**BEFORE THE**

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission : R-2018-3006818

Office of Consumer Advocate : C-2019-3007711

Office of Small Business Advocate : C-2019-3007752

Charles Hagins : C-2019-3007698

Daniel Killmeyer : C-2019-3007635

Samuel Givens : C-2019-3007959

Sean D. Ferris : C-2019-3007904

Peoples Industrial Intervenors : C-2019-3008506

:

v. :

:

Peoples Natural Gas Company, LLC :

**ORDER**

**GRANTING PETITIONS TO INTERVENE**

On January 28, 2019, Peoples Natural Gas Company LLC (Peoples or the company) filed Retail Tariff Gas – Pa. P.U.C. No. 47 and Supplier Tariff Gas – Pa.P.U.C. No. S-3 to become effective March 29, 2019, containing proposed changes in rates, rules and regulations calculated to produce $94.9 million (14.2%) in additional fully-projected future test year annual revenues.

If the entire request is approved, the total bill for a Peoples Division residential customer using 86 Mcf per year would increase from $74.24 to $84.73 per month or by 14.1%. The total bill for a Peoples Division commercial customer using 238 Mcf per year would increase from $150.79 to $172.56 per month or by 14.4%. The total bill for a Peoples Division industrial customer using 3,224 Mcf per year would increase from $1,684.32 to $1,957.16 or by 16.2%. The total bill for an Equitable Division residential customer using 86 Mcf per year would increase from $70.79 to $84.73 per month or by 19.7%. The total bill for an Equitable Division commercial customer using 238 Mcf per year would increase from $158.79 to $172.56 per month or by 8.7%. The total bill for an Equitable Division industrial customer using 3,224 Mcf per year would decrease from $2,140.64 to $2,050.63 per month or by 4.2%.

In response to the filing, the Office of Small Business Advocate (OSBA) filed a notice of appearance, a formal complaint, a public statement and a verification and the Office of Consumer Advocate (OCA) filed a formal complaint and public statement. Petitions to intervene were filed by: the Community Action Association of Pennsylvania (CAAP); the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (CAUSE-PA); Dominion Energy Solutions, Inc. and Shipley Choice LLC d/b/a Shipley Energy (collectively, the NGS parties); the Retail Energy Supply Association (RESA); the Utility Workers Union of America, Local 612 (UWUA); Duquesne Light Company (Duquesne); the Pennsylvania Independent Oil and Gas Association (PIOGA); Snyder Brothers, Inc., VEC Energy LLC and Snyder Armclar Gas Co, LP (collectively Snyder Brothers); Equitrans, L.P. (Equitrans); and Direct Energy Business, LLC, Direct Energy Services, LLC and Direct Energy Business Marketing, LLC (Direct Energy). In addition, formal complaints were filed by the Peoples Industrial Intervenors and the following customers of Peoples: Sean D. Ferris, Samuel Givens, Charles F. Hagins and Daniel Killmeyer. Various additional consumers of Peoples filed an opposition to the rate increase.

On February 28, 2019, the Commission suspended the filing by operation of law until October 29, 2019 pursuant to Section 1308(d) of the Public Utility Code, unless permitted by the Commission to become effective at an earlier date. The Commission added that investigation and analysis of the proposed tariff filings and the supporting data indicate that the proposed changes in rates, rules and regulations may be unlawful, unjust, unreasonable and contrary to the public interest. The Commission determined that the investigation shall include consideration of the lawfulness, justness and reasonableness of the company’s existing rates, rules and regulations and assigned the case to the Office of Administrative Law Judge for the prompt scheduling of hearings as may be necessary culminating in the issuance of a Recommended Decision.

As a result, on March 4, 2019, a hearing notice was issued establishing an initial in-person prehearing conference for this matter for Thursday, March 14, 2019 and assigning me as the presiding officer. A prehearing conference order was issued March 4, 2019 setting forth various rules that would govern the prehearing conference.

The prehearing conference convened on March 14, 2019, as scheduled. On March 19, 2019, a Scheduling Order was issued memorializing the various matters agreed upon at the prehearing conference. This included granting the various petitions to intervene and consolidating the various formal complaints. Notably, a procedural schedule was adopted and a discussion was held regarding public input hearings. The parties also agreed to various modifications to the Commission’s discovery regulations and the need for a protective order governing the treatment of information alleged to be proprietary. Finally, the parties were also reminded that the Commission strongly encourages settlement and were encouraged to commence settlement discussions as early as possible.

Subsequently, three additional petitions to intervene have been filed – by Baker Gas, Inc. (Baker Gas) on March 28, 2019; by Marco Drilling, Inc. (Marco) on March 29, 2019; and by MDS Energy Development, LLC (MDS) on April 2, 2019. In all three of these petitions to intervene, the petitioners stated that the companies are privately funded oil and natural gas exploration and production companies receiving conventional natural gas in counties within Peoples’ service territory. The petitioners also stated that they each will be directly affected by Peoples’ proposed uniform gathering service rate and may be affected by Peoples’ proposal to combine the rate and supplier tariff provisions for the Peoples and Equitable Divisions. The petitioners also indicated other reasons why they believe that their respective petitions to intervene should be granted and noted their intention to jointly advocate with Snyder Brothers. The parties concluded that they each accept the procedural schedule and discovery modifications adopted for this case.

No objections were received in response to any of the petitions to intervene. On April 11, 2019, Peoples submitted a letter indicating that it does not object to the petitions to intervene.

The parties were informed informally that the petitions would be granted. The purpose of this order is to formally grant the three petitions to intervene.

Section 5.72 of the Commission’s regulations governs intervention. This Section provides that “a petition to intervene may be filed by a person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought.” 52 Pa.Code § 5.72(a). Section 5.72 also provides that the right or interest supporting intervention may be one of the following:

1. A right conferred by statute of the United States or of the Commonwealth.
2. An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Commission in the proceeding.
3. Another interest of such nature that participation of the petitioner may be in the public interest.

52 Pa.Code § 5.72(a)(1)-(3). Commission regulations also govern the form, content and timing of petitions to intervene.

In particular, Section 5.74 provides deadlines by which petitions to intervene shall be filed. This includes filing the petition no later than the date fixed for the filing of responsive pleadings in an order or notice with respect to the proceedings and no later than the date fixed for filing protests as published in the Pennsylvania Bulletin. 52 Pa.Code § 5.74(b)(1)-(2). Both of these provisions, however, include “absent good cause shown” provisions that allow for exceptions to the regulations under certain circumstances. Id.; *see also*, 52 Pa.Code § 5.74(c) (“intervention will not be permitted once an evidentiary hearing has concluded absent extraordinary circumstances.”); Pennsylvania Public Utility Comm’n, Bureau of Investigation and Enforcement v. West Penn Power Co., Docket No. C-2012-2307244, Opinion and Order (entered Aug. 29, 2013) (West Penn) (“The Commission has been liberal in interpreting this ‘good cause’ requirement, particularly where the grant of intervention will not delay the orderly progress of the case, significantly broaden the issues or shift the burden of proof.”).

In this case, Baker Gas, Marco and MDS each stated in their respective petitions to intervene that they are privately funded oil and natural gas exploration and production companies operating conventional natural gas wells within Peoples’ service territory. The petitioners also stated that they will be directly affected by Peoples’ proposed uniform gathering service rate and may be affected by Peoples’ proposal to combine the rate and supplier tariff provisions for the Peoples and Equitable Divisions, among other things. The petitioners also stated that they accept the procedural schedule and discovery modifications adopted for this proceeding and intend to jointly advocate with Snyder Brothers.

As such, although the petitioners did not state an interest which is not adequately represented by existing participant since the petitioners intend to jointly advocate with SBI, and the petitions were filed after the date fixed for the filing of responsive pleadings in an order or notice with respect to the proceedings, the Commission has, as noted above, been liberal in interpreting this “good cause” requirement, particularly where the grant of intervention will not delay the orderly progress of the case, significantly broaden the issues or shift the burden of proof. West Penn, *supra*. It is unclear why Baker Gas, Marco or MDS did not file timely interventions but each has accepted the procedural schedule and discovery modifications. The orderly progress of the case will not be delayed, nor will the issues be significantly broadened or the burden of proof shifted. Nor has any party objected to the petitions to intervene. Therefore, the interventions will be granted.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition to intervene filed by Baker Gas, Inc. at docket number R-2018-3006818 and dated March 28, 2019 is hereby granted.
2. That the petition to intervene filed by Marco Drilling, Inc. at docket number R-2018-3006818 and dated March 29, 2019 is hereby granted.
3. That the petition to intervene filed by MDS Energy Development, LLC at docket number R-2018-3006818 and dated April 2, 2019 is hereby granted.

Date: April 18, 2019 /s/

Joel H. Cheskis

Deputy Chief Administrative Law Judge

**R-2018-3006818 - PA PUBLIC UTILITY COMMISSION v. PEOPLES NATURAL GAS CO LLC**

*(Updated 4/4/2019)*

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