

REPORT

OF THE

PUBLIC SERVICE COMMISSION

OF

MARYLAND

FOR THE YEAR 2004

Public Service Commission of Maryland

Kenneth D. Schisler, Chairman
J. Joseph Curran, III, Commissioner
Harold D. Williams, Commissioner
Gail C. McDonald, Commissioner¹
Ronald A. Guns, Commissioner²
Allen M. Freifeld, Commissioner³

Susan Stevens Miller
General Counsel

O. Ray Bourland
Executive Secretary

Gregory V. Carmean
Executive Director

Bryan G. Moorhouse
Chief Hearing Examiner

¹ Served until June 30, 2004.

² Served until December 31, 2004.

³ Service began July 1, 2004.

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I. MEMBERSHIP OF THE COMMISSION

	Term Expires
Kenneth D. Schisler, Chairman	June 30, 2008
J. Joseph Curran, III, Commissioner	June 30, 2005
Ronald A. Guns, Commissioner ⁴	June 30, 2006
Harold D. Williams, Commissioner	June 30, 2007
Allen M. Freifeld, Commissioner	June 30, 2009

II. GENERAL WORK OF THE COMMISSION

In 1910, the Maryland General Assembly established the Public Service Commission ("PSC" or "Commission") to regulate public utilities and transportation companies doing business in Maryland. The jurisdiction and powers of the Commission are found in the Public Utility Companies Article, *Annotated Code of Maryland*.

The Commission regulates gas, electric, steam heating, telephone, water, and sewage disposal companies. Also subject to the jurisdiction of the Commission are certain common carriers such as bus, railroad companies and passenger motor vehicle carriers engaged in the transportation for hire of persons within the State. The PSC's jurisdiction also extends to taxicabs operating in the City of Baltimore, Baltimore County, Cumberland, and Hagerstown.

The categories of regulated public service companies and other regulated or licensed entities are listed below:

⁴ Served as Commissioner from July 2001 until January 2005.

- ◆ electric utilities;
- ◆ gas utilities;
- ◆ combination gas and electric utilities;
- ◆ electric suppliers;
- ◆ gas suppliers;
- ◆ telecommunications companies;
- ◆ water, and water and sewerage companies;
- ◆ bay pilots;
- ◆ docking masters;
- ◆ passenger motor vehicle carriers;
- ◆ railroad companies;
- ◆ taxicab companies;
- ◆ hazardous liquid pipelines; and
- ◆ other public service companies.

The Commission is empowered to hear and decide matters relating to: (1) rate adjustments; (2) applications to exercise or abandon franchises; (3) applications to modify the type or scope of service; (4) approval of issuance of securities; (5) promulgation of new rules and regulations; and (6) quality of utility and common carrier service. The Commission has the authority to issue a Certificate of Public Convenience and Necessity in connection with an electric company's application to construct or modify a new generating plant or high-voltage transmission lines.

Best known to the public is the Commission's role of setting utility rates. However, the Commission has much broader authority for supervision and regulation of activities of public service companies. During 2004, the Commission pursued policies to strengthen competition in the delivery of gas, electricity and telecommunications services. The Commission was also an active participant in wholesale energy issues

regulated by the Federal Energy Regulatory Commission. Finally, in addition to setting rates, the Commission collects and maintains records and reports of public service companies, reviews plans for service, inspects equipment, audits financial records, handles consumer complaints, promulgates and enforces rules and regulations, defends its decisions on appeal to State courts, and intervenes in relevant cases before federal regulatory commissions and federal courts.

The Commission's jurisdiction is limited to intrastate service. Interstate transportation is regulated in part by the U.S. Department of Transportation; interstate and wholesale activities of gas and electric utilities are regulated by the Federal Energy Regulatory Commission; and interstate telephone service is regulated by the Federal Communications Commission.

As a result of the federal supremacy clause, federal jurisdiction can also preempt or constrain the State's authority over intrastate services. Federal statutes and decisions of federal regulatory commissions can preempt inconsistent State statutes or regulatory decisions if Maryland's regulatory activities interfere with or frustrate the federal objectives to regulate interstate commerce.

III. DIVISION REPORTS

A. Administration

1. Office of Executive Secretary

The Executive Secretary is the Commission's Chief Administrative Officer and an author of, and the official signatory to, minutes, decisions and orders of the Commission that are not signed by the Commission directly. The Executive Secretary is

also a member of a team of policy advisors to the Commission. The Office of Executive Secretary ("OES") is responsible for the Commission's case management, expert services procurement, order preparation, payphone service provider administration, procurement, regulation development and coordination, tariff maintenance, and the Equal Employment Opportunity Program. The Office of Executive Secretary coordinates various communications and activities among the Commission, its Technical Staff, regulated public service companies, other state, federal and local government agencies, and the general public. During 2004, OES scheduled for the Commission's consideration various matters that were filed by utilities and others. OES coordinates the Commission's weekly Administrative Meeting, at which many tariffs and other regulatory issues are resolved. OES also coordinates and maintains the Commission's rulemaking docket.

In addition to carrying out the Commission's directives regarding the assignment and completion of duties by other divisions within the Commission, the Executive Secretary supervises the Administrative Division. The Administrative Division consists of five Sections: Information Technology; Fiscal and Budget; Personnel; Purchasing, Procurement, and Administrative Services; and Document Management.

Additionally, the Administrative Division is responsible for managing the Commission's payphone provider authorization program. During 2004, there were 361 payphone providers with 30,896 pay telephones subject to the Commission's jurisdiction.

The following paragraphs provide a more detailed description of each of the Administrative Division Sections and their work in 2004.

2. Information Technology Section

The Information Technology Section ("IT") functions as the technical staff for the Commission's computer system. As such, IT is responsible for computer hardware and software selection, installation, administration, training and maintenance. In accordance with Maryland's E-government initiative and as outlined in the Commission's Information Technology Master Plan ("ITMP"), IT has successfully deployed all feasible data and services relevant to the general public through the Commission's Internet web site. IT also conducts computer education training sessions and provides technical support for the Commission.

IT created and maintains the Commission's Internet web site. It contains basic information about its organizational structure, duties, responsibilities, press releases, Administrative Meeting agendas, hearing schedules, and major Commission decisions. The web site also hosts several sub-sites for the purpose of registration and tracking of Commission-related events.

3. Fiscal and Budget Section

The Fiscal and Budget Section of the Administrative Division manages the financial aspects of the daily operations of the Commission. The operating budget totaled \$11,516,934 in Special Funds for fiscal year ending June 30, 2004. Included within the normal State functions are two unique governmental accounting responsibilities. The first function allocates the Commission's cost of operation to the various public service companies subject to the Commission's jurisdiction. The second function allocates the budget associated with the Department of Natural Resources' Power Plant Research Program ("PPRP") to electric companies distributing electricity to retail customers within

the State of Maryland. This Section also administers the financial accountability of the Pipeline Safety Program and the Hazardous Liquid Pipeline Safety Program, which are partially reimbursed by the Federal Department of Transportation, by maintaining all associated financial records consistent with federal program rules, regulations, and guidelines requiring additional record keeping.

Under the Public Utility Companies Article, Section 2-110, of the *Annotated Code of Maryland*, the Commission's operating budget is funded by an assessment levied against all public service companies, docking masters and licensed electric and gas suppliers that are subject to the Commission's jurisdiction with one exception. (The one exception to this process is the assessment levied against the Association of Maryland Pilots.) The assessment process requires that each regulated public service company report actual revenues derived from intrastate operations for the previous calendar year. The assessment rate is then applied to each public service company's revenue, and a bill is prepared and forwarded to each company. The revenues from this assessment are credited to the Public Utility Regulation Fund for the payment of the Commission's operating costs. Any revenue surplus (deficit) at the end of the fiscal year is deducted (added) from (to) the next authorized budget figure used to calculate the next assessment.

The Natural Resources Article of the *Annotated Code of Maryland* requires that the Commission determine an environmental surcharge per kilowatt-hour (kWh) of electric energy distributed in Maryland to be paid by electric public service companies. To carry out this responsibility, this Section gathers data that reports the electricity distributed by each electric company. The combined total of all kWh of electricity

distributed in Maryland is then divided into the Department of Natural Resources' Power Plant Research Program's approved budget. This calculation provides the surcharge rate.

4. Personnel Section

The Personnel Section is responsible for the day-to-day personnel transactions of the Commission. This responsibility includes the following personnel transactions: recruitment, testing, hiring, retirements and terminations as well as the associated records management. In addition, this Section is responsible for payroll, timekeeping, and state and federal employment reports. This Section also serves as a liaison between the state Department of Budget and Management, the Commission, and the Commission's employees. During 2004, this Section provided Commission managers and personnel with advice, direction, and guidance on personnel matters; performance evaluations; salary issues under the Agency's independent salary plan; and recruitment and training.

The Personnel Staff represents the Commission as the Retirement Coordinator, Health Benefits Coordinator, Manager of the Drug Testing Program, Americans with Disabilities Act ("ADA") Coordinator, Manager of Recruitment and Testing, and Telework Coordinator. Personnel Staff are also involved in the Employee Assistance Program and the Equal Employment Opportunity Program. This Section works closely with Commission managers in identifying problem personnel situations and providing solutions consistent with appropriate rules, regulations and policy guidelines.

5. Purchasing, Procurement, and Administrative Services

The Purchasing, Procurement, and Administrative Services Section of the Administrative Division provides the overall control of supplies and equipment. Additionally, this Section processes all requests for equipment for the entire Agency,

consistent with budget appropriations and State guidelines. This Section is also responsible for agency forms management and record retention management.

6. Document Management Section

The Document Management Section is the primary repository of all official records filed with the Commission. This Section creates and maintains formal dockets associated with proceedings before the Commission. In maintaining the Commission's formal docket, this Section must ensure the security and integrity of the materials on file, while permitting access by the general public. Included within this security function is the maintenance of highly confidential/proprietary information relating to the conduct of utility regulation, requiring compliance with detailed access procedures. Additionally, this Section prepared formal case materials for digital imaging archival, reviewed the digital images for accuracy, and authorized the destruction of the original case material consistent with the PSC records retention schedule.

B. Office of External Relations

The Office of External Relations ("OER") investigates and responds to consumer complaints relating to gas, electric, water and telephone services. In addition, OER is responsible for media relations and responds to information requests from legislators, other State and federal regulatory agencies and consumers.

1. Public Affairs Activities

As part of its public affairs and public education functions, OER ensures that consumer groups, the general public and the media have immediate access to information

about the Commission's decisions and actions relating to the regulation of electric, gas, telephone and water utilities.

In 2004, OER responded to 230 specific inquiries from members of the media. OER prepared and distributed news releases and fact sheets to summarize major Commission decisions. OER also answered numerous inquiries from legislators, financial analysts and government officials.

OER advised the Commission on customer service issues and monitored and made editorial comments when necessary regarding each utility's consumer handbook. OER also has primary responsibility for compiling and editing the Commission's annual report. OER created and revised several consumer information brochures and provided consumer information to the public on the Commission's web site.

OER continued to play a key role in the Electric Restructuring Consumer Education Campaign, which began in January 2000, by participating in community outreach efforts. Through these efforts, OER was able to personally deliver the Commission's message regarding electric and gas restructuring and other issues to many different audiences, including business and community leaders, ordinary citizens and hard-to-reach segments of the population.

In addition to its media relations and community outreach efforts, OER responded to hundreds of telephone and written inquiries regarding electric and gas restructuring issues. The office also responded to numerous telecommunications issues as well. Utility customers, media, legislators, consultants, researchers and utility commissions in other states contacted OER regarding basic information about utilities and suppliers and to obtain information about specific programs and issues.

OER arranged, conducted or participated in various public meetings responding to community issues. OER attended or participated in several utility-sponsored conferences on low-income utility assistance programs. OER also hosted, arranged or participated in presentations to delegations of industry and regulatory groups from several foreign nations.

2. Dispute Resolution Activities

The Consumer Assistance Section of OER investigates and responds to consumer inquiries and complaints pertaining to a broad array of issues relating to gas, electric, telephone, and water services.

In 2004, OER responded to 37,687 telephone calls, investigated 6,373 consumer complaints and responded to numerous requests for information concerning the PSC and the utilities and suppliers under its jurisdiction. Consumer complaints were received by mail, fax, e-mail, online complaint form and in-person.

In August 2004, OER began a new Fast Track Dispute Resolution Process with one utility company as a pilot program. This process allows requests for payment plans and requests for extensions to avoid service termination to be exchanged electronically between the Commission and the company. By using this technology, OER is able to more quickly process and respond to consumer concerns. As a result of the success of this program, additional companies are now adopting this process. Since August 2004, OER processed 451 Fast Track Cases.

The actions of the Consumer Assistance Section of OER resulted in deposits being waived or returned to customers, account error corrections, refunds and credits being applied to service bills.

Complaints by Type of Service

Electric & Gas 3037	Telephone 3077	Water 25	Other/Non- Regulated 234
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a. Electric and Gas Complaints

The greatest number of complaints against gas and electric local distributions companies ("LDCs") and suppliers concerned billing issues, such as turn-off notices and high bill disputes, followed by service issues, such as complaints of frequent power outages or poor customer service. OER's Consumer Assistance staff also responded to numerous inquiries from consumers and other interested persons concerning gas restructuring, which began in November 1996, and electric restructuring, which began in July 2000.

Electric and Gas Complaints by Type of Company

Gas LDC 432	Electric LDC 1046	Electric & Gas LDC 1323	Gas Supplier 197	Electric Supplier 39
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b. Telephone Complaints

Telecommunications disputes concerned billing, termination of service, repairs, size of local calling areas, and disagreements with company policies. Most telecommunications disputes in 2003 involved billing disputes and installation or repair problems. OER received and investigated numerous complaints about migration problems and issues related to the broadband service. Slamming was also a major area of concern.

Telephone Complaints by Type of Company

Incumbent Local Exchange Carrier (ILEC)	Competitive Local Exchange Carrier (CLEC)	Interexchange Carrier (IXC)	Other/ Unclassified
1224	819	953	81

3. Other Activities

OER also acted as liaison between utilities and social service agencies in negotiating payment arrangements for low-income customers. Gas and electric utilities filed thousands of affidavits during the "winter restrictions on terminations" period, which runs from November 1st through March 31st each year. The affidavits indicate that the utilities' employees made personal contact or attempted to make personal contact with residential customers whose bills were seriously delinquent. The affidavits alerted the Commission that continued service to those residential customers was in jeopardy.

The Commission began enforcing the Federal Communications Commission's ("FCC") latest telephone anti-slamming regulations in late 2000 and OER continued its efforts in 2004. The Commission opted to enforce those rules at the State level in conjunction with State mandated protections in order to give Maryland consumers a streamlined complaint resolution process. OER receives and investigates all telephone slamming complaints that Maryland consumers file with the FCC, in addition to complaints that are filed directly with the Public Service Commission.

C. Hearing Examiner Division

The Commission's Hearing Examiner Division has six attorney hearing examiners, including the Chief Hearing Examiner. Typically, the Commission delegates to the Hearing Examiner Division proceedings pertaining to the following: applications for construction of power plants and high-voltage transmission lines; rates and other matters for gas, electric and telephone companies; purchased gas and electric fuel rate adjustments; bus, passenger, common carrier, water, and sewage disposal company proceedings; plant and equipment depreciation; and consumer as well as other complaints which are not resolved at the administrative level. Also, the Commission has a part-time License Hearing Officer, who hears matters pertaining to certain taxicab permit holders and matters regarding Baltimore City taxicab drivers.

Under the Public Utility Companies Article, the Hearing Examiner Division constitutes a separate organizational unit reporting directly to the Commission. The Hearing Examiners conduct formal proceedings in matters referred to the Division and file Proposed Orders, which contain findings of fact and conclusions of law. During 2004, 372 cases were delegated by the Commission to the Hearing Examiner Division, 216 of which were Staff complaints or civil penalty proceedings involving common carriers pursuant to Sections 10-402, 13-201, and 13-202 of the Public Utility Companies Article. Unless an appeal is noted with the Commission, or unless the Commission takes action on its own motion, a Proposed Order becomes the final order of the Commission after the time period for appeal has expired. That period is typically 30 days, unless the Proposed Order specifies a shorter period of at least seven days. In addition, 157 matters were referred in 2004 to the taxicab License Hearing Officer for hearing. The License

Hearing Officer makes a report and recommendation to the Commission to assist the Commission in rendering a final decision regarding matters of licensure and discipline involving the regulated taxicab owners and drivers.

The Public Utility Companies Article permits the Commission to conduct its proceedings in three-member panels, and provides that one member of the panel may be a Hearing Examiner. As a panel member, a Hearing Examiner participates as a voting member in the hearings and in the panel's final decision. The decision of a three-member panel constitutes the final order of the Commission.

The Hearing Examiner Division also assists the Commission's General Counsel, to the extent the furnishing of such assistance is not inconsistent with a Hearing Examiner's other duties.

D. Office of Executive Director

The Technical Staff under the direction of the Executive Director and his assistant consists of seven divisions: Accounting Investigations; Rate Research and Economics; Integrated Resource Planning; Staff Counsel; Telecommunications; Transportation; and Engineering. The Executive Director's major supervisory responsibility consists of directing and coordinating the work of the Technical Staff as it relates to the analysis of utility filings, operations, and the presentation of testimony in formal and informal proceedings, as well as supervising the Technical Staff in their day-to-day regulatory oversight activities. The Executive Director directs formulation of staff policy positions and serves as the liaison between Staff and the Commission. The Executive Director is

also the principal contact between the Staff and other State agencies, Commissions and utilities.

1. Accounting Division

The Accounting Investigations Division is responsible for auditing utility books and records and providing expertise on a variety of accounting, taxation and financial issues. The Division's primary functions include developing revenue requirements, auditing the operation of automatic adjustment clauses, auditing application of rates and charges assessed by utilities, monitoring utility earnings, examining the effectiveness of cost allocations, analyzing the financial integrity of supplier license applications and assisting other Divisions and State agencies. Historically, the Division has also been responsible for project management of Commission-ordered utility management audits. Division personnel provide expertise and guidance in the form of expert testimony, formal comments on utility filings, independent analyses on specific topics, advisory services, and responses to surveys or other communication with the Commission. The Division must remain current with the most recent changes in accounting pronouncements and tax law, and must be able to apply its expertise to the industries regulated by the Commission.

2. Rate Research and Economics Division

The Rate Research and Economics Division conducts economic, financial and policy analyses relevant to regulation of public utilities and provides recommendations to the Commission. This work includes: rate of return on equity and capital structure; rate design; electric and gas retail competition policy and implementation; low income customer issues; consumer protections; consumer education; codes of conduct; mergers;

and jurisdictional and customer class cost-of-service determination. The Division also provides general economics and policy support to the Commission. Division personnel conduct analyses for every type of public service company under the Commission's jurisdiction.

The economic, financial and policy analyses and recommendations performed by Division personnel may appear in a variety of forms including: expert testimony in formal proceedings; special studies requested by the Commission on a specific topic; formal comments on applications and petitions filed with the Commission by utilities and by ratepayers; responses to surveys; official Commission reports; and leadership of or participation in workgroup processes established by the Commission.

Restructuring in the gas and electric utility industries has expanded the scope of Division activities. Division personnel chair the gas restructuring Roundtable process, the electric Competition Technical Implementation Working Group, the Case No. 8908 Standard Offer Service settlement process and other Case No. 8908 related workgroups. Division personnel are increasingly called upon to respond to inquiries from customers, energy marketers, industry publications, the media, and other interested parties regarding gas and electric restructuring. Because Maryland is an acknowledged leader in electric and gas restructuring, Division personnel are frequently invited to speak on matters related to retail energy industry restructuring within the State and at national conferences.

3. Integrated Resource Planning Division

The Integrated Resource Planning Division was established in March 1993 to provide economic analysis of the long-range plans for reliably meeting customers' demand of the electric companies subject to the Commission's jurisdiction. Division

members conduct analyses on a wide range of issues including power supply planning, applications for construction of electric generating plants, cogeneration and purchased power contracts, competitive power solicitations, Clean Air Act Amendments compliance plans, renewable portfolio standards, emissions tracking, load management and conservation programs, certification of electric and natural gas suppliers, and various rate design and strategic planning issues which impact the long-term public interest. The Division is responsible for drafting the Commission's *Ten-Year Plan of Electric Companies in Maryland*, *Demand-Side Management Report*, and *Electric Supply Adequacy Report*. These reports are currently the primary instruments for the State of Maryland to assemble electric companies' long-range plans for reliable service and adequacy of electric supply within the context of the restructured electric utility industry.

4. Staff Counsel Division

The Staff Counsel Division directs and coordinates the preparation of Staff's position in all matters pending before the Commission. In performing its duties, the Staff Counsel Division evaluates public service company applications for identification of issues, legal sufficiency, and compliance with the Annotated Code of Maryland, Public Utility Companies Article and the Code of Maryland Regulations. The Division serves as a final reviewer of Technical Staff's testimony, legislative reports, and comments before submission to the Executive Director. In addition, the attorneys in the Division: (1) coordinate the promulgation and issuance of regulations; (2) review and comment on items handled administratively; (3) provide legal services to each division within the Office of Executive Director; and (4) handle inquiries from utilities, regulators, and

consumers. During 2004, Staff attorneys were involved in a wide variety of matters involving all public service companies regulated by the Commission.

5. Telecommunications Division

In 2004, the Telecommunications Division instituted an internal review of the requirements for obtaining authority to provide telecommunications services and for obtaining approval of new and revised tariffs. As a result of the review and recommendations, the Commission's web site contains an updated and streamlined model application for authority along with a model tariff and a checklist to expedite the approval of local and access service tariffs. In addition, the Telecommunications Division recommended streamlined procedures for reviewing all types of applications and filings. As a result of those recommendations, the Commission instituted a new formal mechanism to address various routine and non-controversial issues appearing before the Commission and revised its procedures to expedite the processing of more complex issues. These procedural modifications streamline the Commission's workflow, increase the Commission's productivity and permit the Commission to be more responsive to the carriers under its jurisdiction. As a result of these changes, the backlog of unprocessed filings fell to its lowest level in several years and Commission resources have been successfully reallocated to address other important goals and objectives within the Commission.

During the course of the year, the Telecommunications Division reviewed a number of formal complaints that were brought to the Commission requiring interpretations of various provisions of the interconnection agreements between competitive carriers and Verizon Maryland. Additionally, during the course of the year

some competitive providers of local service ceased their Maryland operations. The Commission has been working with the carriers and their affected customers to minimize the prospect of service interruption by ensuring adequate customer notice as well as notice to alternative providers. Also in 2004, the Commission undertook several significant efforts to determine the terms and conditions under which competitive carriers are able to use Verizon Maryland's network.

The Commission was engaged in several ways in on-going efforts to identify critical communications facilities within the State. The Commission Staff will continue to participate with the Maryland Emergency Management Agency and the Department of Homeland Security to identify and protect communications infrastructure that is critical to the interests of Maryland's citizens, businesses, nonprofit organizations and government agencies.

6. Transportation Division

The Transportation Division enforces the laws and regulations of the Public Service Commission pertaining to the safety, rates, and service of transportation companies operating in intrastate commerce in Maryland. The Commission's jurisdiction extends to most intrastate for-hire passenger carriers by motor vehicle or waterborne vessel, intrastate for-hire railroads, as well as taxicabs in Baltimore City, Baltimore County, Cumberland and Hagerstown. The Commission is also responsible for licensing drivers of taxicabs in Baltimore City, Cumberland and Hagerstown, and other passenger-for-hire vehicles that carry 15 or fewer passengers.

The Transportation Division coordinated its enforcement efforts regarding passenger carriers, taxicab permit holders and for-hire drivers with the Federal Bureau of

Investigation, the U.S. Citizenship and Immigration Services of the Department of Homeland Security, the Maryland Aviation Administration at BWI Airport, the Maryland Transportation Authority Police at BWI Airport and Amtrak train stations, regulatory officials of Anne Arundel and Montgomery Counties, and local police departments. The Division also coordinated its safety inspections of large commercial vehicles and Safety Reviews of carriers with the Maryland Department of Transportation, Maryland State Police, Maryland Department of the Environment, and Maryland Transportation Authority through the Maryland Commercial Vehicle Enforcement Program.

7. Engineering Division

The Commission's Engineering Division monitors the operations of public service companies. Engineers perform plant inspections, and check utilities' operations for safety, efficiency, and quality of service. Its primary areas of responsibility are as follow:

a) Electric Generation and Transmission

The Division remains actively involved in PJM through participation in various committees, working groups, and stakeholder groups. The Division routinely participates in the Planning Committee, Reliability Committee, and the Transmission Expansion Advisory Committee meetings.

Engineering provides significant testimony and recommendations in proceedings to construct generating stations and high voltage transmission lines in the State. It participated in nine such proceedings in 2004.

The North American Electric Reliability Council ("NERC") consists of ten regions throughout the United States which work to convert industry practices into consensus standards to ensure the reliability of the bulk transmission system. The

Northeast blackout of 2003 demonstrated the need for revised standards, and Engineering has been participating in those discussions. In 2004, the NERC ballot body approved the NERC Version 0 standards for 2005.

b) Metering

The Division evaluates the meter testing programs of electric, gas, and water utilities for compliance with Code of Maryland Regulations ("COMAR"). The Division conducted metering inspections with every gas, electric, and water utility operating in the State. These inspections were to ensure that utilities are in compliance with COMAR requirements for its entire meter population. The Division led an initiative to develop a consistent State Wide Statistical Sampling Plan for gas and electric metering that resulted in over \$1,200,000.00 in estimated annual savings in operational cost for Maryland utilities. The Division also performs referee tests of electric, gas, and water meters.

c) Distribution

The Division is responsible for enforcing COMAR regulations pertaining to the provision of electricity, water, and sewage disposal services. During 2004, the Division inspected electric companies, water companies, and sewage disposal companies for compliance with COMAR requirements concerning operations, maintenance, safety, and quality of service. The Division also considers requests for exemption from the COMAR undergrounding requirements for electric and telecommunications facilities.

The six largest electric distribution utilities in Maryland are required by COMAR to file Annual Reliability Reports. The Division reviews these reports, compiles overall reliability data, and has maintained reliability records since reporting requirements began in 2000.

The Division investigates accidents involving utility electrical facilities that require hospitalization or result in fatalities to monitor and enforce utility compliance with the National Electrical Safety Code. In 2004, the Division investigated 18 electrical contact accidents.

The Division has historically supported the efforts of the Maryland Emergency Management Agency ("MEMA") during exercises and actual emergencies involving the loss of utility service. In 2004, the Division encouraged the development of web-based systems to enable information sharing between MEMA and the utilities during emergency events. The Division participated in MEMA exercises in 2004, with training that introduced web-based Emergency Operations Center functionality from any computer with access to the Internet. The Division continues to provide support for Homeland Security efforts sponsored by MEMA, the National Association of Regulatory Utility Commissioners and the federal Department of Energy.

d) Pipeline Safety Programs

As an agent of the Federal Office of Pipeline Safety ("OPS"), the Division inspects natural gas companies, master meter operators, propane distribution companies, and hazardous liquid pipeline operators for compliance with State and Federal pipeline safety regulations. Currently, there are seven local distribution companies, one municipality, 57 master meter operators, seven propane distribution companies and three hazardous liquid pipeline operators within the State. The operator's written operations and maintenance plan and associated records are inspected for compliance with State and Federal pipeline safety regulations. In 2004, the Division issued 36 enforcement actions and investigated 7 gas pipeline incidents. During the annual OPS audits of the gas

pipeline safety program and the hazardous liquids program, the Division scored 98.5% and 100%, respectively.

IV. MAJOR ACTIVITIES AND SPECIAL PROJECTS

Some of the major activities, special projects and other endeavors of the PSC during 2004 are highlighted below. Other highlights can be found in the section of the report entitled "Major Cases and Decisions."

A. Broadened Ownership Act

In compliance with §2-106 of Article 83A of the *Annotated Code of Maryland*, the "Broadened Ownership Act," the Commission engaged in communications with the largest gas, electric and telephone companies in the State in an effort to assure their awareness of this law. The law establishes programs and campaigns to encourage the public and company employees to purchase stocks and bonds in these companies, thus benefiting the community, the economy, the companies, and the general welfare of the State.

The following major utility companies submitted reports outlining various efforts to encourage public and employee participation in the stock purchase program:

(a) Pepco Holdings, Inc. ("PHI") continues to encourage broadened ownership of the Company's capital stock among Maryland residents. PHI is the parent company of Potomac Electric Power Company and Delmarva Power & Light Company. As of October 31, 2004, there are more than 187 million shares of PHI common stock outstanding, which are held by over 76,000 shareholders. With respect to ownership of

PHI stock by Maryland residents, PHI's records show that 13,504 shareholder accounts, representing 8.1 million shares, are registered directly to Maryland residents.

(b) NiSource, Inc. owns all of the common stock of the Columbia Energy Group, which in turn owns all of the common stock of Columbia Gas of Maryland, Inc. NiSource has five plans which encourage broadened stock ownership. The Employee Stock Purchase Plan ("ESPP") encourages broadened stock ownership by employees. NiSource maintains the NiSource Inc. Retirement Savings Plan, the Northern Indiana Public Service Company Tax Deferred Savings Plan, and the Bay States Operating Employee Savings Plan collectively referred to as the Tax Deferred Savings Plans. In addition, the Automatic Dividend Reinvestment and Stock Purchase Plan broadens capital ownership by all stockholders.

On July 31, 2004, NiSource had 263,488,662 shares of its common stock outstanding, of which 7.4 million or about 2.8% were held by employees in the ESPP Plan and the Tax Deferred Savings Plans. As of July 31, 2004, NiSource had approximately 773 stockholders with Maryland addresses, holding approximately 300,650 shares of NiSource common stock.

(c) As of September 30, 2004, 28,268 Maryland residents representing 60.27% of Constellation Energy Group, Inc. (parent company of Baltimore Gas and Electric Company) total common shareholders, owned 13,956,196 or 7.94% of the outstanding shares of common stock. In addition, Company employees (many of whom are Maryland residents) own additional shares of common stock through the Company's Employee Savings Plan ("ESP").

Constellation Energy established an Employee Savings Plan to provide employees with a convenient way to save toward retirement and to increase their ownership interest in the Company. Under this plan, employees may save up to 25% of their income and invest such savings in Company common stock, an Interest Income Fund, nine mutual funds, or a combination of all 11 funds. As of September 30, 2004, 8,042,149 shares of common stock were held in the Employee Savings Plan for current and former employees, including approximately 539,943 shares allocated during the current reporting period.

(d) The Potomac Edison Company is a wholly owned subsidiary of Allegheny Energy, Inc. ("AE"), a public utility holding company with utility operations in five states. In 2004, AE continued its Employee Stock Ownership and Savings Plan. Approximately 79% (79%) of AE's employees are currently contributing to the plan and 5,023 participants have AE stock as part of their account balance within the Plan. As of December 31, 2003, 2,146 Maryland residents held AE stock as stockholders of record, which represents approximately 6.9% of all AE registered stockholders. The number of shares held by Maryland residents was approximately 1.15 million, which represents about .91% of all outstanding shares of AE stock.

(e) Washington Gas Light Company ("WGL") provides the following information regarding its efforts to broad ownership of the Company's capital stock, particularly among residents of Maryland and Company employees. Currently, approximately 27% of registered shareholders reside in Maryland, and represent 5.4% of the Company's outstanding common shares. WGL employees also actively participate in the ownership of the Company. As of October 10, 2004, over 165 employees were

participating in the Company's Dividend Reinvestment and Common Stock Purchase Plan, and approximately 1,435 employees (both active and retired) owned shares through its 401K Savings Plan.

(f) Verizon Maryland Inc. is a wholly owned subsidiary of The Verizon Corporation. Public stockholder ownership in the Maryland Company is obtained through the purchase of Verizon Capital Stock. The Verizon Savings Plan and the Verizon Savings and Security Plan enable employees to purchase Verizon stock. Employees are eligible to participate in the plans after one year of service. As of September 30, 2004, there were 31,454 Maryland residents who held Verizon stock.

B. Gas and Electric Utilities

1. PJM and its Expansion

In the restructured electric utility industry, Maryland (as in many other states) retains limited jurisdiction of generation activities. However, the Commission still has jurisdiction over retail electricity issues and the distribution function of electric companies. Since Maryland's electric public service companies no longer own generation, a vibrant, competitive wholesale electric market is necessary to ensure that prices for retail electric generation services are reasonable. Reasonable prices for retail electric generation services in Maryland come about through the combination of retail generation competition and the Commission's competitive wholesale generation procurement processes and the existence and operation of PJM. Maryland is in a regional electric grid that is operated by PJM. PJM is the largest power grid in North America and it also operates the world's largest competitive wholesale electricity market. PJM was

first established as a power pool in 1927 comprised of utilities in Pennsylvania, New Jersey, and Maryland. As of December 2004, the PJM territory serves and coordinates the movement of electricity through all or parts of Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia and the District of Columbia. This service area has a population of approximately 44 million and a peak demand of nearly 108,000 MW, numbers that will soon increase.

2. Electric Competition Activity

On September 13, 2000, the Commission ordered the four (4) major investor - owned utilities ("IOUs") in the State to file Monthly Electric Customer Choice Reports. PE, BGE, Conectiv, and PEPCO file reports on the number of accounts served, the total utility distribution account, the total demand in megawatts (peak load obligation), the peak load obligation for all distribution accounts, and the number of electric suppliers serving enrolled customers. This data is to be collected for both residential and non-residential customers.

At the end of December 2004, 56,186 commercial, industrial and residential accounts were served by electric suppliers. Of these, suppliers served 42,676 residential and 13,510 non-residential accounts. PEPCO had the highest number of residential accounts (42,434) and non-residential accounts (8,596) served by suppliers. Between December 2003 and December 2004, the total number of accounts Statewide served by electric suppliers decreased from 70,332 to 56,186 accounts. The total statewide number of distribution service accounts eligible for electric choice was 2,135,978 of which 1,910,261 were residential and 225,717 were non-residential. Overall, as of

December 2004, 2.2% of residential accounts and 6.0% of non-residential accounts were enrolled with an electric supplier.

The overall demand in megawatts (MW) peak load obligation served by all electric suppliers at the end of December 2004 was 2,859.5 MW, of which 187.2 MW were residential and 2,672.4 MW were non-residential. BGE had the highest peak load obligation served by suppliers (1603 MW). The total Statewide peak load obligation eligible for choice was 12,854.6 MW, of which 6,371.9 MW were residential and 6,482.7 MW were non-residential. Statewide at the end of December 2004, electric suppliers served 2.9% of eligible residential peak load and 41.2% of eligible non-residential peak load.

As of December 2004, AP had no suppliers serving residential customers, one supplier serving small commercial and industrial customers(C&I), one supplier serving mid-sized C&I customers, and one serving large C&I customers. BGE had three suppliers serving residential customers, six suppliers serving small C&I customers, 13 suppliers serving mid-sized C&I customers, and 14 suppliers serving large C&I customers. Conectiv had two suppliers serving residential customers, four suppliers serving small C&I customers, seven suppliers serving mid-sized C&I customers, and nine suppliers serving large C&I customers. PEPCO had four suppliers serving residential customers, five suppliers serving small C&I, nine suppliers serving mid-sized C&I, and 12 suppliers serving large C&I.

In anticipation of the expiration of price caps, the Commission instituted Case No. 8908 to determine the manner in which Maryland's IOUs would procure the generation service necessary to provide standard offer service ("SOS"). In that

proceeding, the Commission adopted a competitive bidding process for the procurement of that generation.⁵ This process has been effective, and other states are considering it for their own wholesale SOS procurement. Pursuant to that process, the first competitively bid electricity procurements were conducted during 2004. Each of Maryland's four investor-owned utilities – PE, BGE, Conectiv, and PEPCO -- put out bids for their standard offer service loads that would soon no longer be subject to rate caps or freezes. A second round of bids began in late 2004, and was to have been completed in the first quarter of 2005. Commission overview of both the bid process and the bid results occurred in 2004 and will continue in 2005.

3. Renewable Portfolio Standard Legislation

During its 2004 session, the Maryland General Assembly enacted legislation requiring electricity suppliers to meet a Renewable Energy Portfolio Standard ("RPS"). The legislation requires, among other things, that the Commission implement the RPS law. Implementation of the RPS law is required to be accompanied by a system that facilitates the tracking and trading of Renewable Energy Credits ("REC") representing the generation of electricity using renewable resources. The legislation directs the Commission to adopt regulations implementing the legislation no later than July 1, 2005, and the RPS applies to electricity sales commencing in 2006.

The Commission's Technical Staff prepared a Staff Report on the RPS legislation and relevant implementation issues. Stakeholders filed comments, and the Commission

⁵ Maryland's two major electricity cooperatives are treated somewhat differently. Southern Maryland Electric Cooperative uses a broker to fulfill much of its competitive electricity procurement. That arrangement is in place through December 2008, and is subject to Commission review and possible change at that time. Choptank Electric Cooperative and 10 other cooperatives in Delaware and Virginia are cooperative owners of Old Dominion Electric Cooperative (ODEC) and all of these owner/members have a long-term full requirements service arrangement with ODEC.

held a hearing on December 1, 2004. On December 21, 2004, the Commission established a working group of stakeholders to draft the RPS regulations for the Commission's consideration. In addition, the Commission provided guidance for the working group on the threshold issues posed in Staff's Report. Work on the regulations will continue in 2005.

4. Mid-Atlantic Distributed Resources Initiative ("MADRI")

The public utility commissions of Delaware, District of Columbia, Maryland, New Jersey, and Pennsylvania, along with the U.S. Department of Energy, PJM, and the U.S. Environmental Protection Agency have established the Mid-Atlantic Distributed Resources Initiative ("MADRI") to develop regional policies and market-enabling activities to support distributed generation and demand response in the mid-Atlantic region.

The MADRI working group is headed by a steering committee comprised of utility commissioners from the five mid-Atlantic states and representatives from the DOE, PJM, and the EPA. The working group participants are mid-Atlantic stakeholders that include state regulatory agencies, electric utilities, consumer groups, non-regulated companies involved in demand response technologies, and other interested groups. The primary function of the working group is to design and implement specific demand resource initiatives.

5. Adequacy Report and Long-Range Plans for Electric Companies

Under Section 2-118 of the *Public Utility Companies Article*, long-range plans for regulated services are required of each electric company in the State. The Commission monitors the process to ensure that electric companies identify and fairly evaluate the

costs, benefits, and risks of all feasible demand and supply options for system reliability. Recent developments impacting the planning process include the establishment of a competitive wholesale electric generation market in the mid-Atlantic region, the designation of PJM as the mid-Atlantic region's regional transmission organization ("RTO"), and the onset of retail electric choice in Maryland and most of the mid-Atlantic states. The Commission reviews the utilities' plans and State and regional developments, and then publishes an annual *Ten-Year Plan of Electric Companies in Maryland* and a biennial *Electric Supply Adequacy Report*.

Thirteen electric companies distributed retail electric supply in Maryland and served over 2.3 million customers who purchased over 65,802 GWh of electricity during the year ending December 31, 2003. Forecasted sales of energy are expected to grow on an average of 2.0% annually for the next decade while forecasted peak demand during the same period is expected to grow by 1.9%. Retail sales in Maryland by customer classes were 40.5% to residential customers, 43.3% to commercial customers, 15.0% to industrial customers, and 1.1% to others. The proportion of customers by class was 89.8% residential, 9.8% commercial, and .4% industrial. Other customers amounted to less than one-tenth of one percent.

The Electric Supply Adequacy Report of 2005 covers issues that the Commission considers timely for an understanding of the electric power generation industry in Maryland. This Report presents the state of the electric power industry in Maryland in the restructured wholesale and retail electricity industry. The Report includes a review of the restructuring activities within the State, followed by discussions on generation, transmission, and distribution issues. As noted earlier, within the last two years much has

happened in the regional electricity wholesale market. These include activities such as the significant expansion of PJM, actions being taken by Maryland utilities in the aftermath of Hurricane Isabel, and the August 2003 blackout. The Commission discusses these items and others in the Report.

Additionally, the Report shows data that indicate adequate electricity supply in Maryland in the near future. But a review of historical information shows that Maryland is increasingly dependent on power imports to satisfy demand. Between 1997 and 2002, electricity imports nearly doubled and now account for 28% of all the electricity consumed in the State.

6. PJM States Organization

PJM states include the regulatory commissions in those states that comprise PJM. The regulatory commissions participating in PJM states meet regularly to discuss PJM operations, determine whether and how to coordinate selective regulatory activities, and whether joint or coordinated filings are appropriate before FERC. Given the rapid expansion of PJM, recent efforts have been directed at reorganizing to accommodate the many new members, and developing a better understanding of each state's expectations of how PJM will continue to evolve.

7. Homeland Security

Throughout 2004, Commission Staff participated in the U.S. Department of Homeland Security National Capital Region Critical Infrastructure Protection group activities. In addition, Commission Staff participated in the U.S. Department of Energy, Energy Emergency Assurance Communication program. Commission Staff in conjunction with the State Fire Marshal participated in a program initiated by the

U.S. Department of Transportation ("DOT") Office of Pipeline Safety and the National Association of State Fire Marshals. This initiative increased first responder awareness of activities to safeguard our natural gas and hazardous liquid pipelines and proper precautions to take when responding to an incident. These are three examples of the commitment of the Commission to ensuring the security of the utilities' critical infrastructure during this period of evolving Federal Critical Infrastructure regulations and the effort of the Commission to maintain a dialogue with appropriate regional and federal agencies.

At the State level, Commission Staff supported the Governor's Emergency Management Advisory Committee throughout the year. Also, Commission Staff initiated and followed up in establishing data communication on a 24 hour, 7 days a week basis between the major electric utilities operations control centers and the Maryland Emergency Management Agency Watch Center. MEMA now has the capability to capture near real time electric outage information from the major electric utilities and post the information on the MEMA web Emergency Operation Center system for use by authorized State, city and county agencies.

The Commission continued participation with the National Association of Regulatory Utility Commissioners ("NARUC") Ad Hoc Committee on Critical Infrastructure to develop materials and tools regarding cost recovery and sensitive information protection issues.

8. Dominion Cove Point LNG Expansion Project

Dominion has filed with FERC for approval to expand the Cove Point LNG Plant with the addition of two one million BBL storage tanks and an eight million BTU

Vaporizer. This will bring the total storage capacity at Cove Pont to 13.4 billion cubic feet of LNG. In addition Dominion requested FERC approval of an additional transmission pipeline loop to connect to the Williams, Columbia Gas and Transcontinental Pipelines. Commission Staff participated in FERC's November 16, 2004 public meeting as well as the November 17, 2004 site visits to inspect Dominion's proposed pipeline route. Commission staff has held telephone conversations with the U.S. Department of Transportation, RSPA, Office of Pipeline Safety concerning this project. In addition, Commission Staff has talked with the State Fire Marshall to ensure coordination of inspections prior to beginning operational use of the tanks and pipeline loop to assure operations meet all LNG safety requirements.

9. New Regulations

The Commission initiated regulation changes to the Code of Maryland Regulations Title 20 in the areas of: (a) Practice and Procedure - Fees; (b) Termination of Service – Restrictions on Terminations, (c) Service Supplied by Telephone Companies – Customer Relations; (d) Electric Standard of Service; (e) Applications Concerning the Construction or Modification of Generation Stations and Overhead Transmission Lines; and (f) affiliate regulations.

a. COMAR 20.07.05 Practice and Procedure - Fees.

The amendment to this chapter was to describe its scope.

b. COMAR 20.31.03 Termination of Service – Restrictions on Terminations.

The amendments to this chapter add clarifying language and certification requirements that must be met in order for a customer to delay a utility service termination because of a person's serious illness or the need for life-support equipment.

c. COMAR 20.45.04 Service Supplied by Telephone Companies – Customer Relations.

The amendments to this chapter ensures that an underlying telephone company, providing telecommunication services to a competitive local telephone company, will provide a copy of any notice of payment failure for telecommunications services rendered in Maryland to the utility that is the subject of the notice.

d. COMAR 20.52 Electric Standard of Service.

This change to Commission regulations adds a subtitle governing electric standard of service. The regulations in this new subtitle establish procedures for the provision of electric standard offer service ("SOS") including eligibility, price, transfers between electricity providers and SOS providers, termination of SOS, denial of SOS and procurement of SOS electricity supply.

e. COMAR 20.79 and COMAR 20.80 Applications Concerning the Construction or Modification of Generation Stations and Overhead Transmission Lines

The changes to these subtitles consolidate regulations governing applications concerning the construction or modification of generation stations and overhead transmission lines. The consolidation repealed regulation in Subtitle 80, which applied to electric utilities only and combined them with regulations that applied to non-utilities. The combined new subtitle now applies to any person constructing or modifying a generation station line and to a utility constructing or modifying a transmission line.

f. Affiliate Regulations

During 2004, the Commission met with representatives of electric and natural gas utilities and their affiliates, third party energy suppliers, and competitors of utility affiliates in a series of meetings to draft new regulations to regulate the relationship between utilities and their affiliates. These proposed regulations were designed to promote competitive markets and to ensure utilities do not subsidize their affiliates, and replaces a code of conduct contained in a Commission order which was invalidated on procedural grounds by the Court of Appeals in 2002. By year's end, a version of the proposed regulations were approved by the Commission and noticed for comment in the Maryland Register, and were pending as 2005 began.

10. AES Warrior Run Power Output Solicitation

Pursuant to the Settlement in Case No. 8797 (Potomac Edison restructuring), the Settling Parties met and conducted another solicitation for the output from the AES

Warrior Run plant, as the prior contract was to expire on December 31, 2004. Power from the Warrior Run plant is essentially sold to the highest bidder, under a contract for a set term of years. The solicitation of the bidding for the power output was completed, and a new contract was presented for Commission approval in October 2004.

The Parties are satisfied that this bid process was highly successful. Thirteen potential bidders initially expressed interest in bidding on the Warrior Run output and six bidders ultimately bid. The winning bidder was determined on the basis of the total ratepayer benefits, which were calculated under a pre-determined and objective formula. Both the evaluation method and the submitted bids were firmly grounded in current and projected PJM market electricity prices. To further ensure objectivity, the Parties were not told the name of the winning bidder until they reached a decision on the bids. The winning bidder offered a three-year contract at prices that represent a substantial increase over previous prices received for the Warrior Run output. This end result, effective January 1, 2005, will reduce ratepayers' Warrior Run surcharge expenses over the next three-year period.

11. Electric Universal Service Program

The Electric Universal Service Program ("EUSP") was authorized as part of the Electric Customer Choice Act of 1999 to assist low-income electric customers with arrearage retirement, bill assistance and weatherization. The legislative mandate directed the Commission to establish and oversee the program which is administered by the Department of Human Resources ("DHR").

Electric ratepayers provide funding for the EUSP which has been set by law at \$34 million per year. Residential, commercial and industrial electricity customers contribute through a universal service charge collected by electric companies.

Families with incomes at, or below, 150% of the Federal poverty guidelines with electric bill responsibility are eligible. The 2000 Census indicates that there are about 278,000 low-income customers in Maryland, though all do not have electric bill responsibility. Currently, DHR's Office of Home Energy Programs ("OHEP") distributes benefits based on a projected population of 72,000 Maryland families for EUSP assistance. This projected population for the distribution of benefits will be adjusted annually as outreach and education efforts increase the number of customers applying for EUSP benefits.

The EUSP operates on a fiscal year basis. During FY 2004, there were 72,930 households approved for bill payment assistance, an increase of approximately 4.5 % over the previous year. In FY 2004, DHR/OHEP spent \$30,451,205 of the \$34 million budgeted on bill payment assistance, arrearage assistance, outreach, and administration. The average bill payment assistance benefit amount was \$390.

Arrearage retirement assistance has been legislatively capped at \$1.5 million each year, serving 4,888 applicants at an average benefit of \$318. Eligibility is for first time EUSP Arrearage Retirement applicants. DHR/OHEP used \$596,697 of FY 2003 funds for weatherization measures performed during FY 2004. For FY 2005, \$1.5 million has been authorized for weatherization. A Joint Report was presented to the General Assembly on the merging of two low-income weatherization programs the low-income weatherization component of the EUSP, and the low-income weatherization administered

by the Department of Housing and Community Development ("DHCD") under the U.S. Department of Energy guidelines. In the Joint Report, all three agencies -- the Commission, DHR, and DHCD -- agreed that the low-income weatherization component of the EUSP should be transferred to, and administered by DHCD. The Joint Report further recommended that \$1 million of the \$34 million EUSP funds should be transferred annually by the Comptroller to DHCD for the low-income weatherization component of the EUSP.

Program administration continues to improve. Stakeholder workgroup participation aids in the identification and resolution of various issues relative to the effective operation of the EUSP, and is conducted within the framework of Commission Case No. 8903. Focused outreach is helping to reach low-income populations in counties that have been under-served. A new procedures manual to address policies and procedures specific to EUSP is being developed to help standardize application processing throughout the State. An independent consultant under contract with the Commission will be conducting a program performance evaluation in order to obtain verifiable information regarding the program's effectiveness in making electricity more affordable to eligible low-income customers Statewide.

12. Gas Regulation Restructuring Roundtable Process

Case No. 8683 was established by the Commission on January 10, 1995. The Commission established a Roundtable process as the vehicle for developing restructuring filings. The first phase of the process was completed on August 2, 1995 when the Commission accepted Stipulations and Agreements and relevant tariffs providing gas choice for smaller firm service commercial customers to third party gas suppliers filed by

Baltimore Gas and Electric ("BGE"), Washington Gas Light ("WGL"), and Columbia Gas of Maryland ("CGMD").

As of the end of 2000, numerous additional utility filings developed in the Roundtables, and accepted by the Commission, expanded customer choice for small firm service residential and commercial gas customers such that all BGE, WGL and CGMD customers were eligible for gas choice. Gas choice also became available to larger non-residential customers of Chesapeake Utilities ("CU") and NUI/Elkton ("NUI").

The major product of the Roundtables during 2004 was a revision in the credit and collateral policy and requirements for BGE and WGL. The new requirements removed an increasingly common barrier to the development of retail gas competition by placing reasonable collateral requirements on retail gas suppliers. This makes it possible for more suppliers to offer their products to Maryland retail gas customers with little or no reduction in collateral security for BGE and WGL.

BGE's gas choice program is open to all residential and non-residential customers without restrictions or limits. As of the end of 2004, BGE had overall 12% of all customers and 51% of total gas volumes served by gas suppliers. By customer class, 91% of large commercial/industrial, 18% of firm service commercial, and 12% of residential BGE customers were served by gas suppliers. In terms of total gas volumes delivered on the BGE system, suppliers provided 100% of the gas used by large commercial/industrial customers, 54% of the gas used by firm service commercial customers and 13% of the gas used by residential customers.

WGL's gas choice program is open to all residential and non-residential customers without restrictions or limits. As of the end of 2004, WGL had overall 21% of all

Maryland customers and 49% of total Maryland gas volumes served by gas suppliers. By customer class, 100% of large commercial/industrial, 40% of firm service commercial, and 19% of residential WGL customers were served by gas suppliers. In terms of total gas volumes delivered on the WGL, Maryland system, suppliers provided 100% of the gas used by large commercial/industrial customers, 65% of the gas used by firm service commercial customers and 23% of the gas used by residential customers.

CGMD's gas choice program is open to all residential and non-residential customers without restrictions or limits. CGMD has 121 larger daily metered customers with total annual usage of 3 million dekatherms (Dth) and 19 smaller commercial/industrial customers with total annual usage of 5,000 Dth using transportation service. CGMD's residential program is now in its seventh year. Residential delivery service enrollment has declined during the last three years. At the end of 2004, 1,163 residential customers with total annual usage of 128,000 Dth bought their gas from suppliers.

Restructuring for Chesapeake Utilities went forward in 1998 with the first transportation service filings approved by the Commission in the summer of 1998. By the end of 2004, 16 large non-residential customers, with annual volumes of approximately 180,000 million cubic feet, were taking delivery service.

13. Hurricane Isabel

On June 4, 2004, the Commission released Order No. 79159 in Case No. 8977, regarding its findings on electric service interruptions due to Hurricane/Tropical Storm Isabel, and the thunderstorms of August 26-28, 2003. Order No. 79159 directed each utility and the Commission's Engineering Division Staff to meet with the Maryland Emergency Management Agency, and each utility to meet with their respective

county/local jurisdiction emergency management agency(ies). The purpose was to improve communication and coordination of restoration of service between the utilities and State, county and local agencies following major electric outage events, whether caused by weather or other events such as the Northeast Blackout of August 14, 2003. All directed meetings were held, and the utilities and emergency management agencies reported that these meetings would continue on a periodic basis. The meetings facilitated a deeper understanding of the interdependencies between the utilities and the State, county and local agencies, and led to process improvements.

The Order also directed PEPCO and Conectiv to provide status reports to the Commission on modifications to their respective outage management systems until hurricane-level input testing was successfully completed. Staff reviewed the planned modification and test results and reported to the Commission satisfaction with the upgrades and modifications.

The Order further directed Staff to work with Maryland Electric Reliability Tree Trimming ("MERTT") to develop a detailed recommendation for specific actions that utilities can take to best manage privately owned trees near utility rights-of way. This work continued past year-end 2004 and completion is anticipated during 2005. Mitigation of electric outages caused by dangerous or hazardous trees located outside of utility rights-of-way is a high priority across the United States. Trees cause over 40% of all outages, with the majority caused by off rights-of-way trees being blown into the electric lines.

The Order directed the utilities to work with local governments to increase joint public education efforts to highlight the risk to the electric distribution system of planting

trees too close to power lines. This has resulted in "Right tree, Right Place" and "Street Tree" campaigns in a number of communities to educate the public about the availability of power line friendly trees and the need for buffer zones near power lines based upon the maturity height of tree species.

The Order directed the utilities to develop written descriptions of their respective life support/vulnerable customer programs and to provide this information to emergency management agencies, critical care facilities in their service territories. All utilities complied and most adopted best practices above and beyond those specified in the Order.

The Commission also told the utilities to develop procedures to allow for selective undergrounding of the electric transmission and/or distribution plant on a cooperative basis with county and municipal governments, customers or homeowner groups. Most utilities provided their reports by year-end 2004.

Finally, the Commission also considered issues that potentially could have impinged upon the ability of the utilities to invest in their electric system infrastructure to maintain a high level of reliability. Of particular concern was whether or not Electric Restructuring had an impact on the utilities' investments in reliability. Analysis of distribution plant capital expenditures revealed that all but one company maintained or increased plant additions since before restructuring. The Commission met with that company following the release of the Order, and in the course of those meetings and further analysis determined that the FERC Forms 1 and 1F used in the analysis "masked" the Company's actual distribution plant capital construction programs.

14. PJM Interconnection, LLC; Reliability Pricing Model

In 2004, PJM proposed a major change in how generating capacity will be priced on the PJM system. PJM is proposing to replace the current short-term capacity market structure with a four-year, forward-looking resource adequacy construct. The PJM proposal is called the "Reliability Pricing Model" (RPM). PJM established a working group to guide the development of the RPM. The Maryland Commission has been an active participant in the working group.

RPM is designed to address potential reliability issues on the PJM system. PJM has identified constraints in the ability to move generation from resources in the west to certain load centers in the eastern portion of PJM, and an increase in generating unit retirements in the eastern portion could turn into a reliability problem. In light of these concerns, and the fact that the current reliability construct does not require any long-term commitment of resources, PJM is proposing RPM as a solution.

RPM features include a four-year forward capacity market, and a locational component to reflect capacity deliverability limitations in various PJM regions, particularly in the east. RPM is also integrated with PJM transmission planning activities to ensure as cost-effective solution to future capacity needs as possible.

In December 2004, the Commission prepared a position paper on RPM, and posted the position paper on the Commission's web site. The position paper concluded that PJM is on the right track in its efforts to develop a next generation reliability model to replace the current capacity market construct. The Commission stated that the model should be thoroughly tested before being implemented to identify potentially significant problems. The Commission also made suggestions with regard to how the locational

component should be implemented, how capacity should be priced to load serving entities, and that market mitigation rules, while preventing market power abuse, must not constrain the operations of legitimate capacity and energy markets.

The Commission will continue its work on this important PJM initiative in 2005.

C. Telecommunications

1. The Carrier-to-Carrier Collaborative

The Commission created the Collaborative in an attempt to resolve by consensus issues relating to local competition. A number of parties participate in regularly scheduled meetings and discussions of the Collaborative, including Verizon Maryland, competitive local carriers, and the Commission Staff. The Collaborative is in the process of reviewing the latest annual audit report that examines Verizon's performance metrics and the associated remedy plan.

2. Health and Human Services Referral System (211) Board

In 2004, the General Assembly enacted House Bill 981, establishing a social services network utilizing a single, easy to remember number that can be accessed from anywhere in Maryland at any time of day. The 211 network will be used as a source of information regarding social services, community preparedness, and crisis information. The legislation creates a 211 Board to oversee the system, and the Commission has a seat on that Board. The 211 Board will provide oversight to four pilot programs, plan Statewide implementation of the system, determine how to integrate emergency and non-emergency numbers, and provide options for funding the system.

3. Competitive Carrier Access to Verizon Maryland Inc.'s Network

During the course of the year, the Commission undertook several significant efforts to determine the terms and conditions under which competitive carriers are able to use Verizon Maryland's network. Due to regulatory developments at the Federal level, the Commission suspended several proceedings concerning carrier access to that network, and Commission Staff made a presentation to the Federal Communications Commission pertaining to market definitions, status of local market competition and impairment of competitive carriers. In addition, the Commission issued several Orders related to the implementation of new interim network unbundling guidelines. The Commission will continue with this type of work in the current year as Verizon Maryland's unbundling obligations continue to evolve.

4. Broadband Initiatives

During the year, the Commission and the Commission Staff engaged in various efforts to facilitate the rollout of existing technologies to the more rural areas of the State and to introduce new technologies in all parts of Maryland. Specifically, alternative ways for customers to reach the Internet are being implemented or planned in various parts of the State. In 2004 Verizon Maryland announced that it intended to implement a fiber-to-the-premises project in Montgomery County. The construction began in the second half of the year and new broadband services became available in various communities in that part of the State in early 2005. In addition, the Commission continues to participate in Network Maryland, which is a broadband network connecting State government offices throughout the State. The Commission was also involved in the planning process designed to bring broadband services to the Eastern Shore. Lastly, the Commission is

involved in promoting the delivery of broadband voice and data services over the existing electric utility distribution system. A pilot project currently under way in Potomac is being monitored to assess the benefits to the electric company as well as to Maryland's citizens as consumers of broadband communications services.

D. Transportation

During 2004 the Transportation Division conducted the final triennial mass renewal of passenger-for-hire driver's licenses. Beginning in 2005, licenses will be renewed on a staggered system in order to distribute the workload more evenly throughout the year. There were also several changes to the process and requirements that were instituted as increased security measures.

V. MAJOR CASES AND DECISIONS

A. Gas and Electric Utilities

1. The Commission's Inquiry into the Provision and Regulation of Electric Service -- Case No. 8738

As noted in prior Annual Reports, this case is an ongoing docket concerning electric restructuring issues. On February 3, 2004, the Commission requested that electric and gas suppliers file comments on the Commission Staff's proposed consumer protection regulations, which regulations are to be considered in an administrative rulemaking docket.

2. The Investigation into the Stranded Cost Quantification Mechanism, Price Protection Mechanism, and Unbundled Rates of Potomac Electric Power Company -- Case No. 8796

This case, involving Potomac Electric Power Company's Divestiture Sharing Plan, is discussed in prior Annual Reports. A pending issue involves whether Pepco should return unused deferred income taxes and tax credit reserves to ratepayers following its sale of the generating assets that created the reserve amounts. On November 21, 2003, the Hearing Examiner issued a Proposed Order directing Pepco to do so, which was appealed by Pepco. On January 2, 2004, Pepco filed its memorandum on appeal, and the Commission Staff and the Office of People's Counsel filed reply memoranda on January 22, 2004. United States Treasury regulations that may impact on the questions presented in this matter are pending.

3. The Investigation into the Stranded Cost Quantification Mechanism, Price Protection Mechanism, and Unbundled Rates of Southern Maryland Electric Cooperative, Inc. -- Case No. 8817

Case No. 8817 is an ongoing proceeding, noted in prior Annual Reports, in which Southern Maryland Electric Cooperative, Inc. ("SMECO") recovers from ratepayers the transition costs of its electric restructuring efforts undertaken pursuant to the Electric Customer Choice and Competition Act of 1999. SMECO's cost recovery is also based on the settlement agreement reached in this case in 2000 (Order No. 76321, July 20, 2000). On January 30, 2004, SMECO filed a request to recover electric transition costs, and on May 14, 2004, the Commission issued a letter order approving SMECO's transition cost recovery for the year ending December 31, 2003.

4. The Application of Mirant Dickerson Development, LLC to Modify Its Existing Station H in Dickerson, Montgomery County, Maryland -- Case No. 8888

This case, noted in prior Annual Reports, involves Mirant Dickerson Development, LLC's application filed in May 2001 for a Certificate of Public Convenience and Necessity for authorization to expand its Dickerson generating facility. In September 2001, the parties agreed to a procedural schedule that would have concluded hearings and final briefing in May 2002. In June 2002, the Maryland Energy Administration, on behalf of a number of State Agencies, requested a delay of the proceedings to allow development of guidelines for siting of multiple power plants. The delay was resolved in December 2002 and extensive hearings were held and concluded in September 2003. Subsequent to the hearing, an extended period of delay ensued in which the parties engaged in discussions with the Environmental Protection Agency to resolve certain environmental issues. As a result of the discussions, the parties reached a settlement that resolved all their disputes. Thereafter, the Hearing Examiner issued a Proposed Order on November 5, 2004 granting Mirant's application for a CPCN, which became final Order No. 79661 on December 7, 2004.

5. The Commission's Inquiry into the Competitive Selection of Electricity Supplier/Standard Offer Service -- Case No. 8908

This case, noted in prior Annual Reports, concerns review of issues regarding competitive selection of electricity supplier/standard offer service and default service plans. By Order No. 77806 (93 Md. PSC 176) entered on May 30, 2002, the Commission addressed many issues regarding Commission authority and interpretation of the Electric Restructuring Act, and in Order No. 78400, entered on April 29, 2003, the Commission determined that the Maryland retail electricity supply market was not yet competitive and

that the utilities' obligation to provide Standard Offer Service ("SOS") should be extended. A Phase II was also established to consider further specific procedures and details for the competitive selection of electricity suppliers by the investor-owned utilities.

A settlement in the Phase II proceeding was filed by numerous parties in July 2003, and hearings were held in August and September. By Order No. 78710, entered on September 30, 2003, the Commission approved the Phase II settlement, which sets forth specific requirements and processes including qualifications of bidders, details of the bid requirement process, bid evaluation and methodology, and a Full Requirements Service Agreement. Paragraph 12 of the approved Phase II settlement provides for a Procurement Improvement Process with respect to the conduct of future bidding. Mirant Mid-Atlantic requested reconsideration of the Phase II order on October 30, 2003 concerning issues related to bankrupt bidders. Also, parties filed comment with respect to a proposed supplemental agreement to the Full Requirements Service Agreement.

By Order No. 78930 issued February 2, 2004, the Commission denied Mirant's request for reconsideration. In Order No. 79097 issued April 27, 2004, the Commission determined that SOS retail rates for administrative charges should include a return component that is not grossed up for taxes.

On August 6, 2004, the Staff of the Commission filed its Report on the Procurement Improvement Process for 2004-2005 containing consensus recommendations. Parties filed four non-consensus procurement proposals on August 16, 2004. Following hearing held on September 8, 2004, the Commission issued Order No. 79452 on September 13, 2004 addressing the policy issues regarding participation by Chapter 11

bankrupt entities in the SOS process. The Commission, on September 24, 2004, subsequently issued Order No. 79489 addressing the three remaining non-consensus issues (release of supplier names, opt-out aggregation legislation, and form of guarantee) and approved the consensus issues, while rejecting a utility proposed contingency provision in the event of passage of municipal opt-out legislation.

6. The Application of Mirant Chalk Point Development, LLC for a Certificate of Public Convenience and Necessity to Modify Its Existing Generating Station in Prince George's County, Maryland -- Case No. 8912

This case, noted in prior Annual Reports, involves the Mirant application to increase generating capacity at Chalk Point by 340 MW by adding four simple cycle turbines. Further hearings were held in February and April 2004. At year's end the parties were still attempting to come to an agreement as to environmental conditions to be made part of a Certificate of Public Convenience and Necessity.

7. The Inquiry into the Operational Safety of Williams Natural Gas Company's LNG Facility at Cove Point, Maryland -- Case No. 8917

This case, noted in the 2002 Annual Report, was instituted in 2002 to address safety issues relating to the resumption of liquefied natural gas ("LNG") shipping at Cove Point, Maryland. In a May 2002 letter, the Commission determined that the safety practices at the plant comply with statutory requirements to ensure operational safety, while also directing an annual status report on safety procedures be filed.

On August 13, 2004, the Commission eliminated the need for further filing of annual status reports and closed the docket.

8. The Investigation into the Continuation of the Retail Sale of Natural Gas -- Case No. 8933

This case, noted in prior Annual Reports, concerns an investigation into continuation of retail sale of natural gas by investor-owned utilities. By Order No. 77987 (93 Md. PSC 239) issued on August 28, 2002, the Commission noted support for continuation of both regulated gas services as well as the competitive commodity market. Therefore, BGE, Columbia Gas, and WGL may continue to provide retail gas service as provided in their tariffs. Gas roundtables were directed to discuss issues noted in the Order and file reports. On March 7, 2003, the Gas Roundtable filed an extensive Report, which noted both consensus and non-consensus proposals affecting gas choice.

By Order No. 78935 issued on February 6, 2004, the Commission determined it will address issues discussed in the Report one or two at a time in a series of orders. That order also addressed the treatment of federal grants through the Low Income Home Energy Assistance Program ("LIHEAP") that are administered by the Maryland Department of Human Resources ("DHR") and through the Maryland Energy Assistance Program ("MEAP"). The order declined to split MEAP payments between the distribution utility and supplier, as such payments are intended to prevent termination of service by utilities so that no change in policy to provide payment to suppliers should be directed at this time.

9. The Matter of Baltimore Gas and Electric Company's Long-Term Gas Capacity Plan -- Case No. 8950

This case, noted in prior Annual Reports, concerns gas capacity planning of BGE. On August 4, 2004, a settlement signed by BGE, the Commission Staff, and the Office of People's Counsel was filed in Phase II of this case. The settlement resolved many matters

concerning the Company's obligation to provide service as the provider of last resort to specified customer classes and planning for system growth, including cost recovery and cost allocation issues.

A Proposed Order of Commissioner entered on August 17, 2004 recommended acceptance of the settlement, finding the settlement would provide a structure under which BGE will be able to make decisions necessary to maintain reliable gas service and also provide an equitable mechanism for recovery of capacity costs. Also, a Phase III of the proceeding would be instituted to consider the implementation of a Gas Administrative Charge. The Proposed Order was not appealed and became Order No. 79472 on August 31, 2004, thereby approving the settlement in its entirety and continuing this matter in Phase III.

10. The Matter of Washington Gas Light Company's Gas System 2003-2007 Portfolio Plan -- Case No. 8951

This case, noted in prior Annual Reports, concerns review of WGL's 2003-2007 Portfolio Plan. Following delegation to the Hearing Examiner Division, a procedural schedule was agreed by the parties in February 2004, providing for filing of testimony and hearing in fall 2004. Hearings were subsequently postponed to accommodate settlement discussions, and the matter remains pending.

11. Columbia Gas Of Maryland, Inc.'s 2003-2007 Strategic Gas Plan -- Case No. 8952

This case, noted in prior Annual Reports, was referred to the Hearing Examiner Division to resolve future gas capacity issues of Columbia Gas of Maryland, Inc. On April 27, 2004 a Stipulation and Agreement of the parties was filed. A Proposed Order of Hearing Examiner was issued on May 6, 2004, which Proposed Order accepted the

Stipulation as in the public interest. The Proposed Order was not appealed, and on June 7, 2004 became Order No. 79160.

12. The Matter of the Probable Violation of Maryland Natural Gas & Electric, Ltd. t/a Operators Energy Services -- Case No. 8958

This case, noted in the 2003 Annual Report, involves a gas supplier's cessation of service to its customers. The Commission, on March 19, 2003, issued a Notice of Probable Violation to Maryland Natural Gas & Electric, Ltd. t/a Operators Energy Services (the Company) asserting that the Company terminated its natural gas supply services without proper notice to its customers in violation of Commission regulations. The matter was delegated to the Hearing Examiner Division, and subsequent thereto, the Office of People's Counsel filed a related complaint on behalf of residential customers. Prior to any hearing, the parties entered into negotiations to effect a settlement. The resolution reached in settlement was accepted in a Proposed Order of Hearing Examiner issued January 7, 2004 that would revoke the operating license of the Company and impose a civil penalty, as well as require that the Company make certain customer refunds. The Proposed Order became a final order of the Commission on February 7, 2004 (Order No. 78933). Subsequently, the Company paid the civil penalty and made customer refunds as required by the Commission's order.

13. The Application of Washington Gas Light Company for Authority to Increase Existing Rates and Charges for Gas Service and to Implement an Incentive Rate Plan -- Case No. 8959

This case, noted in the 2003 Annual Report, involves Washington Gas Light Company's application to increase rates and implement an Incentive Rate Plan. By Order No. 78757 issued on October 31, 2003, the Commission found that a rate increase of \$2,878,594 would result in rates that are just and reasonable, while also authorizing the

Company to file revised tariffs in conformance with the final decision in WGL's pending depreciation rates proceeding, Case No. 8960. In reaching the decision concerning the appropriate level of rates, the Commission denied the inclusion of flotation costs sought by the Company in the determination of the proper return on equity, finding the record did not support inclusion of flotation costs in this instance.

WGL requested reconsideration of the disallowance of flotation costs, which rehearing request was denied by Order No. 79121 entered on May 7, 2004.

14. The Application of Washington Gas Light Company for Review and Approval of Changes In Its Gas Depreciation Rates -- Case No. 8960

This case, noted in the 2003 Annual Report, concerns WGL's application for review and adjustment of its depreciation rates. Following hearings before the Hearing Examiner Division in December 2003, a Proposed Order was issued on March 25, 2004.

WGL and the Office of People's Counsel each noted appeals of the Proposed Order, with a major issue on appeal concerning the appropriate treatment of net salvage costs. Other issues with respect to specific accounts were also raised by the parties on appeal, such as length of specific service lives and length of amortization periods.

By Order No. 79193 entered on June 18, 2004, the Commission denied the appeals of both WGL and OPC concluding that the findings of the Hearing Examiner were reasonable, including use of accrual accounting for net salvage costs. WGL was further directed to file new rates reflecting the decisions of the depreciation review as well as the recent rate review in Case No. 8959, Order No. 78757. In addition, the Company was directed to file its next depreciation study within seven years. Compliance rates were filed on June 29, 2004.

15. The Commission's Inquiry into the Provision and Regulation of Electric Service Emissions Disclosures -- Case No. 8973

This case, noted in the 2003 Annual Report, was instituted on September 17, 2003 to receive comment on the status of electric fuel mix and emission disclosures within Maryland. The Commission initiated the proceeding due to noted problems with the PJM Generation Attributes Tracking System ("GATS") intended for this purpose.

Comments were filed and hearing held in late 2003. On June 4, 2004, the Maryland Energy Administration and Power Plant Research Program filed supplemental comments reporting on progress with the development of GATS since the December 2003 hearings. By Letter Order dated June 18, 2004, the Commission determined that the record did not support the prudence of requiring load serving entities to use GATS, although it encouraged continued efforts by PJM and stakeholders in the development of a uniform emissions tracking system that will meet consumer and supplier needs. Also, load serving entities may utilize regional average data or provide self-certified company-specific data (with verification) to meet emissions and fuel mix disclosure requirements in Maryland.

16. The Application of Delmarva Power & Light Company for Authority to Introduce Rider "S" - Standby Service Under Its Retail Electric Service Tariff -- Case No. 8975

As reported in the 2003 Annual Report, this matter involves a proposed new Schedule "S" standby service rate schedule filed by Delmarva Power & Light Company on August 30, 2003, which proceeding was continued in 2004. A pre-hearing conference was held on September 23, 2004 in Phase II of this matter and a procedural schedule was set. On November 10, 2004, the parties advised that a settlement was being reached, and

the procedural schedule was therefore suspended on November 12, 2004. At year's end, the settlement stipulation had not yet been filed.

17. The Application of the Mayor and Council of Berlin for Authority to Increase Its Electric Base Rates -- Case No. 8976

This case, noted in the 2003 Annual Report, involves an application by the Town of Berlin for authority to increase its base rates for electric service by \$400,000, or approximately 9.65%. According to the application, the increase was necessary to account for increased costs for providing service, maintain financial integrity and to modernize the generating system. In accordance with a procedural schedule agreed to by the parties, an evidentiary hearing was held on February 4, 2004. At the hearing, the parties produced a settlement agreement that reflected a resolution of all disputed issues. At the conclusion of the hearing process, the Hearing Examiner issued a Proposed Order on February 11, 2004 that adopted the parties' settlement finding that the proposed rates were just and reasonable. The Proposed Order became final Order No. 78994 on March 1, 2004.

18. The Complaint of Pepco Energy Services, Inc. Regarding Washington Gas Light Company's Proposed Rule Change for the Winter Season of 2003-2004 -- Case No. 8981

This case, noted in the 2003 Annual Report, involves a complaint filed by Pepco Energy Services, Inc. (PES), a competitive gas supplier, against Washington Gas Light Company regarding a WGL proposed operational rule restricting the right of competitive gas suppliers to use secondary capacity to deliver gas to WGL's distribution system. Hearing in this matter was held before a Hearing Examiner in April 2004, following which a Proposed Order was issued on July 9, 2004. In the Proposed Order, the Hearing Examiner determined that WGL should retain the right to deny secondary deliveries of

gas but that these practices should be specified by tariff and designed to minimize harm to the competitive market. Also, the Hearing Examiner accepted the suggestion that future changes in WGL operating procedures be presented to the Gas Roundtable 90 days prior to implementation, with parties retaining the right to bring contested issues to the Commission if consensus has not been achieved.

The Proposed Order was appealed by WGL, opposing the three-month notice prior to implementation of "operational changes." WGL also requested clarification of various specific proposed tariff provisions. By Order No. 79534 entered on October 14, 2004, the Commission adopted the findings of the Hearing Examiner as to the tariff provisions, while clarifying that only operational changes that would have a meaningful impact on suppliers must be submitted to the Gas Roundtable 90 days prior to implementation.

A compliance tariff was filed in December 2004 and accepted by the Commission.

**19. Washington Gas Light Company's Residential Essential Services Program
-- Case No. 8982**

This case, noted in the 2003 Annual Report, was instituted in 2003 to consider a discount program for low-income Washington Gas Light Company customers, following the rejection of such a program in WGL's most recent rate case, Case No. 8959, Order No. 78757 (October 31, 2003). In rejecting the Company's program in the rate case, WGL was directed to file a new proposal in Case No. 8982, noting the new program must have a legitimate, non-discriminatory primary objective that provides concrete benefit to ratepayers. Accordingly, WGL filed a proposed new program on November 24, 2003.

Washington Gas Light's Residential Essential Services Rate Program was proposed as a pilot program after Case No. 8982 was dismissed on February 13, 2004. The program provides Maryland Energy Assistance Program ("MEAP") certified gas-heating customers with a discount on a portion of the natural gas they use. The program, which was approved March 17, 2004, was retroactive to January 2004. Eligible natural gas customers automatically received a credit on April natural gas bills for a portion of natural gas used since January. Depending on the amount of natural gas a customer used, customers received a credit up to \$98.74. This pilot program ends April 2005. At that time, the utility may propose a continuation of the program to the Commission.

20. The Inquiry into the Provision of Standard Offer Service by Southern Maryland Electric Cooperative, Inc. -- Case No. 8985

This case, noted in the 2003 Annual Report, concerns the provision of Standard Offer Service ("SOS") to be offered by Southern Maryland Electric Cooperative, Inc. for the period 2005-2008. Pursuant to Commission directive, SMECO filed a report on January 30, 2004 regarding its proposed procurement practices for securing SOS supplies, noting differences between its practices and investor-owned utilities ("IOUs") as SMECO has chosen a "self-managed" portfolio approach compared to the "full requirements" approach of IOUs.

Following comments by the Commission Staff and the Office of People's Counsel, a legislative-style hearing before the Commission was held on power procurement issues on June 7, 2004, following which SMECO was authorized to proceed with its plans for power procurement through its consultant. Also, further hearing was held in July 2004 before a Hearing Examiner concerning many issues, including pricing, rate design, and other details. A settlement regarding pricing and allocation issues was

filed on July 28, 2004 resolving numerous issues, but noting certain matters remain in dispute, including OPC's opposition to SMECO's self-managed portfolio approach which included use of short-term contracts and spot market purchases in the supply mix.

In a Proposed Order issued August 31, 2004, the Hearing Examiner determined the self-managed portfolio approach should be accepted as the supply mix was in fact comparable to a full requirements approach and the customer-elected Board of Directors believed savings can be achieved. Following appeal by OPC, the Commission adopted the findings and conclusions of the Proposed Order in Order No. 79503 entered on September 29, 2004, with the modification that SMECO should not make supply purchases for SOS effective for service after May 31, 2008. Instead, the Commission will review the methodology for SOS supplies effective after that date.

21. Washington Gas Light Company's Interruptible Distribution Delivery Service Tariffs -- Case No. 8986

As reported in the 2003 Annual Report, this case was instituted in November 2003 to resolve issues raised relating to WGL's Interruptible Delivery Service tariff. On February 10, 2004, a settlement was filed on Phase I issues (end of month penalty to suppliers meeting Daily Requirements Volume). A hearing on the settlement was held on March 11, 2004, and a Proposed Order accepting the settlement was filed on April 1, 2004. The Proposed Order was not appealed and became Order No. 79118 on May 4, 2004, concluding Phase I. Phase II had a settlement stipulation filed on September 20, 2004. Following hearing held on October 21, 2004, a Proposed Order accepting the Phase II settlement was filed on October 26, 2004, which became Order No. 79635 on November 30, 2004, resolving Phase II. On December 10, 2004, Washington Gas Light

Company filed its compliance tariff, which the Commission accepted for filing by letter dated December 29, 2004, closing this matter.

22. The Inquiry into the Provision of Standard Offer Service By Choptank Electric Cooperative, Inc. -- Case No. 8987

This case, noted in the 2003 Annual Report, concerns the provision of Standard Offer Service (SOS) to be offered by Choptank Electric Cooperative for the period of July 1, 2005 through June 30, 2010. Choptank has opted to provide SOS through that time, at fixed rates set in Case No. 8823 through June 30, 2005, and at a rate not to exceed the cost of supply (including transmission service) of Old Dominion Electric Cooperative (ODEC) for the period July 1, 2005 through June 30, 2010.

Pursuant to Commission directive, Choptank filed a report on January 30, 2004 regarding its rate structure and practices, which report also compared Choptank's operations, practices, and plans to those of investor-owned utilities. The report notes that Choptank is a cooperative and is an owner-member of ODEC, along with 11 other cooperatives, and purchases its entire power supply needs through a full requirements contract with ODEC. The Company also indicated an intent to file a cost of service study sometime in the future to insure that the retail generation, transmission and distribution prices reflect the proper cost allocation, including consideration of an Administrative Charge.

In April 2004, the Commission Staff and the Office of People's Counsel filed comments on the Choptank report, and the matter remains pending.

23. The Investigation into Regulation of Washington Gas Light Company's Interruptible Service -- Case No. 8990

In Case No. 8959, the Washington Gas Light Company rate case, the Commission considered Staff's proposal to amend the regulatory regime applicable to WGL's Interruptible Service and concluded that the issue should be further examined in a separate proceeding. (*See*, Case No. 8959, Proposed Order of Hearing Examiner; Order No. 78757, issued October 31, 2003.) As noted in the 2003 Annual Report, Case No. 8990 was established on December 15, 2003 for this purpose and was delegated to the Hearing Examiner Division. A pre-hearing conference was held on April 15, 2004. Thereafter, the parties, by mutual agreement established a procedural schedule that will result in hearings scheduled for April 2005.

24. The Investigation into Washington Gas Light Company's Establishment of an Administrative Charge for Gas Commodity Sales -- Case No. 8991

This case, noted in the 2003 Annual Report, involves consideration of the proposal in Washington Gas Light Company's last rate case (Case No. 8959, Order No. 78757 issued October 31, 2003) to remove commodity-related costs from WGL distribution rates and establish a charge for recovery of such costs solely from the Company's gas commodity customers.

Following a pre-hearing conference held in February 2004, testimony was filed by various parties regarding the proper allocation of costs to those customers who take gas commodity service from WGL and to those customers who purchase the gas commodity from competing gas suppliers. A settlement was filed on September 29, 2004 by parties representing divergent interests (with non-settling parties not opposing the settlement), and further testimony in support of the settlement was filed by WGL, the Office of

People's Counsel, and the Commission Staff. Included in the settlement were terms removing uncollectible account expense related to purchased gas costs from WGL's tariff distribution charges, with modification of the Company's purchased gas charge to recover such expense. Also, a billing charge previously borne only by competitive suppliers was eliminated and revenue formerly collected through the charge was reallocated to be applied to all customers, regardless of their gas suppliers.

A Proposed Order of Commissioner entered October 20, 2004 accepted the settlement in its entirety, which was not appealed and became Order No. 79561 on October 29, 2004.

25. Delmarva Power & Light Company's Class Cost of Service and Revenue Requirements Study for Distribution Service -- Case No. 8994

As noted in the 2003 Annual Report, on December 8, 2003 Delmarva Power & Light Company filed a cost of service study with tariff revisions to be effective as of July 1, 2004. This matter was referred to the Hearing Examiner Division on January 8, 2004 to conduct proceedings. Extensive filing of testimony occurred during early 2004. The parties advised in early 2004 that they had reached a settlement. A hearing was held on June 2, 2004 to consider the settlement, and as a result, a Proposed Order was issued on June 7, 2004 accepting the settlement. On June 15, 2004, by Order No. 79186, the Proposed Order was made final. Delmarva Power & Light Company filed its compliance tariff pages on July 1, 2004, and by letter dated August 11, 2004, the Commission accepted the tariff revisions for filing.

26. Potomac Electric Power Company's Class Cost of Service and Revenue Requirements Study for Distribution Service -- Case No. 8995

In Case No. 8890, the proceeding involving the merger between Potomac Electric Power Company and Delmarva Power & Light Company (approved by Order No. 77685, April 11, 2002), Pepco was obligated to file a class cost of service and revenue requirements study for review of its rates effective July 1, 2004. However, under a settlement in the merger proceeding, rates remain capped from July 1, 2004 through December 31, 2006 in the event the rate study indicates any increase may be warranted (with an exception for financial duress). However, other parties may seek a rate reduction at any time during the extended rate cap period if reduction is warranted.

On December 5, 2003, Pepco filed testimony and exhibits regarding the required rate study, claiming its review indicates a deficiency exists, and therefore due to the rate cap in the settlement, no change in distribution service rates is warranted. This case was instituted in January 2004 to review the Company's rate study.

Following delegation of this matter to the Hearing Examiner Division, hearings were held in April 2004, and a Proposed Order was issued June 9, 2004 which determined that Pepco has not experienced an excessive return but in fact a revenue deficiency exists. Therefore, its rates should not be decreased effective July 2004. The Office of People's Counsel and the Apartment and Office Building Association of Metropolitan Washington noted appeals of the Proposed Order, which appeals were denied by Commission Order No. 79242 issued July 7, 2004.

27. The Application of Catoctin Power, LLC for a Certificate of Public Convenience and Necessity to Construct A Nominal 600 MW Generating Facility in Frederick County, Maryland -- Case No. 8997

On February 25, 2004, Catoctin Power, LLC filed an application for a Certificate of Public Convenience and Necessity to construct a nominal 600 MW generating facility in the Eastalco industrial site property located in Frederick County, Maryland. Following delegation to the Hearing Examiner Division, a pre-hearing conference was held on April 14, 2004, a status conference held on June 25, 2004, and hearings were conducted July 19, July 20, October 14, and December 15, 2004. The final hearing sessions, including an evening hearing for public comment, are scheduled for early 2005.

28. The Application of The Potomac Edison Company d/b/a Allegheny Power for a Certificate of Public Convenience and Necessity to Modify the Existing Marlowe-Boonsboro Transmission Line Located in Washington County, Maryland -- Case No. 8998

On March 1, 2004, The Potomac Edison Company applied to rebuild and upgrade its Marlowe-Boonsboro Transmission Line in western Maryland. On March 31, 2004, the Commission docketed Potomac Edison's application as Case No. 8998 and delegated it to the Hearing Examiner Division. Following hearings held on August 18, 2004, the Hearing Examiner issued a Proposed Order on October 4, 2004 approving construction of the proposed line. The Proposed Order was not appealed and became final Order No. 79570 on November 4, 2004.

29. Mirant Mid-Atlantic, LLC's Request for a Determination on Whether the Addition of Feedwater Heaters at the Chalk Point Generation Station is a Modification Pursuant to Section 7-205, Public Utility Companies Article -- Case No. 9007

On April 12, 2004, Mirant Mid-Atlantic, LLC filed a request for approval to add feedwater heaters to Units 3 and 4 at the Chalk Point generating station. This matter was

delegated to the Hearing Examiner Division on January 18, 2004. A pre-hearing conference was held on August 2, 2004. Discovery, including performance and review of a boiler impact study, continued throughout 2004.

30. The Application of Synergics Wind Energy, LLC. for a Certificate of Public Convenience and Necessity to Construct a 40 MW Wind Power Facility in Garrett County, Maryland -- Case No. 9008

On June 30, 2004, Synergics Wind Energy, LLC filed an application for a Certificate of Public Convenience and Necessity for the construction of a 40 megawatt wind power facility in Garrett County, Maryland. A pre-hearing conference was held on October 7, 2004, following which a procedural schedule was developed including hearings in spring 2005.

31. The Application of Baltimore Gas and Electric Company for a Certificate of Public Convenience and Necessity for the Brandon Shores to Riverside 230 kV Transmission Line -- Case No. 9009

This matter is a result of an application filed in July 2004 by Baltimore Gas and Electric Company for a Certificate of Public Convenience and Necessity for the construction of a new 230 kV overhead transmission line. At its Administrative Meeting of August 18, 2004, the Commission referred this matter to the Hearing Examiner Division to conduct these proceedings. A pre-hearing conference was held on August 25, 2004 at which a procedural schedule was set. Hearings were held on December 2, 2004, December 3, 2004, and December 14, 2004. A Proposed Order of Hearing Examiner is expected to be filed in early 2005.

32. The Complaint of Washington Gas Energy Services, Inc. vs. Potomac Electric Power Company -- Case No. 9015

On June 11, 2004, Washington Gas Energy Services filed its Petition for Declaratory Order and Expedited Relief asking that the Commission provide WGES with

more than three supplier ID designations (also referred to as Multiple Scheduling Coordinator accounts) without delay. The additional supplier ID designations would permit WGES to provide its customers with access to a larger number of alternative wholesale electric suppliers. On July 16, 2004, the matter was delegated to be heard by a panel. On September 20, 2004, the parties filed copies of their Agreement of Stipulation and Settlement, which provides for additional Scheduling Coordinators, which the Commission approved in Order No. 79518 entered on October 7, 2004. Also, the issue of the number of Scheduling Coordinator accounts provided by electric utilities was directed to be considered by a Technical Working Group.

33. The Petition of the Commissioners of St. Michaels and the St. Michaels Utilities Commission for Approval to Investigate the Impact of St. Michaels Utilities Commission Resuming the Exercise of its Franchise on Customer Choice Within its Franchise Area -- Case No. 9017

This case involves a petition of the St. Michael's Utilities Commission (SMUC) filed July 28, 2004 for approval of the resumption of the exercise of its franchise as a municipal utility. Also, SMUC requests that the Commission confirm that there has been no election by SMUC to open its franchise service territory to retail competition for electric supply.

This matter was initially considered by the Commission at the Commission's August 25, 2004 Administrative Meeting. The Commission noted the decision of SMUC to exercise its franchise and docketed the matter for further investigation into the impact of the resumption of SMUC's exercise of its franchise on customer choice within its service area. A procedural schedule was developed, providing for the filing of briefs and reply briefs by parties, and decision is anticipated in early 2005.

34. The Application of The Potomac Edison Company d/b/a Allegheny Power for a Certificate of Public Convenience and Necessity to Construct an Overhead 230 kV Transmission Line in Frederick County, Maryland -- Case No. 9018

On August 24, 2004, The Potomac Edison Company filed an application for a Certificate of Public Convenience and Necessity to construct an overhead 230 kV transmission line in Frederick County, Maryland. By letter dated September 1, 2004, the Commission delegated this matter to the Hearing Examiner Division to conduct proceedings. A pre-hearing conference was held on October 7, 2004 at which a procedural schedule was set. Hearings will be held during 2005.

35. The Application of Mirant Mid-Atlantic, LLC for Approval to Modify the Morgantown Generating Station -- Case No. 9031

On November 4, 2004, Mirant Mid-Atlantic, LLC filed its application to modify its Morgantown generating station by installing a coal barge unloading facility capable of unloading 5.0 million tons of coal each year. On December 22, 2004, the Commission delegated Case No. 9031 to the Hearing Examiner Division for an expedited hearing.

36. The Complaint of the University of Maryland, College Park v. Potomac Electric Power Company -- Case No. 9032

On July 19, 2004, a formal complaint was filed against Potomac Electric Power Company by the University of Maryland-College Park alleging improper charges by Pepco based on its facilities charges for Standby Service under Rate Schedule S of its tariff. Following further pleadings by the parties and an attempt to settle this dispute, the matter was delegated on December 23, 2004 to a Commission panel for further proceedings, with hearing scheduled in early 2005.

37. Acquisition of NUI Elkton Gas

On August 24, 2004, NUI Corporation and AGL Resources Inc. filed a joint request seeking approval of the acquisition of NUI Corporation, including its subsidiary NUI Elkton Gas, by AGL Resources Inc. By letter dated October 27, 2004, the Commission approved the terms of the Agreement and Plan of Merger, and the acquisition contemplated therein, and the transfer of control to AGL Resources of NUI Corporation's franchises, assets, rights and authority to provide natural gas service in Maryland.

B. Telecommunications

1. The Commission's Investigation into Long-Term Solutions to Number Portability in Maryland -- Case No. 8704

This case, noted in prior Annual Reports, was instituted in 1995 for the purpose of resolving long-term telephone number portability issues. While certain issues were resolved in the early timeframe of this proceeding (*e.g.*, Order No. 73572 entered on June 24, 1997 resolved various issues, including an implementation timetable), the case had been held in abeyance for several years as number portability issues have been largely addressed in other fora, such as the Federal Communications Commission.

Due to the long period of inactivity, a Proposed Order of Hearing Examiner was issued May 24, 2004 proposing to close this docket, noting a party may petition for a new proceeding on any issue it believes requires future adjudication. The Proposed Order was not appealed and became Order No. 79215 on June 24, 2004, closing this docket.

2. The Petition of NeuStar, Inc., North American Number Plan Administrator, for Approval of Relief Plans for the 443 and 240 Area Codes -- Case No. 8853, Phases I and II.

This case, which is discussed in prior Annual Reports, arose from concerns that the supply of telephone numbers in Maryland could be exhausted within the foreseeable future. On January 30, 2004, the Hearing Examiner issued a Proposed Order finding that because number usage was proceeding at a significantly slower pace compared to when the case was filed, no measures, other than twice-yearly reports already agreed to by the parties, were necessary to monitor number usage in Maryland. Also, the Proposed Order determined that Case No. 8853 should now be closed as all issues have been determined. The Proposed Order was not appealed and became final Order No. 78961 on February 17, 2004.

3. The Investigation into the Appropriate Level of the PIC Change Charge -- Case No. 8862

This case, noted in prior Annual Reports, was instituted in October 2000 as an investigation into the appropriate level of the charge by Verizon Maryland Inc. for processing a request to change an end-user customer's primary interexchange carrier (PIC change charge), which charge is currently \$5.00 for an intrastate intraLATA carrier selection. Also, Verizon's Equal Access Recovery Charge (EARC), designed by Verizon to recover costs incurred to implement intraLATA presubscription, was included in this docket in 2001.

Following delegation of this matter to the Hearing Examiner Division, on April 14, 2004, a Proposed Order was issued in which the Hearing Examiner determined the existing \$5.00 charge should be reduced to \$2.25 for intraLATA PIC change orders, and no additional charge should be imposed for an intraLATA PIC change that is made in

conjunction with an interLATA PIC change (for which the federal PIC change charge is assessed). Furthermore, the Hearing Examiner determined that the cost of implementing intraLATA presubscription has been more than fully recovered as the costs associated with PIC changes have been over-recovered, and therefore no separate EARC charge was authorized.

Verizon and AT&T Communications of Maryland, LLC each noted appeals of the Proposed Order, and the matter remains pending.

4. The Investigation into Recurring Rates for Unbundled Network Elements Pursuant to the Telecommunications Act of 1996 -- Case No. 8879

This case, noted in prior Annual Reports, deals with amounts Verizon Maryland Inc. may charge competitors for access to Verizon's unbundled network elements (UNEs). The Commission issued Order No. 78552, addressing the issues in Case No. 8879, on June 30, 2003. Numerous decisions in Order No. 78552 were appealed by various parties. On December 19, 2003, the Commission issued Order No. 78858 which, among other things, suspended the non-recurring UNE rates the Commission approved in June 2003. During 2004 Verizon Maryland Inc. sought reconsideration of Commission Order No. 78858, issued on December 19, 2003. Verizon and AT&T Communications of Maryland, Inc. also filed other requests related to Commission decisions in Case No. 8879.

On December 29, 2004, the Commission, noting developments at both the federal and state levels, issued Order No. 79696. Order No. 79696 suspended the rates for Verizon's recurring UNE costs that had been established in Order No. 78552, while also adopting interim recurring UNE rates. The Commission also indicated that it may docket

new cases to address recurring and non-recurring UNE rates and other issues presented in Case No. 8879, including a proceeding to develop a batch hot cut process.

5. The Complaint of Core Communications, Inc. vs. Bell Atlantic-Maryland, Inc. -- Case No. 8881

A discussion of this case occurs in previous Annual Reports. Core Communications, Inc. herein complained that Verizon Maryland Inc. had breached its interconnection agreement with Core by delaying that interconnection. On February 26, 2004, the Commission issued Order No. 78989 affirming the Proposed Order of Hearing Examiner dated August 8, 2003. The Proposed Order and Order No. 78989 sustained Core's complaint against Verizon as to Counts II through V of the complaint, determining that Verizon wrongfully delayed interconnection with Core in 1999. Verizon filed a Petition for Reconsideration and Rehearing on March 29, 2004. On July 9, 2004, the Commission issued Order No. 79259 denying Verizon's Petition for Reconsideration.

6. The Petition of AT&T Communications of Maryland, Inc. for Arbitration Pursuant to 47 U.S.C. § 252(b) Concerning Interconnection Rates, Terms and Conditions -- Case No. 8882

This proceeding was discussed in prior Annual Reports. Case No. 8882 involves the arbitration of an interconnection agreement pursuant to Section 252(b) of the Telecommunications Act of 1996 between Verizon Maryland Inc. and AT&T Communications of Maryland, Inc. and TCG Maryland. The parties have appealed various rulings contained in the Proposed Order of Hearing Examiner issued on September 16, 2003. The Commission resolved those issues in Order No. 79250, issued July 7, 2004, upholding the Hearing Examiner in some issues and altering or clarifying the Proposed Order in other areas. Verizon petitioned for re-hearing of Order No. 79250

on August 9, 2004, which petition was opposed by AT&T. The rehearing request remains pending before the Commission at the close of 2004.

7. The Petition of Core Communications, Inc. for Interconnection Agreement Amendment Dispute Resolution -- Case No. 8910

This case has been discussed in prior Annual Reports. Case No. 8910 concerns a dispute over the extent to which Core Communications, Inc. will be permitted access to information about Verizon Maryland's unused fiber optic cable (dark fiber). On February 17, 2004, the Hearing Examiner issued a Proposed Order granting in part and denying in part Core's requests for information on Verizon's dark fiber resources. Verizon appealed the Proposed Order on March 18, 2004. Verizon, Core and Staff filed memoranda on appeal. Staff also objected to Verizon's attempt, on May 6, 2004, to file a response to Staff's reply memorandum. This matter was pending before the Commission at the close of 2004.

8. The Petition of Verizon Maryland Inc. for an Order Approving Its Amendment to Its Interconnection Agreement With Core Communications, Inc. -- Case No. 8911

This case, noted in prior Annual Reports, involves disputes between Verizon and Core as to interconnection language regarding reciprocal compensation, and also involves "change of law" contractual interpretation. As noted in the 2003 Annual Report, the Commission was to issue an order effectuating the ruling of the Circuit Court for Montgomery County issued in Core's appeal. On January 30, 2004, Order No. 78924 was issued which closed this matter on the Commission's docket.

9. The Matter of Verizon Maryland Inc.'s Collocation Tariff No. 218 -- Case No. 8913

This case is discussed in prior Annual Reports. It addresses requests by AT&T Communications of Maryland, Inc. to receive regular reports about the availability of Verizon's collocation space and to obtain a 30-year amortization period for refunds of the up-front construction costs of new collocation space if the space is returned to Verizon's control. The Hearing Examiner issued a Proposed Order on July 15, 2004 that would essentially deny both AT&T requests. AT&T appealed the Proposed Order on August 16, 2004. On December 2, 2004, the Commission issued Order No. 79652 significantly modifying the Proposed Order of Hearing Examiner. The Order granted much of the relief sought by AT&T, including requiring Verizon to provide an annual report on returned collocation space and use of a 30-year amortization period in calculating refunds of non-recurring charges paid by vacating collocators.

10. The Petition of Verizon Maryland Inc. for a Declaratory Ruling and for an Order Approving Amendments to Interconnection Agreements -- Case No. 8914

This case, noted in prior Annual Reports, involves a 2001 Petition for Declaratory Ruling filed by Verizon Maryland Inc. requesting the Commission declare that, for all existing interconnection agreements with a change of law provision, new rates for Internet Service Provider (ISP)-bound traffic established by the Federal Communications Commission apply as of July 14, 2001. The Commission resolved issues raised in the Petition in various orders issued in 2002, including a directive that future amendments to interconnection agreements pertaining to the FCC's rate regime for ISP-bound traffic shall be effective September 17, 2002 unless another date is agreed by the parties (Order No. 78031, September 17, 2002, 93 Md. PSC 264).

In June 2003, MCI WorldCom, Inc. renewed a request for clarification or reconsideration of Order No. 78031, alleging it is one of the carriers operating under an interconnection agreement not subject to a change of law provision triggered by the FCC ISP Remand Order. On January 30, 2004, MCI WorldCom notified the Commission that MCI WorldCom and Verizon have settled the disputed issues between them in this proceeding; therefore, it withdrew its request for clarification or reconsideration.

By Order No. 78991 issued February 26, 2004, the Commission noted MCI WorldCom's letter of resolution of its dispute with Verizon and withdrawal of its motion, and directed that the docket be closed.

11. The Review of Verizon Maryland, Inc.'s Price Cap Regulatory Plan -- Case No. 8918

This case, noted in prior Annual Reports, concerns the review of the Price Cap Regulatory Plan implemented for Verizon as an alternative form of regulation in 1996. Following hearings held in 2002 and 2003, Verizon filed a Motion to Reopen the Record in August 2003, noting significant developments in the competitive landscape in Maryland.

On November 26, 2003, the Commission asked parties to respond to the motion to reopen the record, while further directing the parties to convene a Telecommunications Price Cap Compliance Working Group to explore the possibility of resolving Verizon's existing annual price cap filings.

On January 26, 2004, the Working Group submitted a consensus report of Verizon's annual price cap filings for 2000 and 2001, which filings are to be applied in the following year. However, no agreement was reached for the 2002 annual price cap filing as Verizon maintained it could not negotiate such filing during the pendency of a

judicial appeal regarding whether an access charge reduction ordered in Case No. 8745, *Re Universal Service*, (Order No. 77913, July 17, 2002) is an exogenous change to the Price Cap Index. Also, other pending issues, unrelated to the treatment of the annual filings, were not resolved by the consensus settlement and remain outstanding. On April 7, 2004, the Commission accepted the Consensus Price Cap filing settlement for the 2000 and 2001 filings, while other issues remain open.

12. The Review by the Commission of Verizon Maryland Inc.'s Compliance With the Conditions of 47 U.S.C. §271(c) -- Case No. 8921

This case, noted in prior Annual Reports, involves Verizon's § 271 filing made in April 2002 that it has satisfied the "competitive checklist" to obtain long-distance interLATA authority. The Commission previously determined that Verizon satisfied the checklist in December 2002. Verizon's Model Interconnection Agreement Amendments have been filed in this case.

By letter dated February 27, 2004, the Commission accepted for filing an entrance facility amendment to the Model Interconnection Agreement, and by letter dated June 25, 2004, the Commission accepted revisions to the Carrier-to-Carrier Guidelines Performance Standards and Performance Assurance Plan, which acceptance letters are filed in both Case No. 8921 and Case No. 8916.

13. The Arbitration of US LEC of Maryland, Inc. vs. Verizon Maryland Inc. Pursuant to 47 U.S.C. § 252(b) -- Case No. 8922

This case is noted in prior Annual Reports. On April 15, 2002, US LEC of Maryland, Inc. filed a petition with the Commission to arbitrate certain unresolved issues in the negotiation of an interconnection agreement with Verizon Maryland Inc. A hearing was held on August 20-21, 2002. Subsequent to the hearing, the parties

submitted briefs on their respective positions. After review of the briefs and extensive record developed during the hearings, a Proposed Order of Hearing Examiner was issued on May 17, 2004 that would resolve the disputed issues and recommended approval of the parties' interconnection agreement. Verizon appealed the Proposed Order on June 16, 2004, and the matter is pending before the Commission.

14. The Complaint of CloseCall America, Inc. v. Verizon Maryland Inc. -- Case No. 8927

This matter, noted in prior Annual Reports, involves the complaint filed in 2002 by CloseCall America, Inc. against Verizon Maryland Inc. concerning Verizon's refusal to provide voice messaging and Digital Subscriber Line (DSL) services available on customer loops over which competitors provide service.

Following hearing in 2003, a Proposed Order of Hearing Examiner was issued on January 30, 2004, which was appealed by both parties. In Order No. 79638 issued November 30, 2004, the Commission determined it does not have jurisdiction to regulate voice mail and DSL services, but does have authority over the impact of Verizon's practices. It denied CloseCall's request to require Verizon to provide voice mail on a wholesale basis, while granting CloseCall's request that Verizon not block DSL service to certain switching customers.

15. The Complaint of Core Communications, Inc. v. Verizon Maryland Inc. -- Case No. 8967

This case, noted in the 2003 Annual Report, involves a Petition for Declaratory Ruling filed in June 2003 by Core requesting the Commission compel Verizon to pay Core for collocation services pursuant to the parties' interconnection agreements.

By Order No. 79695, issued December 29, 2004, the Commission rejected Core's appeal and affirmed a Proposed Order that had determined that no collocation fees were due from Verizon.

16. The Formal Complaint and Petition of CAT Communications International, Inc. v. Verizon Maryland Inc. -- Case No. 8972

This case, noted in the 2003 Annual Report, concerns a formal complaint by CAT Communications International, Inc. against Verizon Maryland Inc. alleging Verizon violated the parties' resale agreement by seeking to hold CAT responsible for certain charges of CAT customers, including direct-dialed long-distance calls and collect calls (and third party calls). CAT contends such calls should have been blocked, and disputes responsibility for these charges.

Following hearing in January 2004, Order No. 79167 was issued on June 10, 2004 determining that CAT was responsible for the disputed charges provided by Verizon to CAT's customers under the parties' Original Resale Agreement. In addition, CAT was also responsible for certain services received by its customers under the parties' Second Agreement, with the exception of certain incoming calls. In dismissing CAT's petition pursuant to the Agreements, the Commission noted that CAT in turn had recourse to collect such charges from its customers who ordered the services involved.

By Order No. 79502 entered September 9, 2004, the Commission denied CAT's application for rehearing and reconsideration, as well as CAT's motion for stay, and directed a 30-day period for CAT to make arrangements for payment to Verizon or that a plan for migration of its customers to other carriers be developed.

17. The Petition of Core Communications, Inc. for an Expedited Declaratory Ruling Regarding the Growth Cap Provision of the ISP Order on Remand -- Case No. 8978

This case is discussed in earlier Annual Reports. It centers on the amount of intercarrier compensation owed by Verizon Maryland, Inc. to Core Communications, Inc. for Core's completion of Verizon customers' calls. Order No. 78818, issued on December 3, 2003, required that Core receive reciprocal compensation as determined by Federal Communications Commission standards. On January 2, 2004, Verizon appealed Order No. 78818. Core also filed a Petition for Clarification and Rehearing of Order No. 78818 on January 2, 2004. On July 9, 2004, the Commission issued Order No. 79258 in which it reaffirmed and clarified Order No. 78818. Verizon issued a payment to Core in compliance with Commission rulings on August 3, 2004.

18. Implementation of the Federal Communications Commission's Triennial Review Order -- Case No. 8983

This case, noted in the 2003 Annual Report, was instituted in October 2003 to implement new network unbundling requirements and the new standard for determining the existence of impairment set forth in the FCC's Triennial Review Order. Petitions for intervention, discovery, and filing of testimony occurred in late 2003 and early 2004.

On March 15, 2004, the Commission issued a stay of this proceeding following Verizon Maryland Inc.'s emergency motion for such a stay due to the uncertainty of various issues regarding the type of review to be conducted by state commissions. Verizon's emergency motion was precipitated by a United States Court of Appeals for the District of Columbia ruling invalidating important aspects of the Federal Communications Commission's delegation of authority to determine impairment as well as the tests promulgated by the FCC to make such determinations.

Subsequently, on June 3, 2004, the Commission requested further comment from Maryland telecommunications carriers in light of federal judicial developments, and the matter remains pending.

19. The Matter of the Approval of a Batch Cut Migration Process for Verizon Maryland Inc. Pursuant to the Federal Communication Commission's Triennial Review Order -- Case No. 8988

This case is also noted in the 2003 Annual Report and concerns procedures for transfer of customers from one switch-based carrier to another switch-based carrier. On August 21, 2003, the Federal Communications Commission (FCC) released its *Triennial Review Order*, in which the FCC adopted new requirements for unbundling telecommunications networks and for determining if and when the ability of other local exchange carriers to compete with Verizon is "impaired" and may require a regulatory fix. On October 31, 2003, Verizon Maryland Inc. filed at this Commission a petition and supporting testimony challenging certain findings of the *Triennial Review Order*. On November 17, 2003, the Commission determined that Case No. 8988 should be docketed to consider Verizon's batch hot cut proposal. The Commission delegated Case No. 8988 to the Hearing Examiner Division on November 26, 2003.

Verizon, Cavalier Telephone Mid-Atlantic, LLC, the Commission's Office of Staff Counsel, AT&T Communications of Maryland, Inc., MCI Metro Access Transmission Services, L.L.C., and Covad Communications Company filed testimony in early 2004. On March 16, 2004, the Commission stayed Case No. 8988 to await developments following the United States Court of Appeals for the District of Columbia's vacatur and remand of portions of the FCC's *Triennial Review Order*, which stay action was also taken in Case No. 8983 as noted above.

20. The Complaint of Core Communications, Inc. vs. Verizon Maryland Inc. for Breach of Interconnection Agreement -- Case No. 9005

In August 2002, Core Communications filed a complaint against Verizon Maryland Inc. for breach of an interconnection agreement. The Commission, in October 2002, noting that the complaint and relief sought was similar to a pending case (Case No. 8881) determined that this complaint should be held in abeyance until a final resolution of the prior case. Litigation of the complaint was resumed in June 2004 when the Commission directed Verizon to "satisfy or answer" Core's complaint. A pre-hearing conference was conducted on July 9, 2004 at which the parties initiated a procedural schedule resulting in hearings being held on December 14-15, 2004. The case is pending a decision by the Hearing Examiner.

21. The Petition for Arbitration of Interconnection Rates, Terms and Conditions with XO Maryland LLC; New Frontiers Telecommunications, Inc.; Xspedius Management Co. Switched Services, L.L.C. and Xspedius Management Co. of Maryland, L.L.C.; and Core Communications, Inc. Pursuant to 47 U.S.C. Section 252(B) -- Case Nos. 9010, 9011, 9012 and 9013

Case No. 9013 is a consolidation of Case Nos. 9010, 9011, 9012 and 9013; all were filed by Verizon to obtain expedited arbitration of interconnection rates, terms and conditions with competitive local exchange carriers, and were consolidated for hearing in September 2004. At Verizon's request, Case No. 9010, involving XO Maryland LLC, was closed and removed from these proceedings on December 10, 2004. Case No. 9011 involves New Frontiers Telecommunications, Inc.; Case No. 9012 concerns Xspedius Management Co. Switched Services, L.L.C. and Xspedius Management Co. of Maryland, L.L.C.; Case No. 9013 involves Core Communications, Inc. A pre-hearing conference on the consolidated cases was held before the Commission on October 13, 2004, and a

procedural schedule in this matter was issued on December 9, 2004. However, the consolidated cases were expected to be delegated to the Hearing Examiner Division in early January 2005.

22. The Complaint of Verizon Maryland Inc. Concerning Customer Winback Charges Imposed by Cavalier Telephone Mid-Atlantic, LLC -- Case No. 9022

On July 20, 2004, Verizon Maryland Inc. filed a formal complaint against Cavalier Telephone Mid-Atlantic, LLC alleging that Cavalier was wrongly attempting to impose charges on Verizon when Verizon "wins back" a customer from Cavalier. The Commission delegated this matter to the Hearing Examiner Division on September 1, 2004, and a pre-hearing conference was held on October 21, 2004. Verizon and Cavalier filed their direct testimony on December 22, 2004. Reply and rebuttal testimonies and a hearing were scheduled for early 2005.

23. The Petition of Verizon Maryland Inc. for Consolidated Arbitration of an Amendment to Interconnection Agreements of Various Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers Pursuant to Section 252 of the Telecommunications Act of 1996 -- Case No. 9023

This case involves a petition filed by Verizon Maryland Inc. on February 20, 2004 for arbitration of an amendment to interconnection agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Maryland. Various pleadings have been filed in this case, and on September 3, 2004, the Commission docketed this consolidated proceeding to consider 27 arbitrations for amendments to interconnection agreements involving similar subject matter and issues of law. On October 4, 2004, the Commission held a pre-hearing conference and established

a procedural schedule, which provides for a negotiation period, briefing period, status conference, and hearing if necessary. The matter remains pending.

24. The Application of Cavalier Telephone Mid-Atlantic, LLC Tariff Revisions to: (1) Eliminate the 911 Address Information Rate Element; and (2) Proposed Automatic Number Identification Rate Elements -- Case No. 9024

On August 9, 2004, Cavalier Telephone Mid-Atlantic, LLC filed with the Commission proposed tariff revisions to: (1) eliminate the 911 Address Information rate element; and (2) amend the Automatic Number Identification 911 tariff by adding a non-recurring rate element and reducing the recurring rate element. By Order No. 79438 issued on September 7, 2004, the Commission accepted for filing the elimination of the 911 Address Information rate element, while suspending the proposed amendments to the 911 Automatic Number Identification tariff rate elements, which was delegated to the Hearing Examiner Division.

Following hearing held on November 8, 2004, a Proposed Order of Hearing Examiner was issued on December 14, 2004. It found the proposed changes were not reflective of just and reasonable rates as Cavalier failed to support its costs for providing E911 facilities to its customers. Accordingly, the Proposed Order rejected the tariff changes, and the matter remains pending at the end of the year.

25. The Petition of AT&T Communications of Maryland, Inc. and TCG Maryland for an Order Preserving Local Exchange Market Stability -- Case No. 9026

This case involves a petition filed by AT&T Communications of Maryland, Inc. and TCG Maryland (collectively AT&T) on May 24, 2004 seeking an order preserving local exchange market stability. Following comment and pleadings by various entities, the Commission issued a Letter Order (Maryland Standstill Order), on August 20, 2004,

staying plans by Verizon Maryland Inc. to discontinue the availability of unbundled switching as an unbundled network element (UNE) for customers of competitive carriers served with four or more DSO lines. On October 15, 2004, the Commission issued a Letter Order finding that the Maryland Standstill Order is no longer necessary to sustain the parties' rights and obligations during the period covered by the Federal Communications Commission's Order and Notice of Proposed Rulemaking (Interim Rules Order).

The Commission indicated that in the absence of a Maryland Standstill Order, carriers' obligations and legal rights during the interim periods prescribed by the FCC would be determined in accordance with the carriers' interconnection agreements, and the Interim Rules Order. The Commission then set up a process to review the interconnection agreements. The Commission delegated to the Hearing Examiner Division consideration of requests for waiver by Verizon of the directives contained in the October 15, 2004 Letter Order.

Pursuant to the Commission's October 15, 2004 Letter Order, Verizon filed waiver requests on October 22, 2004 with respect to various carriers whereby Verizon seeks to discontinue provision of unbundled switching to certain carriers. Responsive pleadings were filed and oral argument was held on November 19, 2004, with decision on the waiver request expected in 2005.

26. The Petition of Verizon Maryland Inc. for a Declaratory Ruling Regarding Overpayment to Core Communications, Inc. for ISP-Bound Traffic -- Case No. 9029

On October 5, 2004, Verizon Maryland Inc. filed a Petition for Expedited Declaratory Ruling seeking return, with interest, of alleged overpayments to Core

Communications, Inc. The overpayments were made to Core for its termination of Internet-bound traffic from Verizon's customers. Verizon argued that Commission precedent as well as the Federal Communications Commission's decisions implementing the Telecommunications Act of 1996 supported its position. On October 25, 2004, Core filed a Motion to Dismiss/Answer in reply to Verizon's petition. On November 29, 2004, the Commission issued Order No. 79634 directing Core to reimburse Verizon \$358,298.04, but without interest.

C. Other Cases and Decisions

1. The Petition of the Water and Sewer Advisory Commission of Washington County, Maryland for an Investigation into the Reasonableness of Water and Sewer Rate Increases by the City of Hagerstown -- Case No. 8934

This matter, as noted in the 2003 Annual Report, is an investigation requested by the Water and Sewer Advisory Commission of Washington County concerning rates charged by Hagerstown. Hearings were held in this continuing case on July 15, 2004, at which a Motion to Dismiss filed by the City of Hagerstown on May 13, 2004 was also considered. A Proposed Order of Hearing Examiner was issued on December 6, 2004. The Proposed Order found that the existing rates had not been shown to be unfair or unreasonable. Also, the Hagerstown Motion to Dismiss was denied, and a request to conduct a Phase II proceeding to review the findings of a new cost of service study was also denied. The Water and Sewer Advisory Commission noted an appeal of the Proposed Order on January 5, 2005.

2. The Application of Bramble Hills Water System for Authority to Operate a Franchise and Approval of Initial Rates and Charges -- Case No. 8984

This case is discussed in a prior Annual Report. In Case No. 8984, Bramble Hills Water Company sought to significantly increase rates and charges paid by its customers. A pre-hearing conference was held on December 1, 2003. Bramble Hills filed its direct testimony on December 22, 2003. On February 5, 2004, the Commission's Office of Staff Counsel filed a motion to postpone Case No. 8984 pending resolution in Carroll County Circuit Court of *State of Maryland, Department of the Environment vs. Shelly R. Muffley, et al.*, a case to determine the party with legal responsibility for Bramble Hills Water Company. On February 9, 2004, the Hearing Examiner denied the parties' request to postpone Case No. 8984, as postponement would not permit the case to be concluded within the statutory time period. Instead, there being no objection from the parties, the Hearing Examiner issued a Proposed Order on February 17, 2004 that would close Case No. 8984 on the docket of the Commission, without prejudice. The Proposed Order was not appealed and became final Order No. 78988 on February 25, 2004.

3. The Complaint of Carnival Cruise Line vs. Association of Maryland Pilots -- Case No. 8996

On September 17, 2003, Carnival Cruise Line filed a complaint against the Association of Maryland Pilots seeking a declaration from the Commission that the Pilots have received from Carnival payment of pilotage fees and charges in excess of tariff rates. A hearing was held on December 3, 2003 before the Commission at its Administrative Meeting. In Order No. 78936 issued February 10, 2004, the Commission decided that the Pilots used an incorrect measurement to determine pilotage fees resulting

in charges that were in excess of tariff rates. The Pilots filed for reconsideration of this decision which the Commission denied in Order No. 79068, dated April 14, 2004.

4. The Appeal of the National Archives and Records Administration against Washington Suburban Sanitary Commission for the Levying of Service Charges -- Case No. 9006

The complaint, filed April 1, 2004, appeals the reasonableness of a service charge levied by Washington Suburban Sanitary Commission against the National Archives and Records Administration's College Park, Maryland archival facility. The disputed charge involves billing for alleged water discharge into the WSSC sanitary sewage system. In response, WSSC raised issues regarding Public Service Commission jurisdiction over the dispute. By letter dated June 18, 2004, the Commission delegated Case No. 9006 to the Hearing Examiner Division for resolution of the disputed matters. A pre-hearing conference was held on July 22, 2004. Ongoing discovery and motion hearings continued during the balance of the year. This matter will continue in 2005.

5. The Investigation of the Association of Maryland Docking Pilots to Establish Initial Rates for Docking Services -- Case No. 9014

This case concerns the Association of Maryland Docking Pilots' application to modify rates for docking pilotage services at the Cove Point Liquefied Natural Gas Facility filed on June 1, 2004. A pre-hearing conference was held on August 11, 2004, at which a procedural schedule was developed. The parties filed a Stipulation and Settlement Agreement on September 10, 2004, and hearing was held on October 7, 2004. By Order No. 79522, entered on October 8, 2004, the Commission approved the Stipulation and Settlement Agreement finding that the Agreement will result in just and reasonable rates.

6. The Sale and Transfer of the Oldtown Bridge by Ms. Jane A. Miller and Ms. Judy Walters O'Toole to Oldtown Bridge LLC (formerly John F. Teter) and for Authority of Oldtown Toll Bridge LLC to Charge Rates -- Case No. 9021

On March 31, 2004, Ms. Jane A. Miller and Ms. Judy Walters O'Toole informed the Commission of the sale of the Oldtown Toll Bridge, the only privately-owned toll bridge in Maryland. As the Bridge is a public service company under the Public Utility Companies Article, the prospective new owner, Mr. John F. Teter, was directed to file information regarding his ability to safely operate the Bridge for the public convenience.

Following receipt of additional information and an affidavit from Mr. Teter which showed the Bridge was transferred to Oldtown Bridge LLC, a limited liability company owned by Mr. Teter, the Commission approved the transfer of the Oldtown Bridge to the ownership and control of Oldtown Bridge LLC in Order No. 79417 issued on August 30, 2004.

7. The Application of Taxicab Permit Holders of Baltimore City and Baltimore County to Increase Rates for Taxicab Service -- Case No. 9028

On November 12, 2004, Yellow Transportation, on behalf of taxicab permit holders in Baltimore City and Baltimore County, filed an application with the Commission for authority to increase rates for taxicab service in both jurisdictions.

In Order No. 79639 entered on November 30, 2004, the proposed rates were suspended and proceedings instituted as to the justness and reasonableness of the rate request. A pre-hearing conference was held on December 14, 2004, at which a procedural schedule was developed with hearings before a Commission panel scheduled in 2005.

V. REPORT OF THE OFFICE OF GENERAL COUNSEL

The Office of General Counsel ("General Counsel") provides legal advice and assistance to the Commission, represents the Commission in external administrative proceedings, defends Commission orders in court and initiates and defends other legal actions on the Commission's behalf. In addition, the General Counsel's Office maintains continued involvement in the Commission's enforcement activities involving carriers allegedly operating without Commission authority, as well as utilities delinquent in filing their annual reports. General Counsel also coordinates the enforcement of autodialer complaints.

Annually, a variety of requests for information are fulfilled involving issues such as: cross-subsidization between a utility's regulated and non-regulated activities; privacy concerns; various telephone services; bankruptcy; universal service; and electric restructuring. General Counsel also reviews legal issues involving the Environmental Trust Fund, and implementation issues concerning the Telecommunications Act of 1996, as well as implementation issues regarding the Commission's oversight of the Standard Offer Service bidding process.

In its ongoing role as the Commission's Legislative Liaison, the General Counsel's Office drafts the Commission's legislative initiatives. Further, the Office of General Counsel monitors and furnishes testimony to the General Assembly on legislation affecting the Commission. Summaries of the cases in litigation during 2003-2004 are listed below:

A. Summary of Litigation

1. **Verizon Maryland Inc. v. Public Service Commission of Maryland, United States v. Public Service Commission of Maryland, United States Supreme Court, Nos. 00-1531, 00-1711**

This case began at the Commission when Verizon Maryland Inc. ("Verizon") filed a request for declaratory ruling asking that the Commission find that Verizon was not obligated under §251 of the Telecommunications Act of 1996 ("1996 Act") to pay reciprocal compensation for calls delivered to Internet Service Providers ("ISPs") who are served by competitive local exchange carriers ("CLECs"). The Maryland Commission issued a declaratory ruling finding that Verizon must continue to pay reciprocal compensation and Verizon sought review of this order pursuant to §252(3)(6) of the 1996 Act, 47 U.S.C. §251 et. seq. and 28 U.S.C. §1331.

The District Court of Maryland dismissed Verizon's complaint, finding that both the Maryland Commission and the individual Commissioners were immune from suit under the Eleventh Amendment and also finding that the Eleventh Amendment would bar suit brought pursuant to 28 U.S.C. §1331. On appeal, the United States Court of Appeals for the Fourth Circuit held that the Maryland Commission did not waive its Eleventh Amendment immunity when it implemented the 1996 Act. The Fourth Circuit further found that the Ex Parte Young doctrine did not permit an action against the individual Commissioners in their official capacity. The Court also found that a state commission's action interpreting or enforcing an interconnection agreement under the 1996 Act was not a "determination" under 47 U.S.C. §252(e)(6). Finally, with regard to the issue presented in this case, the Fourth Circuit held that 28 U.S.C. §1331 does not provide a federal

district court with independent subject matter jurisdiction to review a decision rendered by a state commission pursuant to the 1996 Act.

On February 14, 2001, the Fourth Circuit issued a decision upholding the District Court's conclusion that the Maryland Commission and Commissioners were immune from suit under the Eleventh Amendment. On April 5, 2001, Verizon filed a Petition for Writ of Certiorari with the United States Supreme Court. The United States subsequently filed a Petition on May 15, 2001. Both parties requested that the Supreme Court consider four issues. On June 25, 2001, both petitions were granted but only with regard to one question, whether the District Court had jurisdiction pursuant to 28 U.S.C. §1331.

On May 20, 2002, the Supreme Court found that the federal district courts had jurisdiction pursuant to 28 U.S.C. §1331 and declined to rule on the 1996 Act issues that had been raised. Therefore, the case was remanded back to the federal district court.

After remand, Verizon filed an amended complaint. The Commission filed a Motion to Dismiss the Amended Complaint. On November 19, 2002, the Court dismissed Count III (§ 1983 Claim) of the amended complaint, but denied the remaining motion to dismiss claims.

Verizon and the various defendants, including the Commission, filed cross-motions for summary judgment. On March 3, 2003, defendants' motions for summary judgment were granted and Verizon's motion was denied.

Verizon appealed to the U.S. Court of Appeals for the Fourth Circuit and the Commission cross-appealed. After briefing by all parties, oral argument was held on December 4, 2003. The Fourth Circuit has not issued a decision on this matter.

On August 2, 2004, the Fourth Circuit affirmed the District Court's order, finding that the Commission had authority under federal law to impose reciprocal compensation terms in arbitration proceedings. However, the Fourth Circuit found that the District Court erred when it held that there was no federal question jurisdiction over the carrier's contract misinterpretation claim. The Fourth Circuit remanded the case back to the District Court for consideration of this claim. After the case was remanded, Verizon subsequently filed a voluntary motion of dismissal which was granted by the District Court.

2. Dotson v. Bell Atlantic-Maryland, Inc. and the Maryland Public Service Commission, Circuit Court for Prince George's County, Case No. CAL 99-21004

On September 30, 1999, Plaintiffs filed an Amended Complaint adding the Commission as a defendant in this class action suit. The plaintiffs contend that the Commission lacked the authority to amend Code of Maryland Regulations 20.30.03 to permit telephone companies to charge residential subscribers a late payment charge. On December 1, 1999, the Commission and Bell Atlantic-Maryland, Inc. both filed Motions to Dismiss. On January 19, 2000, Plaintiffs filed their Opposition to these Motions. On January 24, 2000, Plaintiffs filed a Motion for Summary Judgment. On February 22, 2000, the Commission filed its Opposition to the Motion for Summary Judgment and its Reply Memorandum in Support of the Motion to Dismiss. Motions currently are pending before the Court. On May 16, 2000, the Court denied the Defendant's Motion to Dismiss and granted Plaintiff's Motion for Summary Judgment as to liability. Subsequent to the filing of various motions to dismiss and motions for summary judgment, the General Assembly enacted SB 145 (Chapter 59). This law rendered the late fees lawful and was

retroactive. The Commission and Bell Atlantic-Maryland, Inc. both filed second motions to dismiss based on this law's passage. The Court has stayed the proceedings pending a ruling by the Court of Appeals concerning whether the retroactive provisions of SB 145 are lawful.

On August 29, 2002, the Court of Appeals ruled that the retroactive provisions of SB 145 were unconstitutional. Subsequently, on December 12, 2002, the circuit court lifted the stay. On December 9, 2002, the Plaintiffs and Bell Atlantic-Maryland, Inc. submitted a Stipulation of Settlement and moved for preliminary approval. The Commission filed no opposition to the Settlement. On December 12, 2002, the Court granted preliminary approval of the Settlement. On April 11, 2003, certain objecting Class Members filed objections to Stipulation of Settlement. On November 13, 2003, the Court denied Plaintiff's motion for final approval of the proposed settlement.

The parties subsequently filed a second Stipulation of Settlement which the Commission supported. After notice to the class, the Court granted final approval of the Settlement. Still pending before the Circuit Court is the determination of Plaintiff's and possibly intervenor's attorneys' fees.

3. Scrocco v. Bell Atlantic-Md., Inc. and the Maryland Public Service Commission, Circuit Court for Prince George's County, Case No. 00-09962

This case involves a class action lawsuit that was filed on April 21, 2000, on behalf of commercial customers in the State of Maryland against Bell-Atlantic-MD, Inc. and the PSC. This proceeding is the companion case to Dotson, supra, which concerns residential customers. The Plaintiffs contend that the Commission lacked the authority to amend Code of Maryland Regulations 20.30.03 to permit telephone companies to charge

commercial subscribers a late payment charge. On June 13, 2000, the Commission filed its Motion to Dismiss. On July 3, 2000, Plaintiffs filed a Motion for Summary Judgment. On July 17, 2000, the Commission filed its Opposition to the Motion for Summary Judgment and its Reply Memorandum in Support of the Motion to Dismiss. These motions are currently pending before the Court. Prior to the filing of the Plaintiffs' complaint, the General Assembly enacted SB 145 (Chapter 59). This law rendered the late fees lawful and was retroactive. The Court has stayed the proceedings pending a ruling by the Court of Appeals concerning whether the retroactive provisions of SB 145 are lawful.

On August 29, 2002, the Court of Appeals ruled that the retroactive provisions of SB 145 were unconstitutional. Subsequently, the Circuit Court lifted the Stay. On December 9, 2002, this case was consolidated with Dotson. (*See the Dotson case summary above for further information regarding this case.*)

4. Maryland Department of the Environment (MDE) v. Muffley, et al., Circuit Court for Carroll County, Case No. 06-C-02.037281

On November 10, 2003, the Commission entered Order No. 78776 in Case No. 8984 granting the Bramble Hills Water System provisional authority to exercise a franchise and to operate the water system situated on the Company's property in Carroll County, Maryland. The Commission also intervened in proceedings in the Circuit Court for Carroll County involving the Maryland Department of the Environment and the owners of the system regarding the franchise issue and a dispute with the County regarding the propriety of operations.

As part of its intervention in this matter, the Commission sought to pursue viable settlement opportunity among the owners, MDE and the Office of People's Counsel.

Ultimately, a trial of the matter took place on May 6, 2004, during which the Commission presented a witness who gave testimony as to the public interest criterion relating to the operation of the water system and facilities.

On May 11, 2004, the Court entered an Order directing that the land and facilities of the Bramble Hills Water System be deeded over to Carroll County and further ordered that the County operate the water system for the benefit of the Bramble Hills Community. No further appeal was taken by any party.

5. CAT Communications, Inc. v. Verizon Maryland Inc., Circuit Court for Montgomery County, Civil Action No. 255354-V; Court of Special Appeals - Sep. Term, 2004 - No. 2221

On June 10, 2004, the Commission dismissed CAT Communications, Inc.'s ("CCI") complaint against Verizon Maryland Inc. In Order No. 79167 issued in Case No. 8972, the Commission determined that the dispute between the parties was governed by the resale agreement and that under that agreement CCI was responsible for services provided by Verizon to CCI's customers. Further, on September 29, 2004, the Commission denied CCI's application for rehearing and reconsideration and its motion for stay. The Commission suspended Verizon's Notice of Utility Payment Failure and notice of default and pending service termination for 30 days.

CCI filed a Petition for Judicial Review of Order No. 79167 on October 15, 2004, and also moved for an expedited stay. Following oral argument on October 28, 2004, the Court entered a stay as to "the legal effect" of Order No. 79167 and directed CCI to deposit into the Court's Registry the then-stated disputed amount, pending the outcome of the appeal. On January 3, 2005, Verizon filed an interlocutory appeal in the Court of Special Appeals asserting that the Circuit Court Order was an unlawful injunction.

6. The Mid-Atlantic Petroleum Distributors Association and the Mid-Atlantic Propane Gas Association v. PSC, Circuit Court for Baltimore City, Civil Action No. 24-C-03-008205//AA

On September 14, 2004, the Circuit Court for Baltimore City issued a Memorandum Opinion and an Order dismissing this case for lack of jurisdiction. This case was initiated by the filing on November 7, 2003, in Baltimore City Circuit Court, of a Petition for Judicial Review of Commission Order No. 78719 in Case No. 8899 by the Mid-Atlantic Petroleum Distributors Association and the Mid-Atlantic Propane Gas Association. Case No. 8899 was a proceeding initiated by a petition filed by the Mid-Atlantic Petroleum Distributors Association and the Mid-Atlantic Propane Gas Association requesting Commission investigation and declaratory order against Southern Maryland Electric Cooperative, Inc., Choptank Electric Cooperative, Inc., and Choptank Home and Business Services, Inc. In its Memorandum, the Court found that the Commission's Order No. 78719, which denied the Petitioners' request for rehearing, was not subject to judicial review. The Court found further that the Commission's underlying substantive order in Case No. 8899, Order No. 78571, was not subject to judicial review since Petitioners' intent to seek review of that order could not be fairly inferred from Petitioners' Petition for Judicial Review of Commission Order No. 78719.

7. Eric Tribbey, Russell W. Bounds, and Troy Gnegy v. PSC, Circuit Court for Baltimore City, Civil Action No. 24-C-03-006366//AA and Paul C. Sprenger v. PSC, Circuit Court for Baltimore City, Civil Action No. 24-C-03-006325//AA.

At a Motions Hearing held on March 31, 2004, in the Circuit Court for Baltimore City, the Court granted the Motions to Dismiss of the Public Service Commission and Clipper Windpower, Inc. in both of these proceedings. Both proceedings concerned Petitions for Judicial Review of Commission Order No. 78354, issued on March 26,

2003, and Commission Order No. 78617, issued on August 8, 2003, in Case No. 8938. Case No. 8938 was a proceeding to consider the Application of Clipper Windpower, Inc. for a Certificate of Public Convenience and Necessity to Construct a 101 MW Generating Facility in Garrett County, Maryland. Case No. 8938 was decided by the Commission in Order No. 78354 upon the Commission's determination, pursuant to PUC § 3-114(c)(2)(ii), to conduct further review on its own motion after issuance of a Proposed Order of Hearing Examiner in the matter. Order No. 78617 was issued after Case No. 8938 was closed in order to respond to certain untimely motions to intervene and to request rehearing of Order No. 78354.

8. **Eric Tribbey, Russell W. Bounds, and Troy Gnegy v. PSC, Circuit Court for Baltimore City, Civil Action No. 24-C-03-006366//AA and Paul C. Sprenger v. PSC, Circuit Court for Baltimore City, Civil Action No. 24-C-03-006325//AA consolidated on appeal before the Court of Special Appeals as Paul C. Sprenger et al. v. Clipper Windpower et al., Appeal No. 257, September Term, 2004.**

This proceeding is an appeal of the dismissal of the proceedings described in item 7 above. After the submission of Briefs by the parties, the Court of Special Appeals heard oral argument in this matter on December 14, 2004. A decision has not been issued.

9. **Verizon Maryland Inc. v. CloseCall America, Inc., et al., United States District Court for the District of Maryland, Northern Division, Civil Action No. JFM-04-CV-4073.**

On December 30, 2004, Verizon Maryland Inc. filed a Complaint for Declaratory and Injunctive Relief from the Commission's Order No. 79638, issued on November 30, 2004, in Commission Case No. 8927. Verizon Maryland Inc. asserts federal preemption. Answers were filed and a scheduling conference was held on February 11, 2005. The

proceeding has been temporarily stayed pending possible action by the Federal Communications Commission on a similar matter.

10. AES Warrior Run, Inc vs. Potomac Edison Company, Case No. 24-C-02-002348AA Circuit Court for Baltimore City

On August 19, 2003, the Court closed Case No. 24-C-02-002348AA due to a lack of prosecution. On May 27, 2004, AES Warrior Run, Inc. filed a Motion to Vacate Dismissal. The Opposition of the Public Service Commission of Maryland to Plaintiff's Motion to Vacate Dismissal was filed on June 8, 2004. The Potomac Edison Company d/b/a Allegheny Power filed a Reply to Motion to Vacate Dismissal on June 7, 2004. AES Warrior Run, Inc. filed an Answer on June 28, 2004. The Court entered an Order on July 13, 2004, striking its 2003 dismissal order. The Court stated that an Order of Dismissal is deferred until December 31, 2004, if the case is not finally disposed of by that date.

11. Verizon Maryland Inc. v. PSC, Circuit Court for Montgomery County, Circuit Action No. 234852, and AT&T Communication of Maryland, LLC v. PSC, Circuit Court for Baltimore City, Civil Action No. 24-C-02-004597

On July 17, 2002, the Public Service Commission of Maryland ("Commission") issued Order No. 77913 in Case No. 8745, *In the Matter of the Provision of Universal Service to Telecommunications Consumers*. By that Order, the Commission made two major determinations: (1) that there was no need for a Maryland universal service fund; and (2) that Verizon Maryland Inc.'s rates for its switched access charges should be reduced by \$18.61 million. Verizon and AT&T Communications of Maryland, LLC, both parties to Case No. 8745, petitioned for judicial review of the access charge determinations contained in the Commission's Order. The petitions for judicial review

were consolidated in the Circuit Court for Montgomery County. After extensive briefing, a hearing was held before the Circuit Court for Montgomery County on April 10, 2003. On April 23, 2003, the Circuit Court entered a judgment affirming the Commission's Order.

On May 2, 2003, Verizon noticed an appeal to the Court of Special Appeals, and shortly thereafter filed a petition for writ of certiorari to the Court of Special Appeals. By Order dated July 29, 2003, the Court of Appeals denied Verizon's petition. After extensive briefing, a hearing was held on January 9, 2004 before the Court of Special Appeals. On February 23, 2004, the Court of Special Appeals issued an unreported opinion in which it concluded that the Commission's reduction of Verizon's access charges in Order No. 77913 constituted a regulation subject to the Maryland Administrative Procedure Act. The Court of Special Appeals reversed the judgment of the Circuit Court for Montgomery County and remanded the case to that court. On March 10, 2004, the Public Service Commission and the Office of People's Counsel jointly petitioned the Court of Appeals for a writ of certiorari to the Court of Special Appeals.

Thereafter, on April 6, 2004, AT&T Communications of Maryland, LLC similarly petitioned the Court of Appeals. Both petitions were denied by the Court of Appeals on May 14, 2004. On June 25, 2004, the Circuit Court for Montgomery County entered an Order declaring Order No. 77913 to be invalid because the Order constituted a regulation which is subject to the notice and comment requirements of the Maryland Administrative Procedure Act.

12. Midwest ISO Transmission Owners, et al., v. Federal Energy Regulatory Commission, United States Court of Appeals for the District of Columbia Circuit, No. 02-1121 (September Term, 2003).

Reference to this case was made in the Commission's 2003 annual report. This is an appeal by the Midwest ISO transmission owners from FERC's decision to apportion a portion of the operating costs of the Midwest ISO to the transmission owners' native load and to deny the transmission owners' request to preempt state retail rate freezes which preclude them from recovering these costs from retail customers. The Public Service Commission intervened in this proceeding to support FERC's ruling regarding retail rate freezes, since the Court's decision might impact the viability of Maryland retail rate caps in other cases. The case was briefed between November and January 2004, and argued before the United States Court of Appeals on April 16, 2004. On July 16, 2004, the Court issued a decision upholding FERC's decision.

13. Questar Properties, Inc. v. Verizon Maryland Inc., Baltimore County Circuit Court, Civil Action No. C-03-3532

Case No. 8861, *In the Matter of the Complaint of Questar Properties, Inc. v. Verizon Maryland Inc.*, was docketed by the Commission on October 10, 2000, to consider a complaint filed by Questar pertaining to Questar's allegations that Verizon had improperly charged it for the placement of nine network interface devices and the removal of a pedestal at the residential apartment community known as Excalibur located in Baltimore County. The matter was initially delegated to the Hearing Examiner Division. The Hearing Examiner issued a Proposed Order finding in Verizon's favor with respect to the network interface device charges, and in Questar's favor with respect to the pedestal removal cost. Each party appealed the Proposed Order to the Commission. On March 4, 2003, the Commission issued Order No. 78324, by which it affirmed the

Proposed Order with respect to the network interface device charges and reversed the Proposed Order with respect to the pedestal cost. Questar filed a Petition for Judicial Review of Order No. 78324 with the Circuit Court for Baltimore County.

The Commission noted its intent to participate in the review. Briefing took place between October 2003 and December 2003. The hearing in this matter initially scheduled for March 5, 2004 was continued to a later date. On April 23, 2004, a Stipulation of Dismissed With Prejudice, signed by all parties, was filed with the Court.

14. In Re Mirant Corporation, Case No. 03-46590-DML-II Bankruptcy Court, Northern District of Texas

On July 14, 2003, the Mirant Corporation ("Mirant") filed for relief under Chapter 11 of the Bankruptcy Code in the District Court of Texas. On August 28, 2003, Mirant filed a motion with the Bankruptcy Court seeking to cease performance of its obligation under part of an Asset Purchase and Sale Agreement entered into with Potomac Electric Power Company ("PEPCO"). Pursuant to this Agreement, Southern Company (now Mirant) agreed to purchase substantially all of Pepco's generating assets and also agreed to repurchase from PEPCO the entitlements (capacity, energy, etc.) that PEPCO purchases under certain Power Purchases Agreements ("PPAs") Mirant sought to reject and breach only the PPA portion of the overall contract.

On September 8, 2003, the Commission and the Office of People's Counsel ("OPC") jointly filed a Petition for Declaratory Order with the Federal Energy Regulatory Commission ("FERC"), asking FERC to declare that Mirant may not cease to perform under the Agreement with PEPCO.

On September 15, 2003, Mirant filed an Emergency Motion to Enforce Automatic Stay in Bankruptcy Court, asking that the Court find both the Commission and OPC in

contempt. The sole basis for this motion was the Commission and OPC's joint filing with FERC. The Bankruptcy Court held a hearing on the motion on September 17, 2003 but found that the Commission and OPC should be given the opportunity to respond in writing.

Prior to taking any further action with regard to the Motion, the Bankruptcy Court ruled that Mirant could reject the PEPCO Agreement. However, on December 24, 2003, the District Court overruled the Bankruptcy Court and found that Mirant must first seek permission from FERC before rejecting the agreement. This ruling is now on appeal to the 5th Circuit Court of Appeals.

In light of the District Court ruling, the Commission and OPC withdrew the Petition filed at FERC. However, Mirant's Motion to find the agencies in contempt is still pending before the Bankruptcy Court.

15. Commission Decisions Relating to Consumer Disputes with Utilities

The Commission enters its appearance and participates in all actions that are instituted to obtain judicial review of decisions which are rendered by the Commission on appeal from rulings of its Office of External Relations or Proposed Orders of Hearing Examiner relating to consumer disputes with public utilities and suppliers of gas or electricity.

16. *Armstrong v. Baltimore Gas and Electric Company*, Circuit Court for Baltimore City, Case No. 24-C-03-002295 //AA

The matter involved a consumer complaint (meter dispute) between the customer, Thomas Armstrong, and Baltimore Gas and Electric Company. The Court directed that the clerk enter an Order dismissing the case on April 30, 2004, for lack of petitioner participation (failure to prosecute).

17. Azizolah Abrishamian vs. Washington Gas Light Company; Case No. 24-C-04-008495//AA; Circuit Court for Baltimore City

The Maryland Office of People's Counsel filed a Petition for Judicial Review on behalf of Azizolah Abrishamian on November 23, 2004. The Petition sought review of Commission Order No. 79580, which affirmed a Hearing Examiner Ruling on Motions that no settlement was reached between Mr. Abrishamian and Washington Gas Light Company ("WGL") regarding a dispute over a rebate. The Commission filed a Response on December 9, 2004. On December 21, 2004, the Office of People's Counsel filed a Motion to Withdraw Petition because it had settled the matter with WGL on Mr. Abrishamian's behalf. The Court entered an Order granting OPC's Motion to Withdraw Petition on December 27, 2004.

18. Tom Clark/Complaint vs. Bernard D. Bell/Driver, Case No. 24-C-04-006381//AA; Circuit Court for Baltimore City

On August 23, 2004, Tom Clark filed a Petition for Judicial Review of Commission Case No. 04TD12-VP. In that case, the Commission had upheld the decision of the Commission's License Hearing Officer not to discipline taxicab driver Bernard D. Bell based upon Mr. Clark's complaint. On September 1, 2004, the Commission filed its Response to the Petition. The Appellant filed his Memorandum on November 17, 2004, and the Commission filed its Answering Memorandum on December 16, 2004. The Appellant filed his Reply Memorandum on December 29, 2004. A hearing was scheduled for January 21, 2005.

19. Debra J. McClain v. PSC, Circuit Court for Frederick County, Civil Case No. 10-C-04-001798 // AA.

On August 4, 2004, Ms. McClain filed a Petition for Judicial Review of the Commission's July 9, 2004 decision to dismiss her complaint against Allegheny Power.

By that complaint, Ms. McClain asked the Commission to order Allegheny Power to provide electric service to her property by installing an underground distribution line along a State roadway, in lieu of the three other options that the Company had proposed for providing such service. Both the Commission and Allegheny Power filed responses to Ms. McClain's petition. On October 12, 2004, the Commission filed its administrative record. The Circuit Court issued a notice on October 26, 2004 setting the matter for hearing on February 16, 2005.

When the Commission did not receive another notice from the Circuit Court stating that the administrative record had been filed (which notice triggers the pre-hearing briefing process under Rule 7-207), Commission Counsel contacted the Court on November 1, 2004. Counsel was then informed that this notice in fact had not been sent as yet, but the Court would do so immediately. On November 3, 2004, Commission Counsel received the Court's notice (dated November 1, 2004) that the administrative record had been filed on October 12, 2004. Unfortunately, it appears that this notice was only sent to the Commission. Fortunately, the Court granted a 30-day continuance before the hearing date, to allow Allegheny Power and Ms. McClain the opportunity to formalize a settlement in principle reached between them. The matter is pending.

20. Carpenter's Point Water Company v. PSC, Circuit Court for Cecil County, Civil Action No. 07-C-04-00407 AA.

This case involves a Petition for Judicial Review filed by Carpenter's Point from a November 8, 2004 Commission decision. The Commission had ordered the Company to restore water service to Mary Gifford without requiring her to pay accumulated quarterly fees for the six-year period that Ms. Gifford was not a Carpenter's Point water customer.

Both the Commission and the Office of People's Counsel (representing Ms. Gifford) filed responses to the petition.

B. Proceedings Before the Federal Communications Commission and the Federal Energy Regulatory Commission

The Office of General Counsel participates in and monitors various proceedings conducted by the Federal Communications Commission ("FCC") as they pertain to wireline telecommunications issues. The Office of General Counsel also participates in and monitors proceedings at the Federal Energy Regulatory Commission ("FERC") addressing matters relating to wholesale transmission and energy providers in general, matters pertaining to PJM Interconnection in particular. Following is a list of the most noteworthy proceedings:

- 1. In the Matter of Unbundled Access to Network Elements Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, WC Docket No. 04-133; CC Docket No. 01-338.**

On August 21, 2003, the FCC released its long awaited *Triennial Review Order* which addressed in part the unbundling obligations of incumbent local exchange carriers pursuant to the Telecommunications Act of 1996. *See*, 18 FCC Rcd 16978. The *Triennial Review Order* was subsequently appealed to the United States Court of Appeals for the District of Columbia Circuit, and the Court issued an opinion remanding and vacating portions of the *Triennial Review Order* on March 2, 2004. *See*, *United States Telecom Association v. FCC*, 356 F.3d 554 (D.C. Cir. 2004).

On August 20, 2004, the FCC issued an *Order and Notice of Proposed Rulemaking ("Interim Order and NPRM")* in which it sought comment from interested parties on several issues. *See*, 19 FCC Rcd 16783. On October 4, 2004, the Public

Service Commission filed initial comments with the FCC. The Commission also filed comments on behalf of its Technical Staff. On February 4, 2004, the FCC issued an *Order on Remand* in response to the Court's remand.

2. The New PJM Companies: American Electric Power Service Corporation, et al., and PJM Interconnection, L.L.C., Docket ER03-262-000

Reference to this proceeding was contained in the Commission's 2003 annual report. This proceeding was instituted to address the December 2002 application of certain former Alliance companies, namely Commonwealth Edison Company ("Com Ed"), Dayton Power and Light Company ("DPL"), and American Electric Power ("AEP"), to join PJM Interconnection ("PJM").

AEP notified FERC that it was unable to join PJM on schedule, because of actions by Kentucky and Virginia Commissions. In the fall of 2003, FERC conducted an inquiry into the obstacles preventing the expansion of PJM. Many parties opposed the integration of Com Ed into PJM (using a dedicated 500 MW line through AEP) without the integration of AEP; and DPL indicated that it would not join PJM if AEP did not join AEP as well. On November 25, 2003, FERC instituted an expedited proceeding in sub-docket 009 of Docket ER03-262, to examine whether to preempt the states of Virginia and Kentucky from preventing AEP from joining PJM under the Public Utility Regulatory Policies Act ("PURPA").

After concluding this expedited evidentiary proceeding, FERC's Administrative Law Judge ("ALJ") issued an Initial Order on March 12, 2004, which found that preemption was justified under PURPA. Exceptions to the ALJ's Initial Order were filed. On April 23, 2004, PJM, AEP and the Kentucky Commission filed a motion with FERC.

That motion asked FERC to defer action with regard to Kentucky based upon a settlement reached between Staff of the Kentucky Commission, AEP and PJM which, if approved by the Kentucky Commission, would allow integration into PJM of AEP's retail supplier in Kentucky. On May 6, 2004, FERC granted the motion to defer action until the earlier of May 20, 2004 or the date on which the Kentucky Commission acts. On or about May 20, 2004, the Kentucky Commission approved the application of its AEP retail affiliate to join PJM.

On June 17, 2004, FERC issued two orders. In the first order (107 FERC ¶ 61,271), FERC affirmed the ALJ's initial decision regarding authority to preempt Virginia, but left Virginia an opportunity to settle the matter before the scheduled integration day of October 1, 2004. In the second order (107 FERC ¶ 61,272), FERC approved the Kentucky settlement. The Virginia Commission applied to FERC for a stay of its Order pending consideration of a request for reconsideration that it was planning to file, which motion was opposed by various parties. On July 15, 2004, FERC issued a ruling denying the stay. Requests for rehearing were filed by Virginia, Kentucky, New Mexico, Washington and Louisiana. The Virginia Commission filed a petition for Writ of Mandamus with the Court of Appeals for the District of Columbia Circuit, seeking a stay of the FERC order until a petition for review of FERC's Order becomes ripe.

On July 29, 2004, the Virginia Commission filed with FERC a motion to reconsider its denial of the stay, based upon a settlement presented for its approval; and notified the Court of Appeals of the new developments. FERC granted reconsideration to give the Virginia Commission a chance to rule on the proposed settlement on or before

September 2, 2004 (as the Virginia Commission requested), but still kept the October 1, 2004 deadline for AEP's integration.

Com Ed was successfully integrated with PJM on May 1, 2004. On August 4, 2004, FERC issued a ruling on various requests for rehearing of the FERC order that was entered in this case on April 1, 2003, wherein FERC found that Com Ed should be allowed to integrate with PJM. FERC also ruled that the rate filings made initially in Docket ER03-262 are moot in light of later developments and the elimination of border rates between PJM and the Midwest Independent Transmission System Operator ("MISO") in Docket EL02-111. On October 4, 2004, FERC issued a tolling order as to the petitions for rehearing that were filed regarding its August 4, 2004 decision.

On August 30, 2004, the Virginia Commission approved integration of its retail AEP affiliate with PJM. On August 18, 2004, FERC issued a tolling order as to the rehearing requests that were filed regarding its June 17, 2004 order. On October 1, 2004, AEP and DPL were successfully integrated with PJM. On January 7, 2005, FERC dismissed the rehearing requests as to its June 17, 2004 order as moot. By its January 7, 2005 order, FERC also rejected a settlement offer made by the Virginia and Louisiana Commissions to withdraw their rehearing requests and dismiss their actions for judicial review of the June 17, 2004 decision, if FERC vacated its preemption order.

3. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C., Docket EL02-111

Reference to this proceeding was contained in the Commission's 2003 annual report. This case concerns the loss of revenue associated with the elimination of the border rates for transactions between the region controlled by the Midwest Independent

Transmission System Operator ("MISO") and the PJM region. Notwithstanding the objections raised by many parties (including the Maryland Commission), FERC approved in November 2003 the use of a Seans Elimination Cost Adjustment ("SECA"), which assigns responsibility to make up for "lost revenue" to load that imported generation across the PJM/MISO border during a historical test period, regardless of current transactions. Stakeholder meetings were held to address the SECA compliance filings (which were to become effective as of April 1, 2004 and last for a two-year transition period). On January 27, 2004, FERC assigned its Chief Judge to act as the settlement judge with regard to these filings; and the first settlement conference was conducted on February 3, 2004. Given the issues and complexities involved and the need for time for stakeholders to try to resolve their differences, the Chief Judge asked FERC to postpone the elimination of border rates to May 1, 2004 (*i.e.*, the date that PJM planned to fully integrate Com Ed), which postponement was granted.

Additional settlement conferences were conducted; and it became clear that the vast majority of the parties participating in this process found the SECA to be unacceptable. Eighty-four parties (including the Maryland Commission) joined in a settlement setting forth going-forward principles to transition directly to end-state rates (without any SECAs). This settlement provided for the elimination of border rates in the combined region as of December 1, 2004, and the implementation of end-state rates (subject to refund) on December 1, 2004. Only three parties opposed the settlement. On March 5, 2004, the Chief Judge certified the settlement to FERC, with a request for an expedited response. On March 19, 2004, FERC issued an Order accepting the settlement. (One party, and its affiliates, sought rehearing.)

The Chief Judge conducted a conference on April 7, 2004, at which the parties agreed to a process under the settlement agreement's Going Forward Principles and Procedures. Several settlement conferences and stakeholder meetings followed. In the end, there was no settlement on one, single end-state rate proposal. However, the number of formal proposals was narrowed to two, which were filed with FERC on October 1, 2004. (See Docket Nos. ER05-6-000 and EL04-135.)

4. Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, L.L.C, Docket ER05-6-000

This case involves the filings under Section 205 that were made to establish end-state rates in the combined footprint pursuant to the EL02-111 settlement. One filing was called the Unified Plan ("UP") by its proponents, and the second was called the Regional Pricing Proposal ("RPP") by its proponents. The UP filing was accompanied by an Offer of Settlement. The Maryland Commission intervened in the case, but did not support either UP or RPP.

On November 18, 2004, FERC issued an order rejecting both the UP and RPP proposals. FERC ruled that for transactions between PJM and MISO, a "license plate" rate structure would be used until January 31, 2008. (Stating that it was not mandating a move from license plate rates, FERC directed PJM, MISO and the transmission owners to make a filing, at least six months before January 31, 2008, containing a reevaluation of fixed cost recovery policies for pricing transmission service between them and proposing a rate design to be effective February 1, 2008.) Regarding the recovery of costs associated with new facilities, FERC directed PJM and MISO to develop and file a proposal for allocating to the customers located in the regions controlled by these two

regional transmission organizations ("RTOs") the cost of new transmission facilities that are built in one RTO but provide benefits to customers in the other RTO, within 180 days. Consistent with both UP and RPP proposals, FERC ruled that it would not change the financial transmission right ("FTR") and auction revenue right (ARR) allocations currently in place in both RTOs and stated that transmission customers that, e.g., historically imported energy from a particular generating source in PJM to serve load in MISO should continue to obtain FTRs and ARRs even if they are no longer paying PJM/MISO border rates. Finally, FERC ordered the use of SECAs to recover "lost revenues" associated with the elimination of border rates between PJM and MISO as of December 1, 2004. The SECAs would apply beginning December 1, 2004 and ending March 31, 2006.

On November 23, 2004, AEP filed an emergency motion for clarification, stating that FERC made a mistake when it limited SECA recovery to the lost revenues associated with the elimination of inter-RTO border rates. AEP maintained that SECAs also should be employed to collect lost revenue associated with the elimination of intra-RTO border rates between PJM and the new PJM Companies, since events in Docket No. EL02-111 mooted the proposal in Docket No. ER03-262 to compensate the new PJM Companies for "lost revenues" associated with joining PJM by means of interregional border rates and administrative savings. Objections were filed in response to AEP's motion, but FERC issued a ruling on November 30, 2004 granting AEP's request.

Several parties filed for rehearing of the November 18, 2004 and November 30, 2004 orders; and FERC issued tolling orders to address the rehearing requests. By order dated February 10, 2005, FERC accepted the SECA compliance filings that were made

pursuant to FERC's November 2004 orders, effective December 1, 2004 and subject to refund after hearing. The hearing on the SECA compliance filings was assigned to Administrative Law Judge Peter Young, who must conduct a pretrial conference on or before February 25, 2005 under FERC's February 10, 2005 order.

5. PJM Interconnection, L.L.C., Docket No. EL04-105

This is a Section 206 complaint proceeding that was instituted by FERC on May 28, 2004 to address the allocation of financial transmission rights ("FTRs") and auction revenue rights ("ARRs") in the PJM region between network customers and firm point-to-point customers. (See Docket ER04-742, *supra*). On June 9, 2004, FERC issued a notice that established the refund effective date under Section 206(b) as 60 days after its June 9, 2004 notice is published in the Federal Register. This matter is pending.

6. PJM Interconnection, LLC & Virginia Electric and Power Co., Docket ER04-829

On May 11, 2004, PJM and Virginia Electric and Power Company ("Dominion" or "Virginia Power") jointly filed an application to establish PJM as the RTO for Dominion under an arrangement known as "PJM South". The proposed effective date is the later to occur of November 1, 2004 or a date to be determined shortly after the date on which Dominion receives all necessary regulatory approvals to join PJM. FERC established June 1, 2004 as the date for filing interventions and comments. Many parties intervened (including the Maryland, Pennsylvania and Virginia Commissions) and some filed protests. On June 14, 2004, the PJM transmission owners filed a motion asking FERC to issue an Order ruling that Dominion's application be subject to the outcome of

the end-state PJM/MISO rate proceeding in EL02-111, which was opposed by Dominion.

On October 5, 2004, FERC issued an order establishing PJM South, subject to certain conditions. One of the conditions is that Virginia Power be subject to the PJM/MISO regional rates, as the PJM transmission owners requested. Several parties filed requests for rehearing of the October 5, 2004 order; and FERC issued a tolling order on November 22, 2004. On December 9, 2004, Dominion reported that owing to a delay in a hearing scheduled before the North Carolina Commission in connection with its application to join PJM, integration would not occur until the period March 1, 2005 to May 1, 2005. The matter is pending.

7. PJM Interconnection, LLC, Docket ER05-10.

This is an application filed by PJM (with supporting testimony by its Market Monitor) for FERC approval of market-based rates for regulation service in the PJM West/South Regulation Zone, which is comprised of Allegheny Power, AEP, Com Ed, DPL (and Duquesne Light Company and Virginia Power, once they join PJM). On November 30, 2004, FERC allowed these market-based rates to go into effect by operation of law. (It should be noted that market-based rates for regulation service already are in effect in the area that is comprised by the Mid-Atlantic Area Council region; i.e., the pre-expansion "classic" PJM footprint). A request for rehearing of the November 30, 2004 action was dismissed by FERC, because there was no "order" to rehear.

8. Standardization of Generator Interconnection Agreements and Procedures, Docket RM02-1

This proceeding, which was addressed in the Commission's 2003 annual report, involved FERC's adoption, by Order No. 2003, Final Rule, 68 FR 49845 (8/19/03), of standards governing large generator interconnection agreements and procedures. Several parties sought rehearing of Order No. 2003. FERC issued an Order on Rehearing (Order No. 2003-A), 69 FR 15932 (3/26/04). Certain parties filed applications for rehearing and/or clarification of Order No. 2003-A. On December 20, 2004, FERC issued its Order on Rehearing and Directing Compliance (Order No. 2004-B), which generally affirmed Order Nos. 2003 and 2003-A, granting rehearing on some issues, and clarifying others. By 18 CFR 35.28(f), FERC's standards governing large generator interconnection agreements and procedures are made applicable to every public utility that is required to have a non-discriminatory open access transmission tariff under Order 888, unless a waiver is requested by the utility and granted by FERC. Several parties have filed actions seeking judicial review of FERC Orders 2000, 2000-A and 2004-B.

9. PJM Interconnection, LLC, Docket No. ER02-1333.

Reference was made to this case in the Commission's 2003 annual report. This was a filing by PJM to implement procedures and agreements in connection with the interconnection of new generating facilities in PJM. On May 17, 2002, FERC accepted PJM's tariff for filing and suspended it for five months; and ruled that the PJM's filing will be subject to the outcome of FERC's final rule on interconnection policy in Docket No. RM02-1. On September 22, 2004, FERC issued an order denying a request for clarification filed by the PJM transmission owners, which asked FERC to rule that the tripartite agreements provided by PJM's interconnection tariff is not inconsistent with the notice of proposed rulemaking *in Standardization of Generator Interconnection*

Agreements and Procedures, Docket RM02-1-000. By its September 22, 2004 order, FERC held that this request for clarification was moot, since FERC accepted PJM's interconnection agreements and procedures (including the tripartite agreements) by order dated July 8, 2004 in Docket EL04-457, *infra*.

10. PJM Interconnection, LLC, Dockets RT01-2-011, -012, -014.

Reference to this matter was made in the Commission's 2003 annual report. These proceedings involve compliance filings to further modify and refine PJM's regional transmission expansion planning protocol ("RTEPP") to include planning for "economic" upgrades needed to relieve congestion and support competitive markets. These filings were made by PJM in response to FERC directives in orders issued in December 2002 and July 2003 (granting PJM RTO status and denying rehearing), and on October 24, 2003 (accepting with modifications PJM's August 2003 compliance filing in RT01-2-011 pertaining to RTEPP as applied to economic upgrades). To comply with FERC's October 24, 2003 Order, PJM made another compliance filing on November 24, 2003 (docketed as RT01-2-012) and April 21, 2004 (docketed as RT01-2-014). Several parties filed requests for rehearing of FERC's October 24, 2003 Order.

By Order issued on October 18, 2004, FERC denied rehearing of its October 24, 2003 Order, and accepted PJM's November 2003 and April 2004 compliance filings. FERC also directed PJM to summarize and document the status of its upgrade process in its annual reports to FERC, beginning with the 2005 report. This filing is to include, *inter alia*, a full description and justification of the cost allocation methodology in its material determining market participant cost responsibility. In addition, FERC directed PJM to make a further compliance filing within 30 days of its order. Rehearing of

FERC's October 18, 2004 order has been sought, and FERC issued a tolling order on December 17, 2004. PJM made the required compliance filing on November 17, 2004, which was docketed as RT01-2-016. No protests were filed as to PJM's November 17, 2004 compliance filing.

11. Allegheny Power Systems Cos., et al., Docket ER04-156-000

Reference to this case was made in the Commission's 2003 annual report. This is the proceeding in which PJM transmission owners sought to establish rates to recover carrying costs associated with new construction and enhancements made pursuant to PJM's Regional Transmission and Expansion Planning Protocol ("RTEPP"). The parties (including the Maryland Commission) negotiated a settlement, under which the ER04-156 filing would be withdrawn, and a new filing will be made in January 2005 to address issues raised in this docket and elsewhere. (These other issues include whether license plate rates should be retained for intra-PJM transactions, how to harmonize treatment of new and old investment, and end-state rates). The uncontested settlement was certified by ALJ to FERC on June 17, 2004.

On August 9, 2004, FERC accepted the settlement agreement and terminated the docket. The Commission's approval of the settlement, by terms of its order, does not constitute approval of or precedent regarding any principle or issue in the proceeding. Pending rehearing requests in ER04-156 are deemed withdrawn.

12. PJM Interconnection, LLC, Docket No. EL03-236

Reference to this case was made in the Commission's 2003 annual report. This case arose as a result of a complaint filed by Reliant against PJM, which alleged that

Reliant was not adequately compensated for its must-run units. Although it dismissed the complaint, FERC required PJM to make a future filing on this topic. Since the requisite consensus could not be achieved during the PJM stakeholder process, PJM's filing was made on September 30, 2003 in the form of a Section 206 complaint under the Federal Power Act. PJM proposed to expand the price caps to all must-run units, but allowed companies to seek exemptions. Also, PJM proposed the use of a local market auction to address instances of long-term scarcity that do not exist today but may arise in the future. After receiving many contentious comments and protests on PJM's complaint, FERC instituted a generic proceeding (PL04-2-000) on the issues involved, and scheduled a technical conference for February 4-5, 2004 in both the PJM and generic dockets. FERC also permitted the filing of comments after the technical conference. Comments in the PJM docket were filed on February 20, 2004, and reply comments were filed on March 1, 2004.

On May 6, 2004, FERC issued an order that adopted a Reliability Compensation Issues policy and approved PJM's proposal, subject to substantial modifications (including the caveat that price caps cannot extend to post-1996 generating units as PJM had proposed). Requests for rehearing were filed by various parties, and FERC issued a tolling order on July 6, 2004. PJM sought and was granted until July 16, 2004 to make its compliance filing. On July 16, 2004, PJM made a compliance filing in which the post-1996 exemption was reinstated, and the 3 jointly pivotal suppliers test was made a hard rule for the application of the must-run offer capping rules. Also, the filing allows PJM's market monitor to seek FERC approval for the removal of the cap, notwithstanding the 3 jointly pivotal suppliers rule, if the market monitor feels that adequate competition

exists. If the market monitor feels that load pocket is not competitive even if there are more than 3 jointly pivotal suppliers, it can apply to FERC for re-imposition of cost capping.

On November 2, 2004, PJM made another compliance filing pursuant to FERC's May 6, 2004 Order. This filing consisted of amendments to the PJM Tariff and Operating Agreement to address compensation for frequently mitigated units and generation retirements, and a report on the results of its investigation regarding the expected impacts on its overall market design of adopting pricing that reflects real-time shortages of operating reserves.

On January 25, 2005, FERC issued a decision on rehearing, which generally upheld and clarified its May 6, 2004 order establishing a Reliability Compensation Issues policy and ruling on PJM's initial complaint filing. However, FERC granted rehearing of its ruling regarding post-1996 generators, finding that such a blanket exemption would harm PJM's ability to address market power problems and also would be unjust, unreasonable, and unduly discriminatory. Instead, FERC ruled that only those generators who relied upon PJM's post-1996 exemption before commencing construction would be exempted from offer capping. Specifically, only those who began construction within the PJM footprint before PJM filed to remove the post-1996 exemption in September 2003 may be eligible for grandfathering; and those generators that now are located in PJM's expanded footprint, on which construction began during this time period but in an area that was not yet part of PJM, would not be eligible for the post-1996 exemption. Further, FERC accepted the compliance filings made by PJM in July 2004 and November 2004,

subject to certain modifications, and also ruled that PJM had responded adequately to the Commission's requirement that it conduct an investigation of scarcity pricing.

13. Compensation for Generating Units Subject to Local Market Power Mitigation in Bid-Based Markets, Docket PL04-2

On December 19, 2003, FERC issued an Order establishing a Staff technical conference to address the issue of how to price must-run generating units in a bid-based market. This conference was established in response to a filing made by PJM Interconnection in Docket No. EL03-236-000 to make changes in its tariff and operating agreement to revise the offer price cap rules for must-run generating units and to establish a local market auction to address long-term scarcity should that condition arise. On January 25, 2005, FERC issued an Order terminating Docket No. PL04-2-000, stating that the Commission issued its Reliability Compensation Issues Policy in Docket EL03-236-000 on May 6, 2004.

14. PJM Interconnection, LLC, Docket No. ER04-776

This proceeding addresses PJM's April 29, 2004 filing to change its operating agreements to allow for state commission access to confidential data. The Maryland PSC intervened and joined in comments supporting PJM's filing. FERC conditionally approved PJM's filing to allow state commission access to confidential data on June 28, 2004, subject to minor word revisions. The compliance filing was made by PJM on July 28, 2004; and FERC accepted PJM's compliance filing.

15. Transmission Congestion on the Delmarva Peninsula, Docket PA03-12

Reference was made to this case in the Commission's 2003 annual report. This is the proceeding instituted by FERC on May 12, 2003 to examine the causes and potential remedies of transmission congestion on the Delmarva Peninsula. On October 10, 2003, the administrative law judge (ALJ) issued her proposed findings of fact and recommendations, to wit: congestion on the peninsula is not a reliability issue; the high levels of congestion experienced during 2000-2001 resulted from transmission outages connected with transmission upgrades undertaken to address reliability and the interconnection of generators; the level of congestion has dropped sharply since 2001 and transmission construction/upgrades have helped lower congestion levels; the question whether additional transmission should be constructed should be answered by a cost-benefit analysis conducted by PJM to determine the appropriate balance of transmission, generation and demand response programs that may be needed to address remaining and future congestion concerns; and there is no evidence that market power was abused on the peninsula, but the record should be referred to FERC's Office of Market Oversight and Investigations to make its own independent review.

Requests for rehearing were filed from FERC's order directing the ALJ to make proposed findings of fact and recommendations; and exceptions were filed from the ALJ's proposed findings and recommendations. At a FERC meeting in December 2003, PJM said that it would file by May 3, 2004 to implement any changes to market rules to address the situation on the Delmarva Peninsula that PJM deems appropriate, after conducting a stakeholder process. No additional action has been taken in Docket No. PA03-12.

16. Remediating Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, Docket RM01-12

Reference to this proceeding was made in the Commission's 2002 and 2003 annual reports. This is a rulemaking proceeding to establish standards governing how regional transmission organizations ("RTOs") perform their responsibilities and market design. The so-called standard market design ("SMD") NOPR was issued on July 31, 2002. Comments and reply comments were filed in November 2002, January 2003, and March 2003. After reviewing the numerous filings, FERC issued a White Paper on April 23, 2003, which addressed some of the concerns raised in the SMD comments regarding the need for regional flexibility; and many parties filed comments as to the White Paper. To date, final SMD rules have not been issued.

17. Proposed Pricing Policy for Efficient Operation and Expansion of Transmission Grid, Docket PL03-1

Reference to this proceeding was made in the Commission's 2003 annual report. On January 15, 2003, FERC proposed to provide certain financial incentives for joining an RTO, for investing in new transmission enhancements and for becoming an independent transmission company. FERC received many comments on its proposed pricing policy. FERC put this matter on its agenda for an open meeting late in 2004, but the item was removed from the agenda and not addressed. To date, FERC has not taken any further action in this docket. Instead, FERC appears to be addressing the matter of incentives on a case-by-case basis.

18. Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations, Docket EL01-118.

Reference to this case was made in the Commission's prior annual reports. The staff conference was held on March 11, 2002 as scheduled. Additional comments were filed. On June 26, 2003, FERC issued for comment proposed revisions to market-based rate tariffs and authorizations, which set forth market behavior rules that would have to be followed by companies with market-based rates. On November 17, 2003, FERC issued an Order finally adopting its proposed market behavior rules. Requests for rehearing were filed by various parties and FERC issued a tolling order on January 14, 2004. On May 19, 2004, FERC issued an order denying rehearing of the market behavior rules, but making certain clarifications.

19. Conference on Supply Margin Assessment, PL02-8.

Reference to this proceeding was made in the Commission's prior annual reports. This proceeding was instituted in August 2002 to address a new supply margin assessment ("SMA") for analyzing market power that FERC proposed in *AEP Power Marketing, Inc.*, 97 FERC ¶ 61,219 (11/20/01). Comments were filed in October 2002. On December 19, 2003, FERC issued a Notice of Technical Conference, which scheduled a technical conference on this matter for January 13-14, 2004. After holding this conference and receiving written comments, FERC issued an order on April 14, 2004. By the April 2004 order, FERC granted rehearing of its November 20, 2001 order to the extent that FERC replaced the SMA generation market power test and instead adopted two "indicative screens" for assessing generation market power, and modified the mitigation measures announced in the November 20, 2001 order. Several parties sought rehearing of FERC's April 2004 SMA order; and FERC issued a tolling order. On July 8, 2004, FERC issued an order in which it denied rehearing of its April 2004 order

establishing new interim generation market power screens to identify those applicants for electric market-based rate authority that may possess generation market power. However, FERC clarified and modified certain instructions for performing the generation market power analysis adopted in its April 2004 order.

20. Standards of Conduct for Transmission Providers, Docket No. RM01-0.

Reference to this case was made in the Commission's 2003 annual report. By Order No. 2004, issued on November 25, 2003 in *Standards of Conduct for Transmission Providers*, the FERC issued final regulations to apply to both gas and electric transmission providers and their energy affiliates. Various parties filed for rehearing with FERC; and FERC issued a tolling order to provide itself additional time to address these rehearing requests. On April 14, 2004, FERC issued an order (Order No. 2004-A) granting clarification and generally affirming its standard of conduct regulations. Requests for rehearing were filed by various parties. On June 14, 2004, FERC issued a tolling order for purposes of addressing the requests for rehearing. (In addition, various parties filed actions to obtain judicial review of FERC Orders 2004 and 2004-A.) On August 2, 2004, FERC issued another order in this proceeding, Order No. 2004-B. Rehearing requests were filed, and FERC issued a tolling order on September 20, 2004. On December 21, 2004, FERC issued Order No. 2004-C, which granted rehearing in part, denied rehearing in part, and provided clarification. FERC's final regulations governing the standard of conduct for gas and electric transmission providers and their energy affiliates are codified at 18 CFR 358.

21. Market-Based Rates for Public Utilities, Docket No. RM04-7-000

On April 14, 2004, FERC issued an order initiating a generic rulemaking proceeding with respect to the adequacy of FERC's current four-prong analysis of market power (adopted 15 years ago), and whether and how it should be modified to assure that electric market-based rates are just and reasonable. A technical conference was scheduled for June 9, 2004 to frame the issues that will comprise the ratemaking, including a discussion of how all four parts of the current test interrelate, as well as other factors that FERC should consider in granting market-based rate authorizations. In addition, FERC received written comments after the June 9, 2004 conference.

On November 12, 2004, FERC issued an order scheduling another technical conference for December 7, 2004. The stated purpose of this conference was to address issues associated with transmission vertical market power and barriers to entry in electric markets, which are two of the four prongs the Commission currently uses to determine whether to grant market-based rate authority. In addition, the December 7, 2004 conference was scheduled to address whether FERC's *pro forma* open access transmission tariff adequately mitigates transmission market power, other proposals to identify and mitigate transmission market power, as well as whether there are other barriers to entry that FERC should consider. In addition, FERC received written comments filed after the December 7, 2004 technical conference.

On December 22, 2004, FERC scheduled another technical conference for January 27 and 28, 2005. The stated topic of this conference was issues associated with generation market power and affiliate abuse, which are the other two prongs the Commission uses to determine market power in electric markets. The issues to be addressed are whether the Commission should modify the interim generation market

power screens adopted by the Commission in April 2004, the appropriate mitigation for those found to have generation market power, and issues of affiliate abuse.

C. Reports

The Office of General Counsel also provides assistance to the Commission and its various technical divisions with regard to the development, preparation and submission of various reports to the General Assembly. In addition to special reports such as those relating to Renewable Portfolio Standards, Demand Side Management and Emissions Disclosure, the Office of General Counsel also assist the Commission and Staff with the development, preparation and submission of the biannual Electric Supply Adequacy Report, the Ten-Year Plan for Electric Utilities and the annual Electric Universal Service Program Report.

VI. RECEIPTS AND DISBURSEMENTS FISCAL YEAR 2004

C90G0001 - General Administration and Hearings

Salaries and Wages	\$ 3,800,585
Technical and Special Fees	106,144
Operating Expenses	2,353,619
Total Disbursements for Fiscal Year 2004	\$ 6,260,348
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 6,260,348</u>

C90G0002 - Telecommunications Division

Salaries and Wages	\$ 527,206
Operating Expenses	61,078
Total Disbursements for Fiscal Year 2004	\$ 588,284
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 588,284</u>

C90G0003 - Engineering Investigations

Salaries and Wages	\$ 774,887
Operating Expenses	20,959
Total Disbursements for Fiscal Year 2004	795,846
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004 *	<u>\$ 795,846</u>

* Includes \$21,404 Federal Funds.

C90G0004 - Accounting Investigations

Salaries and Wages	\$ 557,137
Operating Expenses	11,066
Total Disbursements for Fiscal Year 2004	\$ 568,203
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 568,203</u>

C90G0005 - Common Carrier Investigations

Salaries and Wages	\$ 948,759
Technical and Special Fees	47,528
Operating Expenses	<u>42,208</u>
Total Disbursements for Fiscal Year 2004	\$ 1,038,495
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004 *	<u>\$ 1,038,495</u>

* Includes \$ 91,000 Special Fund attainment for the For-Hire Driving Services Enforcement Fund

C90G0006 - Washington Metropolitan Area Transit Commission

Operating Expenses	\$ 275,111
Total Disbursements for Fiscal Year 2004	\$ 275,111
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 275,111</u>

C90G0007 - Rate Research and Economics Division

Salaries and Wages	\$ 573,093
Operating Expenses	<u>17,061</u>
Total Disbursements for Fiscal Year 2004	\$ 590,154
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 590,154</u>

C90G0008 - Hearing Examiner Division

Salaries and Wages	\$ 764,624
Operating Expenses	<u>3,416</u>
Total Disbursements for Fiscal Year 2004	\$ 768,040
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 768,040</u>

C90G0009 - Staff Attorney

Salaries and Wages	\$ 775,775
Technical and Special Fees	0
Operating Expenses	<u>4,797</u>
Total Disbursements for Fiscal Year 2004	\$ 780,572
Reverted to State Treasury	0
Total Appropriation for Fiscal Year 2004	<u>\$ 780,572</u>

C90G0010 - Integrated Resource Planning Division

Salaries and Wages	\$ 467,390
Operating Expenses	<u>19,924</u>
Total Disbursements for Fiscal Year 2004	\$ 487,314
Reverted to State Treasury	<u>0</u>
Total Appropriation for Fiscal Year 2004	<u>\$ 487,314</u>

Summary of Public Service Commission
Fiscal Year Ended June 30, 2004:

Salaries and Wages	\$ 9,189,456
Technical and Special Fees	153,672
Operating Expenses	<u>2,809,239</u>
Total Disbursements	\$ 12,152,367
Reverted to State Treasury	<u>0</u>
Total Appropriations *	<u>\$ 12,152,367</u>

- * Public Utility Regulation Fund: \$12,039,963
- For-Hire Driving Services Enforcement Fund: \$91,000
- Federal Funds: \$21,404

Assessments (Costs and expenses of the Public Service Commission, Office of People's Counsel and the Railroad Safety Program) remitted to the State Treasury during Fiscal Year 2004: \$ 15,622,058

Miscellaneous Fees remitted to the State Treasury during Fiscal Year 2004:

1) Misc. Fines & Citations	\$49,202
2) Return of Unexpended Funds	\$200,361
3) Rent to Department of General Services	<u>\$587,560</u>
Total Miscellaneous Fees	<u>\$837,123</u>