

# Appendix I

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	Docket Nos. R-2010-2201702
Office of Consumer Advocate,	:	C-2010-2211632
Office of Small Business Advocate,	:	C-2010-2213684
William Rovder,	:	C-2010-2209405
James Uncapher,	:	C-2010-2209599
Steven Hoover,	:	C-2010-2211827
Severo Miglioretti,	:	C-2010-2213170
Louis Mavrakis,	:	C-2010-2213182
Emit Panzo,	:	C-2010-2213205
Richard C Scott,	:	C-2010-2213698
Robert D. Kenneweg,	:	C-2010-2214643
Christina Miller,	:	C-2010-2215127
Anthony Pendziwater Jr.,	:	C-2010-2214921
Regis W. Schrum,	:	C-2010-2215577
Caram Abood,	:	C-2010-2216063
Darlene Darby,	:	C-2010-2217626
David Jamison, Jr.,	:	C-2010-2216855
Daniel Killmeyer,	:	C-2010-2217747
Richard Tommarello,	:	C-2010-2217780
Frank Busa,	:	C-2011-2218528
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Complainants,	:	
v.	:	
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Peoples Natural Gas Company LLC,	:	
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Respondent.	:	

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**STATEMENT OF PEOPLES NATURAL GAS COMPANY LLC  
IN SUPPORT OF THE JOINT PETITION FOR  
SETTLEMENT OF ALL ISSUES**

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

Peoples Natural Gas Company LLC (“Peoples” or the “Company”) hereby files this Statement in Support of the Joint Petition for Settlement of All Issues (“Settlement”) entered into

by Peoples, the Office of Trial Staff (“OTS”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”), Dominion Retail, Inc. and Interstate Gas Supply, Inc. (“NGSS”), EQT Energy, LLC d/b/a Equitable Energy (“EQT”), Pennsylvania Independent Oil and Gas Association (“PIOGA”), Direct Energy Services, LLC (“Direct Energy”) (hereinafter, collectively “Joint Petitioners”) in the above-captioned base rate case proceeding.<sup>1</sup> Peoples respectfully requests that Administrative Law Judges John H. Corbett, Jr. and Mary D. Long (the “ALJs”) recommend approval of, and the Commission approve, the Settlement, including the terms and conditions thereof, without modification and in an expeditious manner.

The Settlement, if approved, will resolve all of the issues raised by the Joint Petitioners in this proceeding, including revenue requirement, revenue allocation, a purchase of receivables (“POR”) program, low income customer programs, and certain other rate design, operational and tariff issues. The Settlement is in the best interest of Peoples, its customers, and the Joint Petitioners and is otherwise in the public interest. It should accordingly be approved.

As an initial matter, the fact that the Settlement is unopposed in this major base rate proceeding is, in and of itself, strong evidence that the Settlement is reasonable and in the public interest -- particularly given the diverse interests of the parties and the active role that they have taken in this proceeding. Moreover, the Settlement was achieved only after a comprehensive investigation of Peoples’ claims and operations. In addition to informal discovery, Peoples responded to hundreds of formal discovery requests (many of which had multiple subparts). The active parties filed four rounds of testimony and accompanying exhibits, including Peoples’ direct testimony, other parties’ direct testimony, rebuttal testimony, and surrebuttal testimony.

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<sup>1</sup> The only other active party to the proceeding, Peoples Industrial Intervenors (“PII”), has indicated that it neither supports nor opposes the Settlement.

Moreover, the active parties participated in numerous settlement discussions and formal negotiations, which ultimately led to the Settlement.

Finally, the active parties in this proceeding, and their counsel and experts, have considerable experience in rate proceedings. Their knowledge, experience, and ability to evaluate the strengths and weaknesses of their litigation positions provided a strong base upon which to build a consensus on the settled issues.

The Settlement reflects a carefully balanced compromise of the interests of the Joint Petitioners to this proceeding. For these reasons and the reasons set forth below, the Settlement is just and reasonable and should be approved.

## **I. INTRODUCTION**

Peoples is a “public utility” and a “natural gas distribution company” (“NGDC”) as those terms are defined in Sections 102 and 2202 of the Code, 66 Pa. C.S. §§ 102, 2202. Peoples provides natural gas transmission, distribution, and supplier of last resort services to approximately 360,000 customers throughout its certificated territory, which includes all or a portion of the following Pennsylvania counties: Allegheny, Armstrong, Beaver, Blair, Butler, Cambria, Clarion, Fayette, Greene, Indiana, Lawrence, Mercer, Somerset, Venango, Washington, and Westmoreland.

On October 28, 2010, Peoples filed the above-captioned base rate filing (“2010 Base Rate Filing”), together with Retail Tariff Gas – PA PUC No. 44 (“Retail Tariff No. 44”), Supplier Tariff Gas – PA PUC No. S-2 (“Supplier Tariff No. S-2”), responses to filing requirements and standard data requests, and supporting direct testimony and exhibits. In the 2010 Base Rate Filing, Peoples proposed new tariff rules and regulations and proposed rates designed to produce

an overall rate increase of approximately \$70.2 million annually based upon the *pro forma* level of operations for the twelve months ended June 30, 2011.

The Joint Petitioners held numerous settlement conferences and exchanged numerous settlement proposals and counter-proposals. As a result of the conferences and the efforts of the Joint Petitioners to examine the issues raised, a Settlement in Principle of all issues was reached on March 11, 2011, *i.e.* prior to the dates set for the evidentiary hearings. On March 11, 2011, the Joint Petitioners advised the ALJs of the Settlement in Principle and, on March 14, 2011, the ALJs suspended the procedural schedule by email communication. In conjunction with the Settlement, the Joint Petitioners and PII have entered into a Stipulation of Evidence with regard to the admission by stipulation of their respective testimonies and exhibits.

Among other things, the Settlement revises Retail Tariff No. 44 to mitigate the proposed rate increase and specifies how the \$35 million (plus interest) acquisition rate credit arising from the settlement of Peoples' acquisition at Docket No. A-2008-206-2727 will be applied. Under the terms of the Settlement, Peoples will be permitted to increase distribution rates by amounts designed to produce increased operating revenues of \$53 million annually based upon the level of operations for the twelve months ended June 30, 2011. However, after the application of the acquisition rate credit, the effective annual increase experienced by ratepayers is only approximately \$41.3 million for the first three years following the effective date of new rates. The Settlement also modifies Peoples' proposed POR program, Merchant Function Charge ("MFC"), and Universal Service Programs. Further, the Settlement addresses the issues and concerns raised by certain parties regarding customer discounts resulting from NGDC-to-NGDC competition.

## **II. COMMISSION POLICY FAVORS SETTLEMENT**

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must first determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm'n v. York Water Co.*, Docket No. R-00049165 (Order entered Oct. 4, 2004); *Pa. Pub. Util. Comm'n v. C.S. Water and Sewer Assocs.*, 74 Pa. P.U.C. 767 (1991).

## **III. THE SETTLEMENT IS IN THE PUBLIC INTEREST.**

The Settlement reflects a carefully balanced compromise of the interests of all the Joint Petitioners. The fact that parties with such diverse interests, including OTS, OCA, OSBA, and representatives of natural gas suppliers and producers, have reached agreement on a broad array of issues in this proceeding clearly demonstrates that the Settlement is in the public interest and should be approved.

### **A. Revenue Requirement**

#### **1. Reasons for Increase**

As explained by Morgan K. O'Brien, Peoples' President and Chief Executive Officer, the Company requires additional revenues to maintain its financial health in order to provide high quality service to its customers. (Peoples Statement No. 1, pp. 6-12.) The need for rate relief at this time arises principally from four factors: (1) a decline in distribution volumes; (2) an increase in operation and maintenance expenses; (3) a need to make substantial investments in

distribution assets in order to reinforce aging distribution infrastructure and improve customer service; and, (4) Peoples' net plant investment has grown from its last base rate case in 1995 from \$433 million to \$692 million. (Peoples Statement No. 1, p. 12.) Due to these factors, Peoples' return on equity has declined since its last base rate case in 1995 to unacceptable levels, despite Peoples' substantial efforts to control costs. The \$53 million increase, although less than that requested by the Company, will provide Peoples the opportunity to earn a reasonable return and, thereby, attract capital on reasonable terms and conditions to allow Peoples to continue to provide safe and reliable service to its customers.

Overall, the increases resulting from the Settlement are reasonable in light of the significant costs incurred by Peoples since its prior base rate case in 1995. As explained by Mr. O'Brien, Peoples has made significant investment and commitments to enhance service to its customers, including: a major Information Technology project; improved communications by field service personnel with the operations office and the customer information system; upgraded SCADA gas control systems; implementation and operation of a new in-house customer call center; and, renewal of Peoples' pipeline system. It is expected that the increase in annual operating revenues will enable Peoples to raise capital efficiently and to fund projects needed to maintain a high quality of service and reinforce its aging infrastructure. (Peoples Statement No. 1, pp. 6-12.)

It is also significant to note that, by June 30, 2011, Peoples will have added more than 200 full-time professional positions over and above the number of full-time Pennsylvania-based positions dedicated to serve Peoples before its acquisition. (Peoples Statement No. 1, p.11.) These new employees, who will primarily work in the area of customer service, are necessary because the Transition Services period with Dominion Resources, Inc. ("Dominion") ends on

July 31, 2011 – at which point Peoples will truly become a stand-alone utility company. These new employees will be under the direct oversight of Peoples’ management and will enhance the quality of service to Peoples’ customers.

In this proceeding, Peoples, OTS, OCA, and OSBA presented testimony on Peoples’ overall revenue requirement. All four principal parties on revenue requirement issues are joining in this Settlement. The Settlement on revenue requirement reflects a compromise of these competing litigation positions.

## **2. Settlement Rates**

The Settlement provides for a distribution revenue increase (before application of the acquisition rate credit) of \$53 million annually based upon the level of operations for the twelve months ended June 30, 2011, or approximately 75% of Peoples original request of \$70.2 million. The Settlement rates have been designed using the sales and transportation volumes contained in Peoples’ filing.

Under the Settlement rates, the total bill of an average Peoples’ Residential customer using 90.7 Mcf per year will increase, before application of the acquisition rate credit, from \$73.09 per month to \$85.02 per month, or \$11.93 (16.3%), compared to the \$17.86 per month (25.2%) increase originally proposed by Peoples. The Residential customer charge will increase from \$11.00 to \$13.75 per month, before application of the rate credit, in lieu of the \$16.00 customer charge originally proposed. Nevertheless, the acquisition rate credit will reduce the average residential bill from \$85.02 per month to \$82.62 and will reduce the monthly customer charge from \$13.75 to \$12.25. Following application of the rate credit, the increase to the average Residential customer will be approximately 13.0%.

Under the Settlement rates, the total bill of an average Peoples' Commercial Small customer using 294.3 Mcf per year will increase, before application of the acquisition rate credit, from \$209.30 per month to \$214.85 per month, or \$5.54 (2.6%), compared to the \$1.94 per month (1.0%) decrease originally proposed by Peoples. Nevertheless, the acquisition rate credit will reduce the average Commercial Small bill from \$214.85 per month to \$213.81, resulting in an effective increase of approximately 2.2%.

Under the Settlement rates, the total bill of an average Peoples' Commercial Large customer using 1,996.5 Mcf per year will increase, before application of the acquisition rate credit, from \$1,309.43 per month to \$1,386.83 per month, or \$77.40 (5.9%), compared to the \$26.91 per month (2.1%) increase originally proposed by Peoples. Nevertheless, the acquisition rate credit will reduce the average Commercial Large bill from \$1,386.83 per month to \$1,353.67, resulting in an effective increase of approximately 3.4%.

Under the Settlement rates, the total bill of an average Peoples' Industrial (non-discount contract) customer using 4,170.0 Mcf per year will increase, before application of the acquisition rate credit, from \$2,623.40 per month to \$2,727.90 per month, or \$104.49 (4.0%), compared to the \$101.23 per month (4.0%) increase originally proposed by Peoples. Nevertheless, the acquisition rate credit will reduce the average Industrial bill from \$2,727.90 per month to \$2,647.94, resulting in an effective increase of approximately 0.9%.

There are various categories of Commercial Small, Commercial Large, and Industrial customers based on annual usage levels. The applicable customer charges for such categories resulting from the Settlement are set forth in **Appendix D** of the Settlement on both a pre- and post-acquisition rate credit basis.

## **B. Amortization and Depreciation**

Peoples claimed an expense to reflect a three-year average of the claims paid for injuries and damages for the years ending June 30 of 2008, 2009, and 2010. OCA recommended that one particularly large claim paid in 2010 be amortized over six years, and that the remainder of the injuries and damages expense be based on a normalization of other claims using three years of data. (OCA Statement No. 1, pp. 22-23.) The Settlement provides a reasonable compromise of these competing positions. The Settlement rates reflect an amortization of injury and damage expenses incurred in 2010 for a single claim over three years, commencing with the effective date of rates in this proceeding, for an annual amortization amount of \$586,666.

Peoples included a claim for desktop software licenses for all of the desktops being transferred to Peoples from Dominion. OTS proposed to capitalize the costs of the desktop software licenses and to add them to rate base. Both OTS and OCA recommended that the expense be amortized over five years, although OCA did not propose capitalization of these costs. (OTS Statement No. 2, p. 29; OCA Statement No. 1, p. 18.) Under the Settlement, the amounts expended on desk top software licenses will be capitalized for ratemaking purposes and depreciated over five years. Peoples believes that the Settlement reflects a reasonable compromise of these competing litigation positions.

## **C. Pennsylvania Producer Enhancement Services**

Peoples' Production Enhancement Services ("PES") Program encompasses a series of agreements entered into by Peoples with Pennsylvania natural gas producers that were designed to enhance the flow of locally produced natural gas on Peoples' system. Under Peoples' initially proposed revenue sharing, Peoples would implement a 50%/50% sharing of the excess of expected future test year revenues generated under the program over the projected future test

year embedded costs of operating the PES program -- with 50% to be provided to reduce revenue requirement and 50% to be retained by Peoples. (Peoples Statement No. 16, pp. 43-44.)

Under the terms of the Settlement, Peoples will use \$3 million of the \$6 million of PES revenue for services rendered to local producers, which is in excess of costs to provide production enhancement services, to invest as incremental annual expenditures to reduce lost and unaccounted for gas ("LUFG") on Peoples' gathering facilities used to deliver local gas to Peoples and its customers (the "Gathering LUFG Expenditures"). The remaining \$3 million of PES revenues in excess of costs will be reflected as a reduction to the cost of service used to arrive at the Settlement rates agreed to in the Settlement. In respect of the Gathering LUFG Expenditures, they will be made for a three-year period commencing with the effective date of new rates, or until the effective date of rates in Peoples' next base rate case filing, whichever is sooner. Peoples will report the Gathering LUFG Expenditures, and the benefits to be derived therefrom, in each annual 1307(f) filing.

The PES program, as modified by the Settlement, will produce significant cost savings to ratepayers while maintaining a successful program. The shared revenues will be a credit to ratepayers that is over and above the revenues also credited to cover the embedded costs of the program. Further, the sharing mechanism adopted by the Settlement will benefit customers by reducing lost volumes on the gathering system and using producer revenues to provide the financial capital to enable Peoples to make further investments. (Peoples Statement No. 16, pp. 45-46.)

#### **D. Post Employment and Post Retirement Benefits**

Peoples was granted approval in Docket No. R-00943252 to recover FAS 112 (Post-employment benefit costs) on a pay-go basis. (Peoples Statement No. 2-R, p. 6.) Under the

terms of the Settlement, Peoples will continue to recover these costs in rates consistent with that prior Commission order. The Settlement rates reflect the amortization of the unfunded balance of the Accumulated Postretirement Benefit Obligation (\$13,374,862) over 10 years. This amortization includes the balance of the regulatory asset authorized for recovery in Docket No. R-00953318. The amounts collected will be deposited into a dedicated trust account. The Settlement recognizes that the amortization of the post-employment and post-retirement benefits set forth in the Settlement is just, reasonable, and in the public interest.

**E. Class Revenue Requirements / Rate Design**

The Settlement resolves the many complex issues related to class revenue requirements and rate design that arose during the course of this proceeding. OCA, OSBA, and Peoples each proposed revenue requirement allocations and rate designs based on the results of various cost of service studies. Indeed, Peoples produced several runs of its cost of service study using various methodologies (including “Peak and Average,” “Design Day,” and “Average and Excess”) -- as requested by parties through formal and informal discovery. Despite variations in the results of the studies, the Joint Petitioners were able to reach a consensus regarding a fair allocation of the revenue requirement between classes.

The Commonwealth Court has concluded that cost of service is the “polestar” of utility ratemaking. *Lloyd v. Pa. Pub. Util. Comm’n*, 904 A.2d 1010 (2006), *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007) (“*Lloyd*”). However, the Commission has repeatedly recognized that the cost of service study is only a guide to designing rates and is only one factor, albeit an important one, to be considered in the rate setting process. *See, e.g., Pa. Pub. Util. Comm’n v. Pa. Power & Light Co.*, 55 PUR 4<sup>th</sup> 185, 249; *Pa. Pub. Util. Comm’n v. Aqua Pa., Inc.*, Docket No. R-00072711, 2008 Pa. PUC LEXIS 50 (July 31, 2008); *Pa. Pub. Util. Comm’n v. West Penn Power*

Co., Docket No. R-00973981, 1998 Pa. PUC LEXIS (May 29, 1998). The Commission has concluded further that there is no single absolutely correct method for preparing cost of service studies. In fact, the Commission has referred to cost of service studies as more of an art form than science. *Application of Metropolitan Edison Co.*, Docket No. R-00974008 (June 30, 2008); *Pa. Pa. Util. Comm'n v. Pennsylvania Power & Light Co.*, 55 PUR 4<sup>th</sup> 185 (1983).

The class revenue requirements and monthly customer charges under the terms of the Settlement are set forth in **Appendices B** and **C** to the Settlement. The Settlement achieves progress in the movement toward cost-based rates, as mandated by the decision of Commonwealth Court in *Lloyd*, but also adheres to the principle of gradualism in order to avoid rate shock for customers.

The effect on customers by Peoples first distribution rate case in more than 15 years is further mitigated by the Settlement through the allocation of the rate credit that was established in the acquisition proceeding at Docket No. A-2008-2063737. Upon expiration of the rate credit in approximately three years, customers will experience another gradual increase in customer charges when the rate credits expire and rates return to the tariffed rates established in this proceeding. By way of example, the tariffed customer charge for the Residential class under the Settlement increases from \$11.00 per month to \$13.75 per month. The acquisition rate credit reduces that tariffed customer charge by \$1.50 per month for an effective monthly customer charge of \$12.25. Upon expiration of the rate credit in approximately three years, the Residential customer charge will increase to the tariffed rate of \$13.75 per month.

Given that it has been over fifteen years since Peoples' customer charges have increased in a base rate case, the agreed-upon class revenue requirements and rate design, together with the allocation of the acquisition rate credit, are consistent with the principles of cost of service and

gradualism. In this proceeding, Peoples, OTS, OCA, and OSBA presented testimony on the class revenue requirement and rate design. All four principal parties on revenue requirement and rate design issues are joining in this Settlement, as it presents a resolution that is fair to the various classes of ratepayers. The Settlement reflects an acceptable compromise of these competing litigation positions.

#### **F. Retainage Charges**

A portion of the gas delivered to a NGDC's system is lost or otherwise unaccounted-for ("LUF") before it reaches the NGDC's customers. In addition, a portion of the gas delivered to an NGDC's system is used in company operations ("company-use"). These losses are recovered from sales customers through purchased gas cost ("PGC") rates and from transportation customers through retainage charges. Peoples' retainage charges for transportation customers are the same for all customers within a class.

EQT's witness proposed that Peoples unbundle its gathering costs, contended unbundling would produce greater price signal transparency, improve retail competition, and mitigate alleged subsidies related to Peoples' gathering costs. (EQT Statement No. 1, pp. 8-9.) OCA's witness proposed that Peoples should adopt a gathering system retainage charge that would be assessed to producers or transportation customers using the gathering system. (OCA Statement No. 3, p. 37.) PII asserted that Peoples had not justified its retainage levels in this case. (PII Statement No. 1, p. 5.)

Under the Settlement, the Joint Petitioners have agreed that the retainage charges will continue to be determined in Peoples' annual 1307(f) proceedings. Peoples believes that this Settlement provision is appropriate because issues related to retainage are associated with gas costs and are properly addressed on an annual basis in the Company's annual 1307(f)

proceeding, as opposed to a base distribution rate case. Further, the resolution of this issue reflects a compromise between the parties on various issues. The Settlement should be viewed in its entirety.

### **G. CAP Program**

Peoples currently offers Universal Service Programs designed to maximize the assistance provided to its low-income customers while managing costs of such programs for its other ratepayers. (Peoples Statement No. 12, p. 2.) Peoples currently offers a Customer Assistance Program (“CAP”), Low Income Usage Reduction Program (“LIURP”), and Customer Assistance Referral and Evaluation Services (“CARES”). It also coordinates with the Low Income Home Energy Program (“LIHEAP”) and the Dollar Energy Fund. Moreover, Peoples made several commitments in the acquisition settlement agreement at Docket No. A-2008-2063737 relating to Universal Service Programs. (Peoples Statement No. 12, pp. 2-4.)

In this proceeding and the Settlement, Peoples proposed several changes to its Universal Service Programs, including: a change to the Arrearage Forgiveness component of the CAP program to provide monthly benefits; modification to the CAP payment amount calculation based on recent changes set forth by the Pennsylvania Department of Public Welfare (“DPW”) in its guidelines for the posting of LIHEAP benefits for CAP participants; continued development of programs to increase fundraising for the Dollar Energy Fund; increased annual LIURP funding levels; partnering with electric companies in providing weatherization services; and, establishment of an emergency furnace and line repair program. (Peoples Statement No. 12, p. 6.)

Under the terms of the Settlement, the Joint Petitioners agree to adopt Peoples’ Universal Service Programs with some minor modifications, as suggested primarily by OCA and OTS.

The Settlement provides that CAP customers who are eligible for LIHEAP will be required to apply for LIHEAP. At the request of OTS, Peoples will apply a maximum consumption limit for a CAP customer based on historic consumption and Peoples will limit the CAP credit to a \$1000 maximum -- unless the customer meets an exemption set forth in 52 Pa. Code § 69.265(3)(vi).

As previously mentioned, Peoples is designing and installing new IT systems. In conjunction with that effort, Peoples will examine additional new billing and customer information designs that can be developed to improve Peoples' current income verification process for CAP participants.

Peoples also agrees to seek Commission approval to amend its Universal Service and Energy Conservation Plan to establish a CAP Plus amount in its filing due June 1, 2011. If approved the CAP Plus program will be effective November 1, 2011.

Peoples will include language in the CAP rate schedule to clarify that the CAP Plus amount to be applied to the CAP customer's "asked-to-pay" amount will be calculated by dividing LIHEAP receipts for customers participating in the CAP program for the previous LIHEAP heating season by the total of (1) current active CAP participants; and (2) the projected average number of CAP participants to be added for the projected quarter. Peoples further agreed that if the DPW removes its current directive to post LIHEAP payments to CAP "asked-to-pay" amounts, the Company will modify its billing system and remove the CAP Plus program from its tariff and Universal Service Plan.

The Settlement provisions reflect a carefully balanced compromise of diverse interests in this proceeding. The Universal Service Programs, as modified by the Settlement, will maximize the assistance provided to Peoples' low-income customers while managing costs of such

programs for its other ratepayers. Accordingly, these provisions of the Settlement are just, reasonable, and in the public interest.

#### **H. Peoples Rider F**

In this proceeding, Peoples proposed to implement a Universal Service Rider – Rider F (“Rider F”) to recover major cost components of its Universal Service Programs.<sup>2</sup> As proposed, Rider F would be recalculated on a quarterly basis and include a reconciliation component. Rider F would be assessed only to non-CAP residential customers. (Peoples Statement No. 16, pp. 31-32.) OCA presented testimony regarding the proposed Rider F, which generally supported the proposed rider with some modifications, including: technical modifications to the rider language; the exclusion of CAP credits that are not paid to CAP participants; and, a bad debt offset to CAP cost recovery. (OCA Statement No. 4, pp. 9-34.)

To resolve the issues raised by OCA, the Joint Petitioners agreed to modify and interpret the Company’s proposed Rider F in certain respects (as set forth in detail in the Settlement). Of significance, the Settlement provides that: amounts included in Rider F for CAP credits will be limited to actual CAP credits and arrearage forgiveness earned; recoverable CAP credits and arrearage forgiveness will be reduced by 3.27% times the average CAP credit and arrearage forgiveness of existing CAP customers times the incremental number of CAP participants in excess of 16,725; the incremental costs of a specialized universal service call group will not be recoverable under Rider F but remain in base rates; and, Peoples will use historical payment statistics concerning earned credits and arrearage forgiveness to project amounts recoverable under Rider F.

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<sup>2</sup> Peoples current tariff contains a rider recovery of some CAP costs.

The Settlement provisions reflect a carefully balanced compromise of the diverse interests in this proceeding of OCA, OTS, and Peoples. Rider F will provide an efficient means for Peoples to recover Universal Service costs in a fair, timely, and equitable manner. Accordingly, Rider F, as modified by the Settlement, is reasonable and in the public interest.

**I. Non-CAP Universal Service Cost Recovery**

Peoples proposes to fund a Community Partnership for Weatherization program to serve low income populations whose needs cannot be met through LIURP. Peoples also proposes to fund an Emergency Furnace and Line Repair program to serve low income customers. The costs of these programs would be recovered under Rider F. (Peoples Statement No. 12, pp. 14-16.) Under the Settlement, the Joint Petitioners agreed that the proposed Emergency Furnace and Service Repair Program and Community Weatherization Program should be approved, and that the costs of these programs will be recovered under Rider F.

LIHEAP and LIURP cannot meet all of the needs of the low-income community because, even with these programs, there is still a need for additional low income weatherization and emergency furnace and line repairs. The adoption of these two programs and their recovery under Rider F will provide important weatherization and emergency furnace and line repair benefits to low income customers that may not otherwise be available.

**J. POR Program**

In this base rate proceeding, Peoples voluntarily proposed to implement a POR program in an effort to encourage further participation in Peoples' transportation programs by customers and natural gas suppliers. Currently, approximately 26% of Peoples' Residential customers and approximately 30% of Peoples' Commercial Small customers obtain gas supplies from natural

gas suppliers. Through the POR program, Peoples will purchase certain natural gas supplier receivables at a discount to the amount billed to the customers. (Peoples Statement No. 16, pp. 38-40.)

Direct Energy recommended that the uncollectible accounts expense be eliminated from the discount percentage factor, and that the uncollectible costs be charged to all customers in a particular customer class through base rates. (Direct Energy Statement No. 1, pp. 7-8.) The NGSs recommended that all bad debt should be collected in base rates and that the POR discount rate should be limited to recovering only the administrative costs associated with the POR program. (NGSs Statement No. 1, p. 4.) The NGSs further recommended that the POR discount rate should be adjusted in Peoples annual 1307(f) gas cost proceeding. (NGS Statement No. 1, pp. 16-18.)

The Joint Petitioners were able to resolve all of their issues regarding the implementation of Peoples' POR program. Under the terms of the Settlement, Peoples' will not purchase any receivables associated with a non-gas supply product (*e.g.*, service contracts for appliances or payment for usage reductions), carbon-neutral products not tied to the actual provision of natural gas to customers (*e.g.*, carbon offsets derived from forestry programs), or security deposits assessed by a natural gas supplier. Peoples shall require in its Supplier Tariff that natural gas suppliers not deny service to residential customers whose accounts are included in Peoples' POR Program for credit-related reasons and not ask residential customers for separate deposits. Peoples shall notify customers that they may be subject to termination of service for failure to pay Peoples for natural gas supplier charges for basic supply service. Peoples will require its POR program natural gas supplier participants to notify their shopping customers of their collections rights if Peoples purchases the natural gas supplier receivables. Peoples also agrees

to provide, upon request, to any party a current calculation of Peoples' experienced uncollectibles expense percentage by class for all customers. Any shortfall in recovery of the uncollectible expenses and administrative costs of the POR program will not be recovered from sales customers.

Peoples also proposed to unbundle uncollectible costs associated with gas supplies from base rates and include recovery of such costs through an MFC by a fixed discount applied to monthly gas cost charges to sales customers. The discount is the same discount applied for purchased receivables, with an addition for administrative costs. Under the Settlement, the MFC would be approved.

The provisions of Peoples' proposed POR program, as modified by the Settlement, are consistent with POR programs that have been previously approved by the Commission for other companies (such as Columbia Gas of Pennsylvania). Peoples' POR program will encourage natural gas suppliers to participate in the retail supply market in Peoples' service territory; thereby enhancing customer choice. The Settlement provisions reflect a carefully balanced compromise of diverse interests in this proceeding. These provisions are just, reasonable, and consistent with the regulations proposed in the Commission's Advance Notice of Final Rulemaking Order<sup>3</sup> and, therefore, are in the public interest.

#### **K. Price to Compare**

EQT recommended that the following additional costs be unbundled from base rates and reflected in the Price to Compare ("PTC"): gas procurement costs; cash working capital

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<sup>3</sup> *Natural Gas Distribution Companies and Promotion of Competitive Retail Markets*, Docket No. L-2008-2069114 (August 10, 2010) (Proposed Section 62.224(a)(2)); *see also Motion of Chairman Cawley*, Docket No. L-2008-2069114 (Jan. 13, 2011) (moving for adoption of the Final Rulemaking Order with one modification to ensure that the price to compare reflects the full cost of providing service to supplier of last resort customers).

associated with gas purchases for sale customers; and the gas cost adjustment charge. (EQT Statement No. 1, p. 13.) Under the terms of the Settlement, the Joint Petitioners agreed that, with the exception of the gas cost portion of bad debt to be recovered through Peoples' proposed MFC, no other costs shall be removed from base rates and included in the PTC as a result of this proceeding. The Joint Petitioners however acknowledge that the Commission has undertaken a formal rulemaking at Docket No. L-2008-2069114, which will clarify the components to be removed from base rates and included in the PTC. Peoples has agreed that it will comply with the requirements that become effective pursuant to the final rulemaking order issued at Docket No. L-2008-2069114, and that Peoples will remove from base rates and put into the PTC all of the natural gas procurement cost components as required by effective final regulations. (Peoples Statement No. 16-R, p. 50.)

#### **L. Pooling Fees**

Peoples charges a pooling fee on volumes transferred into an end user pool. This fee is a charge passed on to transportation customers from natural gas suppliers that provide a balancing service for their transportation customers. Peoples provides three types of pools on its system: Priority One, or P-1, which serves essential human needs use; (2) Non-Priority, or NP-1, which serves non-essential human needs use; and, (3) Local Gas Aggregation, or LGA, which serves the aggregators of Pennsylvania natural gas.

EQT proposed the elimination of the existing pooling fees applicable to NP-1 suppliers. (EQT Statement No. 1, p. 7.) Under the terms of the Settlement, the Joint Petitioners agreed that the Company's existing pooling fees applicable to NP-1 and P-1 pool operators will be retained. Peoples has used its current NP-1 pooling charge of \$0.08/Mcf since it was first introduced in 1989. Given the high level of supplier participation on Peoples' system, eliminating the pooling

fee would likely not result in a meaningful increase in NP-1 supplier activity and would simply shift the recovery cost of the pooling program onto other ratepayers. (Peoples Statement No. 16-R, pp. 31-32.) For these reasons, the continuation of the NP-1 pooling fees is just, reasonable, and in the public interest and represents a carefully balanced settlement that takes into consideration the various interests of diverse groups.

PIOGA recommended that Peoples discontinue the LGA pooling fee. (PIOGA Statement No. 1, pp. 2-3.) Pooling service under Peoples Rate LGA allows an LGA pool operator to aggregate monthly production volumes from numerous local well metering points and to then nominate and supply the aggregated monthly production volumes to other on-system end user pools (P-1 or NP-1), or to off-system customers if the LGA has extra supplies. (Peoples Statement 16-R, 33.) PIOGA argued that the off-system gas delivery is a daily nomination out of the LGA pool that does not require balancing by the LGA pool operator or producer. (PIOGA Statement No. 1, pp. 2-3.)

To resolve this issue, Peoples agreed to modify its Rate LGA to remove the requirement to apply the aggregation fee to gas supplied from an LGA pool and delivered off system by Peoples. Rate LGA will also be modified to require that gas supplied from an LGA pool and delivered off system by Peoples will be subject to a separate off-system transportation rate. Not charging the pooling fee on Pennsylvania-produced volumes delivered out of an LGA pool for off-system sales delivery will promote increased production and transportation of Pennsylvania produced natural gas on Peoples' system, and will promote expanded transportation supplier participation on Peoples' system. (PIOGA Statement No. 1, p. 3.) The Settlement provisions reflect a carefully balanced compromise of the diverse interests in this proceeding of PIOGA and

Peoples. Peoples believes that the elimination of the LGA pooling fee, as modified by the Settlement, is just, reasonable, and in the public interest.

**M. Banking, Balancing and Advancing (“BB&A”) Capacity**

BB&A is a service provided by Peoples to suppliers of NP-1 transportation customers that allows the supplier to deliver more or less than its customers consume on a given day and also allows the supplier to carry from one month to the next either an aggregate over-delivery quantity or aggregate under-delivery quantity of up to 3.5% of its customers’ total usage during the earlier month. Peoples uses on-system and interstate pipeline storage capacity to provide operational balancing of the difference between what an NP-1 supplier delivers on a given day and what its customers consume, and to manage the aggregate over-delivery or aggregate under-delivery in a month. Peoples controls that capacity and uses it on a day-to-day, as-needed basis on behalf of the NP-1 transportation customers to absorb over-deliveries and to provide additional supply in event of under-deliveries. (Peoples Statement No. 8-R, pp. 3-5.)

The NGSs claim that NP-1 customers pay for 3.8 Bcf of storage capacity and that Peoples unjustifiably bars these customers from using the underlying storage capacity for summer injection and winter withdrawal purposes. The NGSs believe that Peoples’ sales customers annually benefit from this seasonal storage use, to the detriment of NP-1 suppliers. The NGSs therefore proposed that each NP-1 customer have the opportunity to use for storage purposes a portion of Peoples’ on-system and upstream contract transportation and storage proportionate to the amount of storage capacity each pays for through the BB&A charges. (NGSs Statement No. 1, p. 6.) OCA contended that Peoples storage rates to natural gas suppliers understate the cost of service and are subsidized by sales customers. (OCA Statement No. 3-R, pp. 12-14.)

Under the Settlement, the Joint Petitioners agree that Peoples will make available to NP-1 pool operators, at no additional cost, seasonal injection, storage and withdrawal rights of up to 1.55 Bcf of on-system storage capacity used by Peoples to provide BB&A services for NP-1 customers (“BB&A Capacity”). Subject to the terms and conditions of the Settlement, Peoples will develop operational parameters following approval of the Settlement and will review and discuss such parameters through a collaborative process with the signatories to the Settlement prior to the implementation of the BB&A Capacity on April 1, 2012. On an ongoing basis, Peoples shall review the total level of BB&A Capacity made available to NP-1 pools and, based on changes in the total annual customer volumes served by all NP-1 pools, may revise the total level of available BB&A Capacity. Any proposed revisions to the total level of BB&A Capacity shall be reflected in Peoples’ annual 1307(f) filings and, for a period of three years, Peoples shall notify active NP-1 suppliers of any proposed revision to the total level of BB&A Capacity at the time of its annual 1307(f) filing containing such a revision.

These BB&A provisions reflect a significant compromise on the part of Peoples. They will require Peoples to carefully manage the use of capacity on its system. Nevertheless, these provisions should facilitate the ability of natural gas suppliers to operate on Peoples’ system and thereby enhance retail supply customer choice. Accordingly, these provisions of the Settlement are just, reasonable, and in the public interest.

**N. Transfer of Gas Between NP-1 and P-1 Pools**

Rate NP-1 of Peoples’ Supplier Tariff currently provides for a limitation of P-1 volumes served from an NP-1 pool. A natural gas supplier can enroll P-1 customers into its NP-1 pool until it reaches an annual consumption level of 30,000 Mcf. When this limit is met, the pool is required to either reduce their P-1 consumption or to establish a P-1 pool to serve these

customers. (Peoples Statement No. 16-R, p. 52.) EQT recommended the elimination of the P-1 volume limitation in Rate NP-1. (EQT Statement No. 1, pp. 13-14.) Peoples opposed this recommendation because of the operating and balancing differences between P-1 and NP-1 pools and, instead, preferred that all P-1 customers be served through P-1 pools. (Peoples Statement No. 16-R, p. 53.)

In the Settlement, Peoples agreed to modify its Supplier Tariff to permit the transfer of storage inventories between P-1 and NP-1 pools after the end of the calendar month. Storage inventory associated with the BB&A Capacity may be included in such transfers, but shall be subject to the parameters established pursuant to the BB&A collaborative process. Such transfers shall be subject to the pool-to-pool transfer fees set forth in Peoples' Rate P-1 and Rate NP-1 rate schedules.

These provisions of the Settlement reflect a carefully balanced compromise of the diverse interests represented in this proceeding.. The transfer of storage inventories between P-1 and NP-1 pools, as modified by the Settlement, will require increased administrative oversight by Peoples but will provide greater latitude to NP-1 pools that may also be providing service to P-1 customers. Such latitude in the monthly balancing of P-1 and NP-1 pools may enhance the retail supply competitive markets and is therefore in the public interest.

**O. NGS Billing**

Under the terms of the Settlement, Peoples will offer natural gas suppliers the following billing options with its consolidated billing: Flat Rate (the supplier can submit a different rate for each customer to be billed by Peoples); Percent Discount (Peoples will bill percent discounted rates submitted by the supplier); and, Variable Rate (Peoples will bill variable rates submitted by the supplier that change every month or season). In addition, Peoples agrees that it

will consider and review other basic gas service pricing options proposed by suppliers and agrees to meet individually or collectively with suppliers to review system capabilities and Peoples' ability to provide alternative billing options such as improved percent discount processes and initiation of tiered rates.

The natural gas suppliers can benefit from the ability to offer consolidated billing for the customer's natural gas supply. Peoples' proposal for consolidated billing options, as modified by the terms of the Settlement, provides a great deal of flexibility in the pricing a supplier may use in consolidated billing. (Peoples Statement No. 16-R, p. 37.) This flexibility will encourage participation in its POR program and enhance supplier participation on Peoples' system. For these reasons, Peoples' natural gas supplier billing proposal, as modified by the Settlement, is in the public interest.

**P. NGDC Competitive Discounts**

Peoples, like most other regulated Pennsylvania energy utilities, have the ability to negotiate rates with customers who have other energy options. Negotiated rates allow Peoples the necessary flexibility to compete with other energy providers in or near its service territory. Competition for customer load comes from many sources, including other NGDCs, interstate pipeline companies, private well gas, landfill gas, and alternate fuels (*i.e.*, electricity, fuel oil, propane, etc.). Peoples' service territory overlaps the service territories of other NGDCs. Peoples' service territory is also traversed by facilities of three major interstate pipeline companies. Many of Peoples' customers, especially industrial and commercial customers, have the ability to take natural gas service from multiple competitive suppliers. In addition, much of Peoples' service territory contains gas reserves that can be used to serve customers and, with the expected growth of Marcellus Shale gas in the service territory, more competition is expected

from service to customers directly from independent Pennsylvania producers without use of Peoples' facilities. Customers' ability to access any of these other energy suppliers requires Peoples to have the ability to offer discounted transportation rates in order to retain these customers when it is beneficial to its customer base to do so. (Peoples Statement No. 9, pp. 4-7.)

Peoples' success in competing for the patronage of these competitive customers has enabled Peoples to spread its costs of service among more customers and resulted in more consumption, thereby reducing the bills to all of its customers. If Peoples would lose any load to competition, the amount of fixed costs per Mcf to be recovered from the remaining customers would increase. In summary, all of Peoples' customers benefit from the use of negotiated discounted rates to retain load and prevent switching to an alternative energy source.

In the highly competitive market served by Peoples, 18.9 Bcf of industrial and commercial throughput continues to be at risk from year to year. Accordingly, the loss of even a few of the highly price-sensitive larger customers could have an impact on the tariff rates charged to the smaller commercial and residential customer classes. In short, Peoples' smaller commercial and residential customers benefit from Peoples' ability to compete for customers with competitive options through the use of negotiated transportation rate contracts to retain this significant load. (Peoples Statement No. 9, pp. 10-11.)

In this proceeding, OTS proposed to disallow recovery of base rate discounts provided to Peoples' customers who can obtain gas service from another NGDC because the revenue shortfall, and the resulting impact upon customers, from NGDC versus NGDC competition could be avoided if such competition could be eliminated. OCA also challenged the costs of competing with another NGDC's competitive discounts to industrial customers. Peoples explained that it cannot cease unilaterally to provide discounts to these customers without a

significant risk that such customers will be lost to other NGDCs, resulting in a net detriment to Peoples' other customers.<sup>4</sup> (Peoples Statement No. 16-R, pp. 3-7.) Other parties contend that elimination of discounts may result in closing of facilities, loss of load to Peoples, and loss of market for natural gas suppliers.

There is no valid, enforceable regulation, rule, order or policy of the Commission prohibiting competition between natural gas public utilities where authorized service territories may overlap. The Commission has stated in a number of decisions that its policy is not to prohibit competition between non-carrier public utilities in such situations. *See Re Montefiore Hosp. Association of Western Pa.*, Docket Nos. E-77124006 *et al.*, 1981 Pa. PUC LEXIS 100; 54 Pa. PUC 566 (Jan. 9, 1981); *Columbia Gas of Pa., Inc. v. Peoples Natural Gas Co.*, 44 PA PUC 308, 79 P.U.R. 3d 431 (1969); *Borough of Aspinwall v. Duquesne Light Co.*, 41 PA PUC 301 (1964); *see also Columbia Gas of Pa., Inc. v. T. W. Phillips Gas and Oil Co.*, Docket No. C-823387, slip op. at 34, 41 (Dec. 15, 1986); *Peoples Natural Gas Co. v. Apollo Gas Co.*, Docket No. C-850521, slip op. at 41 (Sept. 2, 1986).

In reliance on the understanding that the Commission has not issued an order in any recent base rate cases or any recent generic investigation case that did not allow the recovery of NGDC-on-NGDC base rate discounts, Peoples has entered into numerous contracts with various transportation customers, some of which are long-term contracts. The transportation customers holding these contracts entered into those contracts with the understanding that Peoples would charge a reduced transportation rate. At a minimum, many complex contractual and legal issues

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<sup>4</sup> Along similar lines, Peoples presented testimony and exhibits demonstrating that allocation of revenues associated with discounted amounts to the Industrial class, coupled with an attempt by Peoples' to collect such allocated revenue requirements through the renegotiation of discounted rate contracts, would result in the loss of customers to the detriment of Peoples' remaining customers. (Peoples Statement No. 15-SR, pp. 1-10; Peoples Exh. Nos. RAF-3 and RAF-4 (presenting cost of service analyses that demonstrate the impact on customer classes of the departure of Industrial competitive service customers from Peoples' system).)

would be raised if Peoples would discontinue the rate discounts offered in these contracts. If the recommendations of OTS and OCA are adopted unilaterally for Peoples, these customers would look to receive service from other NGDCs and Peoples would lose the load on its system, which would be detrimental to Peoples and its ratepayers. Customers with competitive options simply would not accept such increases; they would leave the system and take service from other NGDCs. (Peoples Statement No. 16-R, pp. 4-5.)

The proposals by OTS and OCA that Peoples discontinue, in the context of Peoples' current base rate case, the discounts to customers capable of being served by another NGDC are unfair and would put Peoples at a competitive disadvantage. If as a result of this rate case Peoples was unable to offer discounts to its NGDC competitive customers, the NGDCs with which Peoples competes would still be able to continue to offer discounted base rates to these customers and take these competitive customers away from Peoples. Competing NGDCs would have the financial incentive to offer discounted rates to Peoples' customers because it would represent an opportunity to generate incremental revenues. This would be unfair to Peoples and its customers and would ultimately drive up Peoples' rates because its load and revenue contributions from competitive customers would be eroded. (Peoples Statement No. 16-R, p. 5.)

In order to achieve an overall resolution of this base rate proceeding, the Joint Petitioners agree that the Settlement Rates reflect a compromise with regard to the issues raised by OTS and OCA concerning discounted rates. OTS, OCA, OSBA and Peoples have agreed that they will, by separate filing, request that the Commission initiate within six months a generic investigation or rulemaking to address whether NGDC-on-NGDC competition should be permitted to continue and, if permitted to continue, under what circumstances it will be considered appropriate.<sup>5</sup> The

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<sup>5</sup> The Joint Petitioners are not requesting that the Presiding Officers issue a recommendation regarding the Commission's initiation of an investigation or rulemaking; nor are they requesting that the Commission rule upon

Joint Petitioners acknowledge and agree that the other terms and conditions of the Settlement are in no way conditioned upon the Commission commencing the requested generic investigation or rulemaking. Therefore, the Joint Petitioners have committed to fully support the remaining terms and conditions of this Settlement notwithstanding whether the Commission initiates the requested generic investigation or rulemaking.

If the Commission ultimately decides in the context of any generic proceeding on NGDC-on-NGDC competition that the recovery of related discounts is not in the best interest of ratepayers, it should put all NGDCs on notice of such a policy change and apply the new policy on a prospective and consistent basis so as to not disadvantage Peoples and its ratepayers. Further, if the Commission establishes a new policy regarding NGDC-on-NGDC competition and the associated recovery of related discounts, Peoples believes that the appropriate way to do so is through a generic investigation or rulemaking that considers all of the affected NGDCs and their customers and addresses all of the considerations that affect NGDC-on-NGDC competition. (Peoples Statement 16-R, pp. 6-7.)

The Settlement provisions reflect a carefully balanced compromise of the diverse interests in this proceeding and also recognize that the issue of NGDC-to-NGDC competition is not an issue that is unique to Peoples. The requested generic investigation or rulemaking, if subsequently initiated by the Commission, will provide all interested persons with an opportunity to address the issue of NGDC-to-NGDC competition on an “across the board” basis.

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the initiation of an investigation or rulemaking in the context of the current proceeding. The terms of the Settlement simply reflect an agreement between OTS, OCA, OSBA, and Peoples to make a subsequent request to the Commission by separate filing.

**Q. Effective Date.**

Under the terms of the Settlement, Peoples will be permitted to submit tariff supplements to Retail Tariff No. 44 and Supplier Tariff No. S-2, which will become effective on one day's notice after entry of a final order approving the Settlement. Peoples respectfully requests that the Presiding Administrative Law Judges process their Recommended Decision as expeditiously as possible as the potential for early implementation of rates is an important element of the Settlement from Peoples' perspective.

**IV. CONCLUSION**

Through cooperative efforts and the open exchange of information, the Joint Petitioners have arrived at a settlement that resolves all issues in the proceeding in a fair and equitable manner. The Settlement is the result of detailed examination of Peoples' finances and operations through hundreds of discovery responses, multiple rounds of testimony and accompanying exhibits, and extensive settlement negotiations. A fair and reasonable compromise has been achieved in this case, as is evident by the fact that all active parties, including Peoples, OTS, OCA, OSBA, and representatives of natural gas suppliers, local gas producers and large customers, all have agreed to (or, in the case of PII, agreed to not oppose) the resolution of a broad array of issues in this proceeding. Peoples fully supports this Settlement and respectfully requests that the Honorable Administrative Law Judges John H. Corbett, Jr. and Mary D. Long recommend approval of, and the Commission approve, the Settlement in its entirety, without modification and in an expeditious manner.

WHEREFORE, Peoples Natural Gas Company LLC respectfully requests that the Honorable Administrative Law Judges John H. Corbett, Jr. and Mary D. Long recommend approval of, and the Commission approve, the Settlement, including all terms and conditions thereof, and that the Commission enter an order consistent with the Settlement that terminates the proceeding, closes the above-referenced dockets, and authorizes Peoples Natural Gas Company LLC to: (a) issue the tariff supplements attached as **Appendices A** and **B** to the Settlement to become effective on one day's notice after entry of a final order approving the Settlement; and, (b) issue the tariff supplements attached as **Appendices F** (regarding POR provisions in Retail Tariff) and **G** (regarding POR provisions in Supplier Tariff) to be effective, on one day's notice, on January 1, 2012.

Respectfully submitted,



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