


COMMONWEALTH OF PENNSYLVANIA



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August 27, 2019

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:

Attached for electronic filing please find the Office of Consumer Advocate's Reply Exceptions in the above referenced proceeding.

Copies have been served on the parties as indicated on the enclosed Certificate of Service.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "J.D. Moore".

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Enclosures

cc: Honorable Joel Cheskis
Office of Special Assistants (email only: ra-OSA@pa.gov)
Certificate of Service
*278015

CERTIFICATE OF SERVICE

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

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate's Reply Exceptions, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27th day of August 2019.

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Dated: August 27, 2019

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	Docket Nos. R-2018-3006818
v.	:	C-2019-3007711
	:	C-2019-3007698
Peoples Natural Gas Company, LLC	:	C-2019-3007752
	:	C-2019-3007635
	:	C-2019-3007959
	:	C-2019-3007904
	:	C-2019-3008506

REPLY EXCEPTION OF THE
OFFICE OF CONSUMER ADVOCATE

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I. INTRODUCTION

As detailed in the Main and Reply Briefs of the Office of Consumer Advocate (OCA), Peoples Natural Gas Company, LLC (Peoples or the Company) is a natural gas distribution company headquartered in Pittsburgh, Pennsylvania. On January 28, 2019, Peoples filed Retail Tariff Gas – PA PUC No. 47 with the Pennsylvania Public Utility Commission (Commission) to become effective on March 29, 2019. In its initial filing, Peoples proposed, *inter alia*, a modification to the Company’s current main line extension policy (Extension Policy) which would provide potential residential customers an allowance of 150 feet of mains extension per customer without charge to the new customers in order to encourage more residential customers to connect to the Company’s system. All issues raised in this proceeding were resolved by a Joint Petition for Settlement with the exception of the single, contested issue regarding the Company’s proposed Extension Policy.

On July 9, 2019 the OCA and Peoples filed Main Briefs in support of the proposed Extension Policy, and the Office of Small Business Advocate (OSBA) filed a Main Brief in opposition to the proposed Extension Policy. Reply Briefs were filed by the OCA, Peoples, and the OSBA on July 22, 2019. On July 30, 2019, Deputy Chief Administrative Law Judge Joel H. Cheskis issued a Recommended Decision, which agreed with the OCA and Peoples that the Company had met its burden of proof on this issue and that the Company’s proposed Extension Policy should go into effect as originally proposed. On August 22, 2019, the OSBA filed a single Exception to the Deputy Chief ALJ’s Recommended Decision. In its Exception No. 1, the OSBA argued that the Deputy Chief ALJ committed an error by not including Ordering Paragraphs that required costs associated with the Company’s Extension Policy to be allocated to the residential class. The OCA respectfully requests that the Commission deny the OSBA’s Exception No. 1 for

the reasons set forth herein.

II. REPLY EXCEPTION

Reply to OSBA's Exception No. 1: The Deputy Chief ALJ's decision not to include Ordering Paragraphs requiring that costs associated with the Company's Extension Policy be allocated to the residential class conforms with the Pennsylvania Public Utility Code and appropriately reserves the allocation of future costs for future base rate proceedings. (R.D., at 62-64).

In Exception No. 1, the OSBA argued that Deputy Chief ALJ Cheskis' Recommended Decision failed to include Ordering Paragraphs that directed Peoples to allocate costs associated with the Company's proposed Extension Policy to the residential class in future base rate proceedings. OSBA Exc. at 2. According to the OSBA, the "omission of such [a] directive was an error[.]" Id. As such, the OSBA requested that "the Commission revise the RD to include Ordering Paragraphs directing Peoples to allocate costs for new residential customers' extensions incurred under the proposed Extension Policy to the residential class." OSBA Exc. at 2.

The OSBA's request in Exception No. 1 to include Ordering Paragraphs that direct Peoples to allocate costs associated with the Company's proposed Extension Policy to the residential class finds no support in the Pennsylvania Public Utility Code (Code) and should be denied. Section 332(b) of the Code provides, in relevant part:

No sanction shall be imposed or rule or order be issued except upon consideration of the whole record or such portions thereof as may be cited by any party and as supported by and in accordance with the reliable, probative and substantial evidence.

66 Pa. C.S. § 332(b) (emphasis added). Additionally, Section 335(c) provides that:

The record shall show the ruling on each finding, conclusion or exception presented. All decisions, including initial, recommended and tentative decisions, are a part of the record and shall include a statement of:

(1) findings and conclusions, and the reasons or basis therefor, on all material issues of fact, law or discretion presented on the record; and

(2) the appropriate rule, order, sanction, relief or denial thereof.

66 Pa. C.S. § 335(c) (emphasis added). Thus, any order issued by the Administrative Law Judge or the Commission in a proceeding must be based on evidence in the record.¹

In this proceeding, there is no evidence in the record to support Ordering Paragraphs that direct Peoples to allocate costs associated with the Company's proposed Extension Policy to the residential class. Instead, the record evidence in this proceeding shows that the Company did not propose a specific allocation of costs for its Extension Policy. As the OCA noted in its Reply Brief:

The Company's proposed Extension Policy does not specify how costs related to the Extension Policy will be allocated in future rate cases. See Peoples St. 2 at 40. Instead, the Company merely indicated that the 'cost of all facilities installed will be included in rate base in future proceedings and revenues will be reflected for the new customers added in future proceedings.' Peoples St. 2 at 40. . . . The OSBA will have the opportunity to review any potential subsidies or cost-shifting and recommend cost allocations accordingly in the Company's next base rate case. At that time, the OSBA may review the residential main extensions that have been completed on a customer-by-customer basis, analyze the cost and revenues associated with each residential mains extension project, and determine whether a particular class has subsidized the residential applicants.

OCA Reply Brief at 10-11.

No decision is being made in this proceeding, or should be made in this proceeding, with respect to future allocations of costs that have not yet been incurred. The implementation of the Company's proposed Extension Policy is currently not creating any subsidies or surpluses, and, as the Deputy Chief ALJ correctly points out, there is "uncertainty that a subsidy will even be created[.]" R.D. at 57. Further, as the OCA has previously noted, the OSBA will have a full and fair opportunity to review the costs associated with the Extension Policy in future base rate proceedings. As correctly explained in the Deputy Chief ALJ's Recommended Decision: "[T]he

¹ See also *Pa. Elec. Co. v. Pa. P.U.C.*, 166 Pa. Commw. 413, 432, 648 A.2d 63, 74 (1994) ("The PUC's role and duty is to review the record evidence, to make the appropriate credibility determinations, and to assign the appropriate weight to be given to the evidence presented.") (emphasis added).

parties can review the company's residential extensions in Peoples' next base rate proceeding to ensure that the costs are allocated appropriately and to modify the rule on a prospective basis, if necessary." R.D. at 57. Despite the OSBA's claim that the Deputy Chief ALJ's Recommended Decision supports Ordering Paragraphs that direct Peoples to allocate costs associated with the Company's proposed Extension Policy to the residential class, the Recommended Decision clearly states that these costs will be determined and allocated in future base rate proceedings.

Simply put, the OSBA's request to modify the Recommended Decision to include Ordering Paragraphs that direct Peoples to allocate costs associated with the proposed Extension Policy to the residential class finds no support in the Code and would inappropriately allocate future costs that have not yet been incurred. The Recommended Decision clearly explains that allocation concerns with respect to the Company's proposed Extension Policy will be addressed in future base rate proceedings. Thus, the Deputy Chief ALJ's decision not to include Ordering Paragraphs directing the Company to allocate costs associated with the Extension Policy to the residential class is in accord with the Code and appropriately leaves the allocation of future costs to future base rate proceedings.

III. CONCLUSION

As set forth above, the OCA respectfully requests that the Commission deny OSBA's Exception No. 1 and the OSBA's request to include Ordering Paragraphs that direct Peoples to allocate costs associated with the Company's Extension Policy to the residential class.

Respectfully Submitted,



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