

**I&E Statement No. 3-SR
Witness: Brenton Grab**

PENNSYLVANIA PUBLIC UTILITY COMMISSION

v.

PEOPLES NATURAL GAS COMPANY LLC

Docket Nos. R-2018-3006818

Surrebuttal Testimony

of

Brenton Grab

Bureau of Investigation & Enforcement

Concerning:

CHARITABLE AND CIVIC CONTRIBUTIONS

TAXES

TABLE OF CONTENTS

CHARITABLE AND CIVIC CONTRIBUTIONS 2

PUBLIC UTILITY REALTY TAX..... 7

STATE TAX ADJUSTMENT SURCHARGE 9

FEDERAL INCOME TAX – TAX CUTS AND JOBS ACT OF 2017 10

INCOME TAX EXPENSE 18

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Brenton Grab. My business address is Pennsylvania Public
3 Utility Commission, Commonwealth Keystone Building, 400 North Street,
4 Harrisburg, PA 17120.

5

6 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

7 A. I am employed by the Pennsylvania Public Utility Commission
8 (Commission) in the Bureau of Investigation and Enforcement (I&E) as a
9 Fixed Utility Financial Analyst.

10

11 **Q. ARE YOU THE SAME BRENTON GRAB WHO SUBMITTED I&E
12 STATEMENT NO. 3 AND I&E EXHIBIT NO. 3?**

13 A. Yes.

14

15 **Q. WHAT IS THE PURPOSE OF YOUR SURREBUTTAL
16 TESTIMONY?**

17 A. The purpose of my surrebuttal testimony is to respond to the rebuttal
18 testimony of Peoples Natural Gas Company LLC (Peoples or Company)
19 witnesses Andrew P. Wachter (Peoples Statement No. 3-R), Matthew D.
20 Wesolosky (Peoples Statement No. 4-R), and Carol A. Scanlon (Peoples
21 Statement No. 5-R).

1 **Q. DOES YOUR SURREBUTTAL TESTIMONY INCLUDE AN**
2 **ACCOMPANYING EXHIBIT?**

3 A. No. However, I refer to my direct testimony (I&E Statement No. 3).

4
5 **Q. PLEASE SUMMARIZE YOUR ADJUSTMENTS AS CONTAINED IN**
6 **THIS SURREBUTTAL TESTIMONY.**

7 A. The following table summarizes my recommended adjustments to the Company's
8 position:

9

	Company Claim	I&E Adjustment	I&E Recommended Allowance
O&M Expenses and Taxes:			
Charitable and Civic Contributions	\$2,851,402	(\$2,851,402)	\$0
PURTA	\$790,013	(\$160,159)	\$629,854
Amortization of Regulatory Liability – Prior Years' Excess Deferred Income Taxes	\$0	(\$779,826)	(\$779,826)
Total O&M and Tax Expense Adjustments		<u>(\$3,791,387)</u>	

10

11 **CHARITABLE AND CIVIC CONTRIBUTIONS**

12 **Q. SUMMARIZE YOUR RECOMMENDATION IN DIRECT TESTIMONY**
13 **RELATED TO CHARITABLE AND CIVIC CONTRIBUTIONS?**

14 A. I recommended disallowance of the Company's entire claim of \$2,851,402 for
15 charitable and civic contributions, since charitable and civic contributions do not
16 provide direct benefits to the ratepayers and are not an operational cost necessary

1 to provide safe and reliable service (I&E Statement No. 3, p. 4). Also, ratepayers
2 should not be required to finance the Company's decision to contribute to various
3 charitable entities as outlined in the Company's filing (Peoples Volume 12,
4 Exhibit No. 4, Schedule 14).

5
6 **Q. DID ANY COMPANY WITNESS SUBMIT REBUTTAL TESTIMONY IN**
7 **RESPONSE TO YOUR RECOMMENDATION?**

8 A. Yes. Peoples witness Andrew P. Wachter (Peoples Statement No. 3-R, pp. 40-41)
9 disagrees with my recommendation.

10
11 **Q. SUMMARIZE MR. WACHTER'S RESPONSE IN REBUTTAL**
12 **TESTIMONY.**

13 A. Mr. Wachter opines that these charitable contributions provide a benefit to
14 ratepayers by stimulating the market for Peoples, creating an opportunity to spread
15 Peoples' costs of service among the widest possible base of sales and
16 transportation volumes, improving the environment, attracting new business,
17 enhancing and retaining existing businesses, fostering the development of a
18 qualified and productive work force, reducing costs, and reducing unemployment
19 (Peoples St. No. 3-R, pp. 40-41). Mr. Wachter also argues that some of these
20 charitable contributions are truly employee expenses due to the Company's
21 Matching Gift Program. In this program Peoples provides a dollar for dollar
22 match (up to \$500) of employee donations to eligible non-profit organizations.

1 **Q. WHAT IS YOUR RESPONSE TO MR. WACHTER'S REBUTTAL**
2 **TESTIMONY ARGUMENT THAT CHARITABLE CONTRIBUTIONS**
3 **SHOULD BE INCLUDED IN BASE RATES SINCE PEOPLES'**
4 **CHARITABLE CONTRIBUTIONS PROVIDE A BENEFIT TO**
5 **RATEPAYERS?**

6 A. I disagree with Mr. Wachter's argument. Mr. Wachter did not provide any new
7 information in his rebuttal testimony that he did not previously provide in direct
8 testimony. Because of this my original argument that charitable contributions do
9 not provide a direct benefit to ratepayers still stands. The Company has stated that
10 its charitable contributions provide a direct benefit to ratepayers, but it has not
11 provided any evidence of this. The Company has not provided any type of
12 analysis showing a direct correlation between the amount of money donated to the
13 charities and the amount of benefits or services that its ratepayers are receiving
14 from said charities.

15 Charitable contributions are elective payments/donations made to entities
16 without consideration or exchange expected. Peoples has no say on how much of
17 its donations will be used to benefit its ratepayers. As such there is no direct
18 benefit to Peoples' ratepayers from the charitable contributions made by Peoples.
19 Also, these charitable contributions are elective and are not required in order to
20 maintain safe and reliable service for taxpayers.

21 Furthermore, ratepayers should not be required to finance the Company's
22 decision to contribute to various charitable entities, including those selected by

1 employees, as some of these entities may be charities that certain ratepayers would
2 choose not to support. Rather, ratepayers should be able to realize their own tax
3 deductions by paying their money directly to charities of their choice, not through
4 involuntary contributions via their utility rates to charities that offer no clear
5 tangible benefit and may be specifically objectionable to some.

6
7 **Q. WHAT IS YOUR RESPONSE TO MR. WACHTER'S ASSERTION THAT**
8 **SOME OF ITS CHARITABLE CONTRIBUTIONS ARE TRULY**
9 **EMPLOYEE EXPENSES DUE TO THE COMPANY'S MATCHING GIFT**
10 **PROGRAM?**

11 **A.** I disagree with Mr. Wachter's assertion. Although the Company's Matching Gift
12 Program donations are made in congruence with donations made by employees,
13 these donations are still charitable contributions. As charitable contributions, they
14 are elective payments that are not necessary to provide safe and reliable service
15 and should be disallowed.

16
17 **Q. ARE THERE PRIOR COMMISSION DECISIONS THAT SUPPORT**
18 **YOUR RECOMMENDATION TO DISALLOW CHARITABLE**
19 **CONTRIBUTIONS?**

20 **A.** Yes. the Commission has denied charitable contributions in many prior rate cases.
21 For example, in Pennsylvania Public Utility Commission v. Bell Telephone
22 Company of Pennsylvania, Order entered April 21, 1980, the Commission adopted

1 the ALJ's recommended decision which stated,

2
3 ... charity may be a deduction, but it is not an expense. Respondent
4 apparently sees no incongruity between an image of concern and an
5 image of calculation of expense. It is ironically uncharitable to pass
6 charitable contributions off as an expense.¹
7

8 Also, in Pennsylvania Public Utility Commission v. Bell Telephone Company of
9 Pennsylvania, Order entered March 8, 1983 the Commission stated,

10
11 We view charitable donations to be the responsibility of all citizens
12 in a community including corporations. Bell is to be commended for
13 recognizing this civic obligation. A charitable contribution,
14 however, loses much of its philanthropic character if the donor has
15 the ability to turn around and pass responsibility for its payment on
16 to someone else. In that case, it becomes a form of involuntary
17 'taxation' of ratepayers. We would hope that Bell will continue to
18 meet its civic obligations to aid worthy causes; but if we in turn
19 assessed ratepayers for these contributions we would in fact be
20 excusing the utility's owners from that obligation. Neither this
21 commission nor Bell, as a corporation, has the right to make others
22 pay for its charitable inclinations.²
23

24 **Q. DO YOU HAVE ANY CHANGES TO YOUR RECOMMENDATION IN**
25 **DIRECT TESTIMONY FOR CHARITABLE AND CIVIC**
26 **CONTRIBUTIONS?**

27 **A.** No. Based on the reasons stated above, I continue to recommend that all
28 charitable contributions be disallowed.

¹ Pa. P.U.C. v. Bell Telephone Company of Pennsylvania, Order Entered April 21, 1980, WL 140971, p. 8.

² Pa. P.U.C. v. Bell Telephone Company of Pennsylvania, Order Entered March 8, 1983, WL 9968882, Part Q. Charitable Contributions.

1 **PUBLIC UTILITY REALTY TAX**

2 **Q. SUMMARIZE YOUR RECOMMENDATION FOR PUBLIC UTILITY**
3 **REALTY TAX (PURTA) IN DIRECT TESTIMONY.**

4 A. I recommended an allowance of \$629,854 or a reduction of \$160,159 (\$790,013 -
5 \$629,854) to the Company’s claim based on the most recent PURTA Notices of
6 Determination for the Company’s two divisions, Peoples Natural Gas LLC –
7 Peoples Division (PNG) and Peoples Natural Gas Company LLC – Equitable
8 Division (Equitable) (I&E Statement No. 3, pp. 6-8).

9
10 **Q. DID ANY COMPANY WITNESS SUBMIT REBUTTAL TESTIMONY IN**
11 **RESPONSE TO YOUR RECOMMENDATION?**

12 A. Yes. Peoples witness Matthew D. Wesolosky (Peoples Statement No. 4-R, p. 12)
13 responded to my recommendation.

14
15 **Q. SUMMARIZE MR. WESOLOSKY’S RESPONSE IN REBUTTAL**
16 **TESTIMONY.**

17 A. Mr. Wesolosky states that I used a cash basis for calculating PURTA in my
18 recommendation, which is a reasonable method to calculate the PURTA allowance
19 but that it is no less reasonable than the accrual accounting method the Company
20 used to calculate its PURTA claim (Peoples Statement No. 4-R, p. 12). This was
21 Mr. Wesolosky’s sole comment related to my PURTA recommendation.

1 **Q. WHAT IS YOUR RESPONSE TO MR. WESOLOSKY'S ASSERTION**
2 **THAT THE COMPANY'S METHOD OF CALCULATING PURTA IS**
3 **JUST AS REASONABLE AS THE CASH BASIS METHOD?**

4 A. While I appreciate Mr. Wesolosky's acknowledgement that the cash basis I used
5 for calculating PURTA is reasonable, I disagree with Mr. Wesolosky's assertion
6 that the Company's method is just as reasonable. Mr. Wesolosky provided no new
7 information or support for his assertion that the accrual accounting method is just
8 as reasonable as the cash basis. Mr. Wesolosky did not provide any valid or
9 supported arguments to refute my cash basis recommendation. As such Mr.
10 Wesolosky did not negate my PURTA recommendation in any way. My PURTA
11 recommendation is representative of a year's worth of PURTA expense, since it is
12 based on the most recent PURTA Notices of Determination for the Company's
13 two divisions, PNG and Equitable (I&E Statement No. 3, p. 7). PURTA is
14 imposed by the Department of Revenue based on information it receives from the
15 County Tax Assessor Offices. The Company did not provide documentation from
16 the Department of Revenue or the County Tax Assessor Offices indicating that
17 PURTA is going to change moving forward (I&E Statement No. 3, p. 7). Also, as
18 stated in my direct testimony, the Company's change in PURTA expense is
19 unsupported by the Company's PURTA history reported on its most recent
20 PURTA Notices of Determination (I&E Statement No. 3, p. 7). Furthermore, Mr.
21 Wesolosky has not provided any support for the accrual based claim, which could
22 actually include anticipated expenses in future years in the development of that

1 claim, which would be inherently incorrect in a fully projected future test year
2 filing that is already based on future expenses.

3
4 **Q. DO YOU HAVE ANY CHANGES TO YOUR PURTA**
5 **RECOMMENDATION IN DIRECT TESTIMONY?**

6 A. No. Based on the reasons stated above, I have no changes to my recommendation.

7
8 **STATE TAX ADJUSTMENT SURCHARGE**

9 **Q. SUMMARIZE YOUR RECOMMENDATION IN DIRECT TESTIMONY**
10 **FOR THE STATE TAX ADJUSTMENT SURCHARGE (STAS).**

11 A. I recommended that the Company's proposal to change the STAS language in its
12 Equitable tariff so that the STAS will only be applied to maximum rate customers
13 be denied because for Peoples the only tax affected by the STAS is realty tax (I&E
14 Statement No. 3, p. 9). The realty tax stems from Peoples' property and facilities
15 of which all Peoples customers receive services from, so it would be inappropriate
16 for the STAS to be eliminated for certain customers (I&E Statement No. 3, pp. 9-
17 10).

18
19 **Q. DID THE COMPANY AGREE WITH YOUR RECOMMENDATION?**

20 A. Yes. Peoples witness Carol Scanlon agreed with my recommendation not to
21 change Equitable's tariff language. Thus, the STAS will apply to all customers
22 and not just maximum rate customers (Peoples Statement No. 5-R, pp. 10-11).

1 The Company provided an updated STAS tariff rider in Peoples Exhibit CAS-2R.
2 I am in agreement with this tariff; however, I would suggest that the Company be
3 sure it is including all rate class identifiers that are affected by the STAS.
4

5 **FEDERAL INCOME TAX – TAX CUTS AND JOBS ACT OF 2017**

6 **Q. WHAT ISSUES DID YOU ADDRESS RELATED TO THE ENACTMENT**
7 **OF THE TAX CUTS AND JOBS ACT OF 2017 (TCJA)?**

8 A. I addressed the Company’s over-recovery of 2018 taxes and the excess
9 accumulated deferred income tax.
10

11 **2018 Over-Recovery**

12 **Q SUMMARIZE YOUR RECOMMENDATIONS IN DIRECT TESTIMONY**
13 **REGARDING THE 2018 OVER-RECOVERY OF INCOME TAX**
14 **EXPENSE.**

15 A. I made two recommendations regarding the 2018 income tax over-recovery. First,
16 I recommended the Company calculate interest on the 2018 over-recovery at the
17 residential mortgage lending rate specified by the Secretary of Banking in
18 accordance with the Loan Interest and Protection Law (41. P.S. §§ 101, et. seq.) in
19 effect on the last day of the month prior to the actual refund payment to ratepayers
20 based on the Temporary Rates Order issued by the Commission on May 17, 2018
21 at Docket No. M-2018-2641242 (Temporary Rates Order) (I&E Statement No. 3,
22 pp. 13-14). Also, I recommended that the Company use the interest rate as of the

1 last day of the month prior to the refund payment to ratepayers as it will provide
2 the most recent and accurate interest calculation (I&E Statement No. 3, p. 14).

3 Second, I recommended the Company calculate the 2018 tax over-recovery
4 within 30 days and refund it within 60 days as this will allow more timely refunds
5 to the ratepayers and reduce the amount of interest the Company will owe to
6 ratepayers (I&E Statement No. 3, pp. 14-15).

7
8 **Q. DID ANY COMPANY WITNESS RESPOND TO YOUR**
9 **RECOMMENDATIONS?**

10 A. Yes. Peoples witness Matthew D. Wesolosky (Peoples Statement No. 4-R, pp. 3-
11 5) responded to my recommendations.

12
13 **Q. SUMMARIZE MR. WESOLOSKY'S RESPONSE TO YOUR**
14 **RECOMMENDATION TO CALCULATE THE 2018 INCOME TAX**
15 **OVER-RECOVERY IN 30 DAYS AND REFUND IT TO RATEPAYERS IN**
16 **60 DAYS?**

17 A. Mr. Wesolosky disagrees with my recommendation. He argues that the Company
18 needs 120 days to refund this money because it allows accounting to close the
19 month when rates go into effect and to calculate the final amount of under or over
20 recovery (Peoples Statement No. 4-R, pp. 4-5). Also, he asserts that having 120
21 days allows enough time to implement the programming changes required to the

1 Company's billing system based on the one-time rate credit (Peoples Statement
2 No. 4-R, p. 5).

3
4 **Q. WHAT IS YOUR RESPONSE TO MR. WESOLOSKY'S ARGUMENT FOR**
5 **WHY THE COMPANY NEEDS 120 DAYS TO REFUND THE 2018 TAX**
6 **OVER-RECOVERY?**

7 A. Upon further consideration, I accept Mr. Wesolosky's recommendation that the
8 Company be allowed 120 days to refund the 2018 tax over-recovery, since it will
9 allow enough time for the Company's accounting department to close the month
10 when rates go into effect and to calculate the final amount of under or over-
11 recovery. Also, it will provide enough time to incorporate any changes needed in
12 relation to the 2018 tax over-recovery to the Company's billing system.
13 Therefore, Mr. Wesolosky's recommendation seems reasonable.

14
15 **Q. SUMMARIZE MR. WESOLOSKY'S RESPONSE TO YOUR**
16 **RECOMMENDATION REGARDING THE CALCULATION OF**
17 **INTEREST FOR THE 2018 TAX OVER-RECOVERY.**

18 A. Mr. Wesolosky agrees with my recommendation that the 2018 over-recovery
19 should be subject to interest calculated at the residential mortgage lending rate
20 effective on the last day of the month prior to the actual refund payment to
21 ratepayers (People's Statement No. 4-R, p. 4). He also provided Peoples Exhibit

1 MDW-1 showing the calculation of the estimated 2018 over-recovery with interest
2 through the end of October 2019 (Peoples Statement No. 4-R, Exhibit MDW-1).

3
4 **Q. ARE THERE ANY PROBLEMS WITH MR. WESOLOSKY'S RESPONSE**
5 **TO YOUR RECOMMENDATION REGARDING THE CALCULATION**
6 **OF INTEREST FOR THE 2018 OVER-RECOVERY?**

7 A. Yes. There appears to be issues with the way the Company is calculating the
8 interest for the 2018 tax over-recovery on Peoples Exhibit MDW-1. The way the
9 Company is calculating the interest on its exhibit is not in line with Peoples'
10 agreement to calculate interest using the residential mortgage lending rate
11 effective on the last day of the month prior to the actual refund payment to the
12 ratepayers. The first issue is that on Peoples Exhibit MDW-1 the Company is
13 using a date of October 31, 2019 as the last day of interest accrual (Peoples
14 Statement No. 4-R, Exhibit MDW-1). Using this date is incorrect based on the
15 Company's agreement to use the residential mortgage lending rate effective on the
16 last day of the month prior to the actual refund payment to the ratepayers. Due to
17 the Company not refunding the 2018 tax over-recovery until 120 days after the
18 effective date of new rates (October 29, 2019), October 31, 2019 will not be the
19 last day of the month prior to the actual refund payment. The Company needs to
20 incorporate these 120 days into its interest calculation.

21 Also, on Peoples Exhibit MDW-1 the Company is using different interest
22 rates in its interest calculation. This also goes against the Company's agreement

1 to calculate interest using the residential mortgage lending rate effective on the last
2 day of the month prior to the actual refund payment to ratepayers. Since there is
3 only one interest rate involved in this agreement, there is no reason that the rate
4 should change in the Company's calculation. I am aware that as of the date of this
5 testimony, it is impossible for the Company to accurately calculate interest on the
6 2018 tax-over recovery as it will not be able to calculate this interest until it knows
7 the residential mortgage lending rate effective on the last day of the month prior to
8 the actual refund of the 2018 tax over-recovery to ratepayers. However, it is
9 important to note that the Company should only be using that one interest rate in
10 its calculation, per the Company's agreement.

11
12 **Q. DO YOU HAVE ANY FURTHER COMMENTS REGARDING YOUR**
13 **RECOMMENDATION IN DIRECT TESTIMONY RELATED TO THE**
14 **INTEREST CALCULATION FOR THE 2018 TAX OVER-RECOVERY?**

15 A. Yes. As noted above, I am withdrawing my recommendation that the Company be
16 required to refund the over-recovery in a shorter timeframe. The Company has
17 accepted my recommendation for the interest calculation. However, there are
18 certain things the Company needs to do in order to follow this recommendation.
19 First, the Company needs to update its Rider TCJA – TCJA Surcharge in its tariff
20 to state that it will calculate interest on the 2018 tax over-recovery at the
21 residential mortgage lending rate specified by the Secretary of Banking in
22 accordance with the Loan Interest and Protection Law (41. P.S. §§ 101, et. seq.) in

1 effect on the last day of the month prior to the actual refund payment to ratepayers.
2 Also, the Company needs to be sure to calculate interest correctly based on the
3 agreement made. Since the Company agrees to calculate the interest on the 2018
4 tax over-recovery as specified there should be no issues with these requirements.
5

6 **Excess Accumulated Deferred Income Tax**

7 **Q. SUMMARIZE YOUR RECOMMENDATION IN DIRECT TESTIMONY**
8 **REGARDING EXCESS ACCUMULATED DEFERRED INCOME TAX**
9 **(ADIT).**

10 A. I recommended a regulatory liability of \$2,729,390 (\$1,088,416 + \$1,640,974) be
11 recorded for excess ADIT made up of the HTY amount of \$1,088,416 and the
12 FTY amount of \$1,640,974, and I recommended this should be amortized at
13 \$779,826 per year over a matching period to the I&E calculated rate case filing
14 frequency of 42 months (I&E Statement No. 3, pp. 17-18). The Company needs to
15 refund all money associated with the excess ADIT. Since new rates do not go in
16 effect until the fully projected future test year (FPFTY), excess ADIT recognized
17 in the historic test year (HTY) and future test year (FTY) will not be refunded to
18 ratepayers unless my recommendation is followed (I&E Statement No. 3, pp. 17-
19 18).

1 **Q. DID ANY COMPANY WITNESS SUBMIT REBUTTAL TESTIMONY IN**
2 **RESPONSE TO YOUR RECOMMENDATION?**

3 A. Yes. Peoples witness Matthew D. Wesolosky responded to my recommendation
4 (Peoples Statement No. 4-R, pp. 10-11).

5
6 **Q. SUMMARIZE MR. WESOLOSKY'S RESPONSE IN REBUTTAL**
7 **TESTIMONY.**

8 A. Mr. Wesolosky disagrees with my recommendation that excess ADIT should be
9 refunded to ratepayers for the HTY and FTY (Peoples Statement No. 4-R, p. 10).
10 He opines there is no basis for my recommendation, asserting that the Commission
11 did not address retrospectively refunding prior period excess ADIT amortizations
12 in Docket Nos. M-2018-2641242 and R-2018-3000503 (Peoples Statement No. 4-
13 R, p. 10). He states deferred income taxes are not fully reconcilable and are not
14 booked as a regulatory asset/liability subject to inclusion in future rates (Peoples
15 Statement No. 4-R, p. 10). As such, he asserts that excess ADIT is no different
16 and future rates should not be retrospectively adjusted (Peoples Statement No. 4-
17 R, pp. 10-11).

18
19 **Q. DO YOU AGREE WITH MR. WESOLOSKY'S ARGUMENT THAT**
20 **THERE IS NO BASIS FOR YOUR RECOMMENDATION?**

21 A. No. I disagree with Mr. Wesolosky assertion that there is no basis for my
22 recommendation. As stated in my direct testimony, HTY and FTY excess ADIT

1 should be refunded to ratepayers since it is money owed to them due to the change
2 from a 35% tax rate to a 21% tax rate as a result of TCJA-related tax changes that
3 became effective January 1, 2018 (I&E Statement No. 3, p. 17). Otherwise
4 ratepayers will not receive any benefit or flowback from the amortization of HTY
5 and FTY excess ADIT since the Company's new rates will not go into effect until
6 the first day of the FPFTY (I&E Statement No. 3, p. 17-18). Although the
7 Temporary Rates Order did not require a retrospective refund for prior period
8 excess ADIT specifically, the Commission did order Peoples to establish a
9 regulatory liability account for the tax savings realized from the TCJA for the
10 period January 1, 2018 to June 30, 2018 (Temporary Rates Order, pp. 23-24).
11 This retroactive adjustment was done because the tax savings associated with the
12 TCJA needed to be refunded to the ratepayers. The Commission realized that the
13 change in federal income tax rate related to this major tax reform is an
14 extraordinary circumstance, so it required the Company (and other regulated
15 public utilities) to go back to January 1, 2018 in determining the necessary refund
16 amount for this rare occurrence. My proposal to amortize excess ADIT for the
17 HTY and FTY over a 42-month period stemming from the TCJA change in tax
18 rates is similar to what the Commission ordered in its Temporary Rates Order
19 because it relates to major tax reform, which is uncommon and extraordinary in
20 nature. If the Company is not required to establish the recommended regulatory
21 liability for the HTY and FTY excess ADIT amortized amounts, ratepayers will
22 never receive the refund owed to them for the HTY and the FTY.

1 **Q. DO YOU HAVE ANY CHANGES TO YOUR RECOMMENDATION FOR**
2 **EXCESS ADIT?**

3 A. No. For the reasons I stated above, I continue to recommend that a regulatory
4 liability of \$2,729,390 (\$1,088,416 + \$1,640,974) be recorded for excess ADIT
5 made up of the HTY amount of \$1,088,416 and the FTY amount of \$1,640,974,
6 and this should be amortized at \$779,826 per year over a matching period to the
7 I&E calculated rate case filing frequency of 42 months (I&E Statement No. 3, pp.
8 17-18).

9

10 **INCOME TAX EXPENSE**

11 **Q. DID ANY I&E WITNESS SUBMIT DIRECT TESTIMONY ON THE**
12 **TOPIC OF INCOME TAX EXPENSE AS REFLECTED IN THE**
13 **COMPANY'S REVENUE REQUIREMENT CALCULATION?**

14 A. No. However, I&E witness Christopher Keller presented the overall I&E position
15 (recommended revenue requirement) in Table 1 of his testimony (I&E Statement
16 No. 1, p. 4) that reflected state income taxes, federal income taxes, and deferred
17 taxes based on the Company's position in direct testimony and adjusted for I&E's
18 recommended adjustments.

1 **Q. EXPLAIN THE RATIONALE FOR THE FOOTNOTE ON I&E WITNESS**
2 **KELLER’S TABLE 1 CONCERNING PRIOR AND CURRENT YEAR NET**
3 **OPERATING LOSSES (NOLs).**

4 A. Because of the way the Company filed its income tax claim with an entry for prior
5 year NOL utilization in only the proposed rate column, an entry for current year
6 state NOL adjustment at present rates and immediately reversed at proposed rates
7 (\$1,736,359), and similar entries for federal NOLs (\$3,955,275 and \$3,344,731)
8 on Peoples Exhibit No. 7, Schedule 8, Attachment 1 – Combined, p. 2, it was
9 necessary to adjust the I&E revenue requirement template to reflect those amounts
10 all in the present rate column in order to coordinate with the Company’s revenue
11 request. Another alternative would have been to calculate effective tax rates and
12 enter those in the I&E template to match the Company’s claim.

13

14 **Q. WHY IS IT NECESSARY TO MATCH THE COMPANY’S CLAIM?**

15 A. I&E must do this before it can enter all I&E adjustments that affect the overall
16 revenue requirement to determine its recommendation. As noted above, this was
17 an adjustment to the I&E template only, and not reflected as an adjustment to the
18 Company’s revenue requirement.

19

20 **Q. WHY DID I&E NOT USE EFFECTIVE TAX RATES?**

21 A. It is uncommon and not the best approach for a Company to use an effective tax
22 rate in calculating its revenue requirement, because as can be seen by merely

1 looking at the Company's direct and rebuttal positions in its testimony, changes to
2 other allowances can and do end up changing the effective tax rates. Therefore,
3 I&E used actual tax rates and modified the starting tax amounts (in proposed rates)
4 to capture the FPFTY claimed NOL adjustments.

5
6 **Q. DID ANY COMPANY WITNESS SUBMIT REBUTTAL TESTIMONY IN**
7 **RESPONSE TO I&E'S TOTAL RECOMMENDED REVENUE**
8 **REQUIREMENT?**

9 A. Yes. Peoples witness Matthew Wesolosky responded to this revenue requirement
10 table (Peoples Statement No. 4-R, pp. 6-9).

11
12 **Q. BEFORE SUMMARIZING HIS RESPONSE, DOES AN ERROR OR**
13 **DISAGREEMENT IN THE INCOME TAX AMOUNT BETWEEN I&E**
14 **AND THE COMPANY NEGATE THE VALIDITY OF ANY PROPOSED**
15 **I&E ADJUSTMENTS TO INDIVIDUAL REVENUE AND EXPENSE**
16 **CLAIMS?**

17 A. No. The I&E overall recommendation is presented merely as a courtesy to the
18 parties, so that readers can see what the outcome would be if all I&E
19 recommendations were accepted in their entirety.

1 **Q. SUMMARIZE MR. WESOLOSKY'S RESPONSE IN REBUTTAL**
2 **TESTIMONY.**

3 A. He disagrees with I&E witness Christopher Keller's income tax rate of 28.89%
4 (Peoples Statement No. 4-R, p. 6), asserts that a total effective tax rate of 25.74%
5 should be used, and he disagrees with the changes made to present rate income
6 taxes in Table 1 (Peoples Statement No. 4-R, p. 8). He opines that the state NOL
7 is being double counted by entering that NOL in the present rate column, and he
8 further disagrees with the calculation of present rate federal income taxes in I&E
9 Table 1 and called I&E's approach haphazard (Peoples Statement No. 4-R, pp.
10 8-9). Finally, he asserts that the Company's income tax expense at present rates of
11 \$12,445,156 should not be adjusted.

12
13 **Q. WHAT IS YOUR RESPONSE TO MR. WESOLOSKY'S REBUTTAL**
14 **TESTIMONY?**

15 A. While the end result of I&E's inputs did not produce any material difference
16 between the Company's claim and what I&E matched it up to be in its template, I
17 am willing to accept the Company's assertion that the present rate tax amount be
18 left intact in the calculation and have adjusted I&E's revenue requirement
19 calculation to be based on effective tax rates as shown on Peoples Statement No.
20 4-R, p. 6. This adjusted Table 1 will be presented by I&E witness Christopher
21 Keller in surrebuttal testimony (I&E Statement No. 1-SR). However, as stated
22 above, it should be noted that the I&E overall position is merely presented as a

1 courtesy to the parties and I&E did not submit direct testimony on the topic of
2 income tax expense.

3

4 **Q. DID I&E DOUBLE COUNT THE STATE NOL AS MR. WESOLOSKY**
5 **ASSERTS?**

6 A. No. The state NOL is merely entered in the present rate column one time and not
7 re-entered in the proposed rate column and thus is only reflected a single time,
8 which accomplishes the same overall reduction to taxable income. Furthermore,
9 when I&E reviewed its revenue requirement spreadsheet for direct testimony, it
10 would have produced a higher tax claim if effective tax rates were used therein, so
11 the Company's assertion that moving the NOL to the present rate column causes a
12 loss of NOL flow-through for state tax purposes does not make sense. However,
13 as stated above, I&E has accepted, in this circumstance, the use of effective tax
14 rates given the Company's unusual circumstances.

15

16 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

17 A. Yes.