**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al.* **:** R-2016-2542918

**:**

v. **:**

**:**

Peoples Natural Gas Company LLC **:**

**:**

and **:**

**:**

Pennsylvania Public Utility Commission, *et al.* **:** R-2016-2542923

**:**

v. **:**

**:**

Peoples Natural Gas Company LLC – **:**

Equitable Division **:**

# **PREHEARING ORDER**

# **SETTING LITIGATION SCHEDULE AND CONSOLIDING COMPLAINTS**

On April 29, 2016, Peoples Natural Gas Company LLC (Peoples Division) filed Supplement No. 69 to People’s Tariff Gas-Pa. P.U.C. No. 45, and Peoples Natural Gas Company LLC – Equitable Division (Peoples-Equitable or Peoples-Equitable Division) (collectively Company or Companies) filed Supplement No. 38 to Tariff Gas-Pa. P.U.C. No. 46. In these Supplements, the Company, on behalf of both its Peoples Division and its Peoples-Equitable Division, proposed to replace its Service Expansion Program (Rider SET) with rate MLX. The effective date of the filing was June 28, 2016.

On June 9, 2016, the Pennsylvania Public Utility Commission (Commission) entered an order suspending the implementation of Supplement No. 69 by operation of law until December 28, 2016, and opening an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Supplement No. 69 and 38.

The Office of Small Business Advocate (OSBA) filed notices of appearance, formal complaints and public statements on May 16, 2016. The complaint in the Peoples Division proceeding was docketed at No. C-2016-2545824. The complaint in the Peoples- Equitable Division proceeding was docketed at No. C-2016-2545706. The Commission’s Bureau of Investigation and Enforcement (I&E) entered its appearance in this proceeding on May 18, 2016. The Office of Consumer Advocate (OCA) filed notices of appearance, formal complaints and public statements on May 26, 2016. The complaint in the Peoples Division proceeding was docketed at No. C-2016-2547600. The complaint in the Peoples-Equitable Division proceeding was docketed at No. C-2016-2547595.

On June 9, 2016, the Commission issued an order suspending Peoples Division Supplement No. 69 and Peoples-Equitable Division Supplement No. 38 by operation of law until December 28, 2016, unless otherwise directed by order of the Commission. On June 15, 2016, Peoples filed tariff supplements suspending Supplement No. 69 and Supplement No. 38.

By Prehearing Conference Order dated June 24, 2016, Peoples Division, Peoples- Equitable, OSBA and I&E were notified that the proceeding was assigned to the undersigned Administrative Law Judge (ALJ or Presiding Officer) for a telephonic Prehearing Conference on July 1, 2016 at 10:00 a.m. In accordance with the regulations pertaining to prehearing conferences, 52 Pa.Code §§ 5.221-5.224, the Parties were directed to file their prehearing memorandums on or before June 29, 2016. On June 24, 2016, a notice was issued advising the Parties of the date and time of the prehearing conference. The Parties timely filed prehearing memoranda. The Prehearing Conference proceeded as scheduled on July 1, 2016. Counsel for the Company and the statutory Parties participated in the Prehearing Conference, which resulted in the establishment of a litigation schedule.

This Order sets forth the litigation schedule and consolidates the formal complaints in this proceeding.

**Litigation Schedule**

The litigation schedule will be as follows:

**Date** **Event**

July 1, 2016 Prehearing Conference

July 11, 2016 Peoples’ Direct Testimony

August 5, 2016 Other Parties’ Written Direct Testimony

August 23, 2016 Written Rebuttal Testimony of all Parties

August 31, 2016 Written Surrebuttal Testimony of all Parties

September 7, 2016 Evidentiary Hearing in Harrisburg beginning

at 10:00 a.m.

September 19, 2016 Main Briefs due

September 26, 2016 Reply Briefs due or submission of Joint Settlement Petition executed by representatives of all Parties, together with all Parties’ Statements in Support of Settlement

For Parties accepting electronic service, the documents described in the litigation schedule referenced above shall be served electronically on the date indicated, by 4:00 p.m. unless otherwise indicated. Hard copies will follow by first-class mail postage prepaid to all Parties. The Company, I&E, OCA and OSBA have agreed to accept service of documents electronically. For Parties not accepting electronic service and not located in Harrisburg, documents are due in-hand on the following business day.

The Parties are reminded of the Commission’s requirements for the preparation and filing of written testimony. 52 Pa.Code § 5.412. Written testimony must be accompanied by all exhibits to which it relates. The above-stated dates are in-hand dates for service on the Parties and the Presiding ALJ. The Parties and the Presiding ALJ agree to accept email transmission of such material, so long as the subject email is received by 4:00 p.m. on the date due and provided the email is followed by sending a hard copy of the same material by first-class mail postage prepaid on the same business day. The email address of the Presiding ALJ is: [jeffwatson@pa.gov](mailto:jeffwatson@pa.gov). The Presiding ALJ will not accept facsimile transmissions greater than ten (10) pages in length without prior authorization. If the Parties have any questions, they may call the office of the Presiding ALJ at (412) 565-3550.

Any Party, wishing to submit written testimony, pursuant to 52 Pa.Code § 5.412(f), is advised to comply with the Commission’s requirement concerning the electronic filing of written testimony as specified in the Commission’s Implementation Order, dated January 10, 2013, at Docket No. M-2012-2331973. Furthermore, the Parties are reminded that Parties serving pre-served testimony in proceedings pending before the Commission pursuant to 52 Pa.Code §5.412(f), shall be required, within thirty (30) days after the final hearing in an adjudicatory proceeding (unless such time period is otherwise modified by the Presiding ALJ), to either eFile with or provide to the Secretary’s Bureau a Compact Disc (CD) containing all testimony furnished to the court reporter during the proceeding. In addition to the testimony that is electronically submitted to the Commission either by eFiling or by the submission of a CD to the Secretary’s Bureau, Parties must continue to submit two copies of such testimony to the court reporter at the hearing of this matter.

The hearing scheduled for Harrisburg will begin promptly at 10:00 a.m. The Parties must confer before commencement of the hearing to schedule their witnesses so as to avoid “holes” or “dead time” during the hearing. In addition, OSBA identified a potential issue which may require flexibility in the order of calling witnesses at the evidentiary hearing. The Parties shall confer to resolve any such issues prior to the date of the hearing.

**Parties**

Peoples Division, Peoples-Equitable Division, I&E, OCA, and OSBA are Parties to this proceeding. A Service List of these Parties is appended to this Order. The Parties are directed to monitor filings with the Commission’s Secretary’s Bureau and advise the undersigned of any additional formal complaints or petitions are filed after the date of this Order.

**Consolidation of Formal Complaints**

The formal complaint of OCA at Docket No. C‑2016-2547600 and OSBA at Docket No. C‑2016‑2545824 are consolidated with the Peoples Division filing at R-2016-2542918. The formal complaint of OCA at Docket No. C‑2016-2547595 and OSBA at Docket No. C‑2016‑2545706 are consolidated with the Peoples-Equitable Division filing at R-2016-2542923. In addition, thePeoples Division proceeding filed at Docket No. R-2016-2542918 and the Peoples-Equitable proceeding filed at Docket No. R-2016-2542923 are herebyconsolidated for the purpose of the hearing in this proceeding.

**Intervention**

No Petitions to Intervene have been filed to date in this matter.

**Public Input Hearing**

At present, no Party has identified a need to conduct a public input hearing in the Company’s service territory. If consumer interest arises or a request is made for a public input hearing, however, the Parties are hereby directed to give this matter their prompt attention and notify the Presiding ALJ immediately of the change in circumstances.

**Issues**

In their respective prehearing memoranda, the Company and statutory Parties identified various issues they may wish to pursue. The reader is directed to these documents to review a recitation of these issues. Additional issues may arise as the discovery process unfolds.

**Discovery**

The Parties shall engage in informal discovery whenever and wherever possible in an attempt to resolve any discovery disputes amicably. 52 Pa.Code § 5.322. If this process fails, the Parties have recourse to the Commission’s procedures for formal discovery, as herein modified. 52 Pa.Code §§ 5.321, *et* *seq*. Except as herein allowed, the Parties must not send the Presiding ALJ discovery material or cover letters, unless attached to a motion to compel or a motion for sanctions. All such motions must contain a certification of counsel of the informal discovery undertaken and their efforts to resolve their discovery disputes informally. If a motion to compel fails to contain such certification, the Presiding ALJ will contact the Parties and direct them to pursue informal discovery.

OCA requested modification of the Commission’s procedures for formal discovery. All Parties agreed to the proposed modifications, therefore that request is hereby granted. Therefore, the following modified discovery procedure applies to this case:

1. The response period for replying to written interrogatories, requests for production and requests for admissions shall be served in-hand within ten (10) calendar days of receipt, unless otherwise indicated. Responses may be served electronically but hard copies must follow by first-class mail.
2. Objections to interrogatories, requests for production and requests for admissions shall be communicated orally within three (3) calendar days of receipt, and in writing within five (5) days of receipt. The Parties are directed to confer, by telephone or email, and attempt to resolve the objections.
3. Motions to dismiss objections and compel responses shall be filed and served on the ALJ and Parties within three (3) calendar days of receipt of the written objections. Answers to such motions shall be filed and served within three (3) calendar days after filing of the motion.
4. Interrogatories, requests for production and requests for admissions which are objected to but which are not made the subject of a motion to compel will be deemed withdrawn.
5. Interrogatories, motions to compel and responses are to be served electronically as well as on paper.
6. Responses to requests for document production, entry for inspection, or other purposes must be served in-hand within ten (10) calendar days.
7. Any discovery, objection or motion served after 12:00 p.m. on a Friday or the day before a holiday recognized by the Commission will be deemed to have been served on the following business day for the purposes of tracking due dates.

The Parties must, in good faith and on an informal basis, attempt to resolve any discovery dispute amicably among themselves, before contacting the Presiding ALJ for resolution.[[1]](#footnote-1)

**Settlement and Stipulations**

The Parties are reminded it is the Commission’s policy to encourage settlements. 52 Pa.Code §5.231(a). The Parties are strongly urged to seriously explore this possibility. Submission of a Joint Settlement Petition executed by representatives of all Parties, together with all Parties’ Statements In Support of Settlement, must be filed with the Secretary for the Commission and received in-hand by the Presiding ALJ not later than the close of business on September 26, 2016. In addition to service of a hard copy, the Secretary must receive these documents on a CD ROM in searchable PDF format. Where possible, the Parties must submit to the Presiding ALJ one hard copy of these documents and one copy by email. The electronic version of the documents served on the Presiding ALJ must be prepared on an IBM compatible system in Microsoft Office Word 2010 format or in an earlier version of this software application.

If settlement is not feasible, the Parties are encouraged to stipulate to any matters they reasonably can to expedite this proceeding, lessen the burden of time and expenses in litigation on all Parties and conserve administrative hearing resources. 52 Pa.Code §§ 5.232 and 5.234. All stipulations entered into by the Parties must be reduced to writing, signed by the Parties to be bound thereby, and moved into the record during the hearing in this case. An exception to this requirement may occur when circumstances of time and expediency warrant. If so, an oral presentation of a stipulation is permissible, if it is followed by a reduction to writing as herein directed.

**Cross-Examination**

Friendly cross-examination or cumulative cross-examination will not be permitted. 52 Pa.Code §§ 5.76 & 5.243.

**Briefs**

The Parties must comply with 52 Pa.Code §§ 5.501, *et* *seq*., regarding the preparation and filing of briefs. Page limitations on briefs will be discussed at the hearing. Where possible, the Parties shall submit to the Presiding ALJ one hard copy of their briefs and one copy by email. If a Party cannot provide a copy by email or on computer disc, it must submit two hard copies of briefs. **The electronic version of a brief must be prepared on an IBM compatible system in Microsoft Office Word 2010 format or in an earlier version of this software application.** If any questions arise, please call the office of the Presiding ALJ for clarification.

The Parties shall also confer in order to agree upon a list of common issues which the Parties shall utilize in the organization of all briefs, settlement petitions and statements in support of settlement in these proceedings.

**Modification**

Any of the provisions of this Prehearing Order may be modified upon motion and good cause shown by any Party in interest.

**Service**

The Parties have agreed to serve copies of all filings electronically to the witnesses identified in the respective prehearing memoranda submitted by the Parties, as well as to additional witnesses to be identified by the Parties.

Date: July 21, 2016 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Jeffrey A. Watson

Administrative Law Judge

**R-2016-2542918 – PENNSYLVANIA PUBLIC UTILITY COMMISSION v. PEOPLES NATURAL GAS COMPANY LLC**

**R-2016-2542923 – PENNSYLVANIA PUBLIC UTILITY COMMISSION v. PEOPLES NATURAL GAS COMPANY LLC – EQUITABLE DIVISION**

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1. If the Parties cannot resolve their discovery dispute informally, they may request to confer informally with the Presiding ALJ to resolve any outstanding discovery disputes. [↑](#footnote-ref-1)