

Wyoming Office of Consumer Advocate
Fiscal Year 2008 Annual Report
August 29, 2008

General Information:

Agency Name: Wyoming Office of Consumer Advocate

Director's Name and Official Title: Bryce Freeman, Administrator

Agency Contact Person: Bryce Freeman

Agency Contact Telephone No.: (307) 777-5742

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Cheyenne, WY 82002

Web Address (URL): <http://psc.state.wy.us/oca.htm>

Statutory Authority: Wyoming Statutes, Title 37, Chapter 2, Subchapters 401 through 404.

Clients Served: The OCA represents the interests of Wyoming citizens and all classes of utility customers in proceedings before the WPSC.

Budget Information: Expenditures for FY08 - \$758,764

Name of Department: Wyoming Office of Consumer Advocate

Report Period: FY2008 (July 1, 2007 through June 30, 2008)

Wyoming Quality of Life Result:

- Wyoming has a diverse economy that provides a livable income and ensures wage equality.
- Wyoming natural resources are managed to maximize the economic, environmental and social prosperity of current and future generations.
- Advanced technologies and a quality workforce allow Wyoming business and communities to adapt and thrive
- Wyoming state government is a responsible steward of State assets and effectively responds to the needs of residents and guests

OCA Contribution to Wyoming Quality of Life:

- Provide evidence and analysis to the Wyoming Public Service Commission (WPSC) regarding the prudent level of revenues and expenses necessary in order for all Wyoming ratepayers to have access to safe, reliable and adequate utility services at just and reasonable prices.
- Provide evidence and support policies before the WPSC and the state legislature that ensure that utilities are stable and able to provide adequate, safe, reliable utility service to residential, commercial and industrial consumers; thereby promoting economic stability and consumer welfare.
- Participate in the review of utility resource planning to ensure that future utility infrastructure investments, including investments in energy conservation and demand management, are the least cost, least risk alternatives reasonably available to serve existing and new demands, consistent with the provision of safe, adequate and reliable utility service.
- Engage in regional dialog related to the development of multi-state utility infrastructure projects to ensure that the proportion of the cost of such facilities born by Wyoming ratepayers is equitable and consistent with the provision of safe, adequate, reliable and affordable service to all Wyoming utility consumers.
- Support the adoption of cost effective advanced utility and customer technologies that enhance service quality and reduce the cost of utility service.
- Maximize the value of staff and budget resources through structured training and development and through the use of outside consultants when appropriate.

Basic Facts:

Division: The Wyoming Office of Consumer Advocate (OCA) is an independent division within the Wyoming Public Service Commission (WPSC) created to represent the interests of consumers in utility matters. The Administrator of the OCA reports directly to the Governor of Wyoming.

Staffing: The OCA is statutorily authorized 6 full-time positions consisting of: Administrator, Deputy Administrator, two attorneys, one rate analyst/accountant and one rate analyst/economist. As of the end of the reporting year, the OCA had one vacant position. The OCA represents the interests of Wyoming citizens and all classes of utility customers in matters involving public utilities. (W.S. 37-2-401)

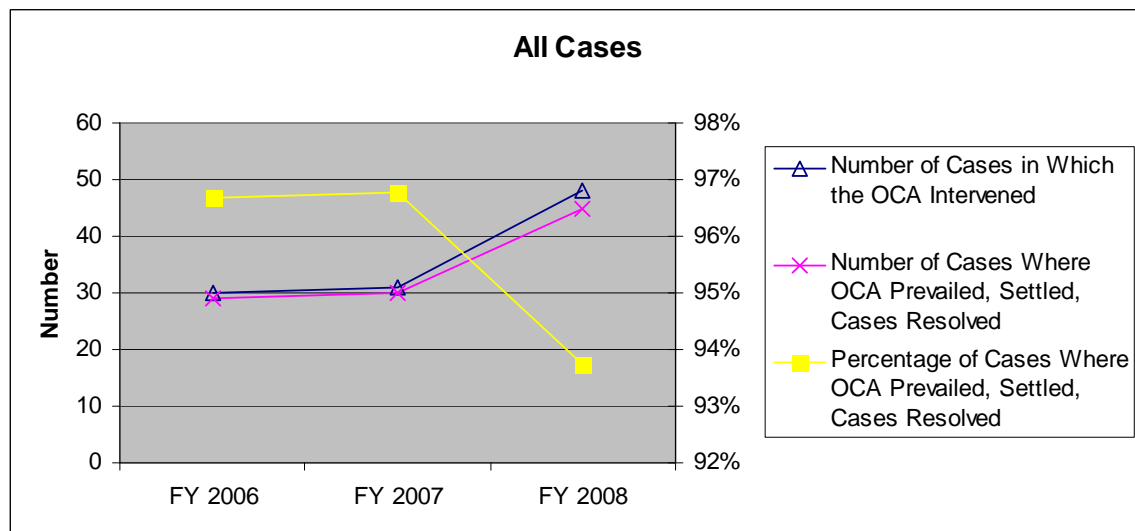
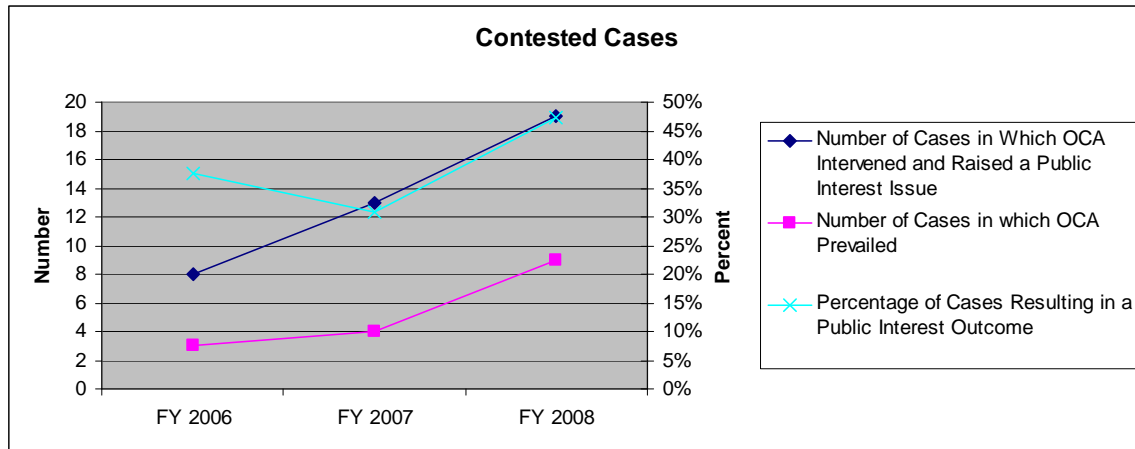
Funding: Amount Appropriated for FY08 - \$831,841

Primary Functions: The five primary functions of the OCA include:

Representation	The OCA represents the interests of Wyoming citizens and all classes of utility customers in proceedings before the WPSC;
Advocacy	The OCA advocates public interest positions in contested utility proceedings before the WPSC;
Balance of Interests	When appropriate, enters into agreements with utilities and other parties to balance the interests of consumers with those of the public utilities as a means of minimizing the weaknesses of the adversarial process, improving the quality of resulting decisions in a highly technical environment and minimizing the cost of regulation;
Policy	Participates in state, regional and national policy discussions to ensure that the interests of Wyoming utility consumers are represented in the development of laws and policies that will potentially impact the provision of utility services in Wyoming; and
Education & Outreach	Seeks out opportunities to facilitate better understanding of the nature of utility services, regulation, evolving regulatory law and policy and potential impacts on utility consumers.

Performance

Performance Measurement # 1 – Percentage of cases in which the OCA intervened and raised a public interest issue before the WPSC and prevailed in the final determination.



Story behind the performance:

The OCA reviews all utility applications that are filed with the Commission to determine whether or not a public interest issue is raised that merits involvement of the OCA. In the context of contested utility filings, the function of the OCA is to develop independent public interest positions regarding utility requests for changes in the rates, terms and conditions of utility services. The OCA presents these public interest positions to the WPSC for its consideration in making determinations in

contested cases. The OCA intervenes in many cases filed before the Commission and is often the only intervening party. Without the involvement of the OCA in these proceedings the WPSC would have no independent public interest analysis representing the broadest possible public interest upon which to base its determination.

Cases in which the OCA intervenes most often involve weighty public interest issues that bear directly on the rates paid by Wyoming utility consumers, and/or on the quality and reliability of service and can set significant precedence regarding the resolution of future utility applications before the WPSC. Over the last three years, the OCA has filed a formal intervention in 109 utility filings before the PSC. Of the 109 formal interventions, 40 developed into contested proceedings before the PSC, and the OCA either prevailed in its public interest position after hearing or reached an agreement with the utility in 35 of those cases, or 87.5%. Commission adoption of OCA recommendations in these cases lead to more reasonable rates and/or enhanced service quality and reliability. The OCA intervened in seven contested cases during FY 08 which were still awaiting a decision of the WPSC at the end of the fiscal year.

The graph above titled “Contested Cases” shows the number of contested cases the OCA intervened in as well as the number of contested cases in which the OCA prevailed (left axis), and the percentage of cases in which the OCA prevailed (right axis). It should be noted that of the 48 cases in which the OCA filed a formal intervention only 19 resulted in a contested hearing or settlement that was presented to the PSC. Of further note, pursuant to recommendations made by the Department of Audit after conducting an audit of the OCA’s FY 06 Annual Report, the OCA has made significant changes to how cases are categorized for annual reporting purposes. Accordingly, the figures that appear in this year’s annual report may not match precisely with the figures reported in previous annual reports.

Frequently, the OCA intervenes in utility filings and, thereafter, the issues are resolved either by the utility withdrawing its application, implementing the recommendations of the OCA, or otherwise resolving the disputed issues informally without the need for a public hearing. The graph above titled “All Cases” shows that of the 48 formal interventions filed in FY 08 the OCA either prevailed after hearing, settled or otherwise resolved 45 of those cases, or 93.75%. The remaining three cases, or 6.25%, were decided in favor of the utility. The graphs above show the OCA’s continuing commitment to identifying potential public interest issues and achieving public interest outcomes as evidenced by the increasing number of formal interventions and the high percentage of cases that are resolved satisfactorily, either through contested hearing or by stipulation with the utility. However, it should also be noted that the OCA has no ability to initiate utility proceedings on its own. For that reason the OCA’s involvement in utility proceedings is limited by the number of applications filed by the regulated utilities themselves in combination with any proceedings that are initiated by the PSC (i.e. rule making proceedings or Commission initiated investigations).

In pursuing contested issues, the OCA takes a long term view regarding what is in the best interest of Wyoming utility consumers. The OCA recognizes the importance of maintaining financially viable utilities that are able to continue to invest appropriately in utility infrastructure for the benefit of all Wyoming citizens and rate payers and makes public interest recommendations to the Commission consistent with that view. At the same time the OCA takes great care to ensure that utility investment decisions are necessary, prudent and are the least cost, least risk means available for serving the utility needs of Wyoming utility rate payers.

What has been accomplished?

The OCA continues to review all utility submissions to the WPSC to determine if a public interest issue exists that merits the involvement of the OCA. As shown in the figure, above the OCA has intervened in more cases in each of the last two fiscal years. Proceedings in which the OCA participates also include investigations initiated by the WPSC as well as rule making proceedings undertaken by the WPSC. During FY 08, the OCA intervened in general rate case proceedings, utility pass-on proceedings, universal service fund proceedings, eligible telecommunications carrier (FUSF) proceedings, and others. The OCA successfully defended its public interest positions in contested hearings before the WPSC in 93.75% of the cases in which those positions were contested as shown in the figure above.

The OCA continues to be an active participant in state, regional and national regulatory policy discussions. During FY 08, the OCA filed comments in proceedings before both the Federal Energy Regulatory Commission and the Federal Communications Commission, and testified on numerous occasions before various state legislative committees. Additionally, the OCA continues to advocate the interest of Wyoming utility consumers in regional regulatory discussions regarding planning for future utility resource acquisitions and the proper allocation of shared costs among customers in different states.

The OCA continues to be actively involved in various regional and national regulatory forums, which provide an opportunity for training and discussion of new and evolving regulatory issues, such as climate change, and their potential impact on Wyoming utility consumers. In FY 08, OCA staff members attended meetings sponsored by the National Association of State Utility Consumer Advocates (NASUCA), the National Association of Regulatory Utility Commissioners (NARUC), the Committee on Regional Electric Power Cooperation (CREPC), and others.

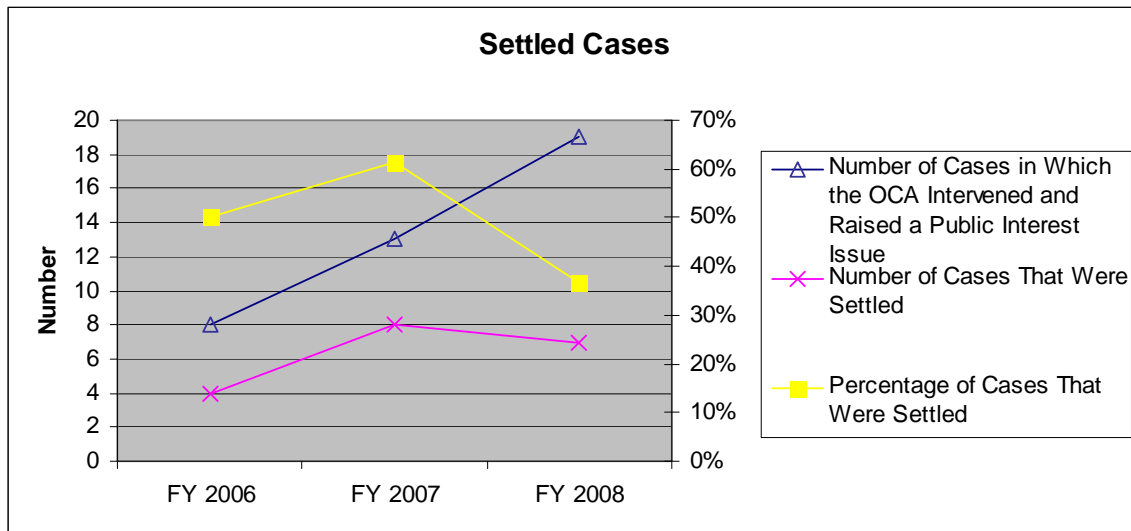
The OCA strives to continually improve the quality of its analysis and recommendations through formal staff training as well as inter-disciplinary cross-training of staff members. The newest member of the OCA staff (a regulatory attorney) has been on board with the OCA for approximately eighteen months. During that time, the OCA has provided both in-house and professional training opportunities to both new and existing OCA staff members. The OCA currently has one vacant staff analyst position that will be filled some time in the fall of 2008.

Once that position is filled, the OCA will immediately begin the process of training that individual.

The OCA endeavors to recruit and retain the best and brightest utility analysts available through equitable salary adjustments and by maintaining a progressive and productive work environment. In FY 08, the OCA completed a desk audit of compensation levels and made appropriate salary adjustments to the compensation of two staff members to bring their salaries up to the market average. Also, during the FY 09/10 budget process the OCA sought and received budget authority to upgrade computer hardware and purchase additional software that will ensure the security of confidential information entrusted to the OCA.

Finally, the OCA endeavors to be a good steward of the public funds entrusted to it while balancing the need to thoroughly investigate the claims and requests of utilities operating in Wyoming. In FY 08, the OCA retained an engineering consultant to review the prudence of investments associated with a baseload power plant due to go into customer rates. In the coming fiscal year, the OCA anticipates retaining a consulting firm to assist in the prudence review of Rocky Mountain Power's rate base investments, pursuant to its recently filed rate case, and another consultant to assist the OCA in the Commission's ongoing investigation into the quality of service provided by Qwest to its Wyoming customers. Retaining consultants for project specific work is often more cost effective than hiring a full time employee who might not otherwise be fully utilized beyond the completion of specific projects.

Performance Measurement # 2 - Percentage of all cases filed with the WPSC in which the OCA reached agreement with the filing utility.



Story Behind the Performance

The OCA seeks agreement with utility companies and other parties on contested issues in all proceedings in which it intervenes. Pursuant to Wyoming Statute 37-2-402 (d), the OCA always considers resolution of contested issues by mutual agreement with the utility and other parties in contested proceedings. Many of the contested issues are highly technical accounting, operational and financial issues that present a large degree of complexity when adjudicated before the WPSC in a formal hearing. To the extent that a common understanding and agreement on these issues can be reached by the parties that reflects an equitable balance of the interests of the parties and the utility, the weaknesses of the adversarial process are minimized, the quality of the resulting decisions are improved, and the cost of regulation is minimized. During the three year period shown in the graph above, the OCA has successfully negotiated public interest settlements of disputed issues in 47.5% of the contested cases in which it has intervened as a formal party. Although the graph shows a decrease in the number and percentage of cases settled by the OCA during FY 08, this should not be considered a trend or prediction of future settlement activity. The OCA analyzes each utility filing in which it intervenes based on the unique facts and circumstances associated with the application. If, for example, a utility proposes a new rate making methodology that may establish precedent in future proceedings, that case is less likely to be the subject of a settlement than an application that is based on established rate making methods and principles.

In FY 08, the OCA successfully reached agreement with the utility and other intervening parties in approximately 37% of the cases in which it filed a formal intervention as shown on the graph above. When combined with the percentages shown in the graphs under Performance Measurement #1 above, the data show that the OCA favorably resolved cases in the public interest in 93.75% of the cases in which it intervened; after a hearing in which the OCA prevailed (18.75% of all cases); the parties reached a settlement (14.58% of all cases); the utility prevailed after hearing (6.25% of all cases); the utility implemented the OCA's recommendations without the need for a formal hearing (14.58% of all cases); the OCA withdrew its intervention, filed comments only or otherwise resolved the issues informally (45.83% of all cases).

Typically, the OCA undertakes a thorough review and analysis of a utility application, including any required audits, and develops public interest positions regarding contested issues prior to engaging in settlement discussions with the utility. The OCA is frequently the only party in contested utility cases before the WPSC. After a public interest position has been developed, the OCA entertains discussions with the utility with the goal of finding mutually agreeable resolutions to contested issues. While an agreement among the parties in a contested case is generally preferable to a contested hearing before the Commission, it is not always possible for the parties to reach agreement on contested issues. Nevertheless, the OCA is always open to the mutual resolution of disputed issues that can be demonstrated to serve the public interest.

Such agreements must still be presented to the Commission for its determination in a formal hearing during which all aspects of the agreement must be explained and supported through expert testimony and must be shown by the weight of substantial

evidence to be in the public interest. The Commission can then either approve or reject the agreement based on the supporting evidence.

What has been accomplished?

The OCA always holds out the possibility of reaching an agreement on contested issues in proceedings before the WPSC. While a settlement of all outstanding issues in contested proceedings is not always possible, the OCA is always open to discussing the possibility of settlement with the utility and other parties. Settlement of contested issues is generally preferable to contested hearings before the Commission for all parties, provided any settlement agreement that is reached is supportable and can be demonstrated to meet the public interest standard set out in Wyoming statute. During FY 08, the OCA reached agreements with utilities and other parties in several important cases including one major gas utility rate case, two electric utility rate proceedings and an electric cooperative rate case. Over the last three years, the OCA, on average, has settled approximately half of the cases in which it advances a contested public interest issue as shown in the figure above.

When the OCA is able to reach an agreement with parties that resolves disputed issues, it is the intent of the OCA to make every effort to support the agreement and ensure that it is adopted by the Commission. To that end, the OCA carefully develops and reviews every settlement document prior to its submission to the WPSC to ensure that the resolution of the issues is clearly stated, that the agreement is supportable based on the evidence, and that it is consistent with the public interest and applicable law.

The OCA is also mindful of the due process procedures that the Commission is obligated to satisfy and continually seeks ways to streamline the review and approval process that must be undertaken by the WPSC in its consideration of settlement agreements. During FY 07 the OCA, working with parties in various proceedings, has made several changes to the way that settlement agreements are developed and submitted to the WPSC for its consideration, particularly aimed at giving the Commission adequate time to review the stipulation and hold any required hearings prior to the issuance of an order.

The OCA frequently participates in technical conferences and work groups to develop a common understanding of contested issues and options for resolving those issues. For example, pursuant to an agreement reached with Rocky Mountain Power in its most recent rate case (May 2008), the Company and the parties agreed to a collaborative process to discuss load growth issues in the Company's Wyoming service area. Pursuant to these discussions, the parties issued the first of two reports in July of 2008. In the report the parties discuss the scope of the challenge presented by load growth in Wyoming as well as some potential strategies for mitigating the upward pressure on rates created by the growth of large industrial loads in the state. The parties to the collaborative expect to issue a second report with further analysis and recommendations in early 2009.

Wyoming Office of Consumer Advocate (0201)

