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January 17, 2019

Via Electronic Filing

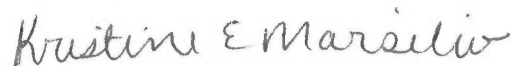
Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Joint application of Aqua America, Inc. for approval to acquire ownership of Peoples Natural Gas Company, LLC, Peoples Natural Gas Company, LLC—Equitable Division and Peoples Gas Company, LLC, through the purchase of LDC Funding, LLC. LDC Funding, LLC is the indirect parent of Peoples Natural Gas Company, LLC, Peoples Natural Gas Company, LLC—Equitable Division and Peoples Gas Company, LLC. Under the proposed transaction, LDC Funding, LLC will become a direct subsidiary of Aqua America, Inc., Docket Nos. A-2018-3006061, A-2018-3006062, A-2018-3006063

Dear Secretary Chiavetta:

Enclosed for electronic filing please find Direct Energy Business Marketing, LLC and Direct Energy Small Business, LLC's Prehearing Memorandum with regard to the above-referenced matter. Copies to be served in accordance with the attached Certificate of Service.

Sincerely,



Kristine E. Marsilio

KEM/lww
Enclosure

cc: Hon. Mary D. Long w/enc.
Cert. of Service w/enc.

CERTIFICATE OF SERVICE

I hereby certify that this day I served a copy of Direct Energy's Prehearing Memorandum upon the persons listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

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Dated: January 17, 2019



Kristine E. Marsilio, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Aqua America, Inc.,	:	Docket Nos.	A-2018-3006061
Aqua Pennsylvania, Inc., Aqua	:		A-2018-3006062
Pennsylvania Wastewater, Inc., Peoples	:		A-2018-3006063
Natural Gas Company LLC and Peoples	:		
Gas Company LLC for All of the	:		
Authority and the Necessary Certificates	:		
of Public Convenience to Approve a	:		
Change in Control of Peoples Natural Gas	:		
Company, LLC, and Peoples Gas	:		
Company, LLC by Way of the Purchase	:		
of LDC Funding, LLC's Membership	:		
Interests by Aqua America, Inc.	:		

**PREHEARING MEMORANDUM OF DIRECT ENERGY
BUSINESS MARKETING, LLC AND DIRECT ENERGY SMALL
BUSINESS, LLC**

Pursuant to 52 Pa. Code §§ 5.221-5.224 and the Prehearing Conference Order issued on January 4, 2019 in the above-captioned proceeding, Direct Energy Business Marketing, LLC and Direct Energy Small Business, LLC (collectively, "Direct Energy") submit this Prehearing Memorandum.

I. PROCEDURAL HISTORY

On December 11, 2018, Aqua America, Inc., Aqua Pennsylvania, Inc., Aqua Pennsylvania Wastewater, Inc., Peoples Natural Gas Company LLC and Peoples Gas Company LLC (collectively, "Joint Applicants") filed a Joint Application seeking approval for Aqua America, Inc. ("Aqua") to acquire ownership of Peoples Natural Gas Company LLC ("Peoples Natural

Gas”)¹ and Peoples Gas Company LLC (“Peoples Gas”) through the purchase of LDC Funding LLC (“LDC”).² A number of parties intervened in this proceeding, including Direct Energy, who filed a Petition to Intervene on December 31, 2018.

On January 4, 2019, Administrative Law Judge Mary D. Long issued a Prehearing Order, scheduling a telephonic Prehearing Conference for Friday, January 18, 2019 and directing the parties to file Prehearing Memorandums no later than noon on Thursday, January 17, 2019. Accordingly, Direct Energy files this Prehearing Memorandum.

II. REPRESENTATION

Direct Energy’s attorneys in this matter are:

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III. ISSUES

In reviewing proposed mergers and acquisitions involving natural gas distribution companies, the Commission is required to consider whether the proposed transaction “is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market

¹ On November 14, 2013, the Commission approved a series of transactions that involved the merger of Equitable Gas Company, LLC (“Equitable”) with Peoples Natural Gas and the operation of Equitable as an operating division of Peoples Natural Gas. See Joint Application at 8, FN 4. As such, the proposed acquisition of Peoples Natural Gas includes the acquisition of its Equitable Division.

² The Joint Application provides that Peoples Natural Gas and Peoples Gas are wholly-owned subsidiaries of PNG Companies, which is a wholly-owned subsidiary of LDC Holdings LLC, which is the wholly-owned subsidiary of LDC. See Joint Application at page 2, FN 1 and Section II.

power, which will prevent retail gas customers from obtaining the benefits of a properly functioning and effectively competitive retail natural gas market.” 66 Pa.C.S. §2210(a). As a Natural Gas Supplier (“NGS”) licensed to serve customers in the service territories of Peoples Natural Gas and Peoples Gas (collectively, “Peoples”),³ Direct Energy submits that the Commission and parties to this proceeding must evaluate the proposed merger and analyze whether it could result in preventing retail gas customers from obtaining the benefits of a properly functioning and effectively competitive retail natural gas market. The proposals of Joint Applicants must be thoroughly evaluated to ensure any changes to the Peoples’ supplier tariffs, or the services provided thereunder, do not negatively affect Direct Energy’s operations and its ability to compete for and service customers in the Peoples’ service territories. Further, the proposals in the Joint Application must be reviewed to ensure that any changes to Peoples’ rates, or the operation or structure of any Peoples’ programs, will not negatively impact the level of retail competition in the Companies’ service territories and directly impact the ability of Direct Energy to continue to operate as an NGS in those territories.

As part of its initial evaluation of the proposal, Direct Energy identified the following important operational processes and procedures of Peoples Natural Gas Company and/or Peoples Gas that must be maintained or enhanced as a result of the proposed change in ownership of Peoples: the Pool Tracking system, Peoples’ Electronic Bulletin Board process for nomination changes, the content of local production pool invoices, and process for communication between NGSs and Peoples. All of these identified systems are processes that have been maintained and/or enhanced by Peoples. They ensure that the system remains balanced, operates in an efficient manner, and maintains open communications channels between NGSs’ and Peoples’ operational

³ See PUC Docket No. A-2013-2365792 and A-2012-2301127.

personnel. As such, in this proceeding, Direct Energy intends to assess the impact on these (as well as other operational processes) of the proposed merger because any degradation or failure to continue to improve these systems due to shifting priorities and/or the press of other matters involved in the proposed merger could negatively impact the ability of Direct Energy to continue to offer NGS services.

In addition to ensuring that the above referenced current operational processes are not negatively impacted as a result of the proposed merger, Direct Energy has identified other current procedures/operations of Peoples Natural Gas Company and/or Peoples Gas that frustrate the ability of Direct Energy to offer competitive service. These processes include: the manner of reporting the total number of individual customer burns that make up the aggregate burn pool; the timing of Peoples' target (daily delivery requirement) requests and capacity requests; the system used by Peoples Natural Gas to identify billing cycles; customer rebilling procedures; and the content of Peoples' daily billing. As the Commission considers whether the proposed merger is in the public interest, a review of these currently lacking competitive processes is important to determine whether operational improvements could be implemented as part of the approved merger to further advance the statutory goal of enabling retail gas customers to obtain the benefits of a properly functioning and effectively competitive retail natural gas market. Moreover, to the extent a review of these processes results in the inability of the merged entity to satisfy these statutory requirements, then serious consideration must be given to whether Peoples' should continue to have the role of the default service provider post-merger.

IV. WITNESSES

Direct Energy intends to present Orlando (Randy) Magnani as an expert witness in this proceeding. Mr. Magnani will file testimony, as necessary, addressing the issues identified by

Direct Energy, above, and any other issues that may be advanced through discovery or testimony in this proceeding. Mr. Magnani's contact information is as follows:

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President
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Estero, FL 33967

Direct Energy reserves its right to add additional witnesses or change the identity of its witnesses at any time upon appropriate notice to the Presiding Officer and the parties.

V. LITIGATION SCHEDULE

Direct Energy is working with the other parties to establish a procedural schedule.

VI. SETTLEMENT

Direct Energy is willing to participate in settlement discussions with any party to narrow the issues in this matter.

Respectfully submitted,



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Date: January 17, 2019

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