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June 23, 2010

VIA HAND DELIVERY

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

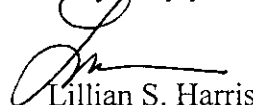
Re: **R-2010-2155608** - Pennsylvania Public Utility Commission v. Peoples Natural Gas Company LLC (1307(f)-2010 Proceeding); **MAIN BRIEF**

Dear Secretary Chiavetta:

Enclosed, for filing with the Commission in the above-captioned matter, are the original and nine (9) copies of the Main Brief of Peoples Natural Gas Company LLC. This filing has been served in accordance with the attached Certificate of Service.

If you have any questions, please contact me.

Very truly yours,



Lillian S. Harris

Counsel for Peoples Natural Gas Company LLC

LSH:TLG/san

Enclosures

cc: Honorable David A. Salapa
Per Certificate of Service
Anthony Caldoro
William H. Roberts II, Esquire

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge David A. Salapa

PENNSYLVANIA PUBLIC UTILITY :
COMMISSION, et al. : Docket Nos. R-2010-2155608
 : C-2010-2163637 and
 v. : C-2010-2164664
 :
PEOPLES NATURAL GAS :
COMPANY LLC :

**MAIN BRIEF OF
PEOPLES NATURAL GAS COMPANY LLC**

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I. STATEMENT OF THE CASE

On March 1, 2010,¹ Peoples filed with the Commission a “reconciliation statement” pursuant to Section 1307(f)(3) of the Public Utility Code, 66 Pa.C.S. § 1307(f)(3), in which Peoples specified for the 12-month period of February 1, 2009 through January 31, 2010: (1) the total revenues it received pursuant to Section 1307(f); (2) the total natural gas costs it incurred; (3) the difference between its Section 1307(f) revenues and costs; (4) how and why its actual natural gas costs differed from the natural gas costs that the Commission allowed Peoples to recover, *on a projected basis*, in the Commission’s final Opinion and Order of September 24, 2009, in Dominion Peoples’ 1307(f)-2009 proceeding² at R-2009-2088069;³ and, (5) how Peoples’ actual natural gas costs are consistent with a “least cost fuel procurement policy.”

On April 1, 2010, Peoples filed with the Commission Supplement No. 119 to its Tariff Gas – PA PUC No. 43 (“Supplement No. 119”). Peoples filed Supplement No. 119 pursuant to Section 1307(f)(3) of the Public Utility Code, 66 Pa.C.S. § 1307(f)(3)⁴ and, in it, Peoples proposed rates for its recovery of natural gas costs for the period of October 1, 2010 through September 30, 2011. The natural gas supply rates that Peoples has proposed in Supplement No. 119 are based on Peoples’ projected natural gas costs through September 30, 2011 as well as the reconciliation of past costs and revenues. Those natural gas supply

¹ The Commission’s regulation at 52 Pa. Code § 53.64(i)(1) required that Peoples, as a “Section 1307(f) gas utility” (*see* 52 Pa. Code § 53.63(1)), file its reconciliation statement 30 days before its April 1, 2010 filing of a tariff reflecting increases or decreases in its natural gas costs.

² Until recently, Peoples Natural Gas Company LLC’s predecessor, The Peoples Natural Gas Company d/b/a Dominion Peoples, was a Dominion Resources, Inc. subsidiary. On February 1, 2010, the sale of the stock of Dominion Peoples was closed and the resulting company, Peoples Natural Gas Company LLC, was formed. Peoples is referred to generally throughout this filing as related to Peoples’ practices, both past, present and future; Dominion Peoples is used in order to reference historical events or address affiliate issues.

³ The 12-month period covered by Peoples’ reconciliation statement was part of the 20-month *projected period* of February 1, 2009 through September 30, 2010 in Dominion Peoples’ 1307(f)-2009 proceeding.

⁴ As required by the Commission’s regulations at 52 Pa. Code §§ 53.64(i) and 53.65, Peoples filed information in support of Supplement No. 119 with the Commission on April 1, 2010.

rates include capacity charges, commodity charges, gas cost adjustment charges, standby charges, and banking, balancing and advancing (“BB&A”) charges, which are payable either by customers who purchase their natural gas supplies from Peoples or by customers who purchase their natural gas supplies from alternative natural gas suppliers.

The Commission’s review of the actual natural gas costs set forth in Peoples’ reconciliation statement and of the projected natural gas costs reflected in the rates proposed in Supplement No. 119 is intended to determine whether those costs either were or will be incurred under a “least cost fuel procurement policy, consistent with [Peoples’] obligation to provide safe, adequate and reliable service to its customers.” 66 Pa.C.S. §§ 1307(f)(5) and 1318(a). The Commission’s determination of whether that standard has been or will be met must be based on seven specific findings that are required where, as in the case of Peoples, a natural gas distribution company acquires natural gas supplies/services from an affiliate.⁵ 66 Pa.C.S. § 1318 (a) and (b). The fundamental difference between the Commission’s retrospective (Peoples’ reconciliation statement) and prospective (Supplement No. 119) reviews is that the Commission’s prospective review of Supplement No. 119 is subject to a future retrospective review when the first 12 months of the 1307(f)-2010 projected period – February 1, 2010 through January 31, 2011 – become the *reconciliation period* in Peoples’ 1307(f)-2011 proceeding. By way of contrast, the Commission’s retrospective review of Peoples’ natural gas costs and natural gas procurement policy over the 1307(f)-2010 reconciliation period of February 1, 2009 through January 31, 2010 is a final one.

On April 1, 2010, Peoples also filed the testimony and exhibits that comprised its direct case in support of its reconciliation statement and Supplement No. 119.

⁵ While Peoples is no longer part of the Dominion family of companies, it was during the reconciliation period for this 1307(f)-2010 proceeding.

Peoples' reconciliation statement and its Supplement No. 119 have been consolidated automatically for hearing and decision. 52 Pa. Code § 53.64(i)(4). On April 13, 2010, Your Honor issued a Protective Order in the case which outlines the procedures for the treatment of materials designated Confidential or Highly Confidential. Several of Peoples' Exhibits filed on April 1, 2010 included Highly Confidential materials and were so designated and treated by the parties, as was one subsequent Exhibit attached to Peoples' Statement No. 5 that was served on May 26, 2010.

The OTS (through a Notice of Appearance), OCA (through a Complaint), OSBA (through a Complaint), Equitable Energy (through a Petition to Intervene) and Dominion Retail, Inc. ("Dominion Retail") (through a late-filed Petition to Intervene) became active parties to this consolidated proceeding. The OCA's Complaint was filed at Docket No. C-2010-2163637 and OSBA's Complaint was filed at Docket No. C-2010-2164664.

During the course of this matter, several customer complaints were filed with regard to Peoples' April 1, 2010 filing.⁶ Of the six complainants, only one chose to be active in the proceeding. That complainant, Mr. Joseph Virostek, indicated his desire to participate in the proceeding through the presentation of oral testimony at hearing only.

Your Honor conducted a Prehearing Conference on April 12, 2010, at which a procedural schedule for these proceedings was adopted.⁷ The schedule initially included dates for the filing of direct, rebuttal and surrebuttal testimony, and evidentiary hearings scheduled for June 9 and 10, 2010. OTS, OCA, OSBA, Dominion Retail, Mr. Virostek and

⁶ See *Barricella vs. Peoples Natural Gas Company LLC*, Docket No. C-2010-2175027; *Czolba vs. Peoples Natural Gas Company LLC*, Docket No. C-2010-2169787; *Keibler vs. Peoples Natural Gas Company LLC*, C-2010-2171221; *Nicklin vs. Peoples Natural Gas Company LLC*, Docket No. C-2010-2171481; *Virostek vs. Peoples Natural Gas Company LLC*, Docket No. C-2010-2171513; and *Neumann vs. Peoples Natural Gas Company LLC*, Docket No. C-2010-2172660.

⁷ Prehearing Order #2, entered April 12, 2010.

Peoples submitted evidence in the case.⁸ Even as they were engaging in discovery and exchanging various rounds of testimony, the parties participated in settlement discussions.

On June 9, 2010, the Petitioners informed Your Honor that the Petitioners had achieved a settlement of nearly all of the contested issues raised in this proceeding. The Petitioners thereafter agreed to stipulate the identification and authenticity of the following statements and exhibits (as done on the record at the June 9, 2010 hearing) for admission into the record without cross-examination:

1. **Peoples' Statement No. 2 and Peoples' Exhibit Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15 and 16** - the Prepared Direct Testimony and Exhibits of Anthony Caldoro.
2. **OTS Statement No. 1 and OTS Exhibit No. 1** - the Prepared Direct Testimony and Exhibit of Joseph Kubas;
3. **OCA Statement Nos. 1, 1-R and 1-S and Schedules JDM-1 through JDM-7** - the Prepared Direct, Rebuttal and Surrebuttal Testimony and Schedules of Jerome D. Mierzwa;
4. **OSBA Statement Nos. 1, 2 and 3 and Exhibit No. 1** - the Prepared Direct, Rebuttal and Surrebuttal Testimony and Exhibit of Brian Kalcic.

At the June 9, 2010 evidentiary hearing, Mr. Virostek presented oral testimony and cross-examination of Peoples' remaining two witnesses, Ronald D. Walther and Joseph A. Gregorini, and Dominion Retail's witness, Thomas J. Butler, was performed. After cross-examination of these witnesses was completed, the following statements and exhibits were admitted into the record:

⁸ In addition to the prepared testimony submitted for the record by the indicated parties, Mr. Virostek provided oral testimony at the June 9, 2010 evidentiary hearing.

1. **Peoples' Statement Nos. 1, 4, 6 and 7** (with portions of Peoples' Statement No. 7 removed as unnecessary) and **Peoples' Exhibit Nos. 1, 11 and 12** – the Prepared Direct, Rebuttal, Surrebuttal and Rejoinder Testimony and Exhibits of Ronald D. Walther;
2. **Peoples' Statement Nos. 3 and 5** and **Peoples' Exhibit Nos. 17, 18, 19, 20, 21, 22 and 23**, noting the **Highly Confidential** nature of Peoples' **Exhibit Nos. 18, 19 and 22** – the Prepared Direct and Rebuttal Testimony and Exhibits of Joseph A. Gregorini; and
3. **Dominion Retail's Statement Nos. 1 and 2** (with portions of Statement No. 2 stricken), **Dominion Retail Schedule Nos. TJB-1 and TJB-2**, and **Dominion Retail Cross-Examination Exhibit No. 1** – the Prepared Direct and Surrebuttal Testimony and Schedules of Thomas J. Butler and the Cross-Examination Exhibit of Dominion Retail.

Your Honor directed the parties to present two copies of the testimony and exhibits to be entered into the record at that time and all parties presenting evidence complied. Certain corrections to the testimony and exhibits were made on the record at the June 9, 2010 hearing. Due to the limited nature of the cross-examination performed, the June 10, 2010 evidentiary hearing was cancelled.

Based upon the Petitioners' representations regarding a partial settlement of the contested issues, Your Honor directed that a Joint Petition for Settlement with Statements in Support thereof be executed and served on all parties on or before July 1, 2010. In accordance with the procedural schedule set forth in Prehearing Order #2 dated April 12, 2010, main briefs on the remaining contested issues were to be submitted on or before

June 23, 2010, and reply briefs were to be submitted on or before July 1, 2010. This Main Brief is submitted in accordance with the aforementioned schedule.

II. SUMMARY OF ARGUMENT

The Settlement filed and served on June 23, 2010 reasonably resolves the issues in the case, including the Unaccounted For Gas (“UFG”) capping issue raised by Office of Small Business Advocate (“OSBA”) and the issues raised by Mr. Virostek. Peoples and the Office of Trial Staff both filed Direct Testimony that is consistent with the UFG settlement term contained in the Joint Petition for Settlement in this case⁹ and Peoples filed Rebuttal Testimony on the issue. No party other than OSBA filed testimony advocating adoption of a UFG cap. The Joint Petitioners except Dominion Retail have expressly supported the Settlement’s UFG term.¹⁰ The claims raised by Mr. Virostek regarding the nature of the gas cost recovery process and the alleged disparity between current gas prices and those reflected in Peoples’ quarterly gas cost rates have been adequately addressed in the Direct and Rebuttal Testimony submitted by the Company.¹¹ The record evidence demonstrates that Peoples has complied with the statutory process for gas supply planning and procurement as well as reflecting its gas costs in quarterly filings pursuant to the statutorily-sanctioned process. Peoples submits that on this basis, Mr. Virostek’s complaint should be dismissed.

What remains for briefing is a very limited issue – that is, whether the Settlement as currently framed is in the public interest, including the resolution of the UFG issue.

⁹ OSBA was the only party in the case that served rebuttal testimony disagreeing with OTS’ position.

¹⁰ A Joint Petition for Approval of Settlement was filed on June 23, 2010 in this matter. All of the parties and participants joined in the Settlement and supported its approval or did not oppose it. OSBA did not join in the UFG and the Retainage Levels Sections of the Settlement.

¹¹ See Peoples’ Statement Nos. 1 (generally with regard to Peoples’ gas supply planning and procurement processes), 2 (at 5-17 with emphasis on 17), 3 (at 3), and 5 (at 21-22).

Peoples files this brief supporting approval of the Settlement in its entirety as reasonable, including the UFG term as written in the Joint Petition for Settlement, without condition or modification.

III. ARGUMENT

A. The Settlement, Including The Term Governing Unaccounted For Gas Levels, Is In the Public Interest and Should Be Approved Without Condition or Modification

The policy of the Commission is to encourage settlements.¹² In dedicating resources to settlement, the parties avoid litigation costs, the associated administrative inefficiencies and burdens placed on the agency and the parties, and the uncertainty and vagaries of litigation outcomes.¹³ When a settlement is reached, it must be reviewed to determine whether it is in the public interest. Peoples submits that the terms of the Settlement in this case will foster, promote and serve the public interest and the Settlement terms represent a fair, just, reasonable and equitable balance of the Company's and its customers' interests.¹⁴ Thus, Peoples supports approval of the Settlement without modification or condition.

The UFG term of the Settlement provides that:

Peoples will continue its UFG study and mitigation measures, as described in detail in its Direct Testimony in this case, and report on the results of the study no later than its 2011 1307(f) proceeding.

In a related Settlement term, Peoples also has committed to voluntarily undertake a local gas meter check program. Specifically, Peoples has agreed as follows:

¹² *Pa. P.U.C. v. Phila. Elec. Co.*, 60 Pa. P.U.C. 1, 22 (1985).

¹³ 52 Pa. Code §5.231(a).

¹⁴ *Pa. P.U.C. v. CS Water and Sewer Assocs.*, 74 Pa PUC 767 at 771 (1991).

In addition to continuing the existing local gas meter operating and audit procedures and effective immediately, Peoples will initiate a check meter program to validate measurement accuracy at selected local gas custody transfer meter locations. The placement of check meters will be based in part on a meter-specific volume variance analysis. The results of this program and any remediation steps taken will be reported on no later than Peoples' 2011 1307(f) proceeding.

Despite Peoples' ongoing and new UFG mitigation commitments, OSBA does not join the Settlement on the UFG term and claims that the Commission should "cap" Peoples' allowable UFG levels prospectively to a recommended volume of 3,163,603 Mcf. OSBA claims in its testimony that such capping will provide an incentive to the Company to reduce its current UFG levels. OSBA witness Kalcic came to this recommended volume by calculating the difference in Peoples' three-year average UFG levels between the 2006-2008 versus 2007-2009 periods and applying a proportional reduction to Peoples' estimate for the 2010 1307(f) projected period.

Contrary to OSBA's claim, Peoples does not need an added incentive in the form of a UFG cap to examine its UFG levels and employ mitigation measures. And Peoples is not, contrary to the underlying message of OSBA's position, thwarting its obligations to deal with its UFG levels. Peoples is actively pursuing mitigation and employing measures beyond those agreed to in the 2009 1307(f) case, in which UFG became a major issue.

The buyer of Peoples showed a continuing commitment to reduce UFG by specifically addressing the issue in the settlement in the sale case. Peoples' Settlement commitment on UFG in this pending 1307(f) case – including its local gas check meter program – is entirely consistent with the Commission's Order in the sale case which required Peoples to study the causes of UFG on its system and report on it in the 2011

1307(f) proceeding. As Mr. Gregorini testified, it is in the middle of a detailed review of the causes of UFG on its system and it will, in accordance with the agreement approved by the Commission in the sale case at Docket No. A-2008-2063737,¹⁵ provide a comprehensive report to the Commission regarding a plan to address UFG levels on or before its 2011 1307(f) proceeding. Paragraph 66 of the Settlement that was approved by the Commission set forth Peoples' commitments with regard to addressing UFG, which was to do an initial detailed operational review of the gathering system and the Commission's findings in the 2009 and 2010 1307(f) proceedings, in addition to a review of Dominion Peoples' prior efforts to reduce UFG and examine alternative additional measures to reduce UFG, including costs to implement such measures and potential cost savings that might be derived from implementing additional measures to reduce UFG. The same agreement contemplated that Peoples would report the results of the investigation no later than its 2011 1307(f) proceeding.

Thus, Peoples agreed to do a two-year review of its UFG and potential mitigation measures. The Settlement provided that, following the closing on the sale, Peoples would review the gathering system study that had been done by its predecessor, Dominion Peoples, as well as the Commission's findings in the 2009 1307(f) case and the anticipated 2010 1307(f) case. Peoples agreed to look at prior efforts to reduce UFG and to examine additional measures to reduce UFG – including costs to implement alternative reduction measures as well as potential cost savings that might be derived from

¹⁵ See *Joint Application for All of the Authority and the Necessary Certificate(s) of Public Convenience to Transfer All of the Issued and Outstanding Shares of Capital Stock of The Peoples Natural Gas Company, d/b/a Dominion Peoples, currently owned by Dominion Resources, Inc., to Peoples Hope Gas Companies LLC, an indirect subsidiary of Babcock & Brown Infrastructure Fund North America LP, and to Approve the Resulting Change in Control of The Peoples Natural Gas Company, d/b/a Dominion Peoples*, Docket No. A-2008-2063737, Order Entered on November 19, 2009. This Order approved a settlement to which OSBA was a signatory.

implementing additional measures to reduce UFG. Peoples also agreed to report to the Office of Small Business Advocate, the Office of Trial Staff, and the Office of Consumer Advocate with regard to the results of that investigation no later than the filing of Peoples' 2011 1307(f) proceeding. Finally, it was noted in the Settlement that nothing in that Settlement was intended to affect any obligations Peoples may have to control UFG that may be ordered by the Commission in the 2009 1307(f) proceeding.

The outcome of Peoples' 2009 1307(f) proceeding was an agreement by Peoples to implement a variety of measures to effectuate reductions of its UFG.¹⁶ Of the 2009 mitigation measures, Mr. Gregorini explained in his Direct Testimony in this case that many of them have been completed, many of them are on schedule to be completed and additional measures have been undertaken beyond what Peoples agreed to in that settlement.¹⁷ All of those UFG mitigation measures are designed to reach the goals that the Commission has urged Peoples to strive for.

Mr. Gregorini also testified credibly in this case that Peoples' UFG level is reasonable for the complex kind of system it operates and that no gas cost disallowance related to Peoples' UFG level is appropriate.¹⁸ In fact, no party has asked for a gas cost disallowance for the reconciliation period in this case. Under OSBA's proposal, Peoples' UFG level would be capped and the recovery of projected gas costs associated with UFG in excess of 3,163,603 Mcf would be disallowed on a prospective basis. While other witnesses in the case raised retainage rate cost allocation arguments that have been resolved through settlement, no party has challenged Peoples' UFG level as being

¹⁶ In the 2009 1307(f) case, the ALJ and the Commission rejected OSBA's argument that there should be a presumption of unreasonableness attached to Peoples' 2010 UFG level should that level reflect an increase from the average in the 2009 1307(f) case. OSBA's capping argument in this pending case is a new twist on the old argument by which any increase to UFG could equal an automatic disallowance.

¹⁷ Peoples' Statement No. 3 at 15-17.

¹⁸ Peoples' Statement No. 5 at 4-5.

unreasonable. At most, OSBA has said that the UFG level has gone up not down, and so it should be capped. That is not an analysis of Peoples' system that demonstrates that Peoples' UFG level is unreasonable.

The record amply supports the opposite conclusion – that Peoples' UFG levels, albeit slightly higher than last year, are still reasonable.¹⁹ Peoples has presented evidence that, unlike many other natural gas distribution companies (“NGDCs”), Peoples' system includes gathering, transmission and storage assets.²⁰ Such characteristics must be taken into consideration in deciding what level of UFG should be considered to be reasonable. NGDCs with storage and gathering systems, like Peoples, should not be compared to other dissimilar NGDC systems when evaluating UFG levels.²¹ In fact, as Mr. Gregorini testified, Peoples' system is perhaps unique in Pennsylvania in that it has extensive on-system storage facilities and gathering facilities.²² Those types of facilities historically have been used to keep gas costs down on Peoples' system to the distinct benefit of its customers.²³ At the same time, those types of facilities add to the overall levels of UFG experienced on the entire system.²⁴

¹⁹ In his Recommended Decision in last year's 1307(f) case at Docket No. R-2009-2088069, ALJ Corbett noted that no party had shown that Peoples' then-current UFG levels were unreasonable. Recommended Decision. at 38. He also noted that the Commission had made no such a finding in Peoples' 2008 1307(f) proceeding. *Id.* The Commission adopted ALJ Corbett's Recommended Decision in its Order entered September 24, 2009.

²⁰ Peoples' Statement No. 3 at 13; Peoples' Statement No. 4.

²¹ In Peoples' 2009 1307(f) case, ALJ Corbett agreed and noted that Peoples had shown that its UFG levels are reasonable for a system that is quite different from the vast majority of NGDCs in Pennsylvania. *Id.* The Commission adopted his Recommended Decision. No party in this case has presented any evidence demonstrating that Peoples' unique system should have lower UFG levels. The only claims have been that UFG levels on Peoples' system have increased and, therefore, they must be unreasonable. The record does not support that conclusion and Your Honor should so find.

²² Peoples' Statement No. 5 at 4.

²³ ALJ Corbett explicitly acknowledged that Peoples' use of local gas, moved through gathering and transmission facilities, works to the advantage of 1307(f) customers by keeping gas costs low. Recommended Decision at 39. No party has challenged Peoples' evidence presented in this case that local gas is a low cost gas source for Peoples that is integral to its least cost purchasing plan. See Peoples' Statement No. 1 at 42-48.

²⁴ Recommended Decision at 38-40; Peoples' Statement No. 5 at 4.

It is uncontested on this record that Peoples has undertaken many steps to identify the sources of UFG on its system and to mitigate UFG. It is in the process of examining its gathering system more closely to identify potential sources of UFG and it has identified many measures that it expects to undertake system-wide to attempt to further mitigate UFG. As contemplated by the sale case Order, however, Peoples will report on the additional UFG mitigation measures in next year's 1307(f) case.

OSBA witness Kalcic provided no analytical basis for his utilization of the difference between average UFG on Peoples' system for the 2006-2008 period versus the 2007-2009 period as a "UFG disallowance factor." He did not explain why such a calculation should be the measure by which to cap Peoples' UFG for recovery purposes. His capping proposal, which is a prospective disallowance, should be rejected as baseless and unsupported by any reasoned analysis. In the 2009 1307(f) case, the ALJ and the Commission rejected a similar argument from OSBA that there should be a presumption of unreasonableness attached to Peoples' 2010 UFG level should that level reflect an increase from the average in the 2009 1307(f) case. OSBA's capping argument here is simply a new twist on the old argument. If adopted it would mean that an increase to Peoples' three-year average UFG would equal an automatic disallowance.

Mr. Gregorini explained in his testimony that the Company is midstream in terms of studying the Company's UFG levels and that it will be in a good position to report to the Commission in the 2011 1307(f) proceeding regarding what mitigation measures have been completed, which measures require further attention, and how Peoples will comprehensively and effectively deal with UFG measures on its system.²⁵ To do as OSBA suggests, which is to cap Peoples' UFG levels and disallow recovery of UFG

²⁵ Peoples' Statement No. 3 at 15-17; Peoples' Statement No. 5 at 4-7.

costs above a 3,163,603 Mcf level, would be premature and would potentially penalize Peoples in the interim while its comprehensive plan to address UFG is underway. The agreement approved by the Commission in the sale case contemplated that Peoples would need time to implement the changes it determines are best to deal with UFG levels. Peoples, however, cannot guarantee that its mitigation measures will result in UFG reduction for the very near term period proposed by OSBA, so Peoples disagrees with OSBA's capping concept.

Peoples has been very transparent with the Commission in addressing the UFG mitigation plan as part of the Focused Management and Operations Audit of Peoples at Docket No. D-2009-2149012 that was acted upon at the Commission's March 11, 2010 Public Meeting. Vice Chairman Christy noted in his Statement that Peoples had accepted the Audit Staff's recommendation regarding UFG and agreed to several related programs per the Settlement approved by the Commission in the sale proceeding in November, 2009. The Vice Chairman also noted Peoples' commitment to presenting a report to the Commission as to the results of its UFG investigation no later than its 2011 1307(f) proceeding. Vice Chairman Christy's statement is consistent with the Commission's approval of the Settlement between the parties for the sale of Peoples. Peoples is complying with the Commission's order in the sale case and the action in the more recent audit proceeding. To disallow costs related to UFG volumes prior to completion of the plans described above is premature and would be penal. Peoples needs no further incentive to study and reduce UFG on its system and penalizing Peoples by capping UFG levels while it conducts the study is not in line with the agreements approved by the Commission thus far. For these reasons, OSBA's position that Peoples' UFG be capped should be rejected.

The Commission approved a Settlement of Peoples' 2009 1307(f) proceeding where the Company agreed to continue certain mitigation measures to address the level of UFG on its system and report on those measures in this case. Also, in quantifying the level of UFG, Peoples agreed as a part of that settlement to calculate UFG levels based on a three-year average. Peoples also agreed to calculate, based on a three-year average, Gathering System UFG, applying the methodology outlined in Peoples' Exhibit No. 19 from the 2009 1307(f) case; Storage System UFG, with the understanding that Peoples would no longer classify storage losses as company-use gas and, instead, report storage gas losses as Storage System UFG; and Distribution/Transmission System UFG. Peoples complied with each of these Settlement terms and reflected the agreed-upon terms in the three-year average UFG calculation presented in **Peoples Exhibit No. 20**.

Mr. Gregorini provided extensive testimony regarding the Company's system itself and how Peoples calculated UFG on the gathering system, storage pools and distributions transmission system. Mr. Gregorini detailed the Kiski-Valley gathering study that was presented in the 2009 case and noted that, as is set forth on line 4 of **Peoples Exhibit No. 20**, the most recent three-year average of UFG on the Kiski-Valley gathering system is 6.2%. The calculated total Gathering System UFG levels for each of the past three years is shown on Line 6 of **Peoples Exhibit No. 20**. That exhibit also reflects the Storage System UFG of 2.6% and the three-year average Distribution/Transmission System UFG of 2.5%.

Mr. Gregorini also provided an update in this case on the mitigation actions approved by the Commission as part of the 2009 1307(f) settlement. The list is reflected in **Peoples Exhibit No. 21**. No party took issue with Peoples' efforts thus far on that list.

Peoples' UFG mitigation measures that are currently underway and those that will be implemented as a result of the anticipated report to be submitted pursuant to the sale agreement are expected to result in reduced levels of UFG on the system.

In addition, Mr. Gregorini testified that, to further address system UFG, Peoples voluntarily began an initiative last year that would result in an accelerated and complete leak survey of Peoples' entire 855-mile gathering system. While Peoples believes that the UFG levels on the gathering system are not excessive, it is clear from the separate calculation of Gathering System UFG noted above, that benefits would be obtained from reducing the gathering system UFG levels. Mr. Gregorini noted that a total of 483 miles, or 56% of Peoples' 855 miles of gathering lines, were included in Peoples' previous leak survey plan and were surveyed as of December 31, 2009. The remaining gathering lines, which total 372 miles, were recently included in Peoples' survey plan and are now scheduled to be surveyed this year. Peoples began surveying these lines in early 2010 and plans to have all of these lines surveyed by year-end 2010. Accordingly, by the end of 2010, it is Peoples' plan to have all of its gathering lines leak surveyed and those lines will be included as part of Peoples' ongoing leak survey plan. Peoples will also include right of way maintenance on an ongoing basis for all of its gathering system.

Peoples plans to repair or replace gathering lines for most, if not all, of the leaks detected through the leak survey plan. The repair or replacement of these lines will be prioritized based on each line's operational characteristics and leak conditions. The accelerated leak survey plan is expected to lower UFG levels on the Peoples' gathering system beginning in 2010. However, the largest impacts would be realized in 2011 and beyond. Notably, these gathering system leak survey efforts were not ordered – they were undertaken without Commission direction or capping of UFG levels.

Finally, as a part of the Settlement in this case, Peoples also has agreed to undertake a local gas check meter program to be implemented mid-2010 as yet another effort to identify UFG causes on the gathering system.

The combined effect of the UFG measures Peoples is employing and those it anticipates to employ should be approved as reasonable. Like the prior settlements approved thus far by the Commission with regard to UFG, the proposed Settlement in this case is reasonable and in the public interest and should be approved as such.

B. The Record Fully Supports the Settlement, Including the UFG Provision.

The Settlement is a comprehensive resolution of this proceeding and it must be recognized that the UFG settlement provision is based solidly in the substantial evidence of record supporting a finding that Peoples' current UFG levels for the kind of system it operates²⁶ are reasonable. No party or participant, including OSBA, presented record evidence demonstrating that Peoples' UFG levels are unreasonable and no party advocated such a conclusion. Moreover, no party or participant, including OSBA, advocated that any disallowance of gas costs, related to UFG or any other issue, should be imposed in this case for the reconciliation period. OSBA seeks a forward --looking adjustment to gas costs for UFG levels beyond the current three year average. The record is simply devoid of any evidence that would support rejection of the UFG Settlement terms.

While the Company believes that its current and future UFG mitigation measures will be successful in reducing UFG levels on the system, there is no way to guarantee that

²⁶ Peoples' system is composed of distribution/transmission, extensive on-system storage facilities, and the largest gathering system of any NGDC. *See* Peoples' Statement No. 3 at 13 and Peoples' Statement No. 5 at 4.

the actions Peoples has undertaken as a result of the 2009 1307(f) settlement Order or its recent voluntarily actions will result in immediate UFG reductions. What is clear now is that Peoples should not be penalized for complying with the Commission's Orders in past 1307(f) cases and the sale case. The Commission should allow Peoples to complete its mitigation plan and present it as contemplated by the agreement approved in the sale Order.

For all of these reasons, the UFG settlement provisions, that are consistent with the sale Order and which incorporate the Company's voluntary gathering system leak survey program and local gas check meter program, are in the public interest. They provide a reasonable resolution of the competing UFG positions that were vetted in testimony and represent significant compromises by the Company in terms of UFG reduction activity being undertaken presently and actions the Company will employ in the future.

It is beyond dispute that the Company is making and will continue to make considerable efforts to address UFG levels on its system, despite the fact the no party has presented evidence that its current UFG levels are unreasonable. For all of these reasons, the Settlement in its entirety, including the UFG term is in the public interest and should be approved without modification or condition.

Mr. Virostek raised the following issues in his Complaint and testimony: 1) that the price per Mcf is not listed in the Notice of Rate Change provided by the Company; 2) that Peoples does not break down separately the interstate delivery component of the commodity charge on its bills to him; and 3) that due to the method by which Peoples reconciles its charges, he does not receive the full value of the credit returned to him as a result of the "time value of money."

As to Mr. Virostek's first two issues, Peoples follows the Commission's regulations with respect to the information contained in its Notice of Proposed Rate Changes²⁷ and with respect to the rate components that are to be listed separately on its bills to customers.²⁸ The gas cost price/Mcf is set forth in the details of the Company's 1307(f) filing, and as is clearly mentioned in the Notice that was attached to Mr. Virostek's complaint, the Company's filing is made available upon request to the customer. As an active party to this case, Mr. Virostek received copies of the Company's March 2, 2010 pre-filing and its April 1, 2010 annual 1307(f) submission, including the Company's Prepared Testimony and Exhibits, both of which contain the gas cost/Mcf detail. Further, with respect to the level of rate component detail to be shown on a customer's bill, Peoples fully complies with the Commission's requirements as provided under its restructuring initiative.²⁹ The addition of the interstate pipeline delivery component broken down on a customer's bill is not required or advisable.

Mr. Virostek's claim that he does not experience the true value of his money due to the delayed period he must wait for a credit ignores the fact that the Company is in fact required to, and does, calculate an interest credit as part of the reconciliation to customers in their rates.³⁰

IV. PROPOSED FINDINGS OF FACT

1. Peoples' system is perhaps unique in Pennsylvania in that it has extensive on-system storage facilities and gathering facilities. Peoples' Statement No. 3 at 13 and Peoples' Statement No. 5 at 4.

²⁷ 52 Pa. Code §§ 53.68 and 53.41-45.

²⁸ 52 Pa. Code §§56.15 and 62.74.

²⁹ *Id.*

³⁰ 66 Pa. C.S. § 1307(f)(5).

2. Those types of facilities historically have been used to keep gas costs down on Peoples' system to the distinct benefit of its customers, but at the same time, those types of facilities add to the overall levels of UFG experienced on the entire system. Peoples' Statement No. 3 at 13 and Peoples' Statement No. 5 at 4.
3. Peoples has undertaken many steps to identify the sources of UFG on its system and to mitigate UFG. It is in the process of examining its gathering system more closely to identify potential sources of UFG and it has identified many measures that it expects to undertake system-wide to attempt to further mitigate UFG. Peoples' Statement No. 3 at 15-17 and Peoples' Statement No. 5 at 4-7.
4. As reflected on **Peoples Exhibit No. 20**, the most recent three year average of UFG on Peoples' Kiski-Valley gathering system is 6.2%, the three-year average storage pool UFG is 2.6% and the three year average Distribution/Transmission System UFG is 2.5%. Peoples' Statement No. 3 at 13-14.
5. Peoples UFG levels are reasonable for the unique kind of system it operates, including gathering, transmission and storage assets. Peoples' Statement No. 5 at 4.
6. Peoples has employed and is continuing to employ extensive UFG mitigation measures, including the measures detailed in the 2009 1307(f) Settlement as well as the voluntary gathering system leak survey and local gas check meter programs. Peoples' Statement No. 3 at 15-17 and Peoples' Statement No. 5 at 4-7.

7. The Commission's Order in the Peoples' sale case at Docket No. A-2008-2063737 provides that Peoples will perform an initial detailed operational review of the gathering system and the Commission's findings in the 2009 and 2010 1307(f) proceedings, in addition to a review of Dominion Peoples' prior efforts to reduce UFG and examine alternative additional measures to reduce UFG, including costs to implement such measures and potential cost savings that might be derived from implementing additional measures to reduce UFG and report the results of the investigation no later than its 2011 1307(f) proceeding. November 19, 2009 Order at Docket No. A-2008-2063737; Peoples' Statement No. 3 at 15-17 and Peoples' Statement No. 5 at 4-7.
8. The Commission's regulations regarding Notices of Proposed Rate Changes do not require the price for Mcf to be listed thereon. 52 Pa. Code §§ 53.68 and 53.41-45.
9. The Commission's bill format regulations do not require separate listing of the interstate delivery component of the commodity charge on NGDC bills to customers. 52 Pa. Code §§ 56.15 and 62.74.

V. PROPOSED CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. §§501, *et seq.*
2. Peoples Natural Gas Company LLC is pursuing a least cost fuel procurement policy during the relevant time period consistent with its obligation to

provide safe, adequate and reliable service to its customers in compliance with Section 1318 of the Public Utility Code, 66 Pa. C.S. §1318.

3. Peoples Natural Gas Company LLC rates for purchased gas costs during the relevant time period are just and reasonable and in compliance with Section 1318 of the Public Utility Code, 66 Pa. C.S. §1318.

4. Peoples Natural Gas Company LLC has fully and vigorously represented the interests of its ratepayers in proceedings before the FERC and other relevant non-PUC proceedings during the relevant time period in compliance with Section 1318(a)(1) of the Public Utility Code, 66 Pa. C.S. §1318(a)(1).

5. Peoples Natural Gas Company LLC has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve itself from terms in existing contracts with its gas suppliers, which are or may be adverse to the interests of its ratepayers, during the relevant time period in compliance with Section 1318(a)(2) of the Public Utility Code, 66 Pa. C.S. §1318(a)(2).

6. Peoples Natural Gas Company LLC has taken all prudent steps necessary during the relevant time period to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies in compliance with Section 1318(a)(3) of the Public Utility Code, 66 Pa. C.S. §1318(a)(3).

7. Peoples Natural Gas Company LLC has not withheld from the market or caused to be withheld from the market during the relevant time period any gas supplies, which should have been used as part of a least cost fuel procurement policy in compliance with Section 1318(a)(4) of the Public Utility Code, 66 Pa. C.S. §1318(a)(4).

8. Peoples Natural Gas Company has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests during the relevant time period in compliance with Section 1818(b)(1) of the Public Utility Code, 66 Pa. C.S. §1318(b)(1).

9. Peoples Natural Gas Company LLC's contracts, if any, for the purchase of gas from any affiliated interest during the relevant time period are consistent with a least cost fuel procurement policy in compliance with Section 1318(b)(2) of the Public Utility Code, 66 Pa. C.S. §1318(b)(2).

10. Neither Peoples Natural Gas Company LLC nor any affiliated interest during the relevant time period has withheld from the market any gas supplies, which should have been used as part of a least cost fuel procurement policy in compliance with Section 1318(b)(3) of the Public Utility Code, 66 Pa. C.S. §1318(b)(3).

11. The Commission should approve without modification the Joint Petition for Approval of Settlement Agreement that Peoples Natural Gas Company LLC, the OTS, OCA and Dominion Retail have submitted in this proceeding as in the public interest.

VI. PROPOSED ORDERING PARAGRAPHS

1. That the Joint Petition for Approval of Settlement Agreement that Peoples Natural Gas Company LLC, Office of Trial Staff, Office of Consumer Advocate and Dominion Retail, Inc. have submitted at Docket No. R-2010-2155608 is in the public interest and is hereby approved.
2. That Peoples Natural Gas Company LLC may file a tariff supplement, on one day's notice to the Commission, containing changes in rates to provide for the

recovery of its costs of purchase gas, consistent with the terms and conditions of the Joint Petition for Approval of Settlement Agreement.

3. That the complaints of the *Office of Consumer Advocate*, Docket No. C-2010-2163637; *Office of Small Business Advocate*, Docket No. C-2010-2164664; *Donald Barricella*, Docket No. C-2010-2175027; *Grace Czolba*, Docket No. C-2010-2169787; *Dennis Keibler*, Docket No. C-2010-2171481; *James J. Virostek*, Docket No. C-2010-21761513; and *Merle Neumann*, Docket No. C-2010-2172660 are hereby dismissed consistent with the terms of this Order.
4. That Peoples Natural Gas Company LLC, Office of Trial Staff, Office of Consumer Advocate and Dominion Retail, Inc. shall comply with the terms and conditions of the Joint Petition for Approval of Settlement Agreement submitted in this proceeding as though each term and condition stated therein had been the subject of an individual ordering paragraph.
5. That upon Peoples Natural Gas Company LLC's filing of a tariff supplement acceptable to the Commission as conforming with this Order and the Joint Petition for Approval of Settlement Agreement and the Commission's approval thereof, the purchased gas rates established therein shall become effective for service rendered on and after October 1, 2010.
6. That upon Commission acceptance and approval of the tariff supplement and supporting data filed by Peoples Natural Gas Company LLC as being consistent with this Order and the Joint Petition for Approval of Settlement agreement, the inquiry and investigation at Docket No. R-2010-2155608 shall be terminated and the docket marked closed.

VII. CONCLUSION

The Petitioners have demonstrated that the Settlement as a whole represents a reasonable resolution of the issues in this case which is in the public interest. The Settlement should be approved without modification and Your Honor should reach the Findings of Fact and Conclusions of Law noted above and issue a Recommended Decision consistent with the Proposed Ordering Paragraphs detailed above.

Respectfully Submitted,



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LLC

Dated: June 23, 2010

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

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Dated this 23rd day of June, 2010

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