

## Appendix J

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
	:	
v.	:	Docket No. R-2010-2201702
	:	
Peoples Natural Gas Company LLC	:	

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**OFFICE OF TRIAL STAFF  
STATEMENT IN SUPPORT OF  
JOINT PETITION FOR APPROVAL  
OF SETTLEMENT OF ALL ISSUES**

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**TO ADMINISTRATIVE LAW JUDGES JOHN H. CORBETT AND MARY D. LONG:**

The Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), by and through its Prosecutors Allison C. Kaster and Adeolu A. Bakare, hereby respectfully submits that the terms and conditions of the foregoing Joint Petition for Approval of Settlement of All Issues (“Joint Petition” or “Settlement”) are in the public interest and represent a fair and just balance of the interests of Peoples Natural Gas Company, LLC (“Peoples” or “Company”) and its customers:

**BACKGROUND**

1. OTS is charged with the representation of the public interest in proceedings relating to rates, rate-related services and application proceedings affecting the public interest held before the Commission. Consequently, in negotiated settlements, it is

incumbent upon OTS to ensure that the public interest is served and to quantify to what extent amicable resolution of any such proceeding will benefit the public interest. Based upon OTS's analysis of Peoples' base rate filing, acceptance of this proposed Settlement is in the public interest and OTS recommends that the Administrative Law Judges and the Commission approve the Settlement in its entirety.

2. On October 28, 2010, Peoples Natural Gas Company, ("Peoples" or "the Company") filed Retail Tariff Gas – Pa. P.U.C. No. 44 ("Tariff 44") & Supplier Tariff Gas – PA PUC No. S-2 (collectively "Tariffs"), reflecting an increase in annual gas distribution revenues of \$70.2 million. By Order issued December 16, 2010, the Commission instituted a formal investigation to determine the lawfulness, justness and reasonableness of Peoples' existing and proposed rates, rules and regulations. The Tariffs were suspended by operation of law until December 30, 2010, unless permitted by Commission Order to become effective at an earlier date.

3. Administrative Law Judges John H. Corbett and Mary D. Long were assigned to this proceeding for purposes of conducting hearings and issuing a Recommended Decision.

4. OTS entered its Notice of Appearance in this proceeding on January 20, 2011. Complaints were filed on behalf of the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA"). Petitions to Intervene were filed by Dominion Retail, Inc., Interstate Gas Supply, Inc., EQT Energy, LLC d/b/a Equitable Energy ("EQT"), Peoples Industrial Intervenors, Pennsylvania Independent Oil and Gas Association ("PIOGA") and Direct Energy Services, LLC ("Direct Energy"). In addition,

the following filed individual Complaints, Caram Abood, Steven Hoover, Robert Kenneweg, Louis Mavrakis, Severo Miglioretti, Christina Miller, Emil Panzo, Anthony Pendziwater, Jr., William Rovder, Regis Schrum, Richard Scott, and James Uncapher.

5. A prehearing conference was held on December 20, 2010, which established a schedule for the submission of testimony, evidentiary hearings and public input hearings.

6. Public Input Hearings were held on January 7, 2011 in Pittsburgh, PA and on January 8, 2011 in Washington, PA.

7. Discovery, both formal and informal, was undertaken during this proceeding.

8. In accordance with the procedural schedule established at the Prehearing Conference, OTS submitted the following direct testimony on January 26, 2011:

OTS Statement No. 1 and Exhibit No. 1- Direct Testimony and Exhibit of Robert Plonski

OTS Statement No. 2 and Exhibit No. 2<sup>1</sup>- Direct Testimony and Exhibit of Christine Wilson, CPA

OTS Statement No. 3 and Exhibit No. 3<sup>2</sup>- Direct Testimony and Exhibit of Joseph Kubas

OTS Statement No. 4 and Exhibit No. 4- Direct Testimony and Exhibit of Ethan H. Cline

OTS Statement No. 5 and Exhibit No. 5- Direct Testimony and Exhibit of Amanda Gordon

In addition, OTS submitted the following Surrebuttal Testimony on March 11, 2011:

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1 Non-proprietary and Proprietary versions were submitted.  
2 Non-proprietary and Proprietary versions were submitted.

OTS Statement No. 1-SR and Exhibit No. 1-SR- Surrebuttal Testimony and Exhibit of Robert Plonski

OTS Statement No. 2-SR and Exhibit No. 2-SR<sup>3</sup>- Surrebuttal Testimony and Exhibit of Christine Wilson

OTS Statement No. 3-SR and Exhibit No. 3-SR- Surrebuttal Testimony and Exhibit of Joseph Kubas

OTS Statement No. 4-SR and Exhibit No. 4-SR- Surrebuttal Testimony and Exhibit of Ethan H. Cline

OTS Statement No. 5-SR and Exhibit No. 5-SR- Surrebuttal Testimony and Exhibit of Amanda Gordon

9. In accordance with Commission policy favoring settlements, 52 Pa. Code § 5.231, OTS participated in settlement discussions with other parties to the proceeding. Following several rounds of discovery and extensive settlement negotiations, Peoples OTS, OCA, OSBA, Dominion Retail Inc., Interstate Gas Supply, Inc., EQT, PIOGA, and Direct Energy (hereinafter, collectively “Joint Petitioners”), reached a full and complete settlement of all issues.<sup>4</sup>

#### TERMS AND CONDITIONS OF SETTLEMENT

10. OTS submits that the Settlement represents a balance of the interests of the Company, its customers. The foregoing paragraphs consist of a non-exhaustive summary of key Settlement provisions which OTS views as providing broad public benefits. Accordingly, for the specific reasons articulated below and the full scope of benefits addressed in the Settlement Agreement, OTS maintains that the proposed Settlement is in

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<sup>3</sup> Non-proprietary and Proprietary versions were submitted.

<sup>4</sup> Peoples Industrial Intervenors, the only other active party in this proceeding, has indicated that it neither supports nor opposes the Settlement.

the public interest and requests that it be approved by the ALJ and the Commission without modification:

a. *Revenue Requirement* (Joint Petition, III.A.): The proposed Settlement permits the Company to establish rates that produce an annual distribution rate revenue increase of \$53.0 (16.6%) million. This proposed increase is in lieu of Peoples' requested increase of approximately \$70.2 (21.4%) million. As such, the settlement rates represent a \$17.2 million decrease from the Company's filed request. OTS analyzed the ratemaking claims contained in the Company's filing including, but not limited to, operating and maintenance expenses, competitive discounts, rate base, capital structure, and rate structure. The OTS analysis included recommendations for an overall rate of return of 7.00% and a cost of common equity rate of 9.04%. (OTS Statement No. 1, p. 9).

Upon completion of this review, OTS maintains that the proposed \$53.0 million increase will result in just and reasonable rates as mandated by the Public Utility Code. Ratepayers will continue to receive safe and reliable service at reasonable rates while allowing sufficient additional revenues to meet Peoples' operating expenses and provide a reasonable rate of return. Furthermore, the agreed upon Settlement rates significantly moderates the increase initially proposed by Peoples. Accordingly, the proposed rate increase is in the public interest.

b. *Competitive Discounts* (Joint Petition, III.D) The Joint Petitioners further agree that the Settlement Rates represent a compromise with regards to the Company's provision of discounted rates to 165 transportation customers. Peoples

currently provides discounted rates for a total of 199 transportation customers with access to other competitive energy sources. In testimony, OTS recommended that the revenue shortfall resulting from discounting rates for those customers whose competitive options are limited to overlapping NGDCs, totaling \$4,342,852, be excluded from base rate recovery. (OTS Statement No. 3, p. 15). OTS affirms that the Settlement rates incorporate and resolve the rate recovery issues arising from Peoples' competitive discounts.

While the Settlement rates address the OTS concerns regarding the rate recovery of issues associated with Peoples' competitive discounts, the Joint Petitioners further agree to submit, within 60 days of the Commission's approval of this Settlement, a request that the Commission initiate a generic investigation to determine whether NGDC on NGDC competition should be permitted in the Commonwealth. Notwithstanding the efforts in this proceeding to set rates that resolve issues attendant to the provision of competitive discounts, the Joint Petitioners agree that the public interest would be better served by uniform guidance from the Commission. Parties to this proceeding have expressed reservations regarding the potential for anti-competitive effects of applying NGDC on NGDC proscriptions on a case-by-case basis. Accordingly, the Joint Petitioners respectfully request that the Commission commence an investigation within six months from the date such request is filed.

c. *Distribution System Improvement Charge* (Joint Petition, III.E): In its Application, Peoples requested that the Commission establish prospective terms for a Distribution System Improvement Charge. OTS opposed the proposal as premature in

the absence of statutory authority approving a DSIC for NGDCs. (OTS Statement No. 4, p. 13). Under the Settlement, Peoples agrees to withdraw its proposal for the Commission to establish the terms of a Distribution System Improvement Charge but reserves the right to apply for a DSIC if such a mechanism is approved by the General Assembly.

Peoples also reserves the right to include appropriate expenditures in any requested charge which shall not include those expenditures made as of June 30, 2011 on Construction Work in Progress projects to be completed after that date. Further, other parties retain the right to oppose the implementation of a DSIC and to propose changes to any DSIC proposed by Peoples. OTS avers that the withdrawal of Peoples' DSIC proposal and the accompanying reservations of rights are in the public interest.

d. *Revenue Allocation and Rate Design* (Joint Petition, III.G): OTS maintains that the distribution of revenue among the customer classes, as shown in Appendix C, is in the public interest. Rate structure and rate design was the subject of extensive testimony and settlement discussions in this proceeding. All parties agree that the allocation of the proposed increase to the Company's customer classes is just, reasonable and non-discriminatory. OTS additionally affirms that the implementation of a tariff customer charge of \$13.75/month, for all Residential customers and those Commercial Small customers using less than 499 Mcf/Yr<sup>5</sup>, reflects a compromise of the various proposals set forth by the parties including the \$14.00/month Residential and \$13.55/month Commercial Small customer charge proposed by OTS. (OTS Statement

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5 The Commercial Small customer charge applies uniformly to retail and transportation customers.

No. 3, pp. 29, 31). The customer charge for Commercial Small customers using between 500-999 Mcf/Yr will be set at \$24.00.

Further, the billed customer charges will reflect reduced rates for a projected three-year period pursuant to the acquisition proceeding at Docket No. A-2008-2063737. A credit of \$1.50 will be applied to the monthly Residential customer charge, resulting in a billed customer charge of only \$12.25 for the duration of the credit period. The acquisition credit will also reduce Residential volumetric charges by approximately \$0.13 per Mcf for the duration of the credit period. Similarly, a credit of \$1.04 will be applied to the monthly Commercial Small customer charge for users under 499 Mcf/Yr, resulting in a billed customer charge of only \$12.71 but no reductions to volumetric charges. Commercial Small users from 500-999 Mcf/Yr will receive the same \$1.04 credit resulting in a billed customer charge of \$22.96 with no reductions to volumetric charges. OTS opines that the revenue allocation and rate design set forth in the Joint Petition appropriately balance the interests of the utility and its customers and represent a just and reasonable rate.

e. *CAP Program* (Joint Petition, III.J): The Settlement implements beneficial modifications to Peoples CAP program. Under the Settlement terms, CAP customers meeting the LIHEAP eligibility criteria will be required to apply for a LIHEAP grant. This requirement will be enforced through outreach and applicable tariff language, customers will not be removed from CAP for failure to apply for or receive a LIHEAP grant. This modification encourages CAP customers to apply for LIHEAP grants and leverage federal funds to reduce the ratepayer expense.

The Settlement provides control features to contain the costs of Peoples CAP program. Peoples will apply a maximum consumption limit of 125% of historic consumption, unless the customer meets an exception set forth in the Commission's Policy Statement at 52 Pa. Code § 69.265(3)(vi). Additionally, the Settlement adopts the OTS proposal requiring Peoples to limit the CAP credit that a CAP customer receives to a \$1000 maximum. This provision conforms Peoples CAP program to the guidelines set forth in the Commission's Policy Statement at 52 Pa. Code § 69.265(3)(v) and balances the objectives of providing assistance to low-income customers without imposing undue costs upon non-CAP customers. Customers meeting the exemptions set forth in the Commission's Policy Statement at 52 Pa. Code § 69.265(3)(vi) shall be exempt from the maximum CAP credit.

Peoples has also agreed to file a petition upon the Commission amending its Universal Service and Energy Conservation Plan to incorporate a CAP Plus program by June 1, 2011. However, if the Department of Public Welfare removes its current directive to post LIHEAP payments to CAP "asked-to-pay" amounts, the Company will remove the CAP Plus program from its tariff and USEC Plan. Collectively, the modifications to Peoples CAP program provide benefits for low-income ratepayers and limit costs for non-CAP ratepayers. OTS avers that the Settlement provisions addressing Peoples CAP program are in the public interest.

f. *POR Program* (Joint Petition, III.I): Peoples will implement its Gas Purchase of Receivables ("POR") program as outlined in the Settlement Agreement. Peoples' POR program, as modified by the Settlement, is appropriately structured. The

Company has proposed to implement a POR program including a Merchant Function Charge and restricting recovery to basic gas supplies. The proposed POR program also incorporates numerous consumer protections including a prohibition on denying gas service for credit-related reasons and a requirement of notice of termination.

Additionally, Peoples will modify the POR as needed to comply with the final outcome of the Commission's rulemaking proceeding at Docket No. L-2008-2069114.

g. OTS represents that all other issues raised in testimony have been satisfactorily resolved through discovery and discussions with the Company and are incorporated in the Settlement. The very nature of a settlement requires compromise on the part of all parties. This particular agreement exemplifies this principle. The balance of the issues have been carefully discussed and negotiated in this agreement. Line by line identification of the ultimate resolution of the disputed issues is not necessary as OTS represents that the Settlement maintains the proper balance of the interests of all parties. OTS is satisfied that no further action is necessary and considers its investigation of this rate filing complete.

11. Based upon OTS's analysis of the filing, acceptance of this proposed Settlement is in the public interest. Resolution of this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

12. OTS further submits that the acceptance of the foregoing settlement will negate the need for an evidentiary hearing, the preparation of Main and Reply Briefs, the preparation of Exceptions and Reply Exceptions, and the filing of possible appeals.

13. The Settlement is conditioned upon the Commission's approval of all terms contained therein and should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by the Company or OTS as provided therein.

14. OTS's agreement to settle this case is made without any admission or prejudice to any position that OTS might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any other parties to the instant proceeding.

15. If the ALJs recommend that the Commission adopt the Settlement as proposed, OTS agrees to waive the filing of Exceptions. However, OTS has not waived its right to file Reply Exceptions with respect to any modifications to the terms and conditions of the Settlement, or any additional matters, that may be proposed by the ALJs in their Recommended Decision. OTS also reserves the right to file Reply Exceptions to any Exceptions that may be filed by the Company.

**WHEREFORE**, the Commission's Office of Trial Staff represents that it supports the Joint Settlement as being in the public interest and respectfully requests that Administrative Law Judges John H. Corbett and Mary D. Long recommend, and the Commission approve, the terms and conditions contained in the foregoing Joint Petition for Approval of Settlement of All Issues.

Respectfully submitted,



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