



375 North Shore Drive
Pittsburgh, Pennsylvania 15212

www.peoples-gas.com

William H. Roberts II
Senior Counsel

Phone: 412-208-6527; Fax: 412-208-6577
Email: william.h.roberts@peoples-gas.com

October 24, 2018

VIA ELECTRONIC FILING

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

RECEIVED
2018 OCT 29 AM 10:22
PA PUC
SECRETARY'S BUREAU

**Re: Pennsylvania Public Utility Commission, et al.,
v. Pittsburgh Water and Sewer Authority
Docket Nos. R-2018-3002647 and C-2018-3004864**

Dear Secretary Chiavetta:

Please accept for electronic filing in the above-referenced proceeding the enclosed Answer of Peoples Natural Gas Company LLC to the Preliminary Objections of Pittsburgh Water and Sewer Authority to the Amended Complaint of Peoples Natural Gas Company LLC ("Answer").

Peoples has concurrently filed its Petition to Withdraw Complaint in these dockets. Peoples is filing this Answer solely as a precaution in the event that its Petition to Withdraw Complaint is not granted. If the Petition to Withdraw Complaint is granted, Peoples respectfully submits that PWSA's Preliminary Objections to Peoples' Amended Complaint and Peoples' Answer to PWSA's Preliminary Objections will be moot.

Thank you for your assistance with this matter. Please direct any questions to me at 412 208 6527 or william.h.roberts@peoples-gas.com.

Very truly yours,

cc: Administrative Law Judge Mark A. Hoyer
Administrative Law Judge Conrad A. Johnson
Certificate of Service

RECEIVED

OCT 29 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**DEPUTY CHIEF ADMINISTRATIVE LAW JUDGE MARK A. HOYER
AND ADMINISTRATIVE LAW JUDGE CONRAD A. JOHNSON**

Peoples Natural Gas Company LLC :
 : Docket No. R-2018-3002645
 v. : C-2018-3004864
 :
Pittsburgh Water and Sewer Authority - Water :

**ANSWER OF PEOPLES NATURAL GAS COMPANY
LLC TO THE PRELIMINARY OBJECTIONS OF
PITTSBURGH WATER AND SEWER AUTHORITY
TO THE AMENDED COMPLAINT OF PEOPLES
NATURAL GAS COMPANY LLC**

AND NOW COMES Peoples Natural Gas Company LLC ("Peoples"), by and through its counsel and pursuant to 52 Pa. Code § 5.101(f), to submit this Answer to the Preliminary Objections ("Preliminary Objections") of Pittsburgh Water and Sewer Authority ("PWSA") to the Amended Complaint of Peoples. The Preliminary Objections were filed by PWSA on October 15, 2018.

I. OVERVIEW

Peoples' Amended Complaint establishes Peoples' standing to pursue issues with respect to PWSA's proposed increase in wastewater rates because Peoples is a wastewater customer of PWSA. Although Peoples is not a direct water customer of PWSA, Peoples' Amended

Complaint establishes that Peoples is directly, immediately and substantially affected by PWSA's proposed increase in water rates. Peoples is a tenant in premises that receive water service from PWSA. Peoples' rent includes the cost of water service as a direct pass-through by Peoples' landlord. Additionally, as a tenant, Peoples is affected by the quality of PWSA's water service. The quality of service is a legitimate issue in a rate proceeding. Peoples' employees consume water supplied by PWSA and Peoples prepares food in its cafeteria using water supplied by PWSA. Peoples has been impacted by boil water advisories issued by PWSA.

PWSA's redundant Preliminary Objections seek to limit Peoples' ability to pursue its legitimate interests, in whole or in part. Accepting as true all well-pleaded material facts in the Amended Complaint, and resolving all doubts in favor of Peoples, the Administrative Law Judges should deny the Preliminary Objections and permit Peoples to pursue the legitimate issues that it has identified in its Amended Complaint.

II. BACKGROUND

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted in part, denied in part. It is admitted that Peoples filed its Formal Complaint ("Original Complaint") on September 21, 2018 at Docket No. C-2018-3004864. Peoples is unable to admit or deny the allegation regarding the date on which the Original Complaint was served on PWSA.

5. Denied. Peoples is unable to admit or deny the allegation regarding the Secretarial Letter sent to PWSA. By way of further answer, Peoples notes that an answer to a complaint is not required in a rate case. 52 Pa. Code § 5.61(d).

6. Admitted.

7. Admitted.

8. Admitted.

9. It is admitted that PWSA filed its Answer to Peoples' Original Complaint and its Preliminary Objections to Peoples' Original Complaint on October 4, 2018. Those filings are written documents that speak for themselves.

10. It is admitted that Peoples filed an Amended Complaint on October 5, 2018. That filing is a written document that speaks for itself. It is admitted that Peoples filed a Motion to Dismiss Objections and Compel Responses to discovery on October 5, 2018.

11. Admitted.

III. STANDARD OF REVIEW

12. Denied. The regulations of the Pennsylvania Public Utility Commission ("PUC" or "Commission") are written documents that speak for themselves.

13. This paragraph states a legal conclusion to which no response is necessary.

IV. PRELIMINARY OBJECTIONS

A. **Preliminary Objection No. 1 – This Preliminary Objection should be denied because Peoples' Amended Complaint clearly demonstrates that Peoples has an immediate, direct and substantial interest in this proceeding. The alleged "motivations" of Peoples are irrelevant.**

14. Denied. The alleged "motivations" of Peoples for participating in this proceeding are irrelevant. The material facts pleaded in Peoples' Amended Complaint demonstrate that Peoples has a direct, substantial and immediate interest in this proceeding. Consequently, it has standing. *William Penn Parking Garage, Inc. v. Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975).

15. This paragraph states a legal conclusion to which no response is necessary.

16. This paragraph states a legal conclusion to which no response is necessary.
17. This paragraph states a legal conclusion to which no response is necessary.
18. This paragraph states a legal conclusion to which no response is necessary.
19. This paragraph states a legal conclusion to which no response is necessary.
20. Denied. Peoples' Amended Complaint is a written document that speaks for itself.
21. Denied. PWSA's Exhibit A is a written document that speaks for itself. By way of further answer, Peoples' Amended Complaint clearly establishes that Peoples has a direct, immediate and substantial interest in this proceeding; the alleged "motivations" of Peoples are irrelevant.
22. Denied. PWSA's Exhibit A is a written document that speaks for itself.
23. Denied. Peoples' July 2017 response to a Request for Expressions of Interest for Providing Billing, Call Center, Metering and Collections Services is irrelevant to this rate proceeding, which was filed in July 2018.
24. Denied. Peoples' Amended Complaint demonstrates that Peoples has a direct, immediate and substantial interest in this proceeding; the alleged "motivations" of Peoples are irrelevant. PWSA's Exhibit B is a written document that speaks for itself.
25. Denied. PWSA's Exhibit C is a written document that speaks for itself. By way of further answer, the allegations of this paragraph are irrelevant to the issue before the Administrative Law Judges: whether Peoples has standing to participate in this proceeding. Peoples' Amended Complaint clearly establishes that it does.
26. Denied. Peoples' Amended Complaint is a written document that speaks for itself.

27. Denied. This paragraph states a legal conclusion to which no response is required. By way of further answer, Peoples' Amended Complaint demonstrates that Peoples has a direct, immediate and substantial interest in this proceeding.

28. Denied. This paragraph states a legal conclusion to which no response is necessary. By way of further answer, Peoples Amended Complaint clearly establishes its standing to participate in this matter.

WHEREFORE, PWSA's Preliminary Objection No. 1 should be denied because Peoples has standing to participate in this proceeding and the alleged "motivations" of Peoples are irrelevant.

B. Preliminary Objection No. 2 – This Preliminary Objection should be denied because Peoples' Amended Complaint clearly demonstrates that Peoples has a substantial, direct and immediate interest in this proceeding as a sewer customer of PWSA and as a tenant receiving water service from PWSA.

29. Peoples incorporates Paragraphs 1 through 28 as if fully set forth herein.

30. Denied. This paragraph states a legal conclusion to which no response is necessary.

31. Admitted.

32. Denied. Peoples' Amended Complaint is a written document that speaks for itself.

33. Denied. Peoples' Amended Complaint does not attempt to assert standing on the basis of Peoples' landlord's status as a customer of PWSA. To the contrary, Peoples' Amended Complaint demonstrates that Peoples has a direct, substantial and immediate interest in this proceeding in its own right. Peoples' rent includes the cost of water service as a direct pass-through and Peoples cannot force its landlord to participate actively in this proceeding on behalf of Peoples' interests. As a result, Peoples is directly, immediately and substantially affected by PWSA's rates. Additionally, Peoples is directly, immediately and substantially affected by the

quality of PWSA's water service because Peoples' employees consume water at the rented premises and because the water from PWSA is used to prepare food in a cafeteria for Peoples' employees. Quality of water service is an issue that is properly raised in a rate proceeding. 66 Pa. C.S. § 526; *Pa. Pub. Util. Comm'n v. Pa. Gas & Water Co.*, 61 Pa. P.U.C. 409 (1986). If Peoples' employees would be sickened by water delivered by PWSA, they would clearly have a cause of action against PWSA, even though they are not PWSA customers. These facts show that it would be unreasonable for the Commission to hold that Peoples lacks standing to pursue issues pertaining to the quality of water delivered to it by PWSA just because Peoples is a tenant. Additionally, Peoples' Amended Complaint demonstrates standing on the grounds that Peoples is impacted by PWSA's failure to properly maintain its infrastructure. Peoples demonstrated that has been directly, immediately and substantially impacted by PWSA's actions in this respect because Peoples' business operations have been impacted by main breaks resulting in boil water advisories.

34. Denied. This paragraph states a legal conclusion to which no response is necessary.

35. Denied. This paragraph states a legal conclusion to which no response is necessary. By way of further answer, Peoples incorporates its answer to Paragraph 33, *supra*.

36. Denied. This paragraph states a legal conclusion to which no response is necessary. By way of further answer, Peoples incorporates its answers to Paragraphs 14 and 33, *supra*. Peoples' Amended Complaint clearly establishes its standing to participate in this proceeding as a wastewater customer of PWSA. It also demonstrates Peoples' direct, immediate, and substantial interest in this proceeding with respect to the Water Tariff.

37. Denied. Peoples incorporates its answer to Paragraph 33, *supra*.

WHEREFORE, PWSA's Preliminary Objection No. 2 should be denied because Peoples' Amended Complaint demonstrates that Peoples has standing to participate in this proceeding as a wastewater customer of PWSA. Peoples' Amended Complaint also demonstrates that Peoples has a direct, immediate and substantial interest in this proceeding with respect to the Water Tariff.

C. Preliminary Objection 3 -- Preliminary Objection 3 should be denied because Peoples has established standing with respect to both the Water and the Wastewater Tariff. Peoples should be permitted to pursue any issue for which it has established standing.

38. Peoples incorporates by reference its answers to Paragraph 1 through 37 as if fully set forth herein.

39. Denied. This paragraph states a legal conclusion to which no response is necessary. By way of further answer, Peoples' incorporates its answer to paragraph 33, *supra*.

40. Denied. This paragraph states a legal conclusion to which no response is necessary. By way of further answer, as discussed above, Peoples has established standing to participate in this proceeding, both with regard to the Water Tariff and the Wastewater Tariff. Peoples is pursuing its legitimate interests in this proceeding; the alleged "motivations" of Peoples are irrelevant.

41. Denied. This paragraph states a legal conclusion to which no response is necessary. By way of further answer, Peoples does not seek to intervene in this proceeding pursuant to 52 Pa. Code § 5.72(a)(2) (which permits intervention to protect an interest that is not adequately represented by other parties in the case). Rather, Peoples filed a complaint, establishing its standing with respect to both the Water Tariff and the Wastewater Tariff. As a complainant, it may pursue any issue for which it has established standing, regardless of the participation of the Office of Consumer Advocate, the Office of Small Business Advocate, and the Bureau of Investigation and Enforcement (the "Statutory Advocates"). PWSA cites no

authority for the proposition that the participation of the Statutory Advocates is a basis for precluding a complainant from pursuing any issue for which the complainant has established standing.

42. Denied. This paragraph states a legal conclusion to which no response is required.

WHEREFORE, Preliminary Objection No. 3 should be denied. Peoples has established standing with respect to both the Water Tariff and the Wastewater Tariff. People should be permitted to pursue any issue for which it has established standing.

D. Preliminary Objection No. 4 in the Nature of a Motion to Strike – Peoples’ Amended Complaint does not contain scandalous and impertinent allegations. To the contrary, Peoples’ Amended Complaint states issues for which Peoples has established standing.

43. Peoples incorporates by reference Paragraphs 1 through 42 as fully as if set forth herein.

44. Denied. This paragraph states a legal conclusion to which no response is necessary.

45. Denied. This paragraph states a legal conclusion to which no response is necessary.

46. Denied. By way of further answer, Peoples incorporates its answer to paragraphs 47-49, *infra*.

47. Denied. Paragraph 16 of Peoples’ Amended Complaint is a written document that speaks for itself. PWSA’s maintenance of its infrastructure is relevant to whether it is maintaining reasonable and adequate facilities and service, as required by the Code. 66 Pa. C.S. § 1501. It is therefore relevant to the issue of quality of service, which is a proper issue in a rate case. 66 Pa. C.S. § 526.

48. Denied. Paragraph 17 of Peoples' Amended Complaint is a written document that speaks for itself. Paragraph 17 is not a collateral attack on the Commission's decision in *Implementation of Chapter 32 of the Public Utility Code Re Pittsburgh Water and Sewer Authority*, Docket Nos. M-2018-2640802 and M-2018-2640803. Instead, Paragraph 17 properly addresses the remedy that should be ordered in this proceeding.

49. Denied. Paragraph 18 of Peoples' Amended Complaint is a written document that speaks for itself. Peoples incorporates its answers to Paragraphs 14 and 20-28, *supra*. The remainder of this paragraph states a legal conclusion to which no response is necessary.

50. Denied. PWSA's Exhibit A is a written document that speaks for itself. Peoples incorporates its answers to Paragraphs 14 and 20-28, *supra*.

51. Denied. After reasonable investigation, Peoples is unable to admit or deny the allegations regarding PWSA management's priorities and decisions. By way of further answer, Peoples submits that the priorities and decisions of PWSA's management are irrelevant to a ruling on PWSA's preliminary objections. Peoples has the right to pursue any issue for which it has established standing as a complainant in this base rate proceeding.

52. Denied. This paragraph states a legal conclusion to which no response is necessary. Peoples incorporates its response to paragraph 51.

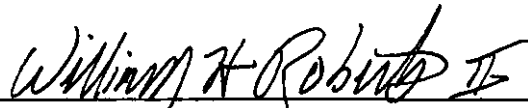
53. Denied. Paragraph 19 of Peoples' Amended Complaint is a written document that speaks for itself. Peoples incorporates its response to paragraph 51, *supra*.

WHEREFORE, Preliminary Objection No. 4 should be denied. Peoples has the right to pursue the issues stated in its Amended Complaint because Peoples has a direct, immediate and substantial interest in those issues.

V. CONCLUSION

WHEREFORE, for the reasons stated above, Peoples Natural Gas Company LLC respectfully requests that the Administrative Law Judges deny the Preliminary Objections of Pittsburgh Water and Sewer Company.

Respectfully submitted,



William H. Roberts II (I.D. No. 54724)
Peoples Natural Gas Company LLC
375 North Shore Drive
Pittsburgh, PA 15212
Tel: (412) 208-6527
Email: william.h.robertsii@peoples-gas.com

David P. Zambito (I.D. No. 80017)
Jonathan P. Nase (I.D. No. 44003)
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
Tel: (717) 703-5892
Fax: (215) 989-4216
Email: dzambito@cozen.com
jnase@cozen.com

Counsel for *Peoples Natural Gas Company LLC*

Date: October 24, 2018

RECEIVED
2018 OCT 29 AM 10:23
PA PUC
SECRETARY'S BUREAU

CERTIFICATE OF SERVICE

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

VIA E-MAIL AND FIRST-CLASS MAIL

Daniel Clearfield, Esq.
Carl R. Shultz, Esq.
Deanne M. O'Dell, Esq.
Kristine Marsilio, Esq.
Sarah C. Stoner, Esq.
Eckert Seamans Cherin & Mellott LLC
213 Market Street 8th Floor
Harrisburg PA 17101
dclearfield@eckertseamans.com
cshultz@eckertseamans.com
dodell@eckertseamans.com
kmarsilio@eckertseamans.com
sstoner@eckertseamans.com

Pamela C. Polacek
Adeolu A. Bakare
Alessandra L. Hylander
McNEES WALLACE & NURICK LLC
P.O. Box 1166
Harrisburg, PA 17108-1166
ppolacek@mcneeslaw.com
abakare@mcneeslaw.com
ahylander@mcneeslaw.com
Representing Pittsburgh Water and Sewer Authority

Debbie Marie Lestitian, Esq.
Pittsburgh Water and Sewer Authority
1200 Penn Avenue
Pittsburgh PA 15222
dlestitian@pgh2o.com

Elizabeth Rose Triscari, Esq.
Sharon E. Webb, Esq.
Office of Small Business Advocate
300 North Second Street Suite 202
Harrisburg PA 17101
etriscari@pa.gov
swebb@pa.gov

Brian Kalcic
Excel Consulting
225 S. Meramec Avenue, Suite 720T
St. Louis, MO 63105
excel.consulting@sbcglobal.net
Consultant for Office of Small Business Advocate

Christine Maloni Hoover, Esq.
Erin L. Gannon, Esq.
Lauren M. Burge, Esq.
Office of Consumer Advocate
555 Walnut Street 5th Floor
Forum Place
Harrisburg PA 17101-1923
choover@paoca.org
egannon@paoca.org
lburge@paoca.org

Terry L. Fought
780 Cardinal Drive
Harrisburg, PA 17111
tlfengr@aol.com
Consultant for Office of Consumer Advocate

Gina L. Miller, Esq.
John M. Coogan, Esq.
PA Public Utility Commission
Bureau of Investigation and Enforcement
PO Box 3265
Harrisburg PA 17105-3265
ginmiller@pa.gov
icoogan@pa.gov

Emily M. Farah, Esq.
Tishekia Williams, Esq.
Michael Zimmerman, Esq.
Duquesne Light Company
411 Seventh Avenue

Pittsburgh, PA 15219
efarah@duqlight.com
twilliams@duqlight.com
mzimmennan@duqlight.com

Peter J. DeMarco, Esq.
Dimple Chaudhary, Esq.
Cecilia Segal, Esq.
Jared J. Thompson, Esq.
Natural Resources Defense Council
1152 15th Street NW, Suite 300
Washington D.C. 20005
dchaudhary@nrdc.org
pdemarco@nrdc.org
segal@nrdc.org
jared.thompson@nrdc.org
Representing Pittsburgh United

Elizabeth R. Marx, Esq.
Patrick M. Cicero, Esq.
Kadeem G. Morris, Esq.
John W. Sweet, Esq.
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg PA 17101
emarxpulp@palegalaid.net
pciceropulp@palegalaid.net
kmorrispulp@palegalaid.net
jsweetpulp@palegalaid.net
nulp@palegalaid.net
Representing Pittsburgh United

Susan Simms Marsh, Esq.
Pennsylvania-American Water Company
800 West Hersheypark Drive
Hershey PA 17033
susan.marsh@amwater.com
Representing Pennsylvania-American Water Company

Michael A. Gruin, Esq.
Stevens & Lee
17 North Second Street 16th Floor
Harrisburg PA 17101
mag@stevenslee.com
Representing Pennsylvania-American Water Company

David P. Zambito, Esq.
Jonathan P. Nase, Esq.
Cozen O'Connor
17 North Second Street, Suite 1410
Harrisburg, PA 17101
dzambito@cozen.com
jnase@cozen.com
Representing Peoples Natural Gas Company LLC

James Ferlo
1118 N. Saint Clair Street
Pittsburgh, PA 15206
senatorferlo@gmail.com

Administrative Law Judge Mark A. Hoyer
Pennsylvania Public Utility Commission
Piatt Place
301 Fifth Avenue
Pittsburgh, PA 15222

Administrative Law Judge Conrad A. Johnson
Pennsylvania Public Utility Commission
Piatt Place, Suite 220
301 Fifth Avenue
Pittsburgh, PA 15222



William H. Roberts II

Dated this 24th day
of October, 2018

RECEIVED

OCT 29 2018

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



375 North Shore Drive
Pittsburgh, PA 15212

170 171 17107S N1-2

PSRT FIRST-CLASS MAIL
U.S. POSTAGE PAID
Pittsburgh, PA
PERMIT# 1715



6028181025-081254933

5

17120 

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