

COMMONWEALTH OF PENNSYLVANIA



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February 1, 2024

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

Re: Pennsylvania Public Utility Commission
v.
Peoples Natural Gas Company LLC
Docket No. R-2023-3044549

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Prehearing Memorandum in the above-referenced proceeding.

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

Respectfully submitted,

/s/ Gina L. Miller
Gina L. Miller
Assistant Consumer Advocate
PA Attorney I.D. # 313863
GMiller@paoca.org

Enclosures:

cc: The Honorable. Mary D. Long (**email only:** malong@pa.gov)
Certificate of Service

CERTIFICATE OF SERVICE

Pennsylvania Public Utility Commission :
v. : Docket No. R-2023-3044549
Peoples Gas Company LLC :

I hereby certify that I have this day served a true copy of the following documents, the Office of Consumer Advocate’s Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below. This document was filed electronically on the Commission’s electronic filing system.

Dated this 1st day of February, 2024.

SERVICE BY E-MAIL ONLY

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Dated: February 1, 2024

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	Docket Nos. R-2023-3044549
Office of Consumer Advocate,	:	C-2024-3045268
	:	
v.	:	
	:	
Peoples Natural Gas Company LLC	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333, and in response to the January 23, 2024, Prehearing Conference Order issued in the above-captioned proceeding, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On December 29, 2023, Peoples Natural Gas Company LLC, (Peoples or the Company) filed Original Tariff GAS – PA PUC No. 48 (Tariff No. 48) with the Pennsylvania Public Utility Commission (Commission) to become effective on February 27, 2024. The Company, by filing these tariff supplements, seeks Commission approval to make rate changes that would increase the level of rates that it charges for providing service to its customers.

If approved, the Company’s proposal would provide its Peoples Natural Gas Division (PNGD) with an annual revenue increase of increase of \$148,558,437, or approximately 20%, and Peoples Gas Division (PGD) with an annual revenue increase of \$7,466,250, or approximately 8.5%. Combined, the Company would receive an annual revenue increase of \$156,024,687, or approximately 18.7%, on a total annual revenue basis.

The Company also seeks Commission approval to consolidate the retail rates and tariffs of the PNGD and the PGD. Peoples also proposes the following Tariff revisions in its filing: (1) the implementation of a Weather Normalization Adjustment (WNA); and (2) adjusting its Tax Repairs Surcredit, Tax Cuts and Jobs Act Surcharge, and Allegheny Vally Capacity Charge.

Peoples provides natural gas service to over 700,000 residential, commercial and industrial customers in southwestern and western Pennsylvania, including Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Washington, and Westmoreland counties.

The Consumer Advocate is empowered to represent the interests of consumers before the Commission, pursuant to Act 161 of the General Assembly, as amended, 71 P.S. §§ 309-1, *et seq.* The Consumer Advocate filed a Formal Complaint in this matter to ensure that the Commission fully and fairly adjudicates issues pertaining to whether the Company's existing and proposed rates-and all rate policy changes and proposals-are just, reasonable, not unduly discriminatory, and otherwise lawful.

On January 5, 2024, the OCA filed its Formal Complaint and Public Statement. Also on January 5, 2024, the Commission's Bureau of Investigation and Enforcement (I&E) filed a Notice of Appearance of Scott Granger. On January 8, 2024, Pennsylvania Independent Oil & Gas Association (PIOGA) filed a Petition to Intervene. On January 11, 2024, the Office of Small Business Advocate filed a Formal Complaint and Public Statement, as well as the Notices of Appearance for Steven C. Gray and Rebecca Lyttle. On January 18, 2024, the Pennsylvania Weatherization Provider's Task Force Inc. filed Petition to Intervene. On January 23, 2024, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a Petition to Intervene.

On January 18, 2024, the Commission issued a Suspension Order, initiating an investigation into the lawfulness, justness, and reasonableness of the proposed rate increase requests, and suspended the effective date of Tariff No. 48 until September 27, 2024, by operation of law. The Commission assigned this proceeding to the Office of Administrative Law Judge and further assigned this proceeding to Administrative Law Judge Mary D. Long (ALJ Long). ALJ Long issued a Prehearing Conference Order on January 23, 2024, directing parties to file and serve a Prehearing Memorandum on or before noon on February 1, 2024, and scheduling a telephonic Prehearing Conference for February 2, 2024. Gina L. Miller will represent the OCA at the Prehearing Conference.

The OCA filed a formal complaint against the proposed rate increase to protect the interests of Peoples' customers and seeks to ensure that Peoples is permitted to implement only those rates that are fully justified and in accordance with sound ratemaking principles. The OCA will strive to prevent Peoples from collecting all alleged costs that cannot be justified, or are unreasonable or unduly discriminatory, or otherwise violate the Public Utility Code. The OCA submits that Peoples' current rates and the rates sought by Peoples may be unjustifiable and unlawful based upon information filed by Peoples in support of its claim.

II. ISSUES AND SUB-ISSUES

Based upon a preliminary analysis of Peoples's filing, the OCA has compiled a list of issues that it anticipates will be included in its investigation of the rate increase request. It is important to note that the OCA's listing is a preliminary one that will likely be further informed by the ongoing discovery process, further investigation of Peoples' filing and other evidence that may be developed. Therefore, while the OCA reserves the right to add and subtract issues as warranted

during this proceeding, at this time, the OCA has identified the following issues that may require further review as follows:

A. Revenue Requirement

The OCA will examine the reasonableness and accuracy of the Company's claims for its current plant in service, as well as its projections for expenses and plant additions for the future test year ended September 30, 2024, and the fully projected future test year ended September 30, 2025. The OCA will assess the need for adjustments to the Company's claimed revenue requirement, and will specifically examine:

1. Expenses: The Company's claims for employee benefits, including pensions; office supplies; rate case expense; depreciation; insurance; storage; inflation adjustments; taxes; and/or risk management. Additional evidence may be required to support the Company's claims, normalizations, and proposed amortizations, and the OCA may have adjustments to expenses based on the information provided.

2. Revenues: The Company's sales forecasts for the Historic Test Year (HTY), Future Test Year (FTY), Fully Projected Future Test Year (FPFTY), and the forecasts for fiscal years 2025 and 2026. Additional evidence may be required to support the Company's claims and the OCA may have adjustments to forecasted revenues based on the information provided.

3. Proposed Additions to Rate Base: The Company proposes adding additional plant in service it values in excess of \$1 billion, between its Peoples Natural Gas and Peoples Gas divisions, by the end of the FPFTY. The OCA will investigate how much of the projected additions to rate base should be incorporated in this proceeding, including conversion and replacement of the Goodwin/Tombaugh legacy gathering system, as well as the additions to rate base which the Company purports were in furtherance of its Long-term Infrastructure Improvement Plan.

4. Aqua's Acquisition Settlement: The OCA will investigate the Company's compliance with the parties' settlement in Aqua America, Inc.'s acquisition of Peoples Natural Gas Company LLC and Peoples Gas Company LLC at Docket Nos. A-2018-3006061 *et al.* The OCA will also examine how the proposals contained within the Company's filings may impact the Company's compliance with that settlement.

5. Tax Repairs Settlement: The OCA will investigate the Company's compliance with the Tax Repairs Settlement, *Peoples' Petition for Accounting and Regulatory Approvals and Approval of Related Tariff Surcredits Associated with Tax Repair Election* at Docket No. P-2020-3021191, and how the proposed adjustments to the Surcredit may impact the Company's compliance with that settlement.

6. Any additional issues and concerns which might arise in the course of this proceeding.

B. Rate of Return

The OCA will examine the reasonableness and accuracy of the Company's claims for its cost of equity, cost of debt, capital structure, and overall rate of return. The OCA will assess the need for adjustments to the Company's claimed required rate of return, and will specifically examine:

1. Cost of Capital: The OCA will examine whether the cost of capital claimed by the Company is appropriate for ratemaking purposes. Currently, the Company's proposed return on equity of 11.75% is excessive based on current financial metrics and will afford the Company the opportunity to earn an unreasonably high return and result in unreasonable rate increases to its customers, in excess of returns supported by sound ratemaking policy. The OCA will adjust the Company's stated cost of capital so it is in line with sound ratemaking policies.

2. Risk Premium: The OCA will investigate adjustments to the Company's risk premium analysis, including its and claimed influence of increasing interest rates on the cost of capital. The Company's analysis has likely overstated its risk and overestimated the impact that the actual risk faced has on the Company's cost of equity.

3. Risk-Free Rate Recovery: The Company's risk-free rate of return calculation fails to properly account for its proposals to increase monthly customer charges and to implement a WNA mechanism. These proposals seek to shift the risk associated with providing natural gas delivery service to consumers, which requires additional downward adjustments to the Company's already excessive proposal for its cost of equity.

4. Management Performance Premium: The Company has requested 25 basis points be added to Peoples' estimate of an 11.50% cost of equity, due to the Company's management performance. The OCA finds this proposal to be unsupported by the provided evidence and testimony.

5. Capital Structure: The Company's proposed capital structure may include significantly more common equity than is reasonable at 54.67% equity and 45.33% debt. The OCA will examine the debt-equity ratios maintained by other publicly traded gas companies to determine the reasonableness of the Company's proposal.

6. Any additional issues and concerns which might arise in the course of this proceeding.

C. Cost Allocation and Rate Design

The OCA will examine the reasonableness and accuracy of the Company's claims for cost allocation and rate design. The OCA will assess the need for adjustments to the Company's claimed rate structure, and will specifically examine:

1. Fixed Charges: The Company's proposed increase to fixed customer charges for residential customers in both rate divisions. Increases to fixed customer charges have a disproportionate impact on low-income customers and customers trying to reduce their natural gas usage. The OCA will investigate the reasonableness of the proposed increases and current fixed customer charges to ensure they remain affordable and in line with sound ratemaking policies.

2. Affordability: Current and proposed Peoples rates may be unaffordable. In addition to reviewing the overall revenue requirement, the OCA will investigate how rates can be structured to improve affordability and customers' ability to control their bills.

3. Low- to No-Load Cost of Service: Current cost of service methodology employed by the Company increases the cost burden shifted onto residential customers by partially determining the cost of service through allocated mains by customer class, a methodology which assumes low- to no-usage of the distribution mains. The OCA will adjust the Company's proposed rate design to ensure that the cost of service accurately reflects the reality of the Company's natural gas distribution system, relying on peak and average throughput, instead of allocating cost by number of empty pipes.

4. Competitive Customers: The Company proposes creating a specific rate class for customers that it deems to be "competitive," meaning that they can obtain natural gas service from other sources more easily than other classes of customers. The OCA will investigate if allowing the Company to negotiate delivery rates with "competitive customers" shifts risk onto other classes of consumers by allowing for delivery rates potentially below the cost of service. The OCA also will investigate whether the Company's proposals and proposed tariff provisions are consistent with sound ratemaking policy.

5. Any additional issues and concerns which might arise in the course of this proceeding.

D. Low-income Program Design

The OCA has several concerns regarding the affordability of natural gas distribution service for low-income customers, which will need to be addressed in the course of this proceeding. Specifically, the OCA will require additional information regarding the:

1. Impact on Low-Income Customers: The testimony presented by the Company does not assess how the Company's proposed rate increase will impact low-income consumers, specifically. The OCA will determine the impact on low-income customers, and it may require adjustments to ensure that rates remain affordable for all customers.

2. Weather Normalization Adjustment: The Company's proposed WNA requires specific assessment for how it impacts low-income customers, and customers participating in the Company's Customer Assistance Program (CAP), specifically. The OCA requires additional information on how the Company proposes incorporating CAP customers into the WNA rate design, and how the incorporation of CAP customers may impact the Universal Service Rider.

3. Universal Service Rider: The Company proposed consolidating its Universal Service Riders for PNGD and PGD. The OCA will examine the appropriateness and reasonableness of the proposed changes, and how they may affect the Company's calculation of bad debt.

4. Aqua's Acquisition Settlement: The OCA will investigate the Company's compliance with the parties' settlement in Aqua America, Inc.'s acquisition of Peoples Natural Gas Company LLC and Peoples Gas Company LLC at Docket Nos. A-2018-3006061 *et al*

regarding the Company's uncollectibles account and "Help at Peoples Now" program. The OCA will also examine how the proposals contained within the Company's filings may impact the Company's compliance with that settlement.

5. Any additional issues and concerns which might arise in the course of this proceeding.

E. Consumer Protection

The OCA will investigate the quality of the customer service provided by Peoples, including the Company's performance trends, internal training, management oversight, policies, and programs, as well as the Company's compliance with the statutory and regulatory protections afforded to consumers, such as adequate termination notices and procedures, among others. The OCA will also examine the Company's request for management performance and rate of return in light of the Company's customer service performance. Additional information is required to ensure that the Company is providing its customers with adequate protections, which will need to be addressed in the course of this proceeding.

F. Tariff Changes

The OCA will examine the Company's proposed tariff to ensure that the tariff is easily understandable by consumers and complies with all applicable statutory and regulatory requirements and standards. Because the Company has proposed consolidating the PNGD and PGD without applying all surcharges and surcredits to all customers, adjustments to the proposed tariff may be required to ensure clarity as to which customers each surcharge or surcredit apply. Further, the proposed inclusion of a new customer class and the WNA may require additional tariff adjustments, as well. The OCA will continue to examine the Company's tariff and address any additional issues and concerns which might arise in the course of this proceeding.

G. Alternative Ratemaking

The Company's proposed WNA mechanism will result in unjust, unreasonable, and discriminatory rates for customers. The OCA requires additional information regarding how the Company's proposed WNA model is constructed, the accuracy of that model, the cost to consumers, impact on residential and weather-sensitive commercial customers, and any other issues which might arise that indicate the proposed WNA should not be implemented. As-written, the WNA is merely a revenue decoupling mechanism which shifts the burden of a warming climate onto consumers – especially residential customers – and away from Peoples, and does little to guarantee affordable, consistent bills to Peoples' customers.

H. Surcharges

The OCA will investigate Peoples' surcharge proposals as follows:

1. The OCA will investigate the calculation of a new rider, Peoples' proposed WNA surcharge, and whether it is a just and reasonable rate.
2. The OCA will investigate the calculation of changes to an existing rider, the Tax Repairs Surcredit (TRS), applicable to all customers, and whether it is a just and reasonable rate.
3. The OCA will investigate the calculation of changes to an existing rider, the Tax Cuts and Jobs Act Surcharge (TCJA), which will apply only to customers of the PGD, and whether it is a just and reasonable rate.
4. The OCA will investigate Peoples' proposal to assess the Allegheny Valley Capacity Charge (AVC) to customers in the PGD, as it only previously applied to customers in the PNGD. The OCA will investigate whether the AVC charge, as proposed, is just and reasonable, as well as whether this commodity-based charge is appropriately addressed in this case.

III. WITNESSES

The OCA intends to present the direct, rebuttal and surrebuttal testimony, as may be necessary, of the following witnesses in this proceeding. The witnesses will present testimony in written form and will also attach various exhibits, documents and explanatory information that will assist in the presentation of the OCA's case. The OCA requests testimony, interrogatories, and interrogatory responses be served on the OCA's consultants, in addition to the OCA, at the below listed email addresses:

Regulatory Policy Issues

David Evrard
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
OCAPNG2023BRC@paoca.org.

Revenue Requirement/Weather Normalization Adjustment¹

Dante Mugrace
PCMG and Associates
90 Moonlight Court
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OCAPNG2023BRC@paoca.org.

Rate of Return

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Rothschild Financial Consulting
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Cost Allocation and Rate Design

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Low-income Program Design:

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Consumer Protection/Tariff Changes:

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Barbara Alexander Consulting LLC
44 Beech St.
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¹ The OCA notes that the WNA issue is anticipated to span across the testimony of most or all of OCA's witnesses in this case.

The OCA specifically reserves the right to call additional witnesses, and to transfer issues between witnesses, as necessary. The OCA will inform the ALJ and the parties if it determines that additional witnesses are necessary for any portion of its case.

IV. EVIDENCE

The OCA will rely on the direct, rebuttal and surrebuttal testimony of its witnesses as well as the testimony of the other parties to the proceeding. The OCA will present relevant exhibits to support its own testimony, including but not limited to, materials obtained from the Company through discovery and cross-examination. As described above, the OCA’s witnesses will present testimony in the following areas: regulatory policy, revenue requirement adjustments, weather normalization adjustments, rate of return, cost allocation, rate design, low-income policy and design, consumer protection, and tariff changes.

V. PROPOSED SCHEDULE

The OCA proposes the below litigation schedule, including the dates the OCA requests for public input hearings.

Public Input Hearings	Tuesday – Thursday, March 5 th – March 7 th , 2024
Other Parties’ Direct	Friday, March 22, 2024
Rebuttal	Thursday, April 18, 2024
Surrebuttal	Friday, May 3, 2024
Outline of Oral Rejoinder	Noon on Wednesday, May 8, 2024
Hearings	Thursday – Friday, May 9-10, 2024 And Wednesday, May 15, 2024 (telephonic ²)
Main Brief	Thursday, May 30, 2024
Reply Brief	Thursday, June 13, 2024

² OCA witness Mgrace has an unavoidable conflict and the earliest date in May that he could testify would be May, 15, 2024, provided that his testimony would be permitted to be telephonic. The OCA brought this conflict to the attention of Peoples’ counsel on January 18, 2024. Thereafter, to the best of the OCA’s knowledge, proposed schedules circulated among parties have included a May 15, 2024 telephonic hearing date to accommodate the OCA’s conflict. The OCA respectfully requests that the litigation scheduled for this case include Mr. Mgrace’s telephonic testimony date of May 15, 2024 in order that the OCA is permitted an opportunity to develop the record with his critical testimony. As of January 24, 2024, the OCA understood that Peoples, I&E, and PIOGA could agree to the above litigation schedule, but the OCA will defer to all parties on their positions during the Prehearing Conference.

VI. SERVICE ON THE OCA

The OCA respectfully requests that ALJ Long permit electronic service upon the OCA without the requirement of a follow-up hard copy. The OCA will be represented in this case by Senior Consumer Advocate Aron J. Beatty, and Assistant Consumer Advocates Christopher M. Andreoli, Gina L. Miller, and Jacob D. Guthrie. Documents should be served on the OCA as follows:

Aron J. Beatty, Senior Assistant Consumer Advocate
Christopher M. Andreoli, Assistant Consumer Advocate
Gina L. Miller, Assistant Consumer Advocate
Jacob D. Guthrie, Assistant Consumer Advocate
Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048
OCAPNG2023BRC@paoca.org

Only to the extent that materials are not available electronically, the OCA requests that one hard copy be served upon Gina Miller at the above mailing address.

VII. SETTLEMENT

The OCA is willing to participate in settlement discussions.

VIII. DISCOVERY

The OCA has served discovery on Peoples. Going forward, the OCA proposes the following modifications to the Commission's discovery regulations:³

A. Answers to interrogatories and responses to requests for document production, entry for inspection, or other purposes be served in-hand within ten (10) calendar days of service of the interrogatories or requests for production prior to the service of other

³ The OCA proposed these modifications to counsel for all known parties via email on January 24, 2024 in order to give parties an adequate opportunity to consider them and to discuss any concerns with the OCA. The OCA's position is that the modifications are necessary to enable parties to fully avail themselves of the discovery process between all rounds of testimony, including the critical period between rebuttal testimony and surrebuttal testimony.

partes' direct testimony. After service of rebuttal testimony, all parties agree to make their best efforts to issue discovery responses within seven (7) calendar days of service.

B. Objections to interrogatories and/or requests for production be communicated orally to the propounding party within three (3) calendar days of service; unresolved objections be served in writing to the propounding party within five (5) calendar days of service of the interrogatories and/or requests for production.

C. Motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production be filed within three (3) calendar days of service of written objections.

D. Answers to motions to dismiss objections and/or direct the answering of interrogatories and/or requests for production be filed within three (3) calendar days of service of such motions.

E. Requests for admission be deemed admitted unless answered within ten (10) calendar days or objected to within five (5) days of service.

F. Discovery requests and discovery related pleadings (such as objections, motions, and answers to same) served after 4:30 p.m. Monday through Thursday or after 12:00 p.m. on a Friday or the day preceding a holiday shall be deemed to have been served on the next business day.

The OCA requests that all discovery due dates be "in-hand" and e-mail service on the due date will satisfy the "in-hand" requirement. Additionally, the OCA requests that, if adopted, the proposed modifications take effect on the date of the Prehearing Conference and that any outstanding interrogatories or requests for admissions are due no later than 10 calendar days following the Prehearings Conference.

IX. PUBLIC INPUT HEARINGS

The OCA requests that four Public Input Hearings be held, including two in-person hearings. The OCA suggests that the in-person hearings are held in the Butler and Monroeville areas. Due to the expansive nature of Peoples' service territory, the OCA further requests that two additional public input hearings be held telephonically, so all the Company's customers may have an opportunity to testify, as well. The OCA is will work with the Parties to coordinate public input

hearing dates and venues acceptable to all participants and to ALJ Long, though the OCA suggests that the public input hearings be held between March 5th and March 7th, 2024.

In addition to the above, the OCA is willing to assist in the coordination of public input hearings, provided that the following provisions be adopted to facilitate the public input hearings for Peoples' customers:

A. The OCA will conduct pre-registration for the telephonic -Public Input Hearings only and maintain the list of pre-registered witnesses. Party representatives, experts, and associates who wish to listen to the public input hearings only and who are not offering public input testimony should coordinate with counsel for purposes of attendance and they should not pre-register with the OCA.

B. Pre-registration will be encouraged but not required for telephonic Public Input Hearings. No pre-registration will be encouraged or required for in-person Public Input Hearings.

C. Interested witnesses are encouraged to submit any hearing exhibits and pre-register by noon on the day before the telephonic Public Input Hearings.

D. The Commission's notice for the Public Input Hearings will include the phone numbers and access codes necessary for participants to use to fully access all telephonic Public Input Hearings.

E. The Company will be required to, at minimum, generate a notice to publish within its service territory and on its website, for all of the Public Input Hearings, including the date, time, location, phone number and access codes for telephonic Public Input Hearings, and registration information published in the Commission's Public Input Hearing notice.

F. The Commission will ask witnesses testifying at the Public Input Hearings to indicate whether they are customers of the Peoples Natural Gas Division or the Peoples Gas Division.

Finally, to ensure that consumers are adequately informed of the public input opportunities, newspaper notice must be advertised in the general readership sections of local newspapers, not in the legal section. In addition, the OCA requests the other parties involved in the proceeding be permitted to review these public input hearing announcements prior to their publication and distribution and have input into which publications the announcements are placed.

X: CONSISTENCY OF ACRONYMS FOR PEOPLES' ENTITIES

The OCA recognizes that clarity of the record in this case will be challenged absent an agreement for parties to use consistent references to refer to Peoples Natural Gas Company LLC and its divisions. To that end, the OCA requests that parties and their witnesses use the following acronyms uniformly in all testimony, briefing and any other documents required for this case:

Peoples Natural Gas Company LLC: Peoples
Peoples Natural Gas Division: PNGD
Peoples Gas Division: PGD

If other parties and/or ALJ Long wish to offer differing and/or additional acronyms to promote consistency and clarity in the record, the OCA is willing to consider those as well.

Respectfully Submitted,

/s/ Jacob D. Guthrie

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Dated: February 1, 2024
4887-6153-6670

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Patrick M. Cicero
Consumer Advocate