



*2010  
Management Summary  
Report*

*Submitted January 2011*

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*Public Service Commission  
Of West Virginia*

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January 12, 2011

To the Members of the 81st Legislature,

It is our pleasure to present the 2010 Management Summary Report for the Public Service Commission of West Virginia.

The mission of the Commission is to support a utility regulatory and transportation safety environment that balances the interests of present and future customers, the regulated entities and the citizens and economy of the State. The Commission's goal is to see that reasonably priced and reliable utility services are available to all customers in order to increase business investment, job creation/retention and the state's overall economic competitiveness.

Our vision is for the Commission to be a nationally recognized leader in utility regulation and transportation. In that regard, we work to assure:

1. That consumers receive the best value in utility service from financially viable and technically competent utilities at fair, reasonable and cost-based rates;
2. Impartial and efficient resolution of all jurisdictional and disputed utility issues;
3. An increase in business investment, job creation/retention and the state's overall competitiveness through fair and efficient utility rates;
4. Public safety through inspections of motor carriers, railroads and natural gas pipelines;
5. That utilities receive an opportunity to earn a fair return on their investment in regulated facilities and services; and,
6. An improvement in the standard of living and quality of life for the people of West Virginia.

The purpose of this Management Summary Report is to describe how the Commission has pursued its mission during 2010 — a year in which there were daunting challenges in fairly and reasonably regulating the utilities that account for a fifth of the State's economy, employ thousands of people and generate tax revenues vital to the operation of essential services provided by state and local government.

The Commission faced tough issues in 2010 including consideration of high voltage electric transmission line and methane gas fired electric generating facility sitings, inquiries into the sale and quality of service of the landline facilities of the State's largest telephone utility, requests for significant general rate increases by many of the State's largest utility

companies, siting for proposed wind projects, the proposed sale of several of the State's largest natural gas and electric utilities, administering the recently-enacted Alternative and Renewable Energy Portfolio Act and other issues outlined in this report.

Although these larger cases garner the most public attention, the Commission staff also worked diligently on thousands of smaller individual cases where a problem is fixed: a payment plan is arranged; utility service is restored; an overcharge related to a software error is corrected; and, severe water or sewer leaks are discovered and corrected. The volume of calls that we handle for our stakeholders on a day-to-day basis (over 16,000 in 2010) reflects the talent and dedication of our staff.

These and other challenges are accomplished by a skilled, knowledgeable, professional work force with expertise in utility regulation and transportation. These functions were accomplished through the use of well-designed, constantly improving, measured processes that focus on the delivery of quality and timely services to all customers, regulated entities and the State.

Respectfully submitted,

Michael A. Albert, Chairman  
Jon W. McKinney, Commissioner  
Ryan B. Palmer, Commissioner

## **Roles and Responsibilities of the Public Service Commission of West Virginia**

The Public Service Commission of West Virginia (Commission) was established in 1913 by an Act of the State Legislature for the purpose of regulating railroads, toll bridges and ferries. Today, the Commission supervises, regulates and, where appropriate, investigates the rates, service, operations, affiliated transactions and other activities of West Virginia public utilities and many common and contract motor carriers of passengers and property within West Virginia.

The Commission is supported in its work by a current staff of 269 attorneys, economists, engineers, auditors, investigators, administrative law judges, accountants, safety and transportation specialists and support personnel.

The Commission regulates an array of activities, including the provision of electricity, natural gas, water, telecommunications and sewer service by public utilities in West Virginia. In addition to the traditional utility services, the Commission has been assigned the responsibility to regulate, to some extent, activities involving (a) public service stormwater systems, (b) certificates of convenience and necessity, (c) certification of electric wholesale generators (wind turbine, gas-fired or other generating facilities), (d) gas pipeline safety, (e) motor carriers, including economic regulation of transportation of passengers and household goods movers, (f) solid waste carriers as it relates to intrastate carriers, (g) commercial solid waste facilities, (h) safety, weight and speed enforcement of all commercial motor vehicles (private or for hire) operating in West Virginia including motor carriers involved in interstate commerce, with particular emphasis on high accident areas, (i) transportation of hazardous materials including identification, registration and permitting of commercial motor vehicles transporting such materials in and through state, (j) administration and enforcement of federal and state Railroad Safety regulations governing transportation of persons and property by Railroad Safety rail, (k) third-party towing of vehicles, (l) cable TV regulation and customer service, (m) E-911, (n) natural gas transportation and natural gas provided by producers, (o) preparation of financial and statistical reports, including reports on utility earnings, rate comparisons, gas and electric supply/ demand forecasts, and low income rate discount programs, (p) Veterans grave markers, (q) E-911 towers and fees and, (r) administration of the Alternative and, Renewable Energy Portfolio Act.

During the 1979 regular session, the West Virginia Legislature declared that it was, “legislative policy to ensure that the legislature and the general public become better informed regarding the regulation of public utilities in this State and the conduct of business of the Public Service Commission.” West Virginia Code §24-2-2(d). In order to fulfill that directive, the Commission presents annually to the Joint Committee on Government and Finance, or a Subcommittee designated by the Joint Committee, a Management Summary Report, describing the major activities of the Commission for the year, significant policy decisions reached, initiatives undertaken during the year, the current balance of supply and demand for natural gas and electric utility services for the State, forecast of the probable

balance of gas and electricity for the next ten years (submitted to the Joint Committee under separate cover) and other information considered by the Commission to be important.

### **Meet the Commission**

#### **Chairman Albert**

Michael A. Albert was appointed to the Commission in February 2007 to fill an unexpired term ending June 30, 2007. In June 2007, Governor Manchin reappointed him to a six-year term expiring June 30, 2013, and named him PSC Chairman. He previously served as a Member in the Business Law Department of Jackson Kelly, PLLC, Charleston, West Virginia, focusing on public utility regulation and business and commercial transactions.

Chairman Albert graduated from West Virginia University with a B.S. in Business Administration, majoring in Accounting. After graduation, he spent three years as an officer in the United States Navy, including a tour of duty in Vietnam. Following an Honorable Discharge, he attended West Virginia University College of Law where he graduated with a Doctorate of Jurisprudence and as a member of the legal academic honorary, Order of the Coif.

Chairman Albert currently serves as President of the Board of Directors of the Kanawha County Public Library and has served on the Board and as Chairman of the Boards of Directors for the National Institute for Chemical Studies; the Education Alliance; Junior Achievement of Kanawha County; Read Aloud West Virginia Fund Raising Committee; Partnerships in Education Advisory Committee; and the WVU Law School Visiting Committee, 2000. He also served on the Board of Governors of the West Virginia State Bar and is a Fellow of both the West Virginia Bar Foundation and the American Bar Foundation.

He currently resides in Charleston with his wife, Laura Lee. They have three children, Michael, Jason and Melissa and four grandchildren.

#### **Commissioner McKinney**

Jon W. McKinney was appointed to a six-year term as a Commissioner in August 2005. Previously, he served as plant manager of Flexsys' Nitro operations. Prior to his last assignment, he has had numerous assignments in manufacturing, research and development, and marketing with Monsanto Company in numerous locations throughout the United States.

Commissioner McKinney is a graduate of the University of Kentucky, where he earned a bachelor's degree in chemical engineering, and the University of West Florida where he earned his master's degree in business administration.

Commissioner McKinney is currently on the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC) and Immediate Past-President of the Mid-Atlantic Conference of Regulatory Utilities Commissioners (MACRUC). He is also on the Boards of Directors of the Organization of PJM States, the Electric Power Research Institute (EPRI), Thomas Memorial Hospital and St. Francis Hospital.

Commissioner McKinney served as Chairman of the Chemical Industry Committee for West Virginia for eight years and as a member of the Boards of Directors of the West Virginia Chamber of Commerce, West Virginia Manufacturers Association, Chemical Alliance Zone, Advantage Valley and the West Virginia Roundtable.

He currently resides in Charleston with his wife Paula. They have two children, Lisa and Jason, and five grandchildren.

#### Commissioner Palmer

Ryan B. Palmer, of Charleston, Kanawha County, was appointed to the Commission in July 2010 to an unexpired term ending June 30, 2015. He previously served as Deputy General Counsel to West Virginia Governor Joe Manchin, III; Attorney/Advisor to Commissioner Charlotte R. Lane of the United States International Trade Commission; and Law Clerk to the Honorable W. Craig Broadwater of the United States District Court, Northern District of West Virginia.

His professional certifications include the Fourth Circuit Court of Appeals, the United States District Courts for Northern and Southern West Virginia and the West Virginia State Bar. He also successfully completed the European Union Law summer program through the Tulane University College of Law Summer School Abroad Program at the Tulane Center for European Union Law, University of Amsterdam, in the Netherlands.

He has volunteered for Charleston Area Medical Center's Challenged Sports Program, which sponsors a variety of statewide sporting competitions for athletes of all ages with physical disabilities, and for the Special Olympics.

Born in Morgantown and raised in St. Albans, he is a graduate of West Virginia University, where he earned a Bachelor of Arts Degree in English and a Doctorate of Jurisprudence from the West Virginia University College of Law.

He and his wife Flavia currently reside in Charleston and recently celebrated the birth of their first child, Lia Cristina.

## **Organization**

The Public Service Commission of West Virginia consists of eleven divisions and the Consumer Advocate Division (CAD), which is administratively separate from the Commission.

### **Commission**

The Commission regulates those persons, firms or government agencies that provide certain public services including electricity, natural gas, water, sewer, telecommunications, solid waste disposal (landfills), gas pipeline safety, and, to some extent, the transportation of persons and property for hire over the public highways of the State. In addition, the Commission sets statewide policies for utility regulation through rulemaking proceedings; recommends statutory changes that affect utilities and the agency; and sets the administrative policies for the agency.

Motor carriers regulated by the Commission include taxi service, specialized limousine service, solid waste, transportation service, third-party towing and household goods movers.

The Office of the Commission includes the three Commissioners; the General Counsel, who acts as the legal advisor to the Commission on cases, policies and other issues facing the Commission; the Director of Quality Control; law clerks; an employment attorney; and support personnel.

### **Administrative Division**

The Administrative Division provides services for the Commission and is comprised of the Budgets and Finance, Human Resources, Information Technology, Facilities Management and Training Sections.

The Budgets and Finance Section prepares budgets, provides fiscal review and control, processes and monitors travel expenses, payables and receivables, oversees all procurement activities, and ensures fixed assets are properly recorded and funded through assessment of public utilities or from grants and other programs. This Section is also responsible for managing the Commission's annually appropriated special revenue budget, federal funds, non-appropriated special revenue funds and the E-911 fees for the State of West Virginia.

The Human Resources Section oversees employee hiring and separations, administers employee benefit programs and handles other personnel related activities. This Section also administers the personnel budget by processing payroll, tax and benefit transactions for Commission employees.



The Information Technology Section is responsible for managing the Commission's technical assets. This includes overseeing the Commission's computer system and service desk needs in conjunction with the State Office of Technology, by providing programming, database design, web design, training and support and other technical assistance.

The Facilities Management Section oversees the maintenance and upkeep of the Commission's buildings, parking garage and physical properties.

The Training Section is responsible for coordinating and providing education and skills training for Commission employees and for maintaining training records for the agency. This Section also coordinates certain training seminars provided by the Commission for utilities' staffs located throughout in the State.

### Administrative Law Judges Division

The Administrative Law Judges (ALJ) Division consists primarily of attorneys and support staff who act in an adjudicatory role under the auspices of the Commission and issue Recommended Decisions in cases referred to the ALJ Division by the Commission. Typically, a Recommended Decision becomes the Commission's Final Order in a case unless modified by the Commission, based on exceptions by a party or on the Commission's statutory authority.

After the Commission refers a case to the ALJ Division, an ALJ must render a Recommended Decision within a time period prescribed by the Commission or specifically set by statute.

The ALJ Division decides all types of public utility, motor carrier and cable television cases, and overweight coal hauling on the Coal Resource Transportation System (CRTS). They also decide cases involving complaints from consumers about utilities or motor carriers; rate change requests; applications for a certificate of convenience and necessity to construct new or expand existing utility plant; and petitions for prior consent and approval for transactions regulated by the Commission.

### Engineering Division

The Engineering Division provides technical recommendations in cases before the Commission, including rate requests, quality of service or billing disputes, engineering agreements, alternate main line extensions, certificates of convenience and necessity, mergers and acquisitions of utilities, service territory disputes, general investigations of utility operations and other cases requiring engineering expertise. Engineering staff members provide technical assistance to customers and utility companies including supervising and certifying utility meter tests, conducting water pressure tests, investigating voltage levels, investigating taste and odor problems in water, odor and back-up inquiries for sewer, leak detection services, opinions on utility construction estimates and other technical

tasks. The Engineering Division also provides recommendations on the merits of proposed water and sewer projects to the West Virginia Infrastructure & Jobs Development Council (WVIJDC), technical comments and assistance on proposed rules and regulations, information and assistance to governmental entities around the State, and technical training for public service districts board members and staff.

The Gas Pipeline Safety Section of the Engineering Division is responsible for the application and enforcement of pipeline safety regulations under Chapter 24B of the West Virginia Code and 49 U.S.C Chapter 601, §60105(a), relating to certification with the U.S. Department of Transportation. These rules and regulations relate to design, construction, installation, testing, operation and maintenance of pipeline facilities within the State. The Pipeline Safety Section also investigates pipeline accidents or incidents involving the transportation and distribution of natural gas and hazardous liquids by pipeline.

#### Executive Secretary Division

The Executive Secretary maintains a full and true record of all proceedings, acts, orders and judgments of the Commission. The Division receives, processes, and maintains in safe custody all documents, maps and papers filed in formal cases on the Commission's docket. This Division processes all Orders, schedules statewide hearings and administers the public information provided on the Commission's website at [www.psc.state.wv.us](http://www.psc.state.wv.us). Staff members provide immediate, accurate service and ease of accessibility to public records through continuous improvements and technological advancements in processing cases and maintaining the Commission website.

#### General Counsel's Office

In late 2008, the Commission issued a General Order that reorganized its legal staff by formally separating the functions of the General Counsel and Legal Division. For many years, the Commission's General Counsel acted as chief legal advisor to the Commission and has represented the Commission in outside litigation, while also acting as the Director of the Legal Division. The lawyers in the Legal Division are primarily involved in developing and presenting the Staff position in formal cases filed at the Commission. Commission law clerks generally assist in providing advice to the Commission and drafting Commission Orders. The reorganization of management and lawyers furthered a clearer division of managerial responsibilities regarding the adjudicatory and advocacy functions of its legal staff that was both beneficial and desirable. The Legal Division and its staff are under the direction of a Director and the law clerks and related staff are under the direction of the General Counsel.

### Legal Division

The Legal Division provides legal assistance for the Staff before the Commission in its legislatively-mandated mission in matters before the Commission for adjudication and resolution. The Legal Division represents the Commission's Technical and Financial Analysts in proceedings brought before the Commission and Administrative Law Judges and is bound by the rules regarding *ex parte* contact with the Commission and its Staff. The Legal Division also defends Commission Orders that are appealed to the Supreme Court of Appeals of West Virginia. As required, the Legal Division, in coordination with the General Counsel, represents the Commission before State and Federal Courts and other State and Federal agencies including the WVIJDC, the Federal Energy Regulatory Commission (FERC) and the Federal Communications Commission (FCC). In addition to working on formal cases, the Legal Division assists other Commission divisions in developing responses to utility customers and utility company inquiries.

The Commission's Legal Division represents the Staff, not individual complainants, in matters before the Commission. The Commission Staff is a party to Commission proceedings, and the Legal Division and the Technical and Financial Analysts review the positions of all parties to proceedings and present a recommendation for disposition of the matter that is available for review by all parties.

### Transportation Administration Division

The Transportation Administration Division consists of three operating sections: Motor Carrier, Hazardous Material Registration and Coal Resource Transportation System.

The Motor Carrier Section conducts registration of intrastate and interstate motor carriers and collects intrastate and interstate assessments, filing fees for intrastate authority, insurance fees and HazMat (hazardous materials) assessments.

The Hazardous Material Registration Section is responsible for registration of hazardous material transported in West Virginia and is responsible for a multi-state project that provides for identification, registration and permitting of commercial motor vehicles carrying these materials in West Virginia.

Weight enforcement responsibility for all commercial motor vehicles is also the responsibility of the Commission. The Commission enforces the Coal Resource Transportation System (CRTS) process for permitting vehicles on certain CRTS designated roads through fifteen West Virginia counties. Coal haulers may purchase a permit through the Commission Transportation Administration Division that will allow for a Gross Vehicle Weight of up to 120,000 pounds depending on their truck configuration. This Section is also responsible for imposing reporting requirements for coal shippers and receivers, especially on the CRTS roads.

### Transportation Enforcement Division

The Transportation Enforcement Division consists of four operating sections: Railroad Safety, Safety Enforcement, Special Operations and Logistics.

The Railroad Safety Section is responsible for the administration and enforcement of federal and state safety regulations governing the transportation of persons and property by rail. Freight transportation is expected to double in the next 25 years. Amtrak predicts similar growth in rail ridership. Rail safety, through education, engineering and enforcement, has become increasingly important as rising numbers of people and freight moving on trains have resulted in more trains on more tracks going faster than ever before.

Officers in the Safety Enforcement Section perform vehicle safety inspections of motor vehicles operated by interstate and intrastate motor and private carriers, commercial motor vehicles and drivers. This Division performs inspections on a routine basis in the enforcement officers' designated work areas and at regional road check sites throughout the State during the warmer months. During the winter months, the officers inspect vehicles at the terminal facilities of intrastate carriers. These officers enforce compliance with U.S. Department of Transportation safety criteria adopted by the Commission.

The Safety Enforcement Section also conducts compliance reviews on interstate and intrastate motor carriers. This program is conducted in conjunction with Investigators of Federal Motor Carrier Safety Administration located in West Virginia.

The Special Operations Section conducts safety audits on West Virginia motor carriers involved in interstate commerce. Special Operations is also responsible for the Special Patrol Unit charged with addressing high commercial vehicle accident areas within the state of West Virginia.

The Logistics Section is responsible for the procurement and inventory of all supplies and equipment to support the Transportation Enforcement Division. This Section also installs and maintains all electronic equipment used by the Transportation Enforcement Division.

### Utilities Division

The Utilities Division is the largest Division within the Commission and provides accounting, financial, economic and other technical analysis of Commission cases and processes rate and other filings made by electric, natural gas, telephone and water and wastewater utilities, solid waste carriers, taxis, limousine services, household goods movers, tow operators and commercial solid waste facilities. This Division is also responsible for addressing formal customer complaints filed against natural gas, electric, telephone and water and wastewater utilities and informal complaints dealing with other regulated utility services. The Utilities Division Staff also assists customers with quality of service complaints related to cable television.

The Utilities Division also prepares original financial and statistical reports, including reports on utility earnings, rate comparisons, gas and electric supply/demand forecasts and low income rate discount programs.

### Water and Wastewater Division

The Water and Wastewater Division provides financial advice and assistance to public service districts, Class III cities, Class IV towns or villages and homeowner associations. Assistance includes matters such as accounting, billing, delinquency collection, security deposits, funding, field operation problems, service extensions, long service lines, leak detection, budgeting, general rule and law interpretation, and conflict negotiations. In 2010, the utility analysts in the Division provided technical assistance to water and wastewater utilities in 336 matters. The assistance staff is also charged with reviewing, from a financial perspective, the preliminary applications to the WVIJDC. The Division also reviews Annual Reports filed by water and wastewater utilities for quality and accuracy.

The Division's consumer affair technicians respond to customer informal complaints along with public and utility inquiries and conducts seminars for water and wastewater utilities. During the twelve months ending November 19, 2010, more than 3,700 informal complaints were received and processed. The average completion time for resolving an informal complaint during 2010 was approximately seven days. The Division also provides mandatory and optional training seminars, makes field visits, and issues a quarterly newsletter, the "Pipeline".

## **Major Activities by Utility**

The Commission's major cases during 2010 regarding utility regulation and transportation are set forth below.

### **Electricity**

#### **Alternative and Renewable Energy Portfolio Act**

In the 2009 West Virginia Legislative Session, the Legislature enacted House Bill 103, as later amended by House Bill 408, the Alternative and Renewable Energy Portfolio Act (“Portfolio Act” or “Act”), codified in Article 2F of Chapter 24 of the West Virginia Code. In the 2010 West Virginia Legislative Session, the Legislature enacted Senate Bill 350, which further amended the Portfolio Act to change certain definitions within the Act.

In enacting the Portfolio Act, West Virginia joined twenty-nine other states, and the District of Columbia, that have enacted similar legislation. Among other things, the Portfolio Act establishes an alternative and renewable energy portfolio standard applicable to the State’s electric utilities, a credit trading program, net metering and interconnection standards, rate incentives for electric utility investment in alternative and renewable energy resources, and an alternative and renewable energy resources grant program.

Eligible energy resources under the Act include alternative energy resources, such as advanced coal technology, coal bed methane and natural gas, and renewable energy resources, such as hydropower, solar and wind power. Of the twenty-nine other states with portfolio standards, only Pennsylvania and Ohio allow coal and natural gas technologies to be used for compliance with portfolio standard requirements. Like these two states, West Virginia includes advanced coal and natural gas technologies in the portfolio standard to encourage further advancement of these technologies to reduce greenhouse gas emissions from their use and to improve the state’s energy future.

The Portfolio Act required the West Virginia Public Service Commission to promulgate rules to effectuate the purposes of the Act. In 2010, based on its existing rulemaking authority in W.Va. Code §24-1-7 and special rulemaking authority provided in W.Va. Code §24-2F-12, the Commission promulgated two new series of exempt legislative rules to effectuate the purposes of W.Va. Code §24-2F-1 et seq.

On June 30, 2010, the Commission issued the Rules Governing Electric Utility Net Metering Arrangements and Interconnections, (Net Metering Rules), 150 C.S.R. . 33. The Net Metering Rules create the potential to reduce electric bills and promote the use of alternative and renewable energy resources. Under the Net Metering Rules, an electric utility credits the bill of a customer that generates electricity from an alternative or renewable energy resource (a “customer-generator”) for each kilowatt hour the customer produces on the customer’s side of the meter. The Net Metering Rules apply to residential, commercial

and industrial customer-generators of alternative and renewable energy resources. The Net Metering Rules govern the net metering arrangements and interconnections between electric utilities and electric utility customers that are also generators of electricity using alternative and renewable energy resources. The Net Metering Rules also govern interconnection standards between electric utilities and small power producers, including net metering customers. For a history of the case, refer to the June 30, 2010 Commission Order in General Order No. 258.

On November 5, 2010, the Commission issued the Rules Governing Alternative and Renewable Energy Portfolio Standard, (Portfolio Standard Rules), 150 C.S.R. 34. The Portfolio Standard Rules establish a system of tradable credits to establish, verify and monitor the generation and sale of electricity generated from alternative and renewable energy resource facilities and govern the alternative and renewable energy portfolio standard. For a complete history of the case, refer to the November 5, 2010 Commission Order in General Order No. 184.25.

The alternative and renewable energy portfolio standard established by the Act requires the state electric utilities to own an amount of alternative and renewable energy credits equal to a certain percentage of electricity sold by the utility in the preceding calendar year to its West Virginia retail customers: the required amount is ten percent by 2015, fifteen percent by 2020, and twenty-five percent by 2025. Each credit is equal to one megawatt hour of electricity from qualified electric generation, or for certain emission reduction or offset projects, a credit is equal to each ton of carbon dioxide equivalent reduced or offset. The credit trading program established by the Act monitors the generation and sale of electricity generated from alternative and renewable energy resource facilities. Alternative and renewable energy resource credits may be traded, sold or used to meet the portfolio standard requirements. Under the rules, utility and non-utility generators are eligible to obtain credits for their generation of electricity from alternative and renewable energy resources.

Electric utilities are required to file alternative and renewable energy portfolio standard compliance plans with the Commission on or before January 1, 2011, and to file annual progress reports with the Commission within a year of the Commission's approval of the compliance plan and every year thereafter while the portfolio standard is in effect. The Commission is authorized to impose compliance assessments for failure to comply with the portfolio standard requirements. The compliance assessments fund the alternative and renewable energy resources grant program. The Commission is also authorized to collect administrative transaction fees for credit transactions and a special assessment fee from the utilities required to file portfolio standard compliance plans, to offset the direct and indirect costs associated with the implementation of the rules.

## PATH

On May 15, 2009, Potomac-Appalachian Transmission Highline (PATH) filed an application for a certificate of convenience and necessity to construct a \$1.85 billion 765kV electric transmission line. As proposed, PATH would traverse 225 miles in West Virginia and cross the counties of Putnam, Kanawha, Roane, Calhoun, Braxton, Lewis, Upshur, Barbour, Tucker, Preston, Grant, Hardy, Hampshire, and Jefferson. Under the application, the line will start at the John Amos Power Plant near St. Albans, West Virginia, and continue northeast and through the West Virginia Eastern Panhandle terminating at a newly-proposed substation in Maryland. Approximately 200 individuals have been granted formal intervenor status by the Commission.

On October 28, 2009, Staff filed a motion to dismiss, or in the alternative, a motion to require PATH to toll because of delays experienced in other jurisdictions affected by PATH. On November 24, 2009, the Commission denied the motion to dismiss, but granted a 247-day tolling until February 24, 2011.

On May 3, 2010, the Applicants filed a second proposal to toll the statutory due date in this proceeding, proposing to move the statutory due date from February 24, 2011 until May 16, 2011. The Applicants argued the tolling was necessary to give the parties more time to review the filing and to allow the proceeding in West Virginia to more closely align with corresponding proceedings in Virginia and Maryland. The Commission granted the Applicants' request on June 3, 2010, and established a new procedural schedule requiring the Applicants to file testimony on July 8, 2010, Staff and Intervenors to file testimony by November 18, 2010 and the Commission to enter a final Order by May 16, 2011.

On July 8, 2010, the Applicants filed the direct testimony of several witnesses related to the updated information regarding the need for this project. Included in that testimony was a discussion of several alternatives that have been proposed to this project.

On August 10, 2010, the Applicants filed a third proposal to toll the statutory deadline in this proceeding. The Applicants stated there was an error in the base case analysis used in the development of the 2010 Regional Transmission Expansion Plan (RTEP), and they needed to further update their filing. On September 10, 2010, the Commission granted the motion to toll and adopted a new procedural schedule requiring the Applicants to file further testimony by September 14, 2010; Staff and Intervenors to file their testimony by January 25, 2011; the evidentiary hearing to begin on March 21, 2011; and the Commission to make its decision by July 28, 2011. On September 14, 2010, the Applicants filed that further updated testimony.

On December 10, 2010, Staff filed a further motion to dismiss, or in the alternative, a motion to require PATH to toll because certain major changes being contemplated to the transmission system have not been factored into the information before the Commission.



On January 7, 2011, the Commission issued an order denying motions to dismiss the case, further tolling the statutory due date for the Commission's decision until February 9, 2012 and adopting a revised procedural schedule which calls for the evidentiary hearing to run from October 11, to October 26, 2011.

#### PSC approves Charleston Clean Energy, LLC methane gas fired electric generating facility

On June 11, 2010 Charleston Clean Energy, LLC (CCE) filed an Application with the Commission for a siting certificate to construct a wholesale electric generating facility and associated interconnection facilities in Kanawha County, West Virginia. The Project is located at the City of Charleston landfill in Kanawha County near existing utility infrastructure, eliminating the need to construct transmission lines to deliver the generated electricity. The purpose of the Project is to meet the growing need for renewable energy in the State of West Virginia and to reduce greenhouse gas emissions from the Charleston Landfill.

Before filing its application at the Commission, CCE had completed construction of the Project by March 2010. CCE indicated that it intended to operate the Project as an exempt wholesale generator certificated by the Federal Energy Regulatory Commission. CCE eventually concluded, however, that it would be prudent to seek a siting certificate from the Commission under W. Va. Code §24-2-11c.

On December 3, 2010, the Commission of West Virginia approved CCE's application for a siting certificate for a methane gas fired wholesale electric generating facility capable of generating approximately two megawatts (MW).

#### First Energy Acquisition of Allegheny

On May 18, 2010, Allegheny Power, (which owns Monongahela Power, Potomac Edison and TrAILCo), and FirstEnergy (together Joint Petitioners) filed a petition with the Commission for approval of a merger/acquisition of Allegheny Power by First Energy. The Joint Petitioners asserted that the acquisition would not have any adverse impact on Allegheny, the West Virginia customers of Monongahela Power, Potomac Edison or the West Virginia public generally.

On December 16, the Commission issued an Order approving the proposed merger/acquisition.

In the Order, the Commission approved a comprehensive Joint Stipulation agreed to by the Joint Petitioners, the Commission Staff, CAD, the Utility Workers of America, the West Virginia Citizens Action Group, the International Brotherhood of Electrical Workers and the Marion County Commission. As part of the agreement, FirstEnergy agreed that it

will not reduce the number of Allegheny Energy employees through involuntary attrition for two years; would honor all Allegheny collective bargaining agreements; would maintain the existing company benefits plans and compensation levels for at least a year; and would locate a regional headquarters for Monongahela Power in West Virginia.

Other conditions and terms of the Joint Stipulation among the parties (and approved by the Commission) included certain financial protections for Monongahela Power, Potomac Edison and their customers; synergies, efficiencies and cost savings; certain ratemaking issues; other workforce-related commitments; the promise of enhanced customer service and reliability; a commitment to partner with West Virginia institutions of higher education to develop associate degree programs specializing in training utility workers and demand-side management and energy efficiency measures.

### Investigation of the Electric Utilities Response to the December 2009 Winter Storm

On January 11, 2010, the Commission ordered a general investigation into the conditions surrounding the significant and prolonged power outages that occurred during and after the winter storm of December 2009, which left over 334,000 customers in West Virginia without electric power. Many of those customers did not have their power restored until after the Christmas holiday.

As part of its investigation, the Commission held Public Comment Hearings around the State in order for affected customers of Appalachian Power Company (APCO) and Wheeling Power Company, both dba American Electric Power (AEP); and Monongahela Power Company and The Potomac Edison Company, both dba Allegheny Power (Allegheny), to relay their experiences and concerns. Many individuals raised issues and problems including concerns about vegetation control and right-of-way clearing, communication deficiencies, slow restoration activities, lack of preventative maintenance, lack of local repair crews, and billing and rate concerns. The Commission's investigation revealed that the wet, heavy snow presented by the winter storm significantly affected APCO and Allegheny's rights-of-way.

The Commission issued a Final Order in this case on December 15, 2010, that required many operational changes and focused on AEP and Allegheny's respective restoration practices, including tree trimming and right of way clearing. The Order also required APCO to appoint "switching coordinators" to be the single point of contact between their dispatch centers and their employees and contract personnel in the field so that during future outages current information is accessible by those who are working to restore power to customers. APCO was also required to improve its outage restoration operations by resolving a variety of issues, including problems with communications, equipment, personnel cross-training and software deficiencies.

Allegheny was required to make a number of improvements as well, including

improving field communications to compensate for areas without cell phone service, assessing and increasing the number of circuit maps in its service centers, mobilizing additional management support and ensuring that all outage data is loaded on GPS units.

The Order also required AEP and Allegheny to make significant changes in their customer telephone communications practices and communications regarding billing irregularities that may result from future major outages. Both companies are required to file progress reports on storm preparedness improvements in March 2011 and a second update on September 2011 regarding the continued progress to date in 2011.

As a result of the information obtained in this general investigation, the Commission entered an order on May 28, 2010, directing, among other things, that the Staff of the Commission file proposed revisions to the Commission's *Rules and Regulations for the Government of Electric Utilities (Electric Rules)* (150 CSR 3) relating to reliability of electric service. On September 30, 2010, the Commission entered an order in which it instituted General Order 259, in the matter of the adoption of electric reliability rules. The Commission directed the parties to form a working group for the purpose of developing agreed upon rules for the Commission's consideration. The working group was directed to file consensus Electric Reliability Rules within sixty (60) days of the Commission's order instituting General Order 259. On November 12, 2010, the working group filed in G.O. 259 the "Workgroup–Electric Reliability Rules–G.O. 259 Report" in which the workgroup reported that a consensus had been reached with regard to the Electric Reliability Rules. This report outlined the Electric Reliability Rules consensus for the Commission's consideration.

### Pinnacle Wind Force

In the fall of 2009, the Commission conducted public comment and evidentiary hearings on Pinnacle Wind Force's application to construct and operate wind power facilities on a three-and-a-half mile stretch on Green Mountain in Mineral County, West Virginia. The \$131 million project, as proposed, consists of 23 turbines capable of generating 55.2 MW. The Project will create approximately 275 local construction jobs and approximately 15 permanent jobs thereafter. The Project will also provide significant tax revenues for Mineral County and the State. If the plant is built to the full 55.2 MW capacity, Pinnacle will pay approximately \$430,000 per year to Mineral County. Pinnacle will also generate approximately \$603,000 per year in state taxes during construction and \$43,000 annually thereafter. On October 9, 2009, Pinnacle, Commission Staff and the West Virginia Building Trades Council filed a joint stipulation recommending approval of the requested certificate subject to numerous conditions. On January 11, 2010, the Commission granted Pinnacle Wind Force a siting certificate.

On March 16, 2010, the intervenor Allegheny Front Alliance (AFA) filed a petition for reconsideration of the Commission's order granting Pinnacle a siting certificate. On April 29, 2010, the Commission entered an Order denying AFA's petition for reconsideration.

### Beech Ridge Energy, LLC

This previously-approved wind project has begun construction. This project is certificated to construct 124 turbines in Greenbrier County, West Virginia, with a combined output of 186 MW at an expected cost of \$300 million. The Commission had ordered Beech Ridge to consult with a Technical Advisory Committee regarding post-construction bat and bird studies on the following:

- (a) Three years of post-construction bat mortality and adaptive management studies, after operations commence, to assess 1) the project's impact, if any, upon bat life; 2) the potential for adaptive management techniques to mitigate such impacts; and 3) the expected costs over a range of mitigation effectiveness levels;
- (b) Three years of post-construction bird studies, after operations commence, to assess the impact, if any, on birds;
- (c) A one-year post-construction eagle/osprey study; and,
- (d) If the project causes significant levels of bat or bird mortality and adaptive management techniques are proven effective and economically feasible, Beech Ridge and its successors will make a good faith effort to work with the Commission to apply parameters to implement facility-wide adaptive management strategies on an on-going basis.

Engineering staff from the Commission serves on the Technical Advisory Committee.

A lawsuit was filed in Federal District Court citing Beech Ridge's failure to obtain an "incidental take permit." After a hearing, the federal judge decided there was a high likelihood of a "take" of an endangered species, the Indiana Bat, and on December 8, 2009, ordered the Company to apply for a permit. Until it obtains that permit, Beech Ridge cannot construct more than the 40 turbines already under construction and cannot operate any turbine between April 1 and November 15. Once the incidental take permit is obtained, the Company may construct the rest of the authorized turbines and operate year round.

In the spring of 2010, there was settlement reached in the Federal Court case and a new order issued by the Federal Judge which states that Beech Ridge is allowed to construct 67 turbines and may operate all the turbines 24 hours day, except during bat migration season. During bat migration, the turbines can only be operated from sunrise to sunset. Beech Ridge must also continue to pursue an incidental take permit. Once that permit is obtained, the operation of the turbines will be governed by the parameters set forth by that

permit. There are certain areas where Beech Ridge has agreed not to build turbines no matter what the incidental take permit allows.

Beech Ridge has now completed the construction of the 67 turbines and the project is operational.

### TRAIL Complaint Case

In March 2007, the Trans-Allegheny Interstate Line Company (TrAIL), an affiliate of Monongahela Power Company and the Potomac Edison Company, both doing business as Allegheny Power, filed an application for a certificate of convenience and necessity to construct a 500kV electric transmission line. As proposed, TrAIL would traverse approximately 114 miles in West Virginia and cross through the Counties of Monongalia, Preston, Tucker, Grant, Hardy and Hampshire.

On October 29, 2009, certain intervenors filed a complaint stating TRAILCo was not complying with the conditions of its certificate in regards to right-of-way clearing. The complaint has been docketed as Case No. 09-1758-E-C.

On April 14, 2010, Staff filed its final memorandum in Case No. 09-1758-E-C. Staff found no evidence of wrong doing on the part of TrAILCo to warrant further action by the Commission. On November 19, 2010, the Commission entered a Procedural Order setting the complaint case for hearing on January 13 and 14, 2011.

### American Electric Power Rate Case

On May 14, 2010, Appalachian Power Company and Wheeling Power Company filed a Rule 42T application to increase electric base rates and charges (Commission Case No. 10-0699-E-42T). The Companies sought \$155.5 million in additional revenue, or a 13.89% increase in revenue.

In December 2010, a Joint Stipulation and Agreement for Settlement (Joint Stipulation) was presented to the Commission by the Companies; the Commission Staff; CAD; E.I. du Pont de Nemours and Company, Huntington Alloys Corporation, Bayer CropScience, Bayer MaterialScience, PPG Industries Inc., Air Products & Chemicals, Inc., Alcan Rolled Products, EQT Corporation, and Globe Metallurgical, referred to collectively as West Virginia Energy Users Group (WVEUG); The Kroger Co., Wal-Mart Stores East, LP and Sam's East, Inc., and Steel of West Virginia, Inc. The Joint Stipulation provided for, among other things, a recommendation that the Companies' current base rates be increased to produce an additional \$60 million of revenue on an annual basis. Additionally, the Joint Stipulation provided for certain customer payment practices to assist residential customers, including the Companies' agreement to make annual donations of \$250,000 to the Dollar

Energy Fund by December 31, 2011 and by December 31, 2012 in addition to any other commitments the Companies have made for donations to the Dollar Energy Fund for 2011 and 2012.

The Commission conducted an extensive hearing on December 15, 2010, to question the parties about the Joint Stipulation. The record, including the Joint Stipulation, the prefiled testimony and the testimony submitted at the hearing is currently being reviewed by the Commission.

### American Electric Power ENEC Case

On March 1, 2010, the Appalachian Power Company and Wheeling Power Company filed their annual expanded net energy cost (ENEC) proceeding. In this type of Commission case, customer rates are adjusted to reflect projected changes only in the utility's cost of fuel and purchased power for the year ahead and to true-up recovery of actual energy costs for the previous period. The ENEC process does not involve the recovery of profit or a rate of return on investment. In addition to the ENEC filing, the Companies also petitioned the Commission to implement energy efficiency (EE)/demand response (DR) programs which are designed to assist customers with managing their electricity usage so as to both reduce their own costs and the impact of their usage on the environment.

On June 29, 2010, the Commission issued an order adopting a Joint Stipulation and Agreement for Settlement agreed to by AEP, CAD, Commission Staff, Century Aluminum, West Virginia Citizen Action Group and a group of the utility's industrial customers known as the West Virginia Energy Users Group regarding the ENEC portion of this proceeding. Citing increased costs of coal and other electricity production costs, the filing represented the second step in a phase-in approach of significant cost increases experienced by AEP in 2008 and 2009. Originally, this second phase was projected, in 2009, to require an increase of \$165 million, or 15 percent. However, the amount approved, \$95.5 million was significantly less than the original projection. The Commission deferred ruling on the EE/DR component of this proceeding until a later date.

On October 5, 2010, the Commission issued an order approved the implementation of the following EE/DR programs for the Companies: SMART Lighting, Residential Home Retrofit, Residential Low Income and Commercial and Industrial (C&I) Incentive. The Commission approved of the Companies beginning recovery of the EE/DR program costs in the amount of \$6.1 million per year (versus the requested \$16.7 million), on the same date that the Companies put revised base rates and charges into effect at the conclusion of pending Case No. 10-0699-E-42T.

The Commission also directed that the \$6.1 million will be allocated 60% to the tariff targeted by the program and 40% to all customers except those that opt-out pursuant to the Joint Stipulation. The Commission further directed that the EE programs be allocated among

applicable rate schedules on an energy basis and DR programs will be allocated among applicable rate schedules on a demand basis. The Commission also directed the Companies to document and track actual EE/DR program costs and recoveries based on the rate increments approved in this proceeding and file a petition for prospective EE/DR rate increments which include consideration of the over- or under-recovery of costs incurred through December 31, 2011, concurrent with the 2012 ENEC review. The Commission declined to include an estimate of net lost revenues in the EE/DR cost recovery mechanism. Additionally, the Commission disallowed the Companies' request for a prospective shared savings rate increment.

### Allegheny Base Rate Settlement

On August 13, 2009, Monongahela Power Company and the Potomac Edison Company filed for increased rates and charges of \$122.1 million annually or approximately 12.8 percent. The Companies provide electric service to approximately 515,000 customers in West Virginia. On September 11, 2009, the Commission suspended the rate increase until June 10, 2010.

On April 4, 2010, the Companies, Commission Staff, CAD, The Kroger Company, the West Virginia Citizens Action Group, the West Virginia Community Action Partnership and a group of industrial customers known as the West Virginia Energy Users Group filed a Joint Stipulation and Agreement for Settlement. The Joint Stipulation by the parties recommended a base rate increase of \$40 million, or 4.2%, effective June 29, 2010. A typical residential customer using 1,000 kwh of electricity would have seen an increase on their monthly bill from approximately \$88.12 to \$92.22.

A second adjustment, an increase of \$20 million to base rates, effective January 1, 2011, will be offset by an equal and corresponding decrease in rates related to fuel costs, transmission costs and purchased power costs (Expanded Net Energy Cost). Also, the Companies agreed not to pursue a future base rate increase before September 27, 2012.

The Companies also agreed to provide \$250,000 annually to the Governor's Office of Economic Opportunity for the implementation of low-income weatherization programs until their next base rate case. By March 31, 2011, the Companies will file a plan for Commission approval regarding low-income residential efficiency measures and the retrofit of commercial, government and industrial lighting to new energy efficient lighting.

The Commission adopted the Joint Stipulation on June 26, 2010

### Musser Company Cases

On December 1, 2008, Black Diamond Power Company, Elk Power Company, Union Power Company and West Virginia Power Company (collectively, the Musser Companies) filed a petition, docketed as Case No. 08-2030-E-PC, for consent and approval of the merger of the four companies with West Virginia Utility Company being the surviving corporation. Black Diamond, Elk and Union are regulated electric distribution utilities.

The petition was later amended on November 25, 2009, to add a fifth company, Homelectric, to the petition for merger. On that same date, Black Diamond, Elk and Union filed for general rates increases in Case Nos. 09-1985-E-42T, 09-1896-E-42T and 09-1987-E-42T, respectively. As later amended, Black Diamond, Elk and Union all requested rate increases. The four cases were consolidated for processing purposes.

On May 12, 2010, an Administrative Law Judge entered a Recommended Decision approving a stipulation resolving the issues in the cases as agreed to by Commission Staff and the Companies. It was agreed that the three regulated electric utilities: Black Diamond, Elk and Union, should be merged into a single utility. The parties also stipulated that the combined electric utility should be granted increased revenues in the amount of \$521,564 which represented an overall increase of 8.08%. The ALJ's Recommended Decision approved the stipulated rates, with the exception of the delayed payment penalty, to become effective July 10, 2010.

On May 17, 2010, Companies filed exceptions to the Recommended Decision asking that the new rates become effective may 24, 2010. By order entered May 20, 2010, the Commission ruled that the stipulated rates, with the exception of the delayed payment penalty, become effective May 24, 2010.

### West Virginia Carbon Capture and Sequestration Working Group

On May 4, 2009, Governor Manchin signed HB 2860 which established the Carbon Capture and Sequestration Working Group. The purposes of the Working Group are to study issues pertaining to carbon capture and sequestration including scientific, technical, legal and regulatory issues, and issues regarding ownership and other rights and interest in subsurface space (pore space) that can be used as storage space for carbon dioxide and associated constituents, and to develop a long term strategy for the regulation of carbon dioxide sequestration in West Virginia. A member of the Commission's Engineering Division serves on the Working Group.

The full Working Group and various subcommittees met throughout 2010 and issued a preliminary report to the Legislature in July of 2010. A final report is to be issued to the Legislature by July 2011.



## Natural Gas

### Mountaineer Gas Acquisition of East Resources

On May 12, 2010 Mountaineer Gas Holdings Limited Partnership, Mountaineer Gas Company (“Mountaineer”) and East Resources, Inc. (“East”) filed a Joint Petition seeking Commission consent and approval to transfer East’s 4,700 gas utility customers in twenty-one counties in West Virginia to Mountaineer. East had properties or utility customers in the following counties: Boone, Cabell, Calhoun, Clay, Doddridge, Gilmer, Harrison, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Monongalia, Putnam, Ritchie, Roane, Tyler, Wetzel, Wirt and Wood.

East, whose primary gas operations focus on gas exploration and production, desired to cease its utility service obligations in West Virginia but to continue to operate as a gas exploration and production company. Mountaineer originally proposed to transfer ownership of 23 natural gas leases to East in exchange for the public utility assets owned by East. Instead of proceeding to an evidentiary hearing, Mountaineer, East, and the Commission Staff entered into Joint Stipulation settling all outstanding issues. But the nature of the transaction changed and the original proposal for Mountaineer to transfer its ownership interest in 23 leases was abandoned. Mountaineer and East, instead, agreed to an alternative arrangement whereby Mountaineer would compensate East with cash for the utility assets. Specifically, Mountaineer agreed to pay to East approximately \$5.99 million dollars for the utility assets.

On November 19, 2010, the Commission issued an Order approving the transfer of the gas utility assets of East to Mountaineer and approved the Joint Stipulation that did not change the rates of Mountaineer Gas and continued the existing base rates and rate design for the current customers of East for a specified period of time under the Joint Stipulation.

### Natural Gas-Purchased Gas Cost Cases

Under the Commission's Rule 30C procedure, natural gas utilities can file annually to adjust the purchased gas cost component of their rates. This procedure allows the utility to recover the costs, but only the cost, it pays suppliers for the gas it delivers to gas customers. The prices that a natural gas utility pays its suppliers for gas are not regulated by either the Commission or any federal government agency, but are determined by the market. Over the years, the market-driven price has been volatile and influenced by any number of external factors. The cost of purchased gas typically comprises between 70-80 percent of a customer's winter heating bill.

Last winter (2009-10) the typical monthly natural gas bill for an average residential customer using 13 Mcf (thousand cubic feet of gas) was \$139.52. For this winter, eleven of the sixteen natural gas utilities filing Rule 30C cases (serving over 95.5% of the State’s

residential gas customers) requested decreases in the purchased gas portion of their rates. Based on the Rule 30C purchased gas rate adjustments granted by the Commission and all other rate changes taking effect a typical monthly residential bill will be \$128.69 for this winter. Mountaineer Gas Company which serves approximately 199,000 residential customers received a decrease of 16.74 percent in its purchased gas rate impacting the typical monthly residential bill by a decrease of \$17.62 after taking into account a general rate increase effective in July. Hope Gas Company, Inc. which provides service to approximately 105,000 residential customers received a decrease of 6.2 percent in its purchase gas rate over the rate that was in effect last winter impacting the typical monthly residential bill by a decrease of \$3.52 after taking into consideration an approved general rate increase granted in June.

### Gas Company Rate Cases

On May 1, 2009, Bluefield Gas Company filed Case No. 09-0681-G-42T requesting to increase its base rate charges (excluding the cost of purchased gas). Bluefield's proposed rates would generate additional annual revenue in the amount \$220,080 or approximately 2.69%. Bluefield provides gas service to approximately 3,840 customers located in Mercer County. By order entered January 28, 2010, Bluefield was granted increased rates which will generate additional annual revenue of \$143,742 for an increase of 1.82%.

On June 1, 2009, Mountaineer Gas Company filed Case No. 09-0878-G-42T requesting increased base rates of \$26,358,900, or approximately 6.6% annually for furnishing gas service to approximately 220,000 customers located in 49 counties throughout the State. On March 22, 2010, the Commission entered an order approving a Joint Stipulation and Agreement for Settlement, agreed to by Mountaineer, CAD and Commission Staff, which approved a two-part increase in rates. The first phase of the overall rate increase which became effective March 29, 2010, awarded an annual increase in rates of \$16 million. The second phase of the overall awarded increase was in the additional amount of \$3 million annually and became effective November 1, 2010. The overall increase in revenues upon implementation of the second phase had the cumulative impact of increasing annual revenues by approximately 6.64% before taking into account the change in the purchased gas adjustment which also was implemented November 1, 2010.

On October 28, 2009, Equitable Gas Company filed Case No. 09-1805-G-42T requesting a base rate increase of \$3,040,000 annually or 10.3%. Equitable provides gas service to approximately 13,474 customers located in Braxton, Clay, Doddridge, Gilmer, Harrison, Lewis, Marion, Marshall, Monongalia, Ritchie, Taylor, Tyler, Upshur, and Wetzel Counties. By order entered August 24, 2010, the Commission granted rates effective August, 25, 2010, which will result in increased revenue of \$1,600,000 annually or approximately 6.9%.

On July, 16, 2010, Blacksville Oil & Gas Company filed Case No. 10-1102-G-42T requesting an increase in rates of \$49,500 annually, or approximately 17.5%. Blacksville provides natural gas service to approximately 284 customers located in Monongalia County. In a Recommended Decision entered November 1, 2010, an Administrative Law Judge (ALJ) recommended that Blacksville be granted an increase in base rate revenue of approximately \$30,500. Staff filed exceptions to the Recommended Decision on November 16, 2010. On December 13, 2010, the Commission entered an Order On Exceptions which approved the base rates reflected in the ALJ's decision. However, the Commission also found that the issue regarding the propriety of the growth of Blacksville's rate base should be considered in greater depth in a later proceeding. Accordingly, the Commission further ordered that Blacksville file a new Rule 42 case no later than 270 day after entry of the order or that the Staff petition for a show cause hearing in the event that Blacksville fails to file.

## **Water and Wastewater**

### **Water and Sewer Certificate Cases**

The American Recovery and Reinvestment Act of 2009 (ARRA) funded almost \$329 million worth of West Virginia water and wastewater projects in which municipalities and public service districts sought certificates of convenience and necessity to expand, upgrade or replace water and sewer infrastructure within their service territories. All projects funded with ARRA dollars were required to be "shovel ready" in order to qualify for funding. This condition placed a tremendous amount of pressure on the Commission as 51 wastewater and 20 water projects needed to be processed under shortened timelines.

The Commission, while it did not have the continuing pressure from ARRA in 2010, completed the processing of sixteen cases, totaling more than \$107 million. Examples of some of those projects are outlined below.

The Armstrong Public Service District was granted a certificate of convenience and necessity to construct improvements to its water treatment plant, extend water lines, decommission its Deepwater plant, replace a water tank and upgrade water lines in Fayette County. The project was financed by a \$610,000 grant from the U.S. Department of Agriculture and a USDA - RUS loan in the amount of \$765,000.

The City of Glen Dale, located in Marshall County was granted a certificate of convenience and necessity to construct additions and improvements to its existing waterworks system to abate leakage problems and to reduce operation and maintenance costs. The project was financed with 40-year loan in the amount of \$1,665,000 from the U.S. Department of Agriculture.

The Town of East Bank, located in Kanawha County was granted a certificate of convenience and necessity to construct improvements to its water distribution system

including a water storage tank. Total project cost was \$803,000 and was funding in part by the West Virginia Infrastructure and Jobs Development Council (WVIJDC) and the Kanawha County Commission.

Paden City, with corporate limits in Wetzel and Tyler Counties was granted a certificate of convenience and necessity to construct additions and improvements to its existing wastewater collection system in order to alleviate inflow and infiltration within its system. The project cost in the amount of \$2,084,000 was financed by a 38-year loan from U.S. Department of Agriculture – Rural Utilities Services (RUS).

The St. Albans Municipal Utility Commission located in Kanawha County was granted a certificate of convenience and necessity to construct improvements to its existing potable water distribution system. The project involved installation of 38,785 feet of distribution lines. Estimated project cost was \$11.6 million. The project was to be financed by private/Build America Bonds in an amount not to exceed \$12.5 million.

#### Nettie-Leivasy

On June 9, 2010, Nettie-Leivasy Public Service District filed Case No. 10-0841-PWD-CN seeking approval of a certificate of convenience and necessity to extend its existing water system to serve approximately 84 new customers in Nicholas County. At the time, Nettie-Leivasy served approximately 1,313 customers. The project consisted of 50,350 feet of new mains, three water booster stations, a new 58,000 gallon storage tank, and other necessary items and appurtenances. In justification of the project which will cost approximately \$45,600 per new customer, it was found that the groundwater in the area had been severely impacted by past mining activities resulting in it having been contaminated with harmful pathogens and/or various objectionable mineral compounds rendering it unfit for human consumption.

Total project cost was estimated to be \$3,578,272 and project financing was to be provided by a Department of Environmental Protection Abandoned Mine Lands grant in the amount of \$2,578,272 and West Virginia Infrastructure and Jobs Development Council loan in the amount of \$1,000,000 at 0% interest for 40 years. Commission Staff's review indicated that an increase in rates of 2.4% would be required to meet increased debt service requirements and operating expenses. By final order entered November 2, 2010, approval of a certificate for the project was granted along with a 2.4% increase in rates.

#### Jefferson County Public Service District

On March 13, 2009, Jefferson County Public Service District (Jefferson County PSD) filed an application for a certificate of convenience and necessity to construct a one million gallon per day membrane bio-reactor (MBR) wastewater treatment plant near Halltown,

Jefferson County, which will be compliant with the discharge standards of the Chesapeake Bay Program.

Jefferson County PSD estimated the total project to cost \$26,307,400. The project was to be financed by: 1) a \$1,000,000 contribution pursuant to the Capacity Assurance Agreement and Addendum from the Jefferson County Development Authority; and 2) funding letters from the West Virginia Department of Environmental Protection (DEP) State Revolving Fund loan (SRF) in the amount of \$18,205,263, (Infrastructure Project No. 2006S-924) with an additional \$7,102,137 committed by DEP, available provided Jefferson County PSD start construction by September 14, 2009. Jefferson County PSD noted it is also pursuing federal stimulus funding in accordance with the ARRA which may replace a portion of the SRF loan.

On April 22, 2009, Jefferson County PSD received a letter from the DEP. Based upon the ARRA guidelines, Jefferson County PSD was eligible to be considered for a loan of \$15 million with a negative 3% interest rate for a term of 38 years, which equals an approximate 50% debt forgiveness. The annual administrative fee would remain at 1% for the amount of the loan to be repaid. The balance of the funding needed can be provided from DEP's base program at an interest rate of 2%, with a 1% annual administrative fee for a term of 20 years. On August 14, 2009, the Commission approved the project application and the finance package including stimulus funding as described by DEP.

On November 10, 2009, Jefferson County PSD filed a petition to reopen its application for a certificate of convenience and necessity noting two significant changes that would result in increased rates for its customers: 1) an increase in total project cost to \$27,484,800 and 2) a change in project funding noting that the stimulus funding had not been awarded. The project now is to be financed by a \$1 million contribution pursuant to the Capacity Assurance Agreement and Addendum from the Jefferson County Development Authority; and a \$26,484,800 SRF loan payable over 30 years at 0% interest with a 0.5% administrative fee. On November 10, 2010, the Administrative Law Judge entered a Recommended Decision which approved the reopened project application and approved the revised financing not to exceed \$27,484,800.

Upon its own motion, on November 22, 2010, the Commission suspended by Order, the Recommended Decision entered November 10, 2010, until further order of the Commission. The Commission is deliberating this matter further.

#### Stanaford Acres Sewage System, Inc.

As a result of an inability of management to continue to operate the small community sewer system of Stanaford Acres Sewage System, Inc. (Stanaford Acres), the Commission issued an Order on April 2, 2008, that directed Commission Staff to petition the Circuit Court of Raleigh County to request the Stanaford Acres system be placed in receivership.

Informal negotiations and attempts to find a willing operator were pursued by Commission Staff.

On April 23, 2010, Commission Staff filed a Petition to reopen, noting the problems remained unresolved and the system continued to deteriorate. The Commission held a status conference on August 31, 2010, in which it encouraged those in attendance, including North Beckley Public Service District (North Beckley), to work toward a solution and file reports on what actions need to take place. Staff filed an Initial Joint Staff Memorandum on September 13, 2010, noting the North Beckley had tabled a discussion of this matter at its September meeting and no further action had transpired.

On December 13, 2010, the Commission entered an Order naming North Beckley a Respondent to this proceeding and requiring a status report on January 7, 2011. The status report is to include an indication as to whether North Beckley and Stanaford Acres have reached a proposed agreement and whether the North Beckley Board of Directors has approved that agreement. If there is no agreement, the status report should include an explanation of why that is the case and an expected timeline for reaching a final agreement. If a proposed agreement exists, North Beckley is to file a copy of the proposed agreement with the Commission for approval.

### Municipal Appeals

Five water and sewer municipal appeal cases were completely processed during the course of 2010 with others still under review at year's end. Two of those cases are summarized below.

On December 8, 2009, City of Belington in Barbour County filed Case No. 09-2017-S-CN requesting a certificate of convenience and necessity to construct a new wastewater treatment plant and improvements to its wastewater collection system. Total project cost was estimated to be \$7,735,000 and was to be financed by three separate loans in the total amount of \$4,100,000 and three grants in the total amount of \$3,635,000. Belington proposed rates that would result in increased annual revenue in the amount of \$308,337 or 191.08% to support the project plus additional revenue in the amount of \$35,085 to cover non-project costs. The Commission opened Case No. 10-0373-S-MA to review the reasonableness of the proposed rates after having received a petition opposing the proposed increase signed by approximately 300 customers. The two cases were consolidated for processing purposes. By final order entered July 21, 2010, in Case No. 09-2017-S-CN approval of the project and proposed financing was granted. On that same date in Case No. 10-0373-S-MA, increased rates which would generate additional revenue of \$239,433 annually or 134.98% to cover project costs was granted.

On February 18, 2010, the City of War filed Case No. 10-0230-W-CN requesting a certificate of convenience and necessity to construct improvements to its existing water

distribution system. Total project costs were estimated to be \$4,113,800 of which \$2,613,800 was to be funded by a loan in the amount of \$1.5 million from the Department of Agriculture - RUS and a grant from the same agency in the amount of \$2,613,800. On March 17, 2010, the City adopted an ordinance increasing water rates by \$184,294, or 67.4%, to cover costs. Following receipt on April 16, 2010, of a petition containing 407 signatures in opposition to the increased rates, Case No. 10-0534-W-MA was opened to review the reasonableness of the proposed rates. The cases were consolidated for processing purposes. By final order entered August 5, 2010, the proposed project and financing were approved in Case No. 10-0230-W-CN. On that same date, increased rates were approved in Case No. 10-0534-W-MA which would generate additional annual revenue of \$159,695 or 45.1%.

### Water and Sewer Rate Cases

During the course of the year the Commission processed various cases in which public service districts sought to increase rates and charges to meet increased costs of operation in the normal course of business. There were eight cases in which the water and sewer cases in which utility filed full financial exhibits in support of their rate requests that were completely processed during 2010 with other in progress. Examples of some of those cases are outlined below.

On March 15, 2010, Grant County Public Service district which provides water service to approximately 2,700 customers in Grant County filed Case No. 10-0330-PWD-42T requesting increased rates. It requested that the Commission approve rates which would increase annual revenues by approximately \$546,135 annually or 48.5%. Following investigation and hearing, a final order was entered October 19, 2010, which increased rates by \$248,611 annually or 21.9%.

On July 14, 2010, Crab Orchard-McArthur Public Service District which provides sewer service to approximately 4,100 customers in Raleigh County filed Case No. 10-1086-PSD-42T in which it requested approval of increased rates which would have generated additional annual revenues of \$290,199 or 15%. District filed tariff sheets effective August 28, 2010, reflecting its proposed rates. Those rates were suspended until January 25, 2011. Following investigation and hearing, the ALJ entered an order that became final on December 14, 2010, approving of Staff's recommended rates which will generate additional annual revenues of \$137,123 for a 7.1% increase. These rates become effective November 25, 2011.

### West Virginia-American Water Company Rate Increase Request

On May 14, 2010 West Virginia-American Water Company (WVAWC) filed a general rate case to increase rates and charges. WVAWC originally sought to increase its rates by \$18,375,076 or approximately 15.13% over current rates. WVAWC produces potable water to approximately 171,000 West Virginia customers in the Counties of Boone, Braxton, Cabell, Clay, Fayette, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, Mercer, Putnam, Raleigh, Roane, Summers, Wayne and Webster.

On November 22, 2010 WVAWC indicated that it had made two tax-related errors and as a result, WVAWC's updated rate increase request was reduced from \$18,375,076 to \$15,616,000. WVAWC's requested increase, if approved, would become effective at the end of the statutory suspension period, April 19, 2011.

On December 6, 2010 WVAWC, Commission Staff, CAD, Steel of West Virginia, Inc., and the Utility Workers Union of America, AFL-CIO appeared before the Commission for the start of the evidentiary hearing in this matter. The evidentiary hearing lasted four days. The case is currently being reviewed by the Commission and the Commission's Final Order is due on April 16, 2011.

### Jefferson Utilities, Inc.

On June 30, 2010, Jefferson Utilities, Inc. (JUI) filed a Rule 42T rate application requesting Commission approval for an increase of approximately \$998,657 (or 48.6%) annually in additional revenue, to become effective August 1, 2010; a petition for consent and approval of a revised operation and maintenance agreement with its affiliate, Snyder Environmental Services (SES); a petition for consent and approval of a lease agreement with the owners of JUI and SES, and a sublease agreement with SES for the new building constructed to headquarter JUI and SES; and a Motion for Protection Order that certain SES information be protected from public disclosure. JUI is a for-profit, public utility authorized to provide water service to 2,196 customers in several areas of Jefferson County, West Virginia. There are eight (8) water systems filed under JUI's water tariff filed with the Commission which includes: 1) Walnut Grove; 2) Meadowbrook; 3) Shenandoah Junction; 4) Bardane; 5) Keyes Ferry Acres; 6) Westridge Hills; 7) Deerfield and 8) Harper Ferry Campsites.

The PC portion (request for Commission approval of several affiliate agreements) remains an open case, but the 42T portion (rate/tariff increase) was dismissed by the Commission on July 30, 2010.

On August 20, 2010, JUI made a second Rule 42T rate filing requesting Commission approval for an increase of approximately \$998,657 annually in additional revenue, an increase of 48.6%, to become effective October 22, 2010, unless otherwise ordered by the



Commission; and a Motion for Protection Order that certain SES information be protected from public disclosure. However, the proposed increase to the base rates is 72.2%.

On October 6, 2010, the Commission entered an Order which provided among other things that: the rate increases proposed by Jefferson Utilities, Inc., are suspended until 12:01 a.m., February 19, 2011, unless otherwise ordered by the Commission and that Case No. 10-0974-W-PC and Case No 10-1329-W-42T are consolidated for the purpose of hearing and decision.

On December 1 and 2, 2010, a hearing was held in these consolidated cases in Ranson, West Virginia. This case is currently being reviewed by the Commission.

### Rule 19A Cases

The Commission's rules permit smaller utilities with revenues up to \$1 million to file for increased rates without supporting financial statements. In those instances, Commission Staff performs all of the requisite financial analyses required to establish appropriate rate levels. The processing of twelve of this type of rate filing was completed during the course of 2010. Examples of some of those cases are outlined below.

On January 26, 2010, Central Barbour Public Service District filed Case No. 10-0064-PWD-19A filed for increased rates to meet day-today operating expenditures and normal course of business capital expenditures of its water system. It did not request specific rates. Following a review of the District's books and records, Staff recommended that District be granted increased rates that would generate an additional \$6,283 or 1.6% annually which was approved August 25, 2010.

On April 2, 2010, Central Hampshire Public Service District filed Case No. 10-0459-PD -19A filed for increased rates to meet day-today operating expenditures and normal course of business capital expenditures of its sewer system, and stating that it had an annual cash flow deficiency of \$65,000. It did not request specific rates. Following a review of the District's books and records, Staff recommended that District be granted increased rates that generate an additional \$74,043 or 14.33% annually which was approved December 14, 2010.

On November 19, 2009, Upper Kanawha Valley Public Service District filed Case No. 09-1966-PSD -19A filed for increased rates to meet day-today operating expenditures and normal course of business capital expenditures of its sewer system and that of Chelyan Public Service District which it had recently begun operating under contract. It had recently. It did not request specific rates. Following a review of the District's books and records, Staff recommended that District be granted increased rates that generate an additional \$94,513 or 27% annually which was approved May 23, 2010.

On September 1, 2009, Whitehall Public Service District filed Case No. 10-0064-PSD -19A filed for increased rates to meet day-today operating expenditures and normal course of business capital expenditures of its sewage collection system. It did not request specific rates. Following a review of the District's books and records, Staff recommended that District be granted increased rates that would generate an additional \$26,962 or 8.5% annually which was approved August 25, 2010.

On January 13, 2010, Mt. Zion Public Service District filed Case No. 10-0027-PSWD -19A filed for increased rates to meet day-today operating expenditures and course of business capital expenditures of its water distribution and sewage collection systems. It did not request specific rates. It stated that it was behind in paying its bills and was incurring fines from the West Virginia Department of Environmental Protection. Following a review of the District's books and records, Staff recommended that District be granted increased rates that would generate additional revenues of \$6,795 or 13.28% annually for District's sewer operations and \$8,841 or 5.29% for its water operations. Staff's recommended rates were approved by the Commission on November 10, 2010.

### Seminars

Chapter 16, Article 13A, of the West Virginia Code requires newly-appointed public service district board members to attend and complete, within six months of taking office, the Board Members' Mandatory Training Program established and administered by the Commission in conjunction with the Division of Environmental Protection and the Division of Health. In 2010, two Public Service District (PSD) Board Member seminars were held in Bridgeport and Charleston and were attended by a total of 41 board members. Basic areas of responsibility for a PSD member in administering a PSC, such as regulatory requirements, administrative, project financing, legal, liability, technical, ethics, open meetings and financial information are discussed during the seminar.

In addition to the Board Members' Mandatory Training Seminars, the Division also presented 13 other seminars with more focused subjects including termination, management, safety, accounting, finance, budgeting and dealing with angry and upset customers. The total of 213 attendees at the special topic seminars was up from the number of 2009 attendees (207).

The OSHA safety seminars provide attendees the ability to earn an OSHA safety certification card; while water and sewer plant operators can also earn ten Continuing Education Credit Hours required for the operator's license. These seminars are important for utility field personnel and management and were taught by safety specialists from Brickstreet Insurance. In 2011 the West Virginia Department of Labor will resume teaching this course with administrative support from the Commission.

The Electronic Annual Report workshops have been expanded and are held not only in Charleston but in other locations across the state. The Annual Report is the financial, operational and statistical document that utilities are required to file annually with the Commission. This document also contains performance measures calculations for each utility. The Commission continues to review the performance measures data with a look at full implementation within the next two years.

### **Telecommunications**

#### **Verizon/Frontier Service Quality**

In July of 2008, in response to numerous complaints from Verizon-West Virginia (Verizon) customers concerning the quality of their telephone service, the Commission initiated a General Investigation into their service quality. In December 2008, the Commission approved a settlement agreement among Verizon, Commission Staff, and the CAD outlining a Retail Service Quality Plan (RSQP), which was to be in effect through at least July 2011. This plan included investment in infrastructure (\$11M), additional technicians, service quality metrics, and customer credits for missed appointments and long duration service problems. Progress hearings were conducted in May and November of 2009 to monitor progress in meeting specific service objectives.

On April 23, 2010, Verizon WV filed an interim report describing the status of their service improvement efforts.

On May 10, 2010, the Commission issued an order determining Verizon's quality of service had not been at an acceptable level and expressed dissatisfaction with measures taken by Verizon to remedy customer service problems. The Commission ruled that a significant additional investment in the Verizon system was necessary and directed Verizon to place \$72.4 million into an irrevocable escrow account to be used over the next several years exclusively to improve the Company's quality of service. The Escrow Account may only be used for local exchange service system improvements including capital expenditures and operating expenses which may include payroll related expenses, right of way maintenance and vegetation control. Commission approval is required before funds may be withdrawn from the Escrow Account.

#### **Frontier Acquisition of Verizon**

On May 28, 2009, Verizon and Frontier Communications filed a joint petition for approval of the transfer of Verizon's local exchange, high speed internet, and long distance business to Frontier in fourteen states including West Virginia. In West Virginia this included approximately 600,000 access lines. On May 13, 2010, the Commission granted the request for the transfer subject to several conditions and commitments, including:

1. Capital investments totaling \$231M between years 2010 and 2013.
2. Additional capital investment of \$48M to increase broadband deployment and subscription in the Verizon WV service area.
3. Expand broadband availability to no less than 85% of the households within the Verizon WV service areas by no later than the end of the fourth year following the closing of the transaction.
4. Frontier will locate its Southeast regional headquarters in Charleston, WV. The headquarters will be the hub for engineering, technical, operational, and executive operations in West Virginia, Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia and Florida.
5. Frontier will comply with all of the requirements of the currently effective Retail Service Quality Plan and other conditions imposed by this Commission in Case No. 08-0761-T-GI.
6. Frontier will provide the same E-911 functionality as currently provided by Verizon WV.
7. Frontier will honor all existing union labor agreements in West Virginia.
8. Frontier will file quarterly reports through December 31, 2011 and annual reports for the following three years detailing its progress toward integration of Verizon WV with its current operations.
9. Frontier will adequately fund additions and maintenance of the facilities of Verizon WV in order to assure the provision of reliable, economic, and adequate service throughout the state.
10. Frontier will waive early termination fees for current Verizon WV customers participating in a Verizon bundled service package for the first ninety days after closing.

This transaction closed on July 1, 2010. The Commission is continuing to monitor the progress of the integration of Verizon WV operations with those of Frontier.

### nTelos Acquisition of FiberNet

On July 30, 2010, Conversent Communications, Inc. (the immediate parent company of FiberNet and nTelos) filed a joint petition for approval of a change in ownership of FiberNet and a request for expedited treatment. nTelos proposed to acquire FiberNet for approximately \$170 million.

FiberNet is the largest competitive local exchange carrier (CLEC) in West Virginia with approximately 100,000 landlines, the bulk of which are in West Virginia. nTelos is an incumbent local exchange carrier (ILEC) in Virginia and a CLEC in West Virginia with approximately 38,000 ILEC landlines and 50,000 CLEC landlines. In addition, nTelos is a wireless provider with approximately 440,000 subscribers.

The parties requested expedited treatment because of the financial condition of One Communications Corp., the ultimate parent of FiberNet. On November 12, 2010, the Commission approved the purchase of FiberNet by nTelos subject to certain conditions, including:

1. FiberNet will waive early termination fees for current customers participating in a bundled package for the first ninety days after closing.
2. nTelos will provide a capital infusion into FiberNet of at least \$40M over the next 36 months after closing for the maintenance and extension of its WV facilities.
3. nTelos and FiberNet must commit to using their best efforts to provide a substantive response to informal Requests For Assistance (RFA) that are received by Staff by no later than 10 days after being notified of the RFA.
4. nTelos and FiberNet will advise the West Virginia Division of Homeland Security and Emergency Management and any affected Public Safety Answering Point (PSAP) of a service interruption or outage requiring notice under Telephone Rule 6.5 that may prevent customers from requesting emergency services or emergency responders from communicating with PSAPs.
5. nTelos and FiberNet will supplement their response to Staff Interrogatory No. 3 with any updates, additional documentation, further information, timelines, schedules, plans, or other information associated with the integration planning committee (IPC) until the IPC is dissolved or such later date as the parties may agree.

This transaction closed on December 2, 2010. The Commission is continuing to monitor the status of the integration of FiberNet and nTelos.

### Emergency Operations Center of Kanawha, et al. v. YMax Communications Corporation and magicJack, LP

On March 22, 2010, the Kanawha County E911 Center filed a formal complaint against YMax Communications Corporation and magicJack, LP. According to the Complainant, the Defendants were providing internet protocol-enabled communications services to West Virginia residents, but were not collecting and remitting E911 fees from their subscribers. Providers of IP-enabled communications services are required by law to collect E911 fees and remit them to county E911 centers.

The case involved at least four legal entities including YMax, magicIn, magicOut and magicJack, LP. The most critical issue arising in the case were whether or not magicJack, LP customers are provided with E911 service, and if so, who pays for it. This case is pending before the Commission.

### Cell Tower Fund

In 2010, the Commission approved one Tower Fund grant application, as recommended by the Tower Access Assistance Fund Review Committee, in the amount of \$451,588 for the Lewis County (State Hill) Project.

### Lifeline Awareness Week

The Commission recognized September 12-18, as “Lifeline Awareness Week.” The programs involved are Lifeline and Link-Up, which provide discounted telephone service and connection charges for low-income residents.

Under the federal Lifeline program, telephone customers who participate in or are eligible for certain public assistance programs are entitled to receive a basic telephone service discount from a few dollars up to approximately \$14-\$15 a month. Link-Up provides a 50 percent reduction in the telephone service installation charge, up to a maximum of \$30, for qualifying households that do not currently have telephone service. Companies serving the vast majority of West Virginians offer the programs, including some cellular companies.

## **Transportation**

Officers in the Commission’s Transportation Enforcement Division undertook several initiatives to increase commercial vehicle safety on our highways including conducting a non-stop 72-hour road check, participating in Brake Safety Week sponsored by the

Commercial Vehicle Safety Alliance and the Federal Motor Carrier Safety Administration, and increasing safety enforcement for commercial motor vehicles on Route 119 and Route 52 in Southern West Virginia.

During the past year, Commission Enforcement Officers increased the number of roadside inspections from 33,506 in 2009 to 33,839 in 2010, an increase of approximately 1% percent.

The Commission's Railroad Safety inspection program was rated #2 in the Nation by the Federal Railroad Administration.

### **Motor Carrier and Solid Waste Rates**

The Utilities Division is responsible for providing audit and financial expertise on matters related to regulated Motor Carrier and Solid Waste Facility rates. The Division maintains a comparative database of motor carrier costs and rates and conducts both financial and management audits of motor carriers operating within the State.

In addition to making recommendations to the Commission in rate matters, the Utilities Division also processes formal and informal customer complaints concerning regulated motor carriers and commercial solid waste facilities.

The Commission Staff has developed a data base to record informal complaints. The system, implemented in 2007, allows Staff to monitor customer complaints by service provider and region, as well as how satisfactorily service problems are resolved. From January 1, 2010, through December 10, 2009, there were approximately 300 informal motor carrier complaints filed with the Commission.

In 2010, the Commission processed motor carrier rate cases that affected various areas of West Virginia such as Enterprise Sanitation in Marion and Harrison Counties, Joy Sanitation in Ritchie County and Morgan Sanitation in Hampshire County.

### **Fuel Surcharges**

The Commission has continued to respond to the high cost of fuel for motor carriers by reviewing and adjusting, as needed, fuel surcharges for regulated motor carriers that remain in effect today. This series of surcharges was initiated in M.C. General Order No. 56.4 (Reopened) in March 2004 following a dramatic increase in fuel prices from previous levels. The most recent surcharges are based on forecasted fuel prices for the period of January 1, 2011 through June 30, 2011.

The average price per gallon of unleaded regular gasoline is currently forecasted to be \$3.03 and the price of diesel is forecasted to be \$3.36. This forecast reflects the continued steady increase in fuel prices experienced by carriers over the last several years following a brief period of moderate fuel prices. For example, as recently as December 2008, the forecasted prices per gallon of regular unleaded and diesel for the period of January 1, 2009 through June 30, 2009 were \$2.03 and \$2.41, respectively. By December 2009, those forecasted prices for the period of January 1, 2010 through June 30, 2010 had risen to \$2.84 and \$3.07 respectively.

The authorized surcharges are generally about 6% for most motor carriers. Fuel prices are reviewed every six months to determine if there is a need to continue to give relief to eligible regulated carriers, they are not automatic. Eligible motor carriers may not charge the new surcharge until and unless they have filed application to do so with the Commission's Tariff Office.

### **Solid Waste Landfills**

The Commission Staff continues to improve and build a strong working relationship with the DEP and the Solid Waste Management Board in an ongoing effort to provide consistent recommendations that conform with the requirements of other agencies' rules and regulations, as well the Commission's rules and regulations related to solid waste landfills.

In 2006, an agreement was signed between Waste Management of West Virginia and the Jefferson County Solid Waste Authority that involved WMWV spending approximately \$1.4 million to build a transfer station to eliminate the shortage of disposal capacity that the eastern panhandle has faced for the past couple of years. This transfer station is a state of the art facility and was brought online in January 2007. The transfer Station now receives and separates recyclable materials from the major haulers in the area, as well as the general public.

In 2010 Commission Staff processed a rate application to increase tipping fees filed by Allied Disposal Sycamore Landfill located in Putnam County. Staff also is currently processing a rate application to increase tipping fees filed by the Region Eight Solid Waste Authority at its solid waste transfer stations located in Grant and Hampshire Counties.

### **Wetzel County Solid Waste Authority**

On December 21, 2008, the Wetzel County Solid Waste Authority (Wetzel County SWA) filed a petition seeking an investigation into the financial practices of Lackawanna Transport Company and Solid Waste Services, Inc. Lackawanna owns and operates the Wetzel County Landfill. State and Federal law require that landfills fund closing and post-



closing funds to be used to properly close and monitor landfills after closure to assure the environment is not harmed. Lackawanna's closing and post-closing fund is considerably under-funded.

The Wetzel County SWA is requesting that the Commission investigate the prior financial transactions between Lackawanna and its affiliate, Solid Waste Services. The Wetzel County SWA contends that the Commission should require Solid Waste Services to fund the closure because the Wetzel County SWA alleges that in the past Solid Waste Services has not been paying the tariff rate for dumping Pennsylvania solid waste in the Wetzel County Landfill. This case has numerous state jurisdictional issues as well as federal and state constitutional issues.

On December 9, 2010, the Commission entered an order requiring the Petitioner to file a memorandum of law by December 15, 2010, which should establish the legal authority for the Commission to require an out-of-state entity that is not a West Virginia common carrier to disgorge funds if improperly obtained through its business transactions with an affiliated West Virginia landfill owner and operator. The responses of the Staff and other parties have been filed and are being considered by the Commission.

### **Tow Operations**

In 2009 the Commission issued an Order in connection with its general investigation into various aspects of wrecker regulation in Case No. 06-1915-MC-GI. The Commission Staff and the West Virginia Towing Association entered into a stipulation agreement that was eventually adopted by the Commission. Among the issues in that case were the implementation of a new statewide maximum wrecker rate tariff, Commission Rules concerning invoice requirements, and clarification of the Commission's authority regarding the definition of "third party" or "non-consent" tows.

Commission has continued to process TOW cases, which are expedited rate increase reviews based on market comparisons, as well as, "third party" or "non-consent" tow formal complaint cases filed by customers. From January 1, 2010 through December 10, 2010, fifty-one (51) TOW cases were filed with the Commission.

### **State and Federal Courts**

#### **State Circuit Court**

1. *State of West Virginia, ex rel. The Public Service Commission of West Virginia, v. Cliffside Owner's Operating Association, Inc.*, a public sewer utility doing business in Kanawha County, West Virginia. Kanawha County Circuit Court Case No. 07-MISC-192.

Previously, the Circuit Court of Kanawha County placed the Cliffside Owner's Operating Association in the receivership of the City of South Charleston Sanitary Board through an order entered April 18, 2007. South Charleston completed many necessary repairs and upgrades and began billing and collecting sewer fees from the Cliffside customers, providing the system with needed revenues. No formal complaints have been filed against the Cliffside system since South Charleston assumed receivership.

In May 2010, and November 2010, both the Commission and South Charleston appeared before the Court for status conferences and reported that South Charleston continues to operate and maintain the system satisfactorily, and is working toward acquiring the Cliffside system.

### Supreme Court of Appeals of West Virginia

1. *Valley Water & Sewer Services, Inc. v. Public Service Commission and Deerwood Homeowners Association*, Commission Case No. 07-0448-W-42T, Supreme Court Docket No. 071833-Petitioner's petition and No. 33899-Full Argument.

This case was brought on appeal before the Supreme Court from the Commission's Orders approving increased water rates and charges without also approving two rate adjustments in favor of Valley which were outside the test year; and approving a certificate application to replace an existing water tank serving the Deerwood Subdivision in Berkeley County.

While this appeal was pending, the parties entered into a settlement resolving their differences. On February 19, 2010, the Commission entered an Order which adopted the Joint Stipulation and Agreement for Settlement. On March 24, 2010, the Supreme Court dismissed this proceeding from its docket.

2. *Berkeley County PSSD, Berkeley County PSD, Public Service Commission v. Larry V. Faircloth Realty, Inc.*, Case Nos. 35651 and 35652

Capacity impact fees were authorized by the Commission as utility charges. The fees represent the future cost of water and sewer capacity upgrades as a result of unusual population growth in Berkeley County, and are charged to new homes in subdivisions.

A developer filed suit in Circuit Court against the water and sewer utility alleging that the fee was unlawful. The Circuit Court of Berkeley County ruled that the fees were not properly established under the Local Powers Act. Further, the Court determined that the fee was a tax and that the Commission lacked jurisdiction to establish the charge.

The water and sewer utilities field this appeal which the Commission joined as an intervenor. The issues have been briefed and the parties are waiting for a Supreme Court ruling on this matter.

### Federal District Court

1. *Ammermuller, et al. v. Garrett Smith dba P.H. One Trucking, Public Service Commission, Department of Highways, et al., U.S. District Court for the Northern District of West Virginia, Civil Action No. 1:10CV-93; Askar, et al. v. Paul Smith, Public Service Commission, et al., Allen County Indiana Superior Court, Case No. 02D01-1003-CT-130.*

This litigation was filed in multiple jurisdictions in 2010 as a result of a 2008 commercial tractor-trailer accident involving passenger automobiles. The accident occurred on I-68 near Cheat Lake in Monongalia County. The suit seeks damages for personal injuries. The Commission's interest are protected by BRIM and the State insurance carrier and represented by private counsel. The Complainants allege that the Commission, which operates a weigh station at the top of the mountain, should have discovered that the tractor-trailer had faulty brakes and that the truck should have been prevented from continuing down the mountain.

## **Budget and Human Resources**

### Financial, Information Technology and Administrative

The Commission has been actively pursuing and implementing savings initiatives over the past five years. Since 2006 the Commission has documented over 40 individual savings initiatives and projects which have annual savings approaching \$1,000,000. The savings for most of these initiatives occur year after year so cumulative savings far exceed the annual total.

In 2010, the Commission implemented \$42,000 of annual savings plus saved another \$95,000 through reduced fees from Fleet Management. The Commission's BRIM insurance premium dropped from \$118,000 to \$92,000 a year primarily as a result of the Commission's excellent safety program and safety record saving \$26,000 a year. In addition to this, several smaller savings initiatives reduced costs including elimination of the clipping service, discontinuing certain legal subscriptions for the library, savings due to energy efficiency activities including the installation of a new chiller, and eliminating various telephone lines.

As a result of this aggressive savings program, the Commission has been able to keep its overall spending flat to decreasing for its appropriated special revenue funds over the past four years. The savings have also allowed the Commission to fund various facility projects

and case-related engineering consultant contracts without asking for supplemental budget appropriation approval. In 2010 the Commission replaced the chiller for the heating and cooling system with an \$110,000 energy efficient unit. Other smaller facility projects included a \$16,000 replacement of 26-year old cooling coils and a planned replacement of over 30 windows in the Main building at the cost of approximately \$8,000. The Commission was also able to fund a \$424,000 multi-year engineering consultant contract for the PATH proceedings with no increase in budget.

Employees of the Administration Division of the Commission spent a significant amount of time in 2010 participating on the state-wide ERP (enterprise resource planning) project. This project will replace many of the State's antiquated administrative systems with a single integrated system. Administrative Division employees from the human resources and budgets & finance sections participated on 18 focus groups to help develop system requirements for various human resources, financial, budgeting and purchasing functional areas for the state's new ERP system.

The Commission's information technology section continued to help eliminate paper by converting paper documents to electronic documents by scanning. Converting documents from paper to electronic form makes the information more assessable, reduces storage costs, and in many cases, the information can be made available on the Commission intranet or internet web sites. Two scanning projects were completed in 2010, systems for Cable Annual Report Imaging and Utility Bond Imaging.

Another project implemented in 2010 was a FOIA database that allows for better tracking and access to these requests. In addition, the section continued to make improvements to existing systems. Improvements to the Docket System included an electronic mail agreement modification which allows the Commission to notify outside parties of orders by electronic email instead of using certified mail. Other Docket system improvements included system security changes to control and track documents accessed by case service list members, the ability for outside parties to access a text only interface for documents, and the ability for users to download documents before opening. These last two modifications were added to assist users on slower speed connections. Finally, search capabilities for internal users were added for the Utilities Division's informal complaint system.

**Case Processing**

**Case Load**

<b>Utility Cases</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Pending at beginning	439	540	490	440	434
Opened during year	1954	2176	1930	1901	1806
Closed during year	1853	2226	1980	1907	1811
Pending	540	490	440	434	429

<b>Motor Carrier Cases</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Pending at beginning	105	115	154	129	155
Opened during year	213	367	319	337	225
Closed during year	203	328	344	311	261
Pending	115	154	129	155	119

<b>Coal Cases</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Pending at beginning	293	54	69	142	154
Opened during year	502	359	686	547	304
Closed during year	741	344	613	535	382
Pending	54	69	142	154	76

## Hearings

Commission at PSC Building .....	21
Commission out of town .....	6
Administrative Law Judge at PSC Building .....	46
Administrative Law Judge out of town .....	67
Coal Hearings - Hearing Examiner, Administrative Law Judge Division, at PSC.....	1

## Mediation Meetings

Mediation - Administrative Law Judge Division at PSC Building.....	2
Mediation - Administrative Law Judge Division out of town .....	4

## Informal Meetings

March 8, 2010                      Hope Gas, Inc., dba Dominion Hope

## General Orders

### **G.O. 182.11**

September 9, 2010      Clarification of Form 14 requirement to provide notice of rate increase by mail.

### **G.O. 184.26**

February 4, 2010      In the matter of interest to be paid on customer deposits by electric utilities.

### **G.O. 185.31**

February 4, 2010      In the matter of interest to be paid on customer deposits by gas utilities.

### **G.O. 186.24**

February 4, 2010      In the matter of interest to be paid on customer deposits by sewer utilities.

### **G.O. 187.38**

February 4, 2010      In the matter of interest to be paid on customer deposits by telephone utilities.

### **G.O. 188.30**

February 4, 2010      In the matter of interest to be paid on customer deposits by water utilities.

### **G.O. 195.59**

March 3, 2009              Internal Reorganization of the Public Service Commission.

**G.O. 258**

June 30, 2010

In the matter of a General Investigation to adopt rules for net metering arrangements and interconnection pursuant to West Virginia House Bill 103, and House Bill 408, effective July 1, 2009; Alternative and Renewable Energy Portfolio Act, codified as West Virginia Code §24-2F-1 et seq.

**G.O. 258.1** (pending)

September 29, 2010

In the matter of a General Investigation to invite comments on a proposed rulemaking to correct the Commission Rules Governing Electric Utility Net Metering Arrangements and Interconnections, 150 C.S.R., Series 33.

**G.O. 259** (pending)

September 30, 2010

In the matter of Adoption of Electric Reliability Rules.

**MC G.O. 56.4**

December 28, 2010

In the matter of Emergency Fuel Surcharge for certificated common carriers of passengers and property of Motor Vehicle.

**Summary of the  
Utility Discount Program**

\*\*\*\*

**DECEMBER 2010**



Through a program created by the West Virginia Legislature in 1983, certain qualifying residential customers are eligible for a special reduced rate schedule in their gas and electric utility rates. The special reduced rate is 20 percent less than the rate applicable to other residential customers obtaining similar service.

Eligible residents must be receiving either:

- (a) Social Security Supplemental Security Income (SSI);
- (b) Aid to Families with Dependant Children (AFDC)\*;
- (c) Aid to Families with Dependant Children-Unemployed (AFDC)\*; or,
- (d) Food Stamps, if the recipient is age 60 or older.

Following is a report on the 20 percent discount program for the billing months of December 2010 through April 2010. This report contains a summary by type of utility, including the percentage changes from last year, and individual utility information on subsequent pages.

For the individual utility information, line 13 represents an adjustment to the revenue decrease reported by the utilities (line 12) for business and occupation (B&O) taxes, if appropriate. Since the State Tax Commissioner has determined that the utilities' tax credits would not be subject to taxation, it was necessary to make adjustments for taxes embedded in rates, but which would not be levied. Electric companies are no longer subject to a B&O tax levied on a revenue basis. Thus, only data for natural gas companies shows a tax adjustment for B&O taxes.

The dollar amount shown on Line 14 is less than the actual discounts given to customers, because of the B&O tax adjustment made for all natural gas utilities. Line 10 of the report shows the total bills that qualified customers would have been required to pay in the absence of the discount program. Line 11 represents the discounted bills and Line 12 is the actual discount given to customers.

During the 2009-2010 program year, 34,115 electric customers received \$3.82 million in discounts, an average of \$111.90 per customer. The number of electric customers receiving the discount is more than last year. In addition, the average discount per customer is more than the reported for the 2008-2009 program year when 33,881 electric customers received \$100.21 per customer. More than twelve thousand (12,794) natural gas customers received \$1.32 million in discounts, an average of \$103.01 per customer. The total number of natural gas customers is more than the 2008-2009 program year when 11,987 customers received an average of \$164.62 in discounts per customer.

\*AFDC and AFDCU now fall under the state "West Virginia Public Works" program

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**SUMMARY DATA  
ELECTRIC UTILITIES**

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	<u>2009-2010</u>	<u>2008-2009</u>	<u>Percentage Change from Previous Year</u>
<b>1. Total Applications Received</b>	38,043	38,027	0.04%
<b>2. Total Applications Rejected</b>	3,928	4,146	-5.26%
<b>3. Percent Rejected</b>	10.33%	10.90%	
<b>4. No. Of Customers Given Discount</b>	34,115	33,881	0.69%
<b>5. No. Of Residential Customers</b>	854,204	840,424	1.64%
<b>6. Percent Given Discount</b>	3.99%	4.03%	
<b>7. Ssi Customers</b>	23,595	23,767	-0.72%
<b>8. Wv Works Customers</b>	3,285	3,697	-11.14%
<b>9. Food Stamps +60 Customers</b>	7,235	6,417	12.75%
<b>10. Total Bills At Non-Discounted Rates</b>	\$19,088,513.00	\$16,977,086.00	12.44%
<b>11. Total Bills At Discounted Rates</b>	\$15,270,811.00	\$13,581,669.00	12.44%
<b>12. Revenue Decrease</b>	\$3,817,703.00	\$3,395,417.00	12.44%
<b>14. Revenue Deficiency Certified</b>	\$3,817,703.00	\$3,395,417.00	12.44%

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

	<b>SUMMARY DATA GAS UTILITIES</b>		
	<b>2009-2010</b>	<b>2008-2009</b>	<b>Percentage Change from Previous Year</b>
<b>1. Total Applications Received</b>	12,803	12,898	-0.74%
<b>2. Total Applications Rejected</b>	59	911	-93.52%
<b>3. Percent Rejected</b>	0.46%	7.06%	
<b>4. No. Of Customers Given Discount</b>	12,794	11,987	6.73%
<b>5. No. Of Residential Customers</b>	343,748	331,813	3.60%
<b>6. Percent Given Discount</b>	3.72%	3.61%	
<b>7. Ssi Customers</b>	8,733	8,108	7.71%
<b>8. Wv Works Customers</b>	1,176	1,445	-18.62%
<b>9. Food Stamps +60 Customers</b>	2,885	2,434	18.53%
<b>10. Total Bills At Non-Discounted Rates</b>	\$6,885,074.00	\$10,166,592.00	-32.28%
<b>11. Total Bills At Discounted Rates</b>	\$5,508,060.00	\$8,133,273.00	-32.28%
<b>12. Revenue Decrease</b>	\$1,377,015.00	\$2,033,318.00	-32.28%
<b>14. Revenue Deficiency Certified</b>	\$1,317,948.00	\$1,973,380.00	-33.21%

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**SUMMARY DATA  
ALL UTILITIES**

	<b>2009-2010</b>	<b>2008-2009</b>	<b>Percentage Change from Previous Year</b>
<b>1. Total Applications Received</b>	50,846 **	50,925	-0.16%
<b>2. Total Applications Rejected</b>	3,987 **	5,057	-21.16%
<b>3. Percent Rejected</b>	7.84%	9.93%	
<b>4. No. Of Customers Given Discount</b>	46,909 **	45,868	2.27%
<b>5. No. Of Residential Customers</b>	1,197,952 **	1,172,237	2.19%
<b>6. Percent Given Discount</b>	3.92%	3.91%	
<b>7. Ssi Customers</b>	32,328 **	31,875	1.42%
<b>8. Wv Works Customers</b>	4,461 **	5,142	-13.24%
<b>9. Food Stamps +60 Customers</b>	10,120 **	8,851	14.34%
<b>10. Total Bills At Non-Discounted Rates</b>	25,973,587	\$27,143,678.00	-4.31%
<b>11. Total Bills At Discounted Rates</b>	20,778,871	\$21,714,942.00	-4.31%
<b>12. Revenue Decrease</b>	5,194,718	\$5,428,735.00	-4.31%
<b>14. Revenue Deficiency Certified</b>	5,135,651	\$5,368,797.00	-4.34%

\*\* This number represents customers and not individual households. A household may be an electric and natural gas customer.

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**ELECTRIC UTILITIES**

	<b><u>Appalachian Power Company</u></b>	<b><u>Black Diamond Power Company</u></b>	<b><u>Elk Power Company</u></b>
<b>1. Total Applications Received</b>	19,511	83	119
<b>2. Total Applications Rejected</b>	2,410	1	6
<b>3. Per Cent Rejected</b>	12.35%	1.20%	5.04%
<b>4. No. Of Customers Given Discount</b>	17,101	82	113
<b>5. No. Of Residential Customers</b>	371,936	1,418	1,147
<b>6. Per Cent Given Discount</b>	4.60%	5.78%	9.85%
<b>7. Ssi Customers</b>	12,264	60	91
<b>8. Wv Works Customers</b>	1,683	10	8
<b>9. Food Stamps +60 Customers</b>	3,154	12	14
<b>10. Total Bills At Non-Discounted Rates</b>	\$11,044,769.40	\$48,616.00	\$48,552.75
<b>11. Total Bills At Discounted Rates</b>	\$8,835,815.52	\$38,892.80	\$38,842.20
<b>12. Revenue Decrease</b>	\$2,208,953.88	\$9,723.20	\$9,710.55
<b>13. Adjustment For B&amp;O Tax Reduction</b>			
<b>14. Revenue Deficiency Certified</b>	\$2,208,953.88	\$9,723.20	\$9,710.55

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**ELECTRIC UTILITIES**

	<b><u>Monongahela Power Company</u></b>	<b><u>Potomac Edison of WV</u></b>
<b>1. Total Applications Received</b>	14,023	3,166
<b>2. Total Applications Rejected</b>	1,114	319
<b>3. Per Cent Rejected</b>	7.94%	10.08%
<b>4. No. Of Customers Given Discount</b>	12,909	2,847
<b>5. No. Of Residential Customers</b>	329,870	113,442
<b>6. Per Cent Given Discount</b>	3.91%	2.51%
<b>7. Ssi Customers</b>	9,006	1,513
<b>8. Wv Works Customers</b>	979	443
<b>9. Food Stamps +60 Customers</b>	2,924	891
<b>10. Total Bills At Non-Discounted Rates</b>	\$5,744,558.05	\$1,716,457.70
<b>11. Total Bills At Discounted Rates</b>	\$4,595,646.44	\$1,373,166.16
<b>12. Revenue Decrease</b>	\$1,148,911.61	\$343,291.54
<b>13. Adjustment For B&amp;O Tax Reduction</b>		
<b>14. Revenue Deficiency Certified</b>	\$1,148,911.61	\$343,291.54

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**ELECTRIC UTILITIES**

	<u>Union Power Company</u>	<u>Wheeling Power Company</u>
<b>1. Total Applications Received</b>	62	1,079
<b>2. Total Applications Rejected</b>	2	76
<b>3. Per Cent Rejected</b>	3.23%	7.04%
<b>4. No. Of Customers Given Discount</b>	60	1,003
<b>5. No. Of Residential Customers</b>	1036	35,355
<b>6. Per Cent Given Discount</b>	5.79%	2.84%
<b>7. Ssi Customers</b>	42	619
<b>8. Wv Works Customers</b>	5	157
<b>9. Food Stamps +60 Customers</b>	13	227
<b>10. Total Bills At Non-Discounted Rates</b>	\$31,727.80	\$453,831.50
<b>11. Total Bills At Discounted Rates</b>	\$25,382.24	\$363,065.20
<b>12. Revenue Decrease</b>	\$6,345.56	\$90,766.30
<b>13. Adjustment For B&amp;O Tax Reduction</b>		
<b>14. Revenue Deficiency Certified</b>	\$6,345.56	\$90,766.30

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**NATURAL GAS UTILITIES**

	<u>Ashford *</u> <u>Gas Company</u>	<u>Blacksville</u> <u>Oil &amp; Gas Co.</u>	<u>Bluefield</u> <u>Gas Company</u>
<b>1. Total Applications Received</b>	0	6	93
<b>2. Total Applications Rejected</b>	0	0	4
<b>3. Per Cent Rejected</b>	0.00%	0.00%	4.30%
<b>4. No. Of Customers Given Discount</b>	0	6	89
<b>5. No. Of Residential Customers</b>	306	255	2,987
<b>6. Per Cent Given Discount</b>	0.00%	2.35%	2.98%
<b>7. Ssi Customers</b>	0	2	78
<b>8. Wv Works Customers</b>	0	1	11
<b>9. Food Stamps +60 Customers</b>	0	3	0
<b>10. Total Bills At Non-Discounted Rates</b>	\$0.00	\$4,148.40	\$69,942.45
<b>11. Total Bills At Discounted Rates</b>	\$0.00	\$3,318.72	\$55,953.96
<b>12. Revenue Decrease</b>	\$0.00	\$829.68	\$13,988.49
<b>13. Adjustment For B&amp;O Tax Reduction</b>	\$0.00	\$35.59	\$600.11
<b>14. Revenue Deficiency Certified</b>	\$0.00	\$794.09	\$13,388.38

\* Did not file for revenue deficiency certification.



**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
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**NATURAL GAS UTILITIES**

	<u>Consumers Gas Utility Co.</u>	<u>Equitable Gas Company</u>	<u>*Hope Gas, Inc.</u>
<b>1. Total Applications Received</b>	484	399	4,785
<b>2. Total Applications Rejected</b>	8	3	25
<b>3. Per Cent Rejected</b>	1.65%	0.75%	0.52%
<b>4. No. Of Customers Given Discount</b>	476	396	4,810
<b>5. No. Of Residential Customers</b>	7,647	12,160	105,437
<b>6. Per Cent Given Discount</b>	6.22%	3.26%	4.56%
<b>7. Ssi Customers</b>	351	261	3,428
<b>8. Wv Works Customers</b>	38	25	378
<b>9. Food Stamps +60 Customers</b>	87	110	1,004
<b>10. Total Bills At Non-Discounted Rates</b>	\$250,666.15	\$235,842.15	\$1,869,060.00
<b>11. Total Bills At Discounted Rates</b>	\$200,532.92	\$188,673.72	\$1,495,248.00
<b>12. Revenue Decrease</b>	\$50,133.23	\$47,168.43	\$373,812.00
<b>13. Adjustment For B&amp;O Tax Reduction</b>	\$2,150.72	\$2,023.53	\$16,033.52
<b>14. Revenue Deficiency Certified</b>	\$47,982.51	\$45,144.90	\$357,778.48

\* Did not file for revenue deficiency certification.

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**NATURAL GAS UTILITIES**

	<u>Lumberport - Shinstgon Gas</u>	<u>Megan Oil &amp; Gas</u>	<u>Mountaineer Gas Company</u>
<b>1. Total Applications Received</b>	114	28	6,296
<b>2. Total Applications Rejected</b>	4	0	0
<b>3. Per Cent Rejected</b>	3.51%	0.00%	0.00%
<b>4. No. Of Customers Given Discount</b>	110	28	6,296
<b>5. No. Of Residential Customers</b>	2,906	276	196,032
<b>6. Per Cent Given Discount</b>	3.79%	10.14%	3.21%
<b>7. Ssi Customers</b>	78	23	4,093
<b>8. Wv Works Customers</b>	9	0	635
<b>9. Food Stamps +60 Customers</b>	23	5	1,568
<b>10. Total Bills At Non-Discounted Rates</b>	\$69,459.50	\$8,350.10	\$4,074,527.45
<b>11. Total Bills At Discounted Rates</b>	\$55,567.60	\$6,680.08	\$3,259,621.96
<b>12. Revenue Decrease</b>	\$13,891.90	\$1,670.02	\$814,905.49
<b>13. Adjustment For B&amp;O Tax Reduction</b>	\$595.96	\$71.64	\$34,959.45
<b>14. Revenue Deficiency Certified</b>	\$13,295.94	\$1,598.38	\$779,946.04

\* Did not file for revenue deficiency certification.

**REPORT ON 20% DISCOUNT PROGRAM  
FOR BILLING MONTHS OF -  
DECEMBER 2009 THROUGH APRIL 2010**

**NATURAL GAS UTILITIES**

	<u>Southern Public Service Company</u>	<u>Standard Gas Company</u>	<u>Union Oil &amp; Gas Company</u>
<b>1. Total Applications Received</b>	261	14	72
<b>2. Total Applications Rejected</b>	0	0	1
<b>3. Per Cent Rejected</b>	0.00%	0.00%	1.39%
<b>4. No. Of Customers Given Discount</b>	261	14	71
<b>5. No. Of Residential Customers</b>	5,758	339	5,153
<b>6. Per Cent Given Discount</b>	4.53%	4.13%	1.38%
<b>7. Ssi Customers</b>	184	10	53
<b>8. Wv Works Customers</b>	20	1	6
<b>9. Food Stamps +60 Customers</b>	57	3	12
<b>10. Total Bills At Non-Discounted Rates</b>	\$142,270.00	\$7,919.25	\$31,663.25
<b>11. Total Bills At Discounted Rates</b>	\$113,816.00	\$6,335.40	\$25,330.60
<b>12. Revenue Decrease</b>	\$28,454.00	\$1,583.85	\$6,332.65
<b>13. Adjustment For B&amp;O Tax Reduction</b>	\$1,220.58	\$64.12	\$271.67
<b>14. Revenue Deficiency Certified</b>	\$27,233.42	\$1,519.73	\$6,060.98

\* Did not file for revenue deficiency certification.

**REPORT ON 20% DISCOUNT PROGRAM  
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DECEMBER 2009 THROUGH APRIL 2010**

**NATURAL GAS UTILITIES**

	<b>*East Resources Inc.</b>
1. Total Applications Received	251
2. Total Applications Rejected	14
3. Per Cent Rejected	5.58%
4. No. Of Customers Given Discount	237
5. No. Of Residential Customers	4492
6. Per Cent Given Discount	5.28%
7. Ssi Customers	172
8. Wv Works Customers	52
9. Food Stamps +60 Customers	13
10. Total Bills At Non-Discounted Rates	\$121,225.75
11. Total Bills At Discounted Rates	\$96,980.60
12. Revenue Decrease	24,245.15
13. Adjustment For B&O Tax Reduction	\$1,040.12
14. Revenue Deficiency Certified	23,205.03

\* Did not file for revenue deficiency certification.

**Summary of the Tel-Assistance Service  
Telephone Rate Discount Program**

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**DECEMBER, 2010**

Tel-Assistance Service, created by the West Virginia Legislature in 1986, provides reduced rates for qualified low-income residential customers of telephone utilities. Tel-Assistance customers receive a waiver of the monthly Federal subscriber line charge. The option of Tel-Assistance Service remains part of the filed residential tariffs of all of the local exchange telephone utilities and is therefore available to all eligible customers.

Tel-Assistance service is made available to consumers who are recipients of Medicaid, food stamps, supplemental security income, federal public housing assistance, low-income home energy assistance program benefits, Temporary Assistance to Needy Family benefits or other income-related state or federal programs.

The telephone utilities may recover their certified revenue deficiency as a credit against the West Virginia Telecommunications Tax. Verizon West Virginia and Citizens Telecommunications Company of West Virginia doing business as Frontier Communications of West Virginia are the only companies which filed a Tel-Assistance report for certification of revenue deficiency in 2008 (see Cases No.10-0262-T-P and 10-0477-T-P). Telecommunications carriers other than Verizon and Frontier chose not to request certification of revenue deficiency in 2009.

The agreements or tariffs filed with the Commission for approval in accordance with the Tel-Assistance Program may specify the methodology by which the eligible telecommunications carrier calculates its annual revenue deficiency. Subject to prior approval by the Commission, eligible telecommunications carriers may agree to freeze or cap the amount of the revenue deficiency at specific levels.

On August 20, 2003 the Commission concluded in case 03-1363-T-T that for provision of the Tel-Assistance Program Verizon could freeze the revenue deficiency at the level approved for the 2002 tax year. Accordingly, in Case No. 10-0262-T-P the Commission certified \$66,384.89 as the revenue deficiency for Verizon associated with the Tel-Assistance Program for the 2009 program year.

Likewise, on March 28, 2006 in Case No. 06-0256-T-T the Commission concluded that Frontier could freeze the revenue deficiency at the level approved for 2004. Accordingly, in Case No. 10-0477-T-P the Commission certified \$19,603.80 as the revenue deficiency for Frontier associated with the Tel-Assistance Program for the 2009 program year.

On June 15, 2005, in Case No. 05-0888-T-T the Commission ordered all Eligible Telecommunications Carriers (ETCs), to file a report, on or before March 1 of each calendar year, detailing their provision of Tel-assistance service during the previous calendar year. Each report must list the number of Tel-Assistance customers at the beginning and end of the year, as well as the total amount of federal and state discounts provided to Tel-Assistance recipients. During calendar year 2009, an average of 4,669 customers received assistance.