**PENNSYLVANIA**

**PUBLIC UTILITY COMMISSION**

**Harrisburg, PA 17105-3265**

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|  |  Public Meeting held October 3, 2019 |
| Commissioners Present:Gladys Brown Dutrieuille, ChairmanDavid W. Sweet, Vice ChairmanAndrew G. Place, StatementJohn F. Coleman, Jr. |  |
| Pennsylvania Public Utility Commission Office of Consumer Advocate Office of Small Business AdvocateCharles Hagins Daniel Killmeyer Samuel GivensSean D. Ferris Peoples Industrial Intervenors Ann D. Bugosh James Boudreau  v.  Peoples Natural Gas Company LLC | R-2018-3006818C-2019-3007711C-2019-3007752C-2019-3007698C-2019-3007635C-2019-3007959C-2019-3007904C-2019-3008506C-2019-3008884C-2019-3008800 |

**OPINION AND ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are the Exceptions of the Office of Small Business Advocate (OSBA) filed on August 22, 2019, to the Recommended Decision (R.D.) of Deputy Chief Administrative Law Judge (ALJ) Joel H. Cheskis, issued on August 15, 2019, in which he, *inter alia*, granted the Joint Petition for Approval of Settlement Stipulation (Joint Petition or Partial Settlement) that was filed on July 9, 2019, by Peoples Natural Gas Company LLC (Peoples or the Company), the Commission’s Bureau of Investigation and Enforcement (I&E); the Office of Consumer Advocate (OCA); the OSBA, Direct Energy Business, LLC, Direct Energy Services, LLC and Direct Energy Business Marketing, LLC (collectively, Direct Energy), Duquesne Light Company (Duquesne Light), Pennsylvania Independent Oil & Gas Association (PIOGA), Community Action Association of Pennsylvania (CAAP), Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA), and Snyder Brothers, Inc., VEC Energy LLC and Snyder Armclar Gas Company LP (collectively, Snyder Brothers).

The remaining contested issue reserved for litigation involves the proposed modification to Peoples’ Retail Tariff Gas – Pa. P.U.C. No. 47, regarding the Company’s main line extension policy.[[1]](#footnote-1) The ALJ supported Peoples’ proposed modification to its main line extension policy and recommended its approval. The OSBA filed Exceptions to the ALJ’s recommendation. Peoples and the OCA filed Replies to Exceptions.

For the reasons discussed below, regarding the sole outstanding issue that was left unresolved by the terms of the Joint Petition, we shall deny the OSBA’s Exceptions. Accordingly, we shall adopt the ALJ’s Recommended Decision which approves the Joint Petition, without modification, consistent with this Opinion and Order.

As discussed below, the genesis of this proceeding involved a general rate increase in which Peoples proposed a base rate change that would have increased its annual distribution revenues by $94.9 million,[[2]](#footnote-2) and represents an increase of 14.13% additional annual base rate operating revenues based upon data for the Fully Projected Future Test Year (FPFTY) ending October 31, 2020. Peoples St. 3 at 2. Our approval of the Joint Petition, which embodies a so-called “black box” settlement, permits Peoples to file new tariff rates designed to provide an overall distribution base rate increase of $59.5 million, representing an increase of 8.92% over present revenues.[[3]](#footnote-3)

#  History of the Proceeding

On January 28, 2019, Peoples filed Retail Tariff Gas – Pa. P.U.C. No. 47 and Supplier Tariff Gas – Pa. PUC. No. S-3 to become effective March 29, 2019, containing a proposed general increase in gas distribution rates of $94.9 million in additional annual base rate operating revenues.[[4]](#footnote-4) Additionally, the Company proposed to merge the Peoples Division and Equitable Division Tariffs into two combined tariffs, one for Retail Service and one for Supplier Service. The Company also proposed to increase its monthly residential customer charge to $20.00, which was an increase from $13.95 for its Peoples Division and $13.25 for its Equitable Division.

On February 28, 2019, the Commission issued an Order suspending Peoples’ filing until October 29, 2019, unless permitted by Commission Order to become effective at an earlier date.

I&E entered its appearance in this proceeding. The OCA and OSBA filed Formal Complaints. The OCA Complaint is filed at Docket No. C‑2019-2473682. The OSBA Complaint is filed at Docket No. C-2019-2477816. Petitions to Intervene were filed by CAAP, 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; PIOGA, Snyder Brothers, Equitrans, L.P. (Equitrans), Direct Energy, Baker Gas, Inc. (Baker Gas), Marco Drilling, Inc. (Marco) and MDS Energy Development, LLC (MDS).

In addition, Formal Complaints were filed by the Peoples Industrial Intervenors (PII) and the following customers of Peoples: Charles Hagins, Daniel Killmeyer, Samuel Givens, Sean D. Ferris, Ann D. Bugosh, James Boudreau. All of these Complaints were consolidated into this rate proceeding for hearing and disposition.

On March 14, 2019, the ALJ convened a Prehearing Conference and on March 19, 2019, a scheduling order was issued memorializing the various matters agreed upon at the Prehearing Conference. Thereafter, the Parties filed various motions and engaged in discovery and filed written testimony.

Public input evidentiary hearings were held in Peoples’ service territory in Johnstown, PA on April 23, 2019 and in Monroeville, PA on April 24, 2019.

The ALJ conducted evidentiary hearings on June 20, 2019 and June 25, 2019. Pre-served testimony of multiple witnesses was admitted via stipulation with cross examination waived. On the second day of hearings, the Parties informed the ALJ that they had reached a settlement on all but one issue – Peoples’ proposed change to the Company’s main line extension policy (Extension Policy). The proposal would provide each potential new residential customer with an allowance of 150 feet of main extension without charge in order to encourage more residential customers to connect to the Company’s system.

On July 9, 2019, Peoples, I&E, the OCA, the OSBA, Direct Energy, Duquesne, PIOGA, CAAP, CAUSE-PA and Snyder Brothers filed the Joint Petition. The Joint Petition was also served on each of the individual Complainants. By letter dated July 10, 2019, the Commission directed any Party wishing to object to the Joint Petition to file those objections on or before July 22, 2019. No objections were received. The record was closed on July 22, 2019.

In a Recommended Decision, issued on August 15, 2019, Deputy Chief ALJ Cheskis recommended approval of the Joint Petition, without modification. In addition, the ALJ recommended approval of the remaining one issue that the Parties did not settle.

As noted, Exceptions were filed by the OSBA on August 22, 2019. Replies to Exceptions were filed by the OCA and Peoples on August 27, 2019.

#  Introduction

As a preliminary matter, we note that any issue that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. The Commission is not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); also see, generally, *University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

In his Recommended Decision, the ALJ made eighty-nine Findings of Fact and reached seventeen Conclusions of Law. R.D. at 7-23, 60-62. The Findings of Fact and Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

1. **Legal Standards**

The purpose of this investigation is to establish distribution rates for Peoples’ customers that are “just and reasonable” pursuant to Section 1301 of the Public Utility Code (Code), 66 Pa. C.S. § 1301. A public utility seeking a general rate increase is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia*, 262 U.S. 679 (1923) (*Bluefield*).

In determining what constitutes a fair rate of return, the Commission is guided by the criteria set forth in *Bluefield, supra,* and *Federal Power Comm’n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944). In *Bluefield* the United States Supreme Court stated:

A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

*Bluefield*, 262 U.S. at 692-693.

1. **Settlements**

The policy of the Commission is to encourage settlements, and the Commission has stated that settlement rates are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §§ 5.231, 69.401. A full settlement of all the issues in a proceeding eliminates the time, effort and expense that otherwise would have been used in litigating the proceeding, while a partial settlement may significantly reduce the time, effort and expense of litigating a case. A settlement, whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case.

Rate increase proceedings are expensive to litigate, and the reasonable cost of such litigation is an operating expense recovered in the rates approved by the Commission. Partial or full settlements allow the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and replies to exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission’s decision, yielding significant expense savings for the company’s customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as those proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R‑00049165 (Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991).

With regard to the burden of proof in this matter, Section 315(a) of the Code provides:

**§ 315. Burden of proof**

1. **Reasonableness of rates.—**In any proceeding upon the motion of the commission, involving any proposed or existing rate of any public utility, or in any proceedings upon complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility. The commission shall give to the hearing and decision of any such proceeding preference over all other proceedings, and decide the same as speedily as possible.

66 Pa. C.S. § 315(a). Consequently, in this proceeding, Peoples has the burden to prove that the rate increase proposed by the Settlement is just and reasonable. In this case, the Joint Petitioners have reached an accord on all but one issue that arose in this proceeding and submitted the Joint Petition and the one remaining issue litigated. The Joint Petitioners have the burden to prove that the Partial Settlement is in the public interest. Peoples also have the burden to prove that its proposed changes to its main line extension policy is in the public interest.

# The Joint Petition for Partial Settlement

1. **Terms and Conditions of the Partial Settlement**

The Joint Petitioners agreed to the Partial Settlement covering all issues except for one. The Partial Settlement provides for increases in rates, the merger of rates of the Company’s Peoples and Equitable Divisions, the combination of various other tariff provisions into single retail and supplier tariffs for the Company and the elimination of separate divisions of the Company. The Joint Petition will result in an increase in distribution revenues of $63,384,103, as a result of approval of elimination of connection fees, pooling fees, and other miscellaneous charges, netting to the $59.5 million increase in annual operating revenue. The Joint Petitioners have agreed to Peoples’ proposal to pay third party fees for customer payments using credit card and debit card, low income customer issues and establishment of Rate Appalachian Gathering Service for the transportation of gas from unconventional sources, including Marcellus and Utica shale gas. The Parties to this proceeding reserved for litigation the one issue - modification to the Company’s current main line extension policy which would provide potential residential customers an allowance of 150 feet of main extension per customer without charge to new customers.

The Settling Parties state that the Settlement was achieved after an extensive investigation of Peoples’ filing, including informal and formal discovery and the submission of direct, rebuttal, supplemental direct, rebuttal, surrebuttal and rejoinder testimony by a number of the Joint Petitioners. Settlement ¶ 74 at 20. They also state that the Settlement is in the public interest for the reasons set forth in their respective Statements in Support. Settlement ¶ 76 at 21.

The Joint Petition consists of the terms and conditions of the Partial Settlement and Appendices A through H. Appendix A to the Settlement sets out the Retail tariff, clean and redline versions; Appendix B to the Settlement sets out the Supplier tariff, clean and redline versions; Appendix C to the Settlement provides revenue allocation; Appendix D to the Settlement provides the proof of revenues and final settlement rates; Appendix E to the Settlement provides the Tax Cuts and Jobs Act refund allocation; Appendix F to the Settlement presents proposed Finding of Fact; Appendix G to the Settlement presents proposed Conclusions of Law. Appendix H to the Settlement presents Proposed Ordering Paragraph. The Joint Petition was also accompanied by Statements in Support filed by Peoples, I&E, the OCA, the OSBA, Direct Energy, Duquesne, PIOGA, CAAP, CAUSE-PA and Snyder Brothers.

The essential terms of the Settlement are set forth in Paragraphs 28-73. The Joint Petitioners agreed to the following terms and conditions:

1. **REVENUE REQUIREMENT**

28. Peoples Natural will be permitted to increase annual revenues by amounts designed to produce increased operating revenues of $59.5 million annually, net of current Distribution System Improvement Charge (“DSIC”) and Tax Cuts and Jobs Act (“TCJA”) surcharges, based upon the level of operations for the twelve months ended October 31, 2020. This amount reflects the roll in of the negative TCJA surcharges and the current DSIC charges for the Peoples Natural and Equitable Divisions. Peoples Natural’s base rates in this proceeding will be designed to increase distribution revenues by $63,384,103, as a result of approval of elimination of connection fees, pooling fees, and other miscellaneous charges, netting to the $59.5 million increase in annual operating revenues.

29. The level of revenue requirement included in this Settlement reflects the resolution of the parties’ positions in the dispute regarding the application of 66 Pa.C.S. § 1301.1 in this case.

30. As of the effective date of rates in this proceeding, Peoples Natural will be eligible to include plant additions in the DSIC once the total eligible account balances exceed the levels projected by the Company in this proceeding at October 31, 2020. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in any Fully Projected Future Test Year (“FPFTY”) filing.

31. For purposes of calculating its DSIC, Peoples Natural shall use the equity return rate for gas utilities contained in the Commission’s most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

32. Peoples Natural will file a Total Company Pennsylvania jurisdictional report showing capital expenditures, plant additions and retirements, by month, for the Future Test Year (“FTY”) ending September 30, 2019, and the FPFTY ending October 31, 2020, by January 31 of each of the years following the test years. In Peoples Natural’s next base rate proceeding, the Company will prepare a comparison of its actual rate base additions for the twelve months ending October 31, 2020, to its projections in this case. However, it is recognized by Joint Petitioners that this is a black box settlement that is a compromise of the Joint Petitioners’ positions on various issues.

33. Changes resulting from the enactment of the TCJA created differences in the deferred tax rates that were used prior to January 1, 2018, creating excess accumulated deferred income taxes. Peoples Natural will begin amortizing the total excess ADIT using the Average Rate Assumption Method (“ARAM”) upon the effective date of new rates. The remaining unamortized excess ADIT balance will continue as a reduction to rate base in all future proceedings until the full amount is returned to ratepayers.

1. **MERGER OF PEOPLES NATURAL AND EQUITABLE DIVISION RATES AND TARIFFS**

34. As proposed by the Company in its filing, the Settlement provides for merger of the separate current rates of the Company’s Peoples and Equitable Divisions into a single set of rate schedules and rates which are contained in a combined retail tariff, attached as Appendix A.

35. The Settlement also provides for a single supplier tariff, which is attached as Appendix B.

36. With the combination and rates and tariffs of the Company’s Divisions, the Settlement terminates the requirement of maintaining separate book and records for the Companies’ Peoples and Equitable Divisions as of the effective date of rates in this proceeding. Peoples Natural’s books and records for the 12 months ended December 31, 2019 and thereafter will be on a consolidated basis. Further, all reports and filings submitted to the Commission will no longer be provided by division and will only be reported on a consolidated basis as of the effective date of rates in this proceeding.

1. **POST EMPLOYMENT AND POST RETIREMENT BENEFITS**

37. Peoples Natural has been granted approval in Docket No. R-00943252 to continue to recover FAS 112 (Post-employment benefit costs) on a pay-go basis. Peoples Natural will continue to recover these costs in rates consistent with that prior Commission order.

38. Peoples Natural’s claim for Post-Retirement Benefits other than Pensions (“PBOPs”) for the FPFTY of $982,654 for current expense and continued 10-year amortization of $1,337,486 per year, to recover the funding deficiency previously approved at Docket No. R-2010-2201702, is approved. The Settlement revenue increase includes these amounts and these amounts will be paid to a dedicated trust account previously established by Peoples Natural for this purpose. Peoples Natural will continue to defer the difference between the annual PBOP expense calculated pursuant to FASB Accounting Standards Codification (“ASC”) 715 and the annual PBOP pay-as-you-go expense included in rates of $982,654. Only the amounts attributable to operation and maintenance will be deferred and recognized as a regulatory asset or liability and will be expensed or credited in future rate proceedings over an amortization period to be determined in the next base rate proceeding.

1. **CLASS REVENUE REQUIREMENTS/RATE DESIGN**

39. The class revenue increases and revenue allocation at settlement rates, which are designed to produce the $63.4 million increase in distribution rates and the $59.5 million net increase in revenues, are as set forth in Appendix C, along with total revenues at settlement rates by class. The monthly changes in customer charges and distribution rates by class included in the settlement rates and proof of revenues is provided in Appendix D.

40. The customer charge for the Residential class will be $14.50.

1. **CREDIT CARD PAYMENTS BY CUSTOMERS**

41. The Company’s proposal to pay third party fees for customer payments by credit card, walk in payment, and debit card payments is approved.

1. **PRICE TO COMPARE (“PTC”) AND PURCHASE OF RECEIVABLES (“POR”) PROGRAM**

42. The PTC for Priority 1 customers consisting of natural gas supply charges (a Commodity Charge and a Gas Cost Adjustment Charge (“GCA”)), a Merchant Function Charge (“MFC”) and a Gas Procurement Charge (“GPC”) (Rider G) are included in the settlement rates.

43. The Settlement Rates set forth the portion of the revenue requirement to be recovered via the MFC (2.49% of purchased gas costs for residential customers and 0.21% of purchased gas costs for small general service, medium general service and large general service) in Rider E and the GPC in Rider G. The GPC shall equal $0.0801 per Mcf.

44. Peoples Natural’s proposal to revise and update its POR discount rate and MFC to match the current write-off factor used to derive the Company’s bad debt revenue requirement and to revise and update the administrative rider designed recover incremental POR implementation costs is implemented in the Settlement Rates.

45. Any shortfall in recovery of the uncollectible expenses and administrative costs of the POR program will not be recovered from sales customers.

1. **POOLING AND BILLING FEES**

46. The Company’s existing pooling fees applicable to NP-1 and P-1 pools will be eliminated.

47. Peoples Natural’s proposal to deliver the required daily gas supplies for Pool Operators that have a peak demand of 2,000 Dth or less in lieu of capacity assignment is approved with the modification that it will be a voluntary option.

1. **LOW INCOME CUSTOMER ISSUES**

48. Peoples Natural will waive High Bill Investigation Fees for customers at or below 150% of the federal poverty level.

49. Regardless of income level, Peoples Natural will cease charging any High Bill Investigation Fees for a foreign load investigation.

50. Peoples Natural will integrate the Universal Service Riders of the Peoples and Equitable Divisions in a manner that does not adversely affect either one of the divisions. Within 90 days of the effective date of rates in this proceeding, Peoples Natural will develop a written plan for how it will ensure that funding for its Low-Income Usage Reduction Program (“LIURP”) will be equitably distributed between divisions. The plan will be circulated to all parties and shared with Commission staff at the Bureau of Consumer Services, and will include data about the actual spending for the program in each rate division over the last three years, as well as information about the estimated and confirmed low income populations in each rate district.

51. Within 120 days of the effective date of rates in this proceeding, Peoples Natural will host an in-person collaborative meeting with interested parties to this proceeding and other stakeholders, including the Bureau of Consumer Services, to answer questions about its proposed plan. The parties and stakeholders will be given the opportunity to provide feedback and recommendations for revisions to Peoples Natural’s proposed plan. If the parties are able to reach consensus, Peoples Natural’s proposal to consolidate its universal service program budgets into a single budget for each program will be approved. If the parties are unable to reach consensus, Peoples Natural will file a separate Petition with the Commission seeking approval of its plan for consolidation of its universal service program budgets.

52. Peoples Natural will increase its annual LIURP budget by $650,000, divided proportionately between Peoples and Equitable Divisions. These costs will be recoverable under the Universal Service Rider. Any unspent funds at the end of each year will roll over and be added to the budget for the following year.

53. The Company commits to maintaining its existing business relationship with CBOs, subject to each individual CBO’s continued performance in conformance with the Company’s Universal Service and Energy Conservation Plan (“USECP”) rules and their contract with the Company.

54. Within 60 days of the effective date of rates, Peoples Natural will update its training materials to clarify that additional medical certificate renewals, beyond the first three certificates, are available to customers who continue to pay their current charges or budget bill amount while protected by a medical certificate. Peoples Natural will share its updated training materials with the parties to this proceeding.

55. Peoples Natural’s customer service staff will inform customers upon submission of a medical certificate that they can continue to renew their medical certificates so long as they continue to pay their current bill or budget bill, but if they fail to do so they are limited to three certificates.

56. Peoples Natural agrees to automatically review its residential accounts at least once every six months to ensure it is not holding deposits for customers who are confirmed low income. If it discovers that deposits are being held, Peoples Natural will refund those deposits to customers within 30 days.

57. Peoples Natural agrees to memorialize, in its USECP, the steps that Peoples Natural has indicated it has already taken to bolster Customer Assistance Program (“CAP”) enrollment that were recommended by CAUSE-PA in its direct testimony.

58. Peoples Natural will revise its Universal Service cost recovery tariff to reflect a bad debt offset of 3.86% for all CAP participation exceeding 32,300. Peoples Natural will no longer track CAP participation separately for its two divisions.

59. Within 6 months, Peoples Natural will adopt a procedure under which it will not disconnect service to a confirmed low-income customer for nonpayment without first providing a stand-alone Plain English notice to that customer of the customer’s right to enter into CAP and an explanation of CAP's arrearage forgiveness benefits. Peoples Natural will develop the Plain English notice in collaboration with its Universal Service Advisory Group.

60. Peoples Natural will adopt a process providing that upon request to enter into Budget Billing, a customer in arrears should be placed on Budget Billing while spreading their arrears over a period consistent with the Commission regulation applicable to the individual customer.

61. For the purposes of cold weather protections, the Company should adopt income verification language that mirrors the tariff language of Columbia Gas of Pennsylvania, Inc. and/or the FirstEnergy Companies to provide greater flexibility to establish income eligibility.

62. Peoples Natural’s proposal to present the issue of CAP outreach to its Universal Service Advisory Group (“USAG”) no later than October 2019 is accepted, provided that subsequent to this discussion, Peoples Natural will present the recommendations of the USAG to the Commission in either its next round of comments regarding the Peoples Natural’s USECP, or its next base rate case, whichever comes first.

63. The additional questions of: (1) why customers do not respond to written shutoff notices that inform customers in arrears of the need to contact the Company in order to avoid the disconnection of service; and (2) why customers do not successfully complete deferred payment agreements, will also be presented to the USAG within the same time line and with the same proviso.

64. Peoples Natural will revise its tariff to explicitly provide that the reconnection fee will be waived for all customers with income at or below 150% of the federal poverty level.

65. Peoples Natural and Duquesne Light will collaborate on their CAPs with the objective to enhance the experience for their mutual low-income customers, including enabling data and document sharing to reduce barriers to enrollment; develop a universal CAP application; and investigate methods of shared recertification that decreases the number of CAP customers removed from CAP for failure to recertify.

1. **MISCELLANEOUS PROVISIONS**

66. Within 120 days of the effective date of rates in this proceeding, in following the Commission’s Temporary Rates Order entered May 17, 2018 at Docket No. R-2018-2641242 and Commission Order entered on June 14, 2018 at Docket No. R-2018-3006818, Peoples Natural will provide the refund of tax savings with interest associated with the TCJA for the period of January 1, 2018 through June 30, 2018 in a one-time bill credit. The one-time bill credit is estimated at $16.6 million, plus interest calculated at the residential mortgage lending rate specified by the Secretary of Banking in accordance with the Loan Interest and Protection Law (41 P.S. §§ 101 et seq.) in effect on the last day of the month prior to the refund to customers. The one-time bill credit will also include any accumulated over/under recovery associated with the TCJA tax change from January 1, 2018 until rates go into effect for the current proceeding. The previous language will be incorporated into Peoples Natural’s Rider TCJA and will go into effect on October 29, 2019, the effective date of new rates in the current proceeding. The bill credit will be allocated to customer classes in the manner set forth in Appendix E. Once the one-bill credit is provided to customers the Rider TCJA will terminate.

67. Peoples Natural will petition to withdraw the Petition for Approval of its Energy Efficiency and Conservation Plan (“EE&C Plan”) that is currently pending before the Commission at Docket No. M-2017-2640306. This withdrawal assumes full compliance with all prior settlement agreements related to the requirement to file the EE&C Plan. Peoples Natural will convene a stakeholder group with the statutory advocates and Duquesne Light to review any new proposal at least 120 days prior to filing, if such a proposal is filed in the future. Peoples Natural further agrees that:

1. Peoples Natural will not make any revised EE&C filing with the Commission that includes any new proposal to incent Combined Heat and Power (“CHP”) development prior to June 1, 2021.
2. Any proposal made by Peoples Natural to incent or otherwise fund CHP development using customer dollars will be made in a distribution base rate case.
3. In addition, any proposal filed after June 1, 2021, will include a discussion on the total resource economic test, in addition to societal, environmental, non-energy impacts (“NEIs”), or non-electric aspects for the CHP projects.
4. Any such CHP proposal shall provide Duquesne Light with a reasonable opportunity to provide further customer incentives under its Act 129 EE&C programs for those CHP projects located in Duquesne Light’s service territory. Duquesne Light agrees that upon approval of this settlement by the Commission it shall endeavor to enhance the visibility of available incentives to potential CHP customers. Duquesne Light also agrees that it will include CHP as an available custom measure in the next Phase of its Act 129 EE&C program, if any. Duquesne Light will invite Peoples Natural to participate in its EE&C stakeholder planning process.
5. Any change in applicable state law, Commission regulation or order would preempt this provision of the settlement. Duquesne Light reserves the right to challenge any aspect of a revised EE&C filing, or other filing related to the development of CHP.

68. Electricity delivered by an electric distribution company shall not constitute a competitive alternative for purposes of natural gas flex rate eligibility or amount, unless the electric distribution company offers an electric flexed distribution rate to the customer.

69. The Company shall provide the highest curtailment priority available under applicable law, no lower than Category 2a or its equivalent, to operational facilities of electric distribution companies. Such operational facilities shall include the six Duquesne Light operational facilities identified in Duquesne Light Statement No. 3, Direct Testimony of Jason Harchick.

1. **RATE APPALACHIAN GATHERING SERVICE**

70. The Company’s proposal to establish rate Appalachian Gathering service is approved as modified below:

1. In order to encourage conventional producers to stay on Peoples Natural’s gathering system and increase production, the following tariff language addition to Rate AGS is approved:

(1) If a conventional producer adds incremental conventional production to the Peoples Natural’s system, that producer’s incremental production shall qualify for a reduced Rate AGS fee equal to 50% of the effective monthly Rate AGS fee.

(2) Incremental conventional production is any conventional production that is not connected to the Company’s facilities as of June 15, 2019 and shall not include any existing production delivered to Peoples Natural’s system and subsequently acquired by the producer from any other producer. Incremental conventional production shall also include increased production volumes from existing conventional wells as a result of well stimulation or similar actions. The level of incremental production volumes from existing wells shall be determined by the Company based on supporting information provided to the Company by the producer.

1. Peoples Natural withdraws the proposed escalator to Rate AGS without prejudice to proposing a rate increase and/or rate escalator in a future base rate proceeding.
2. The water vapor standards for normal ongoing operations on the Peoples Division shall follow the Production Enhancement Services (“PES”) agreement standards currently in place on the Peoples Division. The water vapor standards for normal ongoing operations on the Equitable Division shall be the prevailing water vapor standards as of June 1, 2019. However, Peoples Natural reserves the right to require more stringent water vapor standards in limited and specific situations where Peoples Natural has determined through water vapor testing that the water vapor levels at identified production meter points are affecting customer service or creating operational issues.
3. Peoples Natural will make every effort to accept local gas as a priority over Interstate gas.
4. These terms will remain in effect until the effective date of new base rates as a result of Peoples Natural’s next base rate case.
5. **MAIN LINE EXTENSION PROPOSAL**

71. The Company’s proposed changes to its main line extension policy are reserved for litigation.

1. **COMPETITIVE RATE DISCOUNTS**

72. On combination of the Peoples and Equitable Divisions as contemplated by this Settlement, the entire Company will be subject to the requirements of the Equitable Gas Company 2008 base rate settlement provision concerning justifying discounts in future base rate proceedings, which provides as follows:

B.3. Equitable will agree to maintain a highly confidential log of negotiated delivery service agreements available for review by the OTS, the OCA and the OSBA. The log will contain the following information related to negotiated agreements:

Customer number, effective date of the agreement, the reason(s) for offering a negotiated delivery agreement, supporting work papers relied upon to substantiate the negotiated agreement, and an analysis which evaluates the contribution to overall fixed costs provided by each customer.

73. In implementing this provision in circumstances where a bypass of the Company’s facilities is the customer’s competitive option, the Company will work with the customer in future negotiations to develop an analysis of the likely construction cost of the bypass facilities and apply that estimate in determining, through negotiations, the discounted rate offered to the customer. This information will be included as a part of the confidential materials presented in the Company’s initial filing in future base rate proceedings. The Company will also provide a confidential annual report to the Statutory Advocates listing all customers that currently are receiving a discounted rate due to any of the reasons contained herein. The confidential report will provide information regarding whether the customer is being offered the discounted rate due to gas-on-gas competition, potential bypass, economic reasons or alternative fuel reasons. The Company should include in its analysis the annual log information. In future base rate proceedings, the confidential materials presented as part of the Company’s filing will include sworn affidavits from all discount customers as to the facts and reasons for the discounts as set forth in the Company supplied materials.

In addition to the specific terms to which the Joint Petitioners have agreed, the Joint Petition is conditioned upon the Commission’s approval of its terms and conditions, without modification. If the Commission modifies the Partial Settlement, any Joint Petitioners may elect to withdraw from the Partial Settlement. Joint Petition ¶ 77 at 21. The Joint Petition also provides that it is made without any admission against, or prejudice to, any position that any Joint Petitioner may adopt in any further litigation in this proceeding. The Joint Petitioners aver that the Settlement terms and conditions may not be cited as precedent in any future proceeding. Joint Petition ¶¶ 78-79 at 21-22.

 The Joint Petitioners respectfully requested that the ALJ and the Commission approve the Partial Settlement, including all terms and conditions thereof, without modification. Joint Petition at 23.

1. **ALJ’s Recommendation**

The ALJ found that the record evidence in this proceeding demonstrated that the Joint Petition was in the public interest and, therefore, recommended that it be adopted in its entirety, without modification. He stated that the Joint Petition is in the public interest because the original requested increase of $94.5 million has been reduced to a total of $59.5 million annually, resulting in a savings of approximately $35 million per year for Peoples’ customers. The ALJ also found that under the Partial Settlement, Peoples’ customers will continue to receive safe and adequate service at just and reasonable rates. R.D. at 43-44.

The ALJ noted that the Joint Petition merges separate current rates of the Company’s Peoples and Equitable divisions into a single set of rate schedules and rates, making it simpler for the Company, the Commission and consumers. The ALJ also noted that the reduced revenue increase amount factors in calculation of the Distribution System Improvement Charge (DSIC) and the change resulting from the enactment of the federal Tax Cuts and Jobs Act of 2017, Public Law No. 115-97, 131 Stat. 2054 (TCJA) that created differences in the deferred tax rates that were used prior to January 1, 2018. The ALJ also stated that the reduced revenue increase of $59.5 million amount appears to be a reasonable compromise given the other revenue requirement figures proposed in this proceeding and is within the likely range of outcomes had this case been fully litigated. R.D. at 44.

The ALJ noted that there are several provisions in the Settlement that benefit low-income consumers. For example, Peoples will, among other things, waive high bill investigation fees for customers at or below the federal poverty level which will allow low income customers to ensure that they are not being over charged but are being billed accurately. Peoples will increase its annual LIURP budget by $650,000 divided evenly between the Peoples and Equitable divisions with the cost recoverable through universal service rider. This will increase the number of customers who can benefit from LIURP program. Peoples will take steps to bolster its CAP enrollment which will also allow more customers to benefit from the program. Peoples will provide a stand-alone plain English notice to customers regarding CAP prior to termination developed in conjunction with the Universal Service Advisory Group which will decrease the number of customers that are improperly terminated. R.D. at 45.

Peoples has agreed to eliminate pooling fees that deliver the required daily gas supplies for pool operations that have a peak demand of 2,000 Dth or less in lieu of capacity assignment on a voluntary basis. Peoples has also agreed to withdraw its Petition for Approval of its Energy Efficiency and Conservation Plan that is currently pending before the Commission and convene a stakeholder group with OCA, I&E, OSBA and Duquesne to review any new filing at least 120 days prior to filing if such a proposal is filed in the future. R.D. at 46.

The ALJ opined that the Joint Petition represented a fair and reasonable settlement of this proceeding. The ALJ asserted that the Joint Petition will save the parties from expending substantial time and expense involved with further litigation. Specifically, the ALJ pointed out that acceptance of the Joint Petition will negate the need for the filing of additional testimony by all Parties, participation at in-person hearings, the filing of main and reply briefs, exceptions and reply exceptions, and potential appeals. According to the ALJ, this savings in rate case expense serves the interests of Peoples and its ratepayers, as well as the Parties themselves. R.D. at 46-47.

The ALJ explained that the individual Complainants were served with a copy of the Joint Petition and were offered an opportunity to object to its terms. However, no objections were filed. Therefore, the ALJ deemed that the Complainants’ does not oppose the Settlement and recommended that the Formal Complaints be dismissed. R.D. at 47.

The ALJ found the Partial Settlement embodied in the Joint Petition is in the public interest, supported by substantial evidence and recommended its approval. R.D. at 48.

1. **Disposition**

Prior to the evidentiary hearing, the Parties reached a settlement in principle of the revenue requirement in the Company’s rate case. At hearings held on June 20, 2019, and June 25, 2019, the Parties pre-served testimony were admitted into the record and cross-examination was waived. The Parties had reached a settlement on all of the issues except one issue regarding main line extensions. The Joint Petition was not signed by all the Parties, but also was not opposed by any Party.

Based upon our review of the Partial Settlement, we agree with the ALJ, as well as with the Joint Petitioners’ assertions in their filed Statements in Support, that the terms and conditions of the Settlement are in the public interest and should be approved. We find that the settled issues within the Joint Petition are beneficial to customers. Among those provisions are: (1) the reduced distribution rate increase of about sixty percent of the originally proposed increase in rates; (2) the agreement by Peoples to factor in calculation of the DSIC and the changes resulting from the enactment of the TCJA in the deferred tax rates used prior to January 1, 2018, that will result in one-time bill credit estimated at $16.6 million; (3) the merger of the Company’s Peoples and Equitable divisions into a single set of rate schedules and rates in a combined tariff will make it simpler for the Company, the Commission and consumers; (4) the agreement that the combined rate for residential customer charge will be at the rate of $14.50 per month; (5) the agreement by Peoples to pay third party fees for customers payments by credit card and debit card; (6) the agreement by Peoples to waive high bill investigation fees for customers at or below the federal poverty level to ensure that they are not being overcharged; (7) the agreement by Peoples to increase its annual LIURP budget by $650,000 with the cost recoverable through the universal service rider; (8) the agreement to update its training materials to make clarifications regarding additional medical certificate renewals which will enable more consumers to maintain service when they have medical necessity; (9) the agreement by Peoples to take steps to bolster its CAP enrollment allowing more consumers to benefit from the program; (10) the agreement to provide a stand-alone plain English notice, developed in conjunction with the Universal Service Advisory Group, regarding termination of service of CAP customers; (11) Peoples’ agreement to modify the budget billing process and making tariff revisions regarding waiver of the reconnection fees for customers at or below 150% of the federal poverty level; (12) Peoples’ agreement to eliminate pooling fees and deliver the required daily gas supplies for pool operates that have a peak demand of 2,000 Dth or less in lieu of capacity assignment on a voluntary basis; (13) Peoples’ agreement to withdraw its Petition for Approval of its Energy Efficiency and Conservation Plan, currently pending before the Commission and convene a stakeholder group with OCA, I&E, OSBA and Duquesne to review any new filing at least 120 days prior to its filing; (14) Peoples’ agreement to modify the proposed Rate AGS encouraging conventional producers of Pennsylvania to stay on Peoples’ gathering system and increase production; and (15) Peoples’ agreement to subject itself to the requirements of Equitable Gas Company’s 2008 base rate settlement provisions concerning justifying competitive discounts in future base rate proceedings.

The Joint Petition resolves all but one issue, discussed, *infra,* impacting residential consumers, business customers and the public interest at large and represents a fair balance of the interests of Peoples and its customers. The benefits of approving the Joint Petition are numerous and will result in significant savings of time and expenses for all Parties involved by avoiding the necessity of further administrative proceedings, as well as possible appellate court proceedings, conserving precious administrative resources. Moreover, the Joint Petition provides regulatory certainty with respect to the disposition of issues which benefits all parties. For the reasons stated herein and in the settling Parties’ Statements in Support, we agree with the ALJ’s conclusion that the Joint Petition is in the public interest. Accordingly, we shall adopt the ALJ’s recommendation to grant the Joint Petition and approve the Partial Settlement, without modification.

# Contested Issue Regarding

**A. Main Line Extension Allowance**

1. **Background**

In its initial filing Peoples proposed a streamlined approach to install the first 150 feet of main line, without charge, for each residential applicant that applies for a line extension unless there are abnormal underground conditions that require excessive expenditures. Peoples M.B. at 12; (citing Peoples St. No. 2 at 39-41). Projects that 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-feet allotment. When the extension project is greater than 150 feet, Peoples will determine the required customer contribution by subtracting 150 feet per customer from the average foot per customer associated with the specific main line extension allowance. *Id*.

Currently, Peoples uses an economic analysis when a customer requests the Company to extend its natural gas facilities to serve that customer. Peoples then compares the net present value of the customer’s projected future revenue to the cost the Company would incur to add that customer and extend the facilities to the customer without cost. If the projected cost exceeds the projected revenue, the customer is required to pay a contribution in aid of construction (CIAC) equal to the revenue deficiency or pay the required contribution over time pursuant to Rider MLX.[[5]](#footnote-5) Peoples’ proposed streamlined approach for its main line extension will not replace Rider MLX which will continue to be offered to customers as an option to pay the contribution for the extension over time. *Id*. at 11-13 (citing Peoples St. 2 at 41).

1. **Positions of the Parties**

**a. Peoples**

Peoples submitted that its Main Line Extension proposal to install 150 feet of main line without charge for each residential applicant will reduce barriers to customer receiving natural gas service by reducing the overall cost a residential applicant must pay for line extension. Peoples noted that one of the more significant barriers for residential customers to receive or convert from other energy source to natural gas is the CIAC. Although Rider MLX helps in overcoming this barrier by spreading the cost of the CIAC over a period of time, it does not reduce the overall cost a customer must pay for the main extension. Peoples noted the plentiful supply of low-cost gas from the Marcellus Shale is an ideal opportunity to help more people convert to natural gas and enjoy the cost savings of this efficient natural resource. *Id.* at 13-14.

Peoples averred that its proposal will supplement Rider MLX and provide greater flexibility to customers in determining how to pay for the required contributions. Peoples also claimed that its proposal should be approved because it is a streamlined approach that is simpler and easier for customers to understand, and is consistent with the main line extension policies of other natural gas distribution companies such as Columbia Gas of Pennsylvania, Inc. and the FirstEnergy Companies. *Id.* at 14-15.

Peoples added that its main line extension proposal will not create any subsidy or cost shift to existing customers based upon its historic experience. Peoples witness Mr. Gregorini in his prepared testimony indicated that when all residential mainline extensions are reviewed, the average cost is considerably well below the average allowable cost under the Company’s existing allowable investment model. Peoples also indicated that based on the historic residential mainline extensions in 2017 and 2018, the allowable project cost under the Company’s proposed 150-foot main line extension would be $6,594 rather than the $5,906 under the Company’s current policy using proposed rates. *Id*. at 16-17.

**b. OSBA**

The OSBA opposed Peoples’ proposed changes to its main line extension policy. The OSBA argued that the proposal violates cost causation principles. OSBA M.B. at 6-8. The OSBA noted that the intent of the proposal is to make it easier for residential applicants to acquire natural gas service by reducing the overall level of the CIAC that would otherwise be required of residential customers under Peoples’ existing main extension policy. *Id*. at 7. The OSBA added that the proposal to reduce the required level of residential CIACs going forward undermines the purpose of CIAC which is to offset that part of the cost of an extension that is not otherwise supported by the customer’s expected revenue stream over a 40-year period. *Id*. (citing OSBA St. No. 1 at 14, 16). The OSBA argued that adopting the proposed modification would not lower Peoples’ cost of extending service to residential customers but would merely excuse the residential customer from paying a portion of that cost. *Id*. The OSBA cited to the Commonwealth Court’s decision in *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006), *alloc. denied*, 916 A.2d 1104 (Pa. 2007) (*Lloyd*), as well as to Section 1304 of the Code, 66 Pa. C.S. § 1304, for the principle that cost causation is a basic tenet in utility law ratemaking in support of its position. *Id*. at 8.

In addition, the OSBA argued that Peoples’ proposal impermissibly creates a cross-class subsidy, noting that the difference between the current allowable investment amount and Peoples’ proposal equates to a reduction in a residential applicant’s otherwise required CIAC of $868 and that $868 will be paid by general ratepayers. *Id*. at 8-9, (citing *Lloyd*, OSBA St. No. 1 at 16, and OSBA St. No. 1-S at 7). Therefore, the OSBA argues that the proposal to have general ratepayers pay a portion of the cost of main line extensions for residential customers creates a cross-subsidization and that it should be rejected. OSBA M.B. at 9.

The OSBA argues that Peoples’ current main line extension policy is reasonable and appropriate. *Id*. at 9-10. The OSBA noted that the current 40 years of net revenue contributions for purposes of determining the customer’s allowable investment amount should be more than sufficient time for a customer to payback the initial service extension costs incurred by Peoples without requiring a CIAC. *Id*. at 10 (citing OSBA St. No. 1 at 17). The OSBA concluded that Peoples has failed to provide any valid economic argument in support of its proposal.

**c. OCA**

The OCA also briefed this issue. The OCA argued that Peoples has met its burden of proof in this case by demonstrating that the proposed main line extension policy will provide a benefit to customers seeking to obtain access to low-cost natural gas service in unserved and underserved areas within the Commonwealth without negatively affecting the Company’s current customers. OCA M.B. at 8-9. The OCA points to an economic test as explained by Peoples’ witness Mr. Gregorini noting that, if the current economic test revealed that a CIAC was needed, the customer could pay that CIAC upfront or spread the cost of the CIAC over time by charging a higher delivery rate through Rider MLX. *Id*. at 9-10. The OCA noted that Mr. Gregorini explained that the CIAC amount as a whole was a significant barrier to incentivizing residential customers to receive a main extension and convert to natural gas service, but the proposed changes reduce this barrier through the 150-foot allowance. *Id*. at 10.

1. **ALJ’s Recommendation**

ALJ Cheskis recommended that the Commission approve the Company’s proposal to modify its main line extension policy. The ALJ found that Peoples had established that its main line extension policy is in the public interest and supported by substantial record evidence. R.D. at 55-59.

In his Recommended Decision, the ALJ accepted the position of Peoples, as endorsed by the OCA, that as a matter of public policy, areas of the Commonwealth that are unserved or underserved by natural gas stand to benefit from the price competitiveness and availability of natural gas. The ALJ noted that Peoples’ proposal will increase the number of residential customers who are able to receive natural gas service by eliminating the first $5,906 of cost to have the main line extended. *Id.*

The ALJ agreed with Peoples and the OCA that the Company installing the first 150 feet of main line without charge for each residential customer that applies for a line extension, unless there are abnormal underground conditions such as crossing a stream or highway, among other things, is just and reasonable. The ALJ noted that this includes Peoples’ proposal that, as more applicants join a single project to extend gas facilities, the Company will install a greater length of main without charge to the residential applicants and that any amount required beyond 150 feet could be paid by the applicant upfront or through Rider MLX. *Id.*

The ALJ also pointed out that Peoples’ proposal will increase the number of residential customers who are able to receive natural gas service by eliminating the first $5,906 of cost to have the main line extended. According to the ALJ, natural gas service is a reliable and economic source of heat and has become increasingly available as a result of the increased access to Marcellus Shale in Pennsylvania. The ALJ agreed with Peoples’ argument that through the combined benefit of the proposal and Rider MLX, Peoples will be able to further encourage customers to convert to natural gas and capitalize on the plentiful supply of low-cost gas supplies. In addition, the ALJ agreed with the OCA’s assertion that as a matter of public policy, areas of the Commonwealth that are unserved or underserved by natural gas stand to benefit from the price competitiveness and availability of natural gas. *Id.*

In light of the above, the ALJ recommended adoption of Peoples’ proposed main line extension allowance. *Id*.

1. **Exceptions and Replies**

The OSBA excepted to the ALJ’s ruling. Peoples and the OCA filed Replies to the OSBA’s Exceptions. The Exceptions and the associated Replies to Exceptions are addressed below.

The OSBA excepts to the ALJ’s recommendation by noting that even though the ALJ acknowledged that to the extent that the Company’s proposed 150-foot Main Mine Extension allowance to new residential customers creates a subsidy, it is appropriate to allocate costs to the residential customer class in future base rate proceeding. The OSBA contends that the ALJ erred by not including an Ordering Paragraph directing the Company to allocate these costs to the residential class in any future base rate proceeding. OSBA Exc. at 2.

In its Reply to Exceptions, Peoples states that the OSBA no longer contests its 150-feet main line allowance proposal, but simply objects to the ALJ’s omission of an ordering paragraph that would require the Company to assign all of the costs for the main line extensions proposal, including any subsidy that may be created, to the residential customer class in future base rate proceedings. Peoples notes that the ALJ, in his Recommended Decision, had rejected the OSBA’s claim that the Company’s proposal would result in residential applicants paying inadequate contribution in the form of CIACs for extension of the Company’s main lines. Peoples also noted that the ALJ specifically rejected the OSBA’s argument that the Company’s proposal would create a subsidy for new residential applicants that would be passed on to general ratepayers. Peoples R. Exc. at 1-2.

Peoples emphasizes that the record demonstrates that historical examination of all of Peoples’ residential main line extensions in 2017 and 2018 shows that the average allowable project cost per residential customer under the proposal is substantially lower than the average allowable investment under the current policy. Additionally, Peoples states that although the extension rule applies to residential customers, those line extensions could allow other classes such as small business classes to obtain natural gas service when otherwise they would not have received service. Peoples points out that until such costs are reflected in the Company’s rate base and the parties are able to review all of the costs and benefits of the extensions, it is premature for the Commission to declare that these costs should be allocated and recovered by Peoples. Peoples R. Exc. at 3-4.

Peoples submits that for the above reasons the Commission should deny the OSBA’s Exception and adopt the ALJ’s well-reasoned Recommended Decision without modification. Peoples R. Exc. at 1-2.

In its Replies to the OSBA’s Exceptions, the OCA contends that the OSBA’s request to include Ordering Paragraphs that direct Peoples to allocate costs associated with its proposed Extension Policy to the residential class is not supported by the Code and should be denied. The OCA cites to Sections 332(b) and 335(c) of the Code and states that any order issued by the ALJ or the Commission in a proceeding must be based on evidence in the record. The OCA also cites to Commission’s Order at *Pa. Elec. Co. v. Pa. PUC*, 166 Pa. Commw. 413 432, 648, A.2d 63, 74 (1994) to emphasize the Commission’s role and duty in reviewing record evidence in making appropriate credible determinations and assigning the appropriate weight to the evidence presented. OCA R. Exc. at 2-3.

The OCA maintains that in this proceeding there is no evidence in the record to support the inclusion of Ordering Paragraphs to direct Peoples to allocate costs associated with the Company’s proposed Extension Policy to the residential class. Rather, the OCA submits that the record evidence in this proceeding shows that the Company did not propose a specific allocation of costs for its Extension Policy. Accordingly, the OCA takes the position that no decision is being made in this proceeding or should be made with respect to future allocations of costs that have not yet been incurred. The OCA also maintains that the implication of the Company’s proposed Extension Policy is currently not creating any subsidies or surpluses. The OCA also refers to the ALJ’s discussion in his Recommended Decision that it is uncertain that a subsidy will be created and that the parties can review the Company’s residential extensions in Peoples’ next base rate proceeding to ensure that the costs are allocated appropriately and if needed to modify the rule on a prospective basis. OCA R. Exc. at 3‑4.

1. **Disposition**

On consideration of the positions of the Parties and the record evidence, we shall deny the OSBA’s Exceptions and adopt the recommendation of ALJ Cheskis. The OSBA’s request to include an ordering paragraph that directs Peoples to allocate costs associated with the Company’s proposed Extension Policy to the residential class is based upon an assumption of shifting the cost to other classes of customers and a subsidy being created. However, Peoples has not sought any ratemaking treatment regarding its proposal and did not reflect any capital cost in this case and it is unknown at this time how much cost will be incurred with the main line allowance. The ALJ concluded, based on the record evidence, that it is unclear that a subsidy or a shift of cost would occur. We agree.

We also agree with the OCA that the general nature of utility ratemaking should be viewed on a wider perspective. As the OCA observed, it could be said that new customers taking service in locations where main line extensions have not been an issue have been subsidized by all the existing customers that have contributed to the existing system for years. We agree with the ALJ that the parties can review the Company’s residential extension in the Company’s next base rate proceeding to ensure that the cost are allocated appropriately and if necessary, to modify the rule prospectively.

In light of the above, we shall adopt the ALJ’s recommendation that Peoples’ proposal to change main line extension policy is in the public interest. Accordingly, we shall grant Peoples’ proposed main line extension allowance.

# Conclusion

It is the Commission’s policy to promote settlements. 52 Pa. Code § 5.231. The Parties herein have provided the Commission with sufficient information upon which to thoroughly consider the terms of the proposed Joint Petition for Partial Settlement. Based on our review of the record in this case, including the Joint Petition and the Statements in Support thereof, we find that the proposed Joint Petition by Peoples, I&E, the OCA, the OSBA, Direct Energy, Duquesne Light, PIOGA, CAAP, CAUSE-PA and Snyder Brothers, are in the public interest. Accordingly, we shall adopt the Recommended Decision, consistent with this Opinion and Order, and grant the Joint Petition for Partial Settlement. Additionally, we shall deny the Exceptions of the OSBA and adopt the ALJ’s recommendation regarding Peoples’ Main Line Extension program; **THEREFORE:**

**IT IS ORDERED:**

1. That the Exceptions filed by the Office of Small Business Advocate to the Recommended Decision of Deputy Chief Administrative Law Judge Joel H. Cheskis, on August 22, 2019, are denied.
2. That the Recommended Decision of Deputy Chief Administrative Law Judge Joel H. Cheskis, issued on August 15, 2019, is adopted, consistent with this Opinion and Order.
3. That Peoples Natural Gas Company LLC shall not place into effect the rates, rules and regulation contained in Retail Tariff Gas – PA PUC No. 47 and Supplier Tariff – PA PUC No. S-3, as filed.
4. That the Joint Petition for Approval of Settlement Stipulation filed on July 9, 2019, by Peoples Natural Gas Company LLC, the Commission’s Bureau of Investigation and Enforcement, the Office of Consumer Advocate, the Office of Small Business Advocate, Direct Energy Business, LLC, Direct Energy Services, LLC, Direct Energy Business Marketing, LLC, Duquesne Light Company, Pennsylvania Independent Oil and Gas Association, Community Action Association of Pennsylvania, Coalition for Affordable Utility Services and Energy Efficiency, Snyder Brothers, Inc., VEC Energy LLC and Snyder Armclar Gas Company LP, is approved.
5. That Peoples Natural Gas Company LLC shall be permitted to file tariffs, tariff supplements and/or tariff revisions, on one day’s notice, and pursuant to the provisions of 52 Pa. Code §§ 53.1, *et seq*., and 53.101, incorporating the terms of the Joint Petition for Approval of Settlement Stipulation and changes to rates, rules and regulations as set forth in Appendices A and B of the Joint Petition for Approval of Settlement Stipulation, designed to produce an annual distribution rate revenue increase of approximately $59.5 million, to become effective for service rendered on and after October 29, 2019.
6. That Peoples Natural Gas Company LLC shall refund in the form of one-time bill credit within 120 days of the effective date of rates in this proceeding, the tax savings, with interest, associated with the Tax Cut and Jobs Act of 2017 for the period of January 1, 2018, till the new rate in this proceeding goes into effect on October 29, 2019.
7. That Peoples Natural Gas Company LLC shall file with the Commission’s Bureau of Technical Utility Services a list that shall detail by rate class how much in dollars will be refunded to each rate class as a result of the Tax Cut and Jobs Act of 2017 refund. The list shall be filed at Docket No. R-2018-3006818 on or before November 18, 2019.

8. That the Formal Complaint filed by the Office of Consumer Advocate at Docket No. C-2019-3007711, be marked satisfied and closed.

9. That the Formal Complaint filed by the Office of Small Business Advocate at Docket No. C-2019-3007752, as it relates to the disposition of its request to include a directive that the costs for new residential customers’ mainline extension should be assigned to the residential class, is denied. The Formal Complaint is otherwise satisfied as it relates to all other issues and shall be marked closed.

10. That the Formal Complaint filed by Charles Hagins at Docket No. C-2019-3007698, is dismissed.

11. That the Formal Complaint filed by Daniel Killmeyer at Docket No. C-2019-3007635, is dismissed.

12. That the Formal Complaint filed by Samuel Givens at Docket No. C‑2019-3007959, is dismissed.

13. That the Formal Complaint filed by Sean D. Ferris at Docket No. C‑2019-3007904, is dismissed.

14. That the Formal Complaint filed by Peoples Industrial Intervenors at Docket No. C-2019-3008506, be marked satisfied and closed.

15. That the Formal Complaint filed by Ann D. Bugosh Docket No. C‑2019-3008884, is dismissed.

16. That the Formal Complaint filed by James Boudreau at Docket No. C-2019-3008800, is dismissed.

17. That upon Commission approval of the tariff supplements filed by Peoples Natural Gas Company LLC in compliance with the Commission’s Order, the investigation at Docket No. R-2018-3006818, be marked closed.

**BY THE COMMISSION,**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: October 3, 2019

ORDER ENTERED: October 3, 2019

1. As discussed, *infra*, Peoples proposed modification to its main line extension policy would provide an allowance of 150 feet of main per customer without the need to perform an economic analysis in normal situation. In effect, the Company would install the first 150 feet of main without charge to the customer in normal situation. The OSBA is opposed to the Company’s proposed modification. R.D. at 19‑23. [↑](#footnote-ref-1)
2. *See* Peoples St. No. 3-R at 5. [↑](#footnote-ref-2)
3. The Partial Settlement combines the rates of the Company’s Peoples and Equitable Divisions. Under the settlement, the average monthly bill for a residential customer in the Peoples Division would increase from $74.24 to $79.84, an increase of $5.60 or 7.5 percent, and that of Equitable Division would increase from $70.79 to $79.84, an increase of $9.05 or 12.8 percent, for an average residential monthly bill of $79.84 for both divisions. [↑](#footnote-ref-3)
4. As previously noted, in this Opinion and Order, we shall approve an annual revenue increase of $59.5 million, or 8.92%. [↑](#footnote-ref-4)
5. Rider MLX is a provision in Peoples’ tariff through which a customer spreads his required contribution, or CIAC, for an extended period of time through higher delivery rate. [↑](#footnote-ref-5)