (UNE) and resale pricing-related issues and on a proposal to make total element long run incremental cost (TELRIC) rules more closely account for the real-world attributes of the ILEC's network. The rulemaking reaffirms forward-looking cost methodology to determine UNE pricing and simplifies the UNE costing methodology to make it easier for state commissions to develop UNE prices. The issues addressed in the notice of proposed rulemaking are as follows:

- TELRIC rules should more closely account for the real-world attributes of the routing and topography of the incumbent's network in developing forward-looking costs;
- Comments requested on numerous network assumptions, such as network routing and construction, technology, structure sharing and fill factors;
- Comments sought on the impact of changes in unbundling obligations resulting from the Triennial Review Order on UNE pricing; and
- Comments sought on pricing rules for local service resale in light of a federal court decision vacating the FCC's previous resale pricing rules.

The PUC's Law Bureau is currently preparing comments in this matter, which are due Dec. 16, 2003.

National Energy Standards

The North American Energy Standards Board (NAESB) is a nonprofit organization comprised of representatives of the wholesale and retail electric and natural gas industries. Standards developed by NAESB include principles, definitions, datasets and model business practices and agreements developed for use on a voluntary basis by energy companies and regulatory authorities.

Creditworthiness

Creditworthiness standards have recently been established. This achievement is attributed to months of "sweat equity" by members of the retail electric and gas industries who volunteered their time and resources for this purpose. Procedures and processes described in these standards "apply to credit risks existing between a supplier and a distribution company in the course of serving retail access customers." Prior to this development, no single set of creditworthiness criteria existed for both retail energy sectors. In Pennsylvania, the incumbent utility addresses these concerns either in a tariff or a separate contract agreement.

Billing and Payment Processing

A common set of standards for energy retailers has also been drafted for billing and payment processing. Three model billing practices are proposed: 1) dual billing; 2) consolidated billing; and 3) single retail supplier billing. Only the first two practices apply in Pennsylvania. The standards also address two model payment processing alternatives—assumption of receivables and pay as you get paid. Both are common practice among Pennsylvania electric suppliers and distribution companies. Each natural gas distribution company in the Commonwealth approaches billing and payment processing in an independent manner.

Internet Protocols

Drawing from past efforts of the wholesale natural gas industry group associated with NAESB, Pennsylvania established Internet protocols for the exchange of customer data in the Electric Choice program. Currently, NAESB is considering the technical feasibility and impacts of establishing a cross-industry standard for Internet electronic data transport. The use of electronic data communication via the Internet is not required for the Pennsylvania Gas Choice program.

Coordinate Operations Business Practices Task Force

The NAESB created a Coordinate Operations Business Practices Task Force to develop business practice standards to support and complement existing efforts of the North American Electric Reliability Council.

The national standards documents described above may be found on the NAESB home page at www.naesb.org. Questions about NAESB activities and the Commission's decisions on related matters may be directed to Annunciata Marino, Bureau of Fixed Utility Services at (717) 772-2151.

Commission Urges FERC to Direct AEP to Join PJM

In comments filed with the Federal Energy Regulatory Commission (FERC) on Oct. 8, the PUC urged FERC to order American Electric Power (AEP) to become a full member of PJM and fully commit its generation and trans-mission resources to the PJM wholesale market. While AEP had previously sought to join PJM, its efforts were thwarted by state action in Virginia and Kentucky earlier this year.

In response to a two-day hearing convened on Aug. 29 and 30, 2003, by FERC to explore why AEP was not complying with its previously made merger approval commitments made to FERC, AEP offered a proposal to participate in PJM on a limited basis as a "basis for further negotiations."

Under AEP's proposal, PJM would control AEP's transmission system and perform certain reliability coordination and market monitoring functions, but AEP would not participate in PJM's day-ahead and real-time markets or use locational marginal pricing to manage congestion across the utility's grid.

Following two days of hearings on AEP's testimony at FERC, the Pennsylvania PUC's comments criticized AEP's proposed solution as "inadequate in that it does not provide a date certain for the integration of AEP's service territory into a fully functioning competitive wholesale market." Further, the Commission encouraged FERC to require AEP to fulfill its voluntary commitment to join an RTO as a condition of approval of its merger application in 2000.

The Pennsylvania PUC characterized the case as presenting the issue of whether FERC would use its authority to require unaffiliated public utilities to join regional transmission organizations and participate in the competitive wholesale markets in those regions.

Describing AEP's proposal as an offer to do exactly what it is doing now, the Commission noted the absence of a pledge by AEP to implement a competitive wholesale market in its region. Although the PUC welcomed AEP's offer to foster serious discussions that would lead to a satisfactory resolution of this issue, it also emphasized the importance of a prompt decision on a matter that has been lingering since 2000. A FERC decision is expected in November.

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Verizon's 2000 Biennial Update to NMP
P-00930715F0002 Sept. 17, 2003 Public Meeting

This case pertains to Verizon PA's third supplement to its network modernization plan (NMP) filing. By order entered Sept. 17, 2003, the PUC acted to accelerate Verizon's broadband deployment at a speed of at least 1.544 megabits per second (mbps) between now and 2015, in accordance with the following schedule: 50 percent of each rural, suburban and urban exchange by 2004; 60 percent by 2006; 70 percent by 2008; 80 percent by 2010; 90 percent by 2012; and 100 percent by 2015. The previously approved schedule required deployment to 50 percent by 2004 and 100 percent by 2015.

The PUC's order also requires Verizon to make broadband services at 45 mbps or greater available in commercial time frames, currently defined as 45-60 days. Verizon also must make DSL service available at speeds less than and greater than 1.544 mbps to 45 percent of lines in urban, suburban and rural Pennsylvania by 2006, and to close the residential and business availability gap to 10 percent by 2007.

In addition, the Commission bifurcated the competitive access issues in this proceeding because of their relationship with the FCC's *Triennial Review Order* that had not yet been released when the PUC initially acted on this case at the July 17, 2003, public meeting.

The order directed that parties file main briefs and reply briefs on the competitive access issues by 20 days and 30 days, respectively, after the FCC publishes the *Triennial Review Order* in the *Federal Register*. Those dates were subsequently extended until Oct. 13 and Oct, 23, 2003, respectively, by secretarial letter dated Sept. 19. That letter also extended the time for the Commission to issue its supplemental order pertaining to the competitive access issues from Nov. 1 to Dec. 8, 2003.

Finally, the PUC directed staff to: (1) develop procedures regarding the performance of audits for Verizon's network modernization plan and those of other incumbent local exchange carriers; and (2) to make recommendations concerning appropriate enforcement methods to ensure compliance by the companies for their respective network modernization plans.

Generic Investigation Regarding Verizon PA Inc.'s Unbundled Network Elements Rates
R-00016683 Nov. 13, 2003 Public Meeting

This case involves exceptions to the supplemental recommended decision on remand that was issued March 19, 2003. The supplemental recommended decision addresses the validity of Verizon PA's unbundled network element (UNE) rates resulting from the PUC's Nov. 4, 2002, tentative order as well as alternatives to amend the rate disparity in Verizon's retail Density Cell 4 Loop rates. It is a continuation of proceedings before the PUC to establish permanent rates for Verizon's UNEs.

At the public meeting held on Nov. 13, the PUC unanimously adopted a motion by Chairman Fitzpatrick to modify staff's recommendations with regard to two cost study inputs – Cost of Capital and the Forward Looking Conversion (FLC) factor. The PUC determined that a more appropriate overall cost of capital in a competitive market would be 12.37 percent rather than the 9.83 percent recommended by staff. The PUC agreed with staff that the FLC factor as applied by Verizon in its cost study was contrary to the FCC's rules and results in an overstatement of Verizon's estimates of forwardlooking UNE expenses.

However, rather than adjusting all UNE rates by a certain percentage to correct Verizon's erroneous application of the FLC, the PUC directed that Verizon PA re-run its cost model based on the FLC flaws determined by staff.

Finally, the PUC directed Verizon to provide in its compliance filing, a specific, concise explanation and verifiable documentation for each specific UNE rate that varies by 50 percent or more from the current rate. This allows the PUC to adequately evaluate the reasonableness of the compliance rates before they are permitted to become effective. Staff originally recommended that the PUC reject any rate increase that is 50 percent over current rates.

Petition of Verizon Pa. for a Determination if a Service is a Competitive Service Under Chapter 30
P-00021973 Aug. 13, 2003 Public Meeting

In this decision, the PUC addressed Verizon PA's request that would declare the telecommunications services to its business customers generating less than $10,000 in annual total billed revenue (ATBR) as competitive services under Chapter 30 of the Public Utility Code. The provision of telecommunications services to business customers generating more than $10,000 ATBR was previously declared competitive services by the PUC in its *Global Order*. The Commission, in finding that Verizon failed to meet its burden of proof, ordered that Verizon PA's request be denied. Verizon PA subsequently filed a petition for reconsideration or modification that is currently pending before the PUC.

Petition of Cellco Partnership d/b/a Verizon Wireless
P-00021995 et. al. Sept. 24, 2003 Public Meeting

This proceeding involved the request of Verizon Wireless for interconnection with 21 rural local exchange companies (LECs). The PUC acknowledged that a number of novel and complex legal questions were raised in the proceeding which included: (1) a wireless carrier's challenge to the rural exemption established under 47 U.S.C. 251 (f)(a)(A); (2) the relevance of designation as an Eligible Telecommunications Carrier (ETC) under 47 U.S.C. 214 (e); and (3) whether bona fide requests for interconnection with rural LECs had been submitted pursuant to the Telecommunications Act of 1996.

The matter was remanded to the Office of Administrative Law Judge for further proceedings as deemed necessary to resolve all legal issues involved in the proceeding.

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Federal Energy Legislation Released

On Nov. 15, the House/Senate Energy Conference released draft federal energy legislation that would delay the implementation of standard market design until the end of 2006 and require the Federal Energy Regulatory Commission (FERC) to issue a second notice of proposed rulemaking to address those issues. Additionally, the bill preserves language from earlier drafts providing for mandatory electric reliability standards. Other topics of interest covered by the bill include voluntary participation in regional transmission organizations by transmission owners and incentives for the deployment of demand side response technology. Similar to prior versions of the bill, the Public Utility Holding Company Act would be repealed, and the Public Utility Regulatory Policy Act would be amended.

As to the siting of transmission facilities, the draft legislation would require the Department of Energy (DOE) to conduct a study and issue a report identifying geographic areas that are experiencing transmission constraints or congestion that adversely affects consumers. The bill would also give FERC the authority to issue construction permits if a state is unwilling or unable to give permission, and the permit holder would be able to exercise the right of eminent domain in the United State District Court. Under the draft legislation, states would be permitted to enter into interstate compacts establishing regional transmission siting agencies, which could receive technical assistance from DOE.

This draft legislation is the culmination of several weeks of meetings by the House/Senate Energy Conference that was convened on Sept. 5 by Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-NM) and joined by House Energy and Commerce Committee Chairman Billy Tauzin (R-LA). Prior versions of the legislation were H.R. 6, which was passed by the House in a floor vote held in April, and S. 14, which was introduced in the Senate in May. The Senate had unanimously agreed to send the bill to a joint conference committee with the House so as to ensure consideration of an energy bill this year.

Before its release by the conference on Nov. 15, the Energy Policy Act of 2003 (H.R. 6) had encountered several delays, with the drafting process occurring behind closed doors during most of October. Despite the setbacks experienced by the conference, Chairman Tauzin noted in a joint announcement with Chairman Domenici that he remained "convinced that Congress will deliver a comprehensive national energy bill this year." According to reports, the legislation will be considered on the floors of the House and Senate this week in an effort to pass the bill prior to the Thanksgiving recess. A full text of the bill can be viewed at energy.senate.gov.

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PUC v. Verizon Pa.; AT&T Communications of Pa. v. Verizon Pa.; OSBA, Intervenor
R-00016785 October 2003 Public Meeting

This proceeding involves a formal complaint by AT&T Communications of PA Inc. against a compliance tariff filed by Verizon PA Inc. through which it sought to implement an equal access recovery charge (EARC) for the purpose of recovering the costs incurred in implementing intraLATA toll presubscription in its service territory. In light of the serious defects caused by the lack of record evidence, the PUC acted to adopt a motion by Commissioner Glen R. Thomas that, in lieu of remanding the matter to the Office of Administrative Law Judge (OALJ) for additional evidentiary hearings, assigns the matter to the OALJ for alternative dispute resolution.

The PUC encouraged the parties to make every effort to settle the matter within the framework of alternative dispute resolution within 30 days and further directed the OALJ to file a report within 10 days from the conclusion of the mediation.

PUC Awaits Outcome of Power Outage Investigation

The August 14 massive blackout that affected several states in our region is currently the subject of an investigation being conducted by the United States-Canada Joint Task Force on the Power Outage. The PUC has a representative on the Electric Systems Working Group of the Joint Task Force and is cooperating with the Joint Task Force by providing data about the impact of the blackout on Pennsylvania, as well as information concerning state standards applicable to transmission and distribution facilities.

According to power outage reports filed with the PUC, all 4,300 customers of Pike County Light and Power lost power, while 86,000 customers of Penelec were affected by the blackout. As a subsidiary of Consolidated Edison, Pike is served through its tie lines by the New York Independent System Operator. Service was restored to all Pike Customers by 12 a.m. on Aug. 15. Penelec, which is a subsidiary of First Energy, serves the Northwestern portion of Pennsylvania. Service was restored to all but 2,000 Penelec customers by 9:30 p.m. on Aug. 14.

While it appears that protective devices and power infrastructure within the PJM Interconnection system may have operated to limit the cascade of the blackout, the PUC continues to review facts as they become available. The PUC has not launched its own review of the power outage, but may do so if warranted following the outcome of the task force investigation.