



COMMONWEALTH OF PENNSYLVANIA

July 22, 2019

E-FILED

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Pennsylvania Public Utility Commission v. Peoples Natural Gas Company LLC /
Docket No. R-2018-3006818**

Dear Secretary Chiavetta:

Enclosed please find the Reply Brief, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "ERK Fure".

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Enclosures

cc: Brian Kalcic
Parties of Record

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
: **Docket No. R-2018-3006818**
v. :
: **Peoples Natural Gas Company LLC** :

**REPLY BRIEF
ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

For: John R. Evans
Small Business Advocate

Office of Small Business Advocate
300 North Second Street, Suite 202
Harrisburg, PA 17101

Date: July 22, 2019

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I. INTRODUCTION

On January 28, 2019 Peoples Natural Gas Company LLC (“Peoples Natural” or the “Company”) filed both 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.

The OSBA filed a Notice of Appearance and Complaint on February 7, 2019.

By Order entered February 28, 2019, the proposed Retail Tariff Gas—PA P.U.C. No. 47 and Supplier Tariff Gas--PA P.U.C. No. S-3 were suspended by operation of law until October 29, 2019. The Pennsylvania Public Utility Commission (“Commission”) ordered an investigation into the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the proposed Retail Tariff Gas—PA P.U.C. No. 47 and Supplier Tariff Gas--PA P.U.C. No. S-3.

On March 14, 2019, a prehearing conference was held before Deputy Chief Administrative Law Judge (“ALJ”) Joel H. Cheskis.

The following parties are the known, active parties involved in this proceeding: the OSBA; the Office of Consumer Advocate (“OCA”); the Commission’s Bureau of Investigation and Enforcement (“I&E”); the Community Action Association of Pennsylvania (“CAAP”); the Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”); the Natural Gas Supplier Parties (“NGS Parties”) and The Retail Energy Supply Association (“RESA”) (collectively, “NGS/RESA”); Duquesne Light Company (“Duquesne Light”); the Utility Workers Union of America, Local 612 (“UWUA”); the Pennsylvania Independent Oil and Gas Association (“PIOGA”); Snyder Brothers, Inc., VEC Energy LLC, and Snyder Armclar Gas Co., LP (collectively “SBI”); Equitrans, L.P. (“Equitrans”); Baker Gas, Inc. (“Baker Gas”); Marco Drilling, Inc., (“Marco”); MDS Energy Development, LLC (“MDS Energy”); Direct Energy Business, LLC, Direct Energy Services, LLC, and Direct Energy Business Marketing,

LLC (collectively, “Direct Energy”); and the Peoples Industrial Intervenors (“PII”).

On April 29, 2019, the OSBA submitted the direct testimony of Mr. Brian Kalcic.

On May 28, 2019, the OSBA submitted the rebuttal testimony of Mr. Kalcic.

On June 12, 2019, the OSBA submitted the surrebuttal testimony of Mr. Kalcic.

Evidentiary hearings were held before Deputy Chief ALJ Cheskis on June 20 and 25, 2019.

The testimony of OSBA witness Mr. Kalcic was moved into the record at the June 20th evidentiary hearing.

The parties successfully settled all issues except for the Company’s proposed modifications to its Main Line Extension Policy.

The OSBA submitted its Main Brief on July 9, 2019. Main briefs were also filed by Peoples Natural and OCA.

The OSBA submits this Reply Brief pursuant to the procedural schedule as set forth in the Deputy Chief ALJ Cheskis’s June 27, 2019, Briefing Order.

II. SUMMARY OF REPLY ARGUMENT

Peoples argues that its proposed modification to its Main Line Extension Policy will reduce barriers to customers receiving natural gas service by reducing the overall cost to a residential applicant for a main line extension. At the same time, Peoples claims that its proposal will not create a subsidy or cost shift to existing customers based on the Company's historical experience in 2017 and 2018. However, as discussed below, the Company's historical analysis should be disregarded since it is based on the incorrect premise that the propriety of a main extension rule can be evaluated by examining the average results of all residential service expansion projects undertaken in a given year(s).

In point of fact, the only reason that the Company's proposal would reduce the overall cost to a residential applicant for a main line extension is that the proposal would shift a portion of the actual cost of extending service from residential applicants to general ratepayers.¹ If adopted, the Company's proposal would create an unreasonable preference for residential applicants, result in an unreasonable prejudice to other ratepayers, and violate cost causation principles.² Therefore, the Commission should reject the Company's proposed modification to its Main Line Extension Policy.

The OCA relies on Peoples' recent historical experience to argue that the Company's main extension proposal would not shift costs to non-residential customers. In doing so, the OCA ignored the testimony of its own witness, Mr. Glenn A. Watkins, who agreed with OSBA witness Mr. Brian Kalcic that the proposal would in fact shift costs to general ratepayers. Despite acknowledging such cost shifting, Mr. Watkins argued that the Company's proposal

¹ OSBA Statement No. 1, at 16-17.

² OSBA Statement No. 1-S, at 7.

should be adopted as a matter of public policy. The OSBA disagrees. If, however, the Company's proposal is adopted as a matter of public policy, the costs of the otherwise uneconomic residential projects should be recovered solely from the residential class.

III. REPLY ARGUMENT

A. The Company's Proposal Is Not In The Public Interest And Should Not Be Approved

By way of background, the Company's current Main Line Extension Policy, uses a detailed economic analysis to compare the net present value of the residential applicant's projected future revenue to the cost the Company would incur to add that customer to determine if a CIAC from the residential applicant is necessary.³ No CIAC is necessary if projected revenues are greater than projected costs.⁴ If projected costs are higher than projected revenues, the Company requires the customer to pay a CIAC to offset the portion of the cost that is not otherwise supported.⁵ The Company, in its discretion, could also allow a customer to alternatively take service under Pilot Rider MLX, Mainline Extension Service, which allows customers to pay a higher delivery rate in lieu of providing a CIAC.⁶ The Company currently does not offer any mains footage allowance to customers to connect to its natural gas system.⁷

The Company has proposed a tariff change to modify its Main Line Extension Policy by allowing 150 feet of main line per residential applicant without the need for an economic analysis in normal situations.⁸ For extension projects greater than 150 feet per customer, the Company would determine the required customer contribution by subtracting 150 feet per

³ Peoples Statement No. 2, at 36.

⁴ *Id.*

⁵ *Id.*

⁶ Peoples Statement No. 2, at 36-37.

⁷ Peoples Statement No. 2, at 38.

⁸ *Id.* Peoples' Witness Joseph Gregorini explains in his direct testimony how abnormal situations will be handled: "At the discretion of the Company, certain projects, which contain abnormal underground conditions, such as crossing a stream or state highway, or visible ledge, or rock that will affect excavation or excessive permitting fees would not be eligible for the 150 foot allotment."

customer from the actual average foot per customer associated with the specific mainline extension project and then multiplying that difference by the actual cost per foot associated with the extension project to determine the customer contribution required for each customer within the project area.⁹ The OSBA does not believe the Company's proposal is in the public interest and respectfully requests the proposed modification be denied.

1. Peoples' Historical Analysis Should Be Disregarded

The Company argues that its proposal will not create any subsidy or shift costs to existing customers based on the Company's historic experience, and, further argues that when all residential mainline extensions are reviewed, the average allowable cost is below the average allowable cost under its existing allowable investment model.¹⁰ The OCA similarly argues that when customers who do not receive a CIAC under the current model are examined alongside customers who do require a CIAC, no costs are shifted to non-residential customers.¹¹ In taking that view, the OCA is ignoring the testimony of its own witness, Mr. Watkins, who agreed with Mr. Kalcic that the proposal would in fact shift costs to general ratepayers.¹² Moreover, to view extension costs on an average basis creates a skewed perspective. As Mr. Kalcic pointed out, "if the Company's existing main extension rule operated on an average basis, as posited by Mr. Gregorini, the Company would never have to charge a residential applicant a CIAC, and there would be no need for the Company to request permission to modify its existing extension

⁹ Peoples Statement No. 2, at 39.

¹⁰ Main Brief of Peoples Natural Gas Company LLC, at 16.

¹¹ Main Brief of the Office of Consumer Advocate, at 12.

¹² OSBA Statement No. 1-S, at 9.

policy.”¹³ The purpose of the main extension rule is to determine, before construction, whether a project is economic, and if not, to assign the uneconomic costs to a customer in the form of a CIAC.¹⁴ The Company’s current policy accomplishes this goal.

The OCA further argues that the OSBA’s position regarding cost shifting is narrow in scope and fails to consider all relevant factors, such as whether the new customers will be high use customers.¹⁵ In fact, the OSBA’s position is that the Company’s current main line policy is reasonable and appropriate because the current policy not only *does* consider the customer’s estimated usage level (whether high or low use), it also ensures extension projects are economic from a general ratemaking perspective.¹⁶

2. Cost of Project Is Not Reduced

The Company argues in its Main Brief that its proposal will reduce barriers to customers receiving natural gas service.¹⁷ In support of this argument, the Company asserts that its proposal will reduce the overall cost a residential applicant must pay for a main line extension.¹⁸ First, this argument assumes that the CIAC is an arbitrary barrier to service, rather than recognizing that the role of a CIAC is to prevent the Company from going forward with an extension project that, absent a CIAC, would not generate sufficient revenues to recover the cost of extending natural gas service to a new customer.¹⁹

¹³ OSBA Statement No. 1-S, at 8.

¹⁴ OSBA Statement No. 1-S, at 8.

¹⁵ Main Brief of the Office of Consumer Advocate, at 13.

¹⁶ OSBA Statement No. 1-S, at 6-8.

¹⁷ Main Brief of Peoples Natural Gas Company LLC, at 13.

¹⁸ Main Brief of Peoples Natural Gas Company LLC, at 13.

¹⁹ Main Brief on Behalf of the Small Business Advocate, at 9.

Second, while it is true that under the Company's proposal the cost paid by a residential applicant will be reduced, the overall cost of a main line extension project is not reduced.²⁰ As Mr. Kalcic pointed out in his direct testimony: "Such underlying costs would obviously remain unchanged. What the Company's proposal would do is shift a portion of the actual cost of extending service to residential customers from residential applicants to general ratepayers (compared to Peoples' existing extension policy)."²¹ The OSBA cannot support a proposal that shifts a portion of the uneconomic cost of residential main extensions from residential applicants to general ratepayers, compared to Peoples Natural's existing extension policy.²² The Company's proposal undermines the purpose of a CIAC, which is to offset that part of the cost of an extension that is uneconomic (i.e. not otherwise supported by an applicant's expected revenue stream over a forty year period).²³ As discussed in the OSBA's Main Brief, the proposal also violates principles of cost causation and impermissibly creates a cross-class subsidy.²⁴

3. Peoples' Current Economic Model is Preferable

The Company additionally argues that its proposal is less confusing than its current policy and will be more transparent and easier for customers to understand.²⁵ The Company speculates that customers often receive different footage allowances than their neighbors, including both neighbors who are Peoples' customers and neighbors who are customers of

²⁰ OSBA Statement No. 1, at 16.

²¹ OSBA Statement No. 1, at 16-17.

²² OSBA Statement No. 1, at 16-17.

²³ OSBA Statement No. 1 at 14.

²⁴ See Main Brief on Behalf of the Small Business Advocate, at 6-9.

²⁵ Main Brief of Peoples Natural Gas Company LLC, at 14-15.

different utilities.²⁶ The OSBA is skeptical of this argument. Mains are typically extended to *all* customers in a housing development or *no* customers in the development, depending on the economics of the extension project.²⁷ As such, a customer in a given development would never be required to pay a CIAC that his neighbors (taking gas service) had not already agreed to pay. As for the Company's hypothetical case of neighbors who are customers of different utilities, there is no more reason to expect such neighbors to be offered the same footage allowances than there is to expect such neighbors to pay the same rates for natural gas service.

Even if the proposal was simpler to understand from a customer perspective, that does not mean that it is in the public interest. An applicant's decision to go forward with an extension will be dependent upon the level of required CIAC, if any, not the relative transparency of Peoples' extension offer.²⁸ The Company's current Main Line Extension Policy employs a detailed economic analysis which allows the Company to determine, *prior to construction*, whether the cost of the main extension is economic, or whether an appropriate CIAC level is required.²⁹ The Company's current Main Line Extension Policy is reasonable, and should remain in effect.³⁰

4. Recovering Main Extension Subsidies Within the Residential Class

The Company notes that even if existing customers would be required to pay a cost subsidy for new residential customers' extensions, which Peoples denies is the case, the costs for

²⁶ *Id.*

²⁷ OSBA Statement No. 1-S, at 10.

²⁸ OSBA Statement No. 1-S, at 7.

²⁹ OSBA Statement No. 1-S, at 8.

³⁰ *See*, Main Brief on Behalf of the Small Business Advocate, at 9-10.

the new residential customers will be assigned to the residential class.³¹ Significantly, the Company fails to explain how such costs would be directly assigned to the residential class. Nevertheless, if Peoples' proposed extension policy is approved, the OSBA would support recovering any costs that are uneconomic under the Company's existing extension rule from the residential class in future base rate proceedings. As Mr. Kalcic's surrebuttal testimony indicated, "If the Company's proposed main extension rule for residential customers should go forward as a matter of public policy rather than project economics, I would recommend that the Commission order the Company to directly assign the cost of otherwise uneconomic residential extension projects to the residential class in Peoples next base rate proceeding."³² If the ALJ and Commission ultimately approve the Company's proposal, the OSBA requests that the Company be ordered to recover otherwise uneconomic costs from the residential class to avoid cross-class subsidies and reflect cost causation.

5. Burden of Proof

The OCA argues that the OSBA failed to provide compelling evidence in support of its argument, which is based on a mathematical construct and numerous assumptions as to the usage patterns of new residential customers.³³ The OCA asserts that Peoples Natural has met its burden of affirmatively demonstrating the reasonableness of its proposed modifications to the Main Line Extension Policy and has further shown the proposal is just, reasonable, and in the public interest.³⁴ For the reasons explained above, and in the OSBA's Main Brief, the record shows that the Company's has not met its burden, in that its proposal is unreasonable,

³¹ Main Brief of Peoples Natural Gas Company LLC, at 18.

³² OSBA Statement No. 1-S, at 9-10.

³³ Main Brief of the Office of Consumer Advocate, at 15.

³⁴ Main Brief of the Office of Consumer Advocate, at 8.

discriminatory, and prejudices general ratepayers. Therefore, no burden has shifted to the OSBA because Peoples Natural failed to meet its initial burden.

IV. CONCLUSION

In view of the foregoing, the OSBA respectfully requests that the Commission reject the Company's proposed tariff changes that would modify its Main Line Extension Policy. In the alternative, if the Company's proposed tariff changes are approved, the OSBA respectfully requests the Commission to order the Company to the directly assign the costs of the otherwise uneconomic residential projects to the residential class.

Respectfully submitted,



Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245

Office of Small Business Advocate
300 North Second Street, Ste. 202
Harrisburg, PA 17101

Dated: July 22, 2019

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission :
 :
 v. : **Docket No. R-2018-3006818**
 :
Peoples Natural Gas Company LLC :

CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the foregoing have been served via email and/or First-Class mail (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

The Honorable Joel H. Cheskis
Deputy Chief Administrative Law Judge
Pennsylvania Public Utility Commission
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
jcheskis@pa.gov
(Email and Hand Delivery)

Christy Appleby, Esquire
J.D. Moore, Esquire
Harrison W. Breitman, Esquire
Darryl A. Lawrence, Esquire
Barrett C. Sheridan, Esquire
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101
Peoples2019@paoca.org
(Counsel for OCA)
(Email and Hand Delivery)

Dante Mugrace
PCMG & Associates
90 Moonlight Court
Toms River, NJ 08753
Peoples2019@paoca.org
(Expert Witness for OCA)

Glenn Watkins
Technical Associates, Inc.
1503 Santa Rosa Road, Suite 130
Richmond, VA 23229
Peoples2019@paoca.org
(Expert Witness for OCA)

Kevin O'Donnell
Nova Energy Consultants, Inc.
1350 SE Maynard Road, Suite 101
Cary, NC 27511
Peoples2019@paoca.org
(Expert Witness for OCA)

Roger Colton
Fisher, Sheehan and Colton
34 Warwick Road
Belmont, MA 02478
Peoples2019@paoca.org
(Expert Witness for OCA)

Erika L. McLain, Esquire
Carrie B. Wright, Esquire
Bureau of Investigation & Enforcement
400 North Street
Commonwealth Keystone Building
Harrisburg, PA 17120
ermclain@pa.gov
carwright@pa.gov
(Counsel for BIE)
(Email and Hand Delivery)

Michael W. Gang, Esquire
Anthony D. Kanagy, Esquire
Devin T. Ryan, Esquire
Post & Schell, PC
17 North Second Street, 12th Floor
Harrisburg, PA 17101
mgang@postschell.com
akanagy@postschell.com
dryan@postschell.com
(Counsel for Peoples)

William H. Roberts II, Esquire
Andrew Wachter
Peoples Natural Gas Company LLC
375 North Shore Drive
Pittsburgh, PA 15212
william.h.roberts@peoples-gas.com
Andrew.Wachter@peoples-gas.com
(Counsel for Peoples)

David P. Zambito, Esquire
Jonathan P. Nase, Esquire
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
(Counsel for Peoples)

Patrick M. Cicero, Esquire
John W. Sweet, Esquire
Elizabeth R. Marx, Esquire
Harry Geller, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@palegalaid.net
hgellerpulp@palegalaid.net
(Counsel for CAUSE-PA)

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
(Counsel for CAAP)

Kevin J. Moody, Esquire
PIOGA
212 Locust Street, Suite 300
Harrisburg, PA 17101
kevin@pioga.org
(Counsel for PIOGA)

Emily M. Farah, Esquire
Tishekia Williams, Esquire
Michael Zimmerman, Esquire
Duquesne Light Company
411 7th Avenue, 15th Floor
Pittsburgh, PA 15219
efarah@duqlight.com
twilliams@duqlight.com
mzimmerman@duqlight.com
(Counsel for Duquesne)

Linda R. Evers, Esquire
Donald R. Wagner, Esquire
Stevens & Lee
111 N. Sixth Street
Reading, PA 19601
lre@stevenslee.com
drw@stevenslee.com
(Counsel for Duquesne)

Timothy K. McHugh, Esquire
Michael A. Gruin, Esquire
Stevens & Lee
17 N. 2nd Street, 16th Floor
Harrisburg, PA 17101
tkm@stevenslee.com
mag@stevenslee.com
(Counsel for Duquesne)

Scott J. Rubin, Esquire
333 Oak Lane
Bloomsburg, PA 17815
scott.j.rubin@gmail.com
(Counsel for UWUA)

Todd S. Stewart, Esquire
Bryce R. Beard, Esquire
Hawke McKeon & Sniscak, LLP
100 North Tenth Street
Harrisburg, PA 17101
tsstewart@hmslegal.com
brbeard@hmslegal.com
(Counsel for NGS/RESA)

Pamela C. Polacek, Esquire
Vasiliki Karandrikas, Esquire
Errin T. McCaulley, Jr., Esquire
McNees Wallace & Nurick LLC
100 Pine Street, PO Box 1166
Harrisburg, PA 17108
ppolacek@mcneeslaw.com
vkandrikas@mcneeslaw.com
emccaulley@mcneeslaw.com
*(Counsel for SBI/VEC/SAG/Baker Gas/
Marco/MDS)*

Diane Burgraff
37 Whittakers Mill Road
Williamsburg, VA 23185
dmburgraff@outlook.com
(Expert Witness for SBI/VEC/SAG)

Charis Mincavage, Esquire
Alessandra L. Hylander, Esquire
McNees Wallace & Nurick LLC
100 Pine Street, PO Box 1166
Harrisburg, PA 17108
cmincavage@mcneeslaw.com
ahylander@mcneeslaw.com
(Counsel for PII)

James L. Crist
Lumen Group, Inc.
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
JLCrist@aol.com
(Expert Witness for PII)

Thomas Anderson
3300 Dickey Road 4-442
East Chicago, IN 46312
thomas.anderson@arcelormittal.com
(Expert Witness for PII)

DATE: July 22, 2019

Daniel Clearfield, Esquire
Carl Shultz, Esquire
Kristine E. Marsilio, Esquire
Eckert Seamans Cherin & Mellott, LLC
213 Market Street, 8th Floor
Harrisburg, PA 17101
dclearfield@eckertseamans.com
cshultz@eckertseamans.com
kmarsilio@eckertseamans.com
(Counsel for Direct Energy)

Tanya C. Leshko, Esquire
Buchanan Ingersoll & Rooney PC
409 North Second Street, Suite 500
Harrisburg, PA 17101
tanya.leshko@bipc.com
(Counsel for Equitrans)

Daniel Killmeyer
184 McKay Road
Saxonburg, PA 16056
(Complainant)

Charles F. Hagins
420 Goucher Street
Johnstown, PA 15905
(Complainant)

Samuel Givens
132 Thunderbird Drive
McKeesport, PA 15135
(Complainant)

Sean Ferris
406 Laurie Drive
Penn Hills, PA 15235
(Complainant)



Erin K. Fure
Assistant Small Business Advocate
Attorney ID No. 312245