

COMMONWEALTH OF PENNSYLVANIA



PATRICK M. CICERO
Consumer Advocate

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
(800) 684-6560

 @pa_oca
 /pennoca
FAX (717) 783-7152
consumer@paoca.org
www.oca.pa.gov

May 30, 2024

Via Electronic Filing

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

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

Dear Secretary Chiavetta:

Attached for electronic filing please find the Office of Consumer Advocate's Main Brief in this matter. Please note that the **CONFIDENTIAL** version of OCA's Main Brief will only be sent to the parties that have executed the non-disclosure agreement as indicated on the Certificate of Service. The **CONFIDENTIAL** version of the OCA's Main Brief will be efiled using the Public Utility Commission's Share Point file process.

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

Respectfully submitted,

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

Enclosures:

cc: The Honorable Mary D. Long (email only)
Certificate of Service

CERTIFICATE OF SERVICE

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

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

Dated this 30th day of May 2024.

*** Received Confidential Version**

Scott B. Granger, Esquire *
Bureau of Investigation & Enforcement
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120
sgranger@pa.gov
Counsel for I&E

Steven C. Gray, Esquire *
Rebecca Lyttle, Esquire*
Office of Small Business Advocate
555 Walnut Street
1st Floor, Forum Place
Harrisburg, PA 17101-1923
sgray@pa.gov
relyttle@pa.gov
Counsel for OSBA

Meagan Moore, Esq.*
PNG Companies LLC
375 North Shore Drive, 4th Fl.
Pittsburgh, PA 15212
meagan.moore@peoples-gas.com
Counsel for Peoples Natural Gas

Michael W. Gang, Esquire *
Anthony D. Kanagy, Esquire*
Nicholas A. Stobbe, Esquire *
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
mgang@postschell.com
akanagy@postschell.com
nstobbe@postschell.com
Counsel for Peoples Gas Division

Kevin J. Moody, Esquire *
Pennsylvania Independent Oil & Gas Asso.
212 Locust Street,
Suite 300
Harrisburg, PA 17101-1510
kevin@pioga.org
Counsel for PIOGA

SERVICE BY E-MAIL ONLY

Joseph L. Vullo, Esquire
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
*Counsel for Pennsylvania Weatherization
Providers Task Force*

Elizabeth R. Marx, Esquire *
John W. Sweet, Esquire *
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org
*Counsel for Coalition for Affordable Utility
Services and Energy Efficiency in Pennsylvania*

Charis Mincavage, Esquire *
Adeolu A. Bakare, Esquire *
Kenneth R. Stark, Esquire *
McNees Wallace & Nurick LLC
100 Pine Street, P.O. Box 1166
Harrisburg, PA 17108-1166
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
kstark@mcneeslaw.com
Counsel for Peoples Industrial Intervenors

Counsel for:
Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048

Dated: May 30, 2024

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

Jacob D. Guthrie
Harrison W. Breitman
Assistant Consumer Advocates
OCAPNG2023BRC@paoca.org

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

MAIN BRIEF
OF THE
OFFICE OF CONSUMER ADVOCATE

PUBLIC VERSION

Office of Consumer Advocate
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, PA 17101-1923
717-783-5048
Dated: May 30, 2024

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

Harrison W. Breitman
Assistant Consumer Advocate
PA Attorney I.D. # 320580
HBreitman@paoca.org

Jacob D. Guthrie
Assistant Consumer Advocate
PA Attorney I.D.# 334367
JGuthrie@paoca.org

Counsel for:
Patrick M. Cicero
Consumer Advocate

TABLE OF CONTENTS

I. INTRODUCTION 1

 A. Description of the Office of Consumer Advocate 1

 B. Statement of the Case..... 2

 C. Procedural History 3

 D. Legal Standards (Burden of Proof)..... 4

 1. Utility Monopoly Regulation..... 4

 2. Burden of Proof..... 5

 3. Just and Reasonable and Not Unduly Discriminatory Rates 7

 4. Reasonable Opportunity to Earn a Fair Rate of Return 8

 5. Due Consideration to the Interest of Consumers 11

II. SUMMARY OF ARGUMENT 11

III. OVERALL POSITION ON RATE CASE 17

 A. Peoples’ Requests for Rate Base and Expense Increases are Excessive, Unsupported, and Unnecessary..... 17

 B. Peoples Is Not at Risk of Financial Collapse..... 18

 C. Peoples’ Rate Relief Request Is Apathetic to its Captive Customers..... 20

IV. RATE BASE..... 23

 A. Plant Additions..... 23

 B. Robinson Township Facilities..... 25

 D. Act 40 Adjustment 28

 E. Depreciation Issues 29

 F. Cash Working Capital..... 29

 G. Deferred Taxes..... 29

 H. Conclusion 30

V. REVENUES..... 30

VI. EXPENSES..... 31

 A. Updates to Original Filing 32

 C. Five-Year Average Increases 33

 D. Inflation Adjustments..... 35

 E. Corporate Insurance 37

 F. Labor/Vacancy Expense 38

 G. Incentive Compensation..... 39

H.	Employee Expenses	43
I.	Materials & Supplies.....	43
J.	Pension Expense	44
K.	Post-Retirement Other Than Pensions (PBOP)	45
L.	Rate Case Expenses	45
M.	Travel, Meals, and Entertainment Expense	47
O.	Company Memberships	49
Q.	Other O&M.....	50
R.	Payment Processing	51
S.	Uncollectible Accounts.....	51
T.	Depreciation Expense	52
U.	Conclusion Regarding Expense Adjustments.....	53
VII.	TAXES.....	53
A.	Income Tax	53
B.	Taxes Other Than Income Tax	54
VIII.	RATE OF RETURN	54
A.	Introduction.....	54
	1. Summary of OCA Position	55
B.	Capital Structure	57
C.	Debt Cost Rate	61
D.	Return on Common Equity	61
	1. Proxy Group.....	62
	2. Discounted Cash Flow (DCF).....	63
	a. Constant Growth Form	63
	b. Non-constant growth form.....	64
	c. Mr. Moul’s DCF Methodology Adds A Subjective Growth Component.....	65
	d. Mr. Moul’s Use of Five-Year Earnings Per Share Growth Rate is Unreasonable.....	66
	e. Mr. Moul’s Leverage Adjustment in his DCF is Unreasonable. ..	69
	3. Capital Asset Pricing Model (CAPM)	71
	a. Risk Free Rate.....	72
	b. Beta	73

c.	Equity Risk Premium.....	74
d.	Mr. Moul’s Use of a Size Adjustment in his CAPM is Unreasonable.	74
e.	Mr. Moul Overvalues the CAPM Model’s Results.	76
4.	Risk Premium.....	77
5.	Comparable Earnings.....	79
6.	Management Performance	80
a.	Peoples’ Incomplete and Confusing Notice to Customers Belies any Claim of Superior Management Performance.	82
b.	Peoples Management Effectiveness and Prudence Decreased After its Acquisition by Essential.....	83
c.	Peoples’ Overall Management Performance Leaves Significant Room for Improvement and is not Exemplary	84
D.1.	I&E’s Recommended Rate of Return Is Also Excessive.....	85
E.	Conclusion as to Rate of Return	87
1.	Peoples’ and I&E’s Calculated Returns on Equity are Excessive and Should Not Be Adopted.	87
2.	The OCA’s Recommended Rate of Return Is Supported By Market Expectations, Is Reasonable, and Should Be Adopted.	88
IX.	REVENUE ALLOCATION AND RATE DESIGN	89
A.	Introduction.....	89
B.	Cost of Service.....	89
1.	The Commission Should Reject the Usage of the Minimum Systems Method and Rely Entirely on the Peak and Average Method when Allocating the Cost of Distribution Mains.....	91
2.	The Commission Should Assign the Costs of Six Account Executives’ Salaries to the MGS, MLS, and LGS Classes in the CCOSS, as they Provide Service Exclusively to Large Commercial and Industrial Customers.	93
C.	Revenue Allocation.....	94
D.	Rate Design.....	98
1.	Peoples’ Proposed Residential Customer Charge Increase Should Be Rejected Because the Proposal Does Not Conform to the Cost of Service.	98
2.	Peoples’ and I&E’s Proposed Residential Customer Charge Increase Should Be Denied Because the Proposal Undermines Rate Gradualism, Conservation, and Affordability.	102
E.	Bill Impacts.....	107

	F.	Summary and Alternatives.....	107
X.		WEATHER NORMALIZATION ADJUSTMENT	108
	A.	Description of the WNA	109
	B.	Peoples’ Proposed WNA Undermines Cost of Service Considerations.	110
	C.	Peoples’ Proposed WNA Disincentivizes Customer Conservation.....	112
	D.	Peoples’ Proposed WNA Is Not Understandable for Customers.....	114
	E.	Peoples’ Proposed WNA Disproportionately Impacts Low-Income Customers.	116
	F.	Peoples’ Proposed WNA Impacts Affordability For All Customers and Will Potentially Result in Net Over Collections.	118
	G.	Peoples Cannot Meet its Burden of Proof for the Proposed WNA by Relying on the Existence of Other Utilities’ WNAs.	119
	H.	Peoples’ WNA Should Be Rejected Because it Shifts the Company’s Risk of Recovery to Customers and Provides Customers With Little Benefit.....	122
XI.		LOW-INCOME CUSTOMER SERVICE ISSUES.....	126
	A.	Root Cause Analysis to Address Disproportionate Disconnections	128
	B.	Peoples Must Conform its Confirmation of Low-Income Status to Meet Commission Regulations.	129
	C.	Peoples Should Make Additional Customer Contacts to Ensure Low-Income Customers Have the Opportunity to Apply for CAP and Receive its Benefits. .	130
		1. Prior to Termination.....	131
		2. When Requesting a Cash Security Deposit.	132
	D.	Peoples Should Consider Payment Arrangement Affordability Prior to Offering a Payment Arrangement.	133
	E.	Peoples Should Implement Speech Analytics to Detect Low-Income Customers.	135
	F.	Peoples Acceptance of OCA’s Recommendations	136
XII.		CUSTOMER/QUALITY OF SERVICE ISSUES.....	136
	A.	Non-Basic Services.....	138
	B.	Operational Issues.....	140
		1. The Company Should Expand its Call Center Hours.	140
		2. The Company Must Improve its Complaint-Handling Process By Conducting a Root Cause Analysis.....	141
		3. The Company’s Training Regarding Termination Procedure Must Be Improved.	143
		4. The Company Must Improve its Communication and Processes to Tenants in Terminated Shared Premises.	144

5.	The OCA Supports the Company’s Proposal to Eliminate Bill Payment Fees.	145
6.	The Company Should Expand its Education Efforts to Better Inform Consumers About Supplier Charges.	146
XIV.	DISCOUNT RATES.....	147
A.	Electricity as a Competitive Option.....	147
XVI.	CONCLUSION.....	151

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm’n</i> , 461 U.S. 375 (1983) (<i>Ark. Elec.</i>)	4
<i>Bell Atl. – Pa., Inc. v. Pa. PUC</i> , 672 A.2d 352 (Pa. Cmwlth. Ct. Dec. 18, 1995)	121
<i>Berner v. Pa. PUC</i> , 116 A.2d 738 (Pa. 1955) (<i>Berner</i>)	6
<i>Bluefield Water Works and Improvement Co. v. Public Serv. Comm’n of W.Va.</i> , 262 U.S. 679 (1923) (<i>Bluefield</i>)	9
<i>Burleson v. Pa. PUC</i> , 461 A.2d 1234 (Pa. 1983) (<i>Burleson</i>)	5, 23, 24
<i>City of Lancaster Sewer Fund v. Pa. PUC</i> , 793 A.2d 978 (Pa. Cmwlth. 2002) (<i>Lancaster 2002</i>)	7, 8
<i>Duquesne Light Co. v. Barasch</i> , 488 U.S. 299 (1989) (<i>Duquesne Light</i>)	9
<i>Federal Power Comm’n v. Hope Natural Gas Co.</i> , 320 U.S. 591 (1944) (<i>Hope</i>)	9, 123
<i>Jenkins Twp. v. Pub. Serv. Comm’n</i> , 1916 Pa. Super. LEXIS 30 (Oct. 30, 1916) (<i>Jenkins Twp.</i>)	4
<i>Lansberry v. Pa. PUC</i> , 578 A.2d 600 (Pa. Cmwlth. Ct. 1990) (<i>Lansberry</i>)	5
<i>Lloyd v. Pa. PUC</i> , 904 A.2d 1010 (Pa. Cmwlth. 2006) (<i>Lloyd</i>)	8, 94, 111
<i>Lower Frederick Twp. Water Co. v. Pa. PUC</i> , 409 A.2d 505 (Pa. Cmwlth. Ct. 1980)	5
<i>McCloskey v. Pa. PUC</i> , 195 A.3d 1055 (Pa. Cmwlth. 2018) (<i>McCloskey 2018</i>)	11
<i>Munn v. Illinois</i> , 94 U.S. 113 (1877) (<i>Munn</i>)	4

<i>Nat'l Fuel Gas Dist. Corp. v. Pa. PUC,</i> 464 A.2d 546 (Pa. Cmwlt. Ct. 1983)	35
<i>Nat'l Fuel Gas Dist. Corp. v. Pa. PUC,</i> 677 A.2d 861 (Pa. Cmwlt. 1986) (<i>NFG 1986</i>)	24
<i>Nat'l Utils. v. Pa. PUC,</i> 709 A.2d 972 (Pa. Cmwlt. Ct. 1998)	137
<i>Pa. Elec. Co. v. Pa. PUC,</i> 502 A.2d 130 (Pa. 1985)	123
<i>Pennsylvania Gas & Water Co. v. Pa. PUC,</i> 341 A.2d 239 (Pa. Cmwlt. 1975)	8
<i>Permian Basin Area Rate Cases,</i> 390 U.S. 747 (1968) (<i>Permian Basin</i>)	9, 10
<i>Pittsburgh v. Pa. PUC,</i> 126 A.2d 777 (Pa. Super. Ct. 1956)	126
<i>Popowsky v. Pa. PUC,</i> 665 A.2d 808 (Pa. 1995)	7
<i>Popowsky v. Pa. PUC,</i> 674 A.2d 1149 (Pa. Cmwlt. 1996) (<i>LP Water</i>)	8, 46
<i>Popowsky v. Pa. PUC,</i> 683 A.2d 958 (Pa. Cmwlt. 1996) (<i>Popowsky 1996</i>)	7
<i>Relief Elec. Light, Heat & Power Co's. Petition,</i> 1916 Pa. Super. LEXIS 89, **6- 15 (Pa. Super. Ct. Mar. 1, 1916) (<i>Relief Elec.</i>)	4
<i>Riverton Consol. Water Co. v. Pa. P.U.C.,</i> 140 A.2d 114 (Pa. Super. 1958)	59
<i>University of Pa. v. Pa. PUC,</i> 485 A.2d 1217 (Pa. Cmwlt. Ct. 1984)	6
<i>West Penn Power Co. v. Pa. PUC,</i> 578 A.2d 75 (Pa. Cmwlt. Ct. 1990)	137
<i>Zucker v. Pa. PUC,</i> 402 A.2d 1377 (Pa. Cmwlt. 1979) (<i>Zucker</i>)	8
Administrative Proceedings	
<i>2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa.</i> <i>Code § 69.261-69.267, Docket No. M-2019-3012599 (Order Sep. 19, 2019)</i>	130

<i>Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies</i> , Docket Nos. P-2011-2277868 and I-2012-2320323 (Order May 4, 2017) (<i>GOG Investigation</i>)	149, 150, 151
<i>Laura Andracchio Johnson and Charles Johnson v. Duquesne Light Co.</i> , Docket No. C-2022-3032695, 2023 PA. PUC LEXIS 343 (Order entered Dec. 21, 2023)	137
<i>Pa. PUC v. Aqua Pa., Inc.</i> , Docket No. R-00038805, 2004 Pa. PUC LEXIS 39 (Order entered July 23, 2004) (<i>Aqua 2004</i>)	100, 101
<i>Pa. PUC v Aqua Pa. Water Co.</i> , 2022 Pa. PUC LEXIS 161. (Order entered May 16, 2022) (<i>Aqua 2022</i>)	25, 33, 35, 71
<i>Pa. PUC v. Columbia Gas of Pa.</i> , Docket No. R-2022-3032167, 2023 PA. PUC LEXIS 173 (Order entered June 15, 2023)	49
<i>Pa. PUC v. Columbia Gas of PA, Inc.</i> , Docket No. M-2021-3005572 (Order Aug 24, 2023)	26
<i>Pa. PUC v. Columbia Gas of Pa., Inc.</i> , Docket No. R-2010-2215623, 2011 Pa. PUC LEXIS 185 (Order Oct. 14, 2011) (<i>Columbia 2011</i>).....	38
<i>Pa. PUC v. Columbia Gas of Pa., Inc.</i> , Docket No. R-2012-2321748 (Order entered May 23, 2013).....	121
<i>Pa. PUC v. Columbia Gas of Pa., Inc.</i> , R-2020-3018835 (Order Feb. 19, 2021)	<i>passim</i>
<i>Pa. PUC v. Columbia Water Co.</i> , 2009 Pa. PUC LEXIS 1423 (Order entered June 10, 2009)	46
<i>Pa. PUC v. Columbia Water Co.</i> , Docket No. R-2023-3040258, 2024 PA. PUC LEXIS 23 (Order entered Jan. 18, 2024)	46
<i>Pa. PUC v. Duquesne Light Co.</i> , Docket No. R-2021-3024750 (Order entered Dec. 16, 2021).....	138
<i>Pa. PUC v. Equitable Gas Co.</i> , 57 Pa. PUC 423 (1983)	6
<i>Pa. PUC v. Nat’l Fuel Gas Dist. Co.</i> , 83 Pa. P.U.C. 262 (1994)	91

<i>Pa. PUC v. Nat’l Fuel Gas Dist. Corp.</i> , 73 Pa. PUC 552 (1990) (<i>NFGD 1990</i>)	10
<i>Pa. PUC v. Nat’l Fuel Gas Dist. Corp.</i> , 84 Pa. PUC 134 (1995)	46
<i>Pa. PUC v. Nat’l Fuel Gas Dist. Corp.</i> , Docket No. R-2022-3035730 (Order entered June 15, 2023).....	121
<i>Pa. PUC v. PPL Elec. Util. Corp.</i> , 237 PUR4th 419 (PaPUC 2004) (Order entered Dec. 22, 2004)	6
<i>Pa. PUC v. PPL Elec. Util. Corp.</i> , R-2012-2290597 (Order entered Dec. 28, 2012) (<i>PPL 2012</i>)	39
<i>Pa. PUC v. PPL Electric Utils. Corp.</i> , Docket No. R-2012-2290597, 2012 Pa. PUC LEXIS 1757 (Order Oct. 19, 2012)	40, 112
<i>Pa. PUC v. PPL Gas Utilities Corporation</i> , Docket No. R-00061398, 2007 Pa. PUC LEXIS 2 (Order entered Feb. 8, 2007) (<i>PPL Gas 2007</i>)	100
<i>Pa. PUC v. Pa.-American Water Co.</i> , 2004 Pa. PUC LEXIS 29 (Jan. 29, 2004) (<i>PAWC 2004</i>)	6
<i>Pa. PUC v. Pa.-American Water Co.</i> , 2021 PA. PUC LEXIS 55 (Order Feb. 25, 2021) (<i>PAWC 2021</i>).....	40
<i>Pa. PUC v. Pa.-American Water Co.</i> , Docket No. R-00038304, 2003 Pa. PUC LEXIS 498 (Order entered Nov. 26, 2003)	49
<i>Pa. PUC v. Pa. Gas & Water Co.</i> , 74 PUR4th 238 (1986) (<i>PG&W 1986</i>).....	127
<i>Pa. PUC v. Pa. Power Co.</i> , 55 Pa. PUC 552 (1982) (<i>Pa. Power</i>)	10
<i>Pa. PUC v. PECO Energy Co. – Gas Division</i> , Docket No. R-2020-3018929 (Order entered June 22, 2021) (<i>PECO Gas</i> <i>2021</i>)	94, 96, 103
<i>Pa. PUC v. Peoples Nat. Gas Co.</i> , Docket No. M-2023-3024990 (Order entered May 9, 2024) (<i>Peoples Robinson</i> <i>Investigation</i>)	25, 26

<i>Pa. PUC v. Phila. Elec. Co.,</i> 58 Pa. P.U.C. 7 (1983) (<i>PECO 1983</i>)	24
<i>Pa. PUC v. Phila. Gas Works,</i> 2000 Pa. PUC LEXIS 876 (Order Nov. 22, 2000) (<i>PGW 2000</i>)	127
<i>Pa. PUC v. Phila. Gas Works,</i> Docket No. R-00017034 (Order entered Aug. 9, 2002)	121
<i>Pa. PUC v. Phila. Gas Works,</i> Docket No. R-2023-3037933 (Order entered Nov. 9, 2023) (<i>PGW 2023</i>).....	<i>passim</i>
<i>Pa. PUC v. Phila. Suburban Water Co.,</i> 71 Pa. PUC 593 (1989) (<i>PSW 1989</i>).....	9, 10
<i>Pa. PUC v. Roaring Creek Water Co.,</i> 73 Pa. PUC 373 (1990) (<i>Roaring Creek 1990</i>).....	19, 46, 106, 126
<i>Pa. PUC v. UGI Utilities, Inc. – Gas Division,</i> Docket No. R-2021-3030218 (Order entered Sept. 15, 2022).....	121
<i>Pa. PUC v UGI Utilities, Inc-Electric Division,</i> R-2017-2640058 (Order October 25, 2018)	23, 102
<i>Pa. PUC v. Wellsboro Electric Co.,</i> R-2019-3008208 (Order entered April 29, 2020) (<i>Wellsboro 2020</i>).....	35

Statutes

71 P.S. § 309-5.....	11
66 Pa. C.S. § 102.....	23, 137
66 Pa. C.S. § 315.....	<i>passim</i>
66 Pa. C.S. § 523.....	16, 81, 127, 137
66 Pa. C.S. § 526.....	8
66 Pa. C.S. § 1301.....	<i>passim</i>
66 Pa. C.S. § 1301.1.....	28
66 Pa. C.S. § 1304.....	8
66 Pa. C.S. § 1316.1.....	49
66 Pa. C.S. § 1330.....	<i>passim</i>

66 Pa. C.S. § 1402.....	126
66 Pa. C.S. § 1404.....	133
66 Pa. C.S. § 1406.....	132, 143
66 Pa. C.S. § 1501.....	17, 127, 137, 139
66 Pa. C.S. § 1504.....	128, 137
66 Pa. C.S. § 1505.....	128, 129, 137
66 Pa. C.S. §§ 1521-33	144, 145
66 Pa. C.S. § 2203.....	126, 136
66 Pa.C.S. § 2206.....	143

Regulations

52 Pa. Code § 5.232	121
52 Pa. Code § 56.12	112
52 Pa. Code § 56.15	115
52 Pa. Code § 56.97	<i>passim</i>
52 Pa. Code § 62.2	129, 130
52 Pa. Code § 69.3301	110, 125
52 Pa. Code § 69.3302	<i>passim</i>

Other Authorities

Charles F. Phillips, Jr., <i>The Regulation of Public Utilities: Theory and Practice</i> (Pub. Utils. Reports, Inc., 3rd ed. 1993)	5
Essential Utilities, First Quarter 2024 Earnings Report, available at: https://www.essential.co/static-files/efdea4f8-2572-4c6d-a703-76357aff6d0f (previously accessed on May 7, 2024).....	75
James H. Booser, <i>The Constitutional Limitations on Public Utility Regulation</i> , 67 Dick. L. Rev. 363, 364 (1963), available at: https://ideas.dickinsonlaw.psu.edu/dlra/vol67/iss4/3 (last visited Mar. 21, 2024).	5

Marc H. Goedhart, Rishi Raj and Abhishek Saxena, *Equity Analysts: Still too bullish*, Spring 2010.....67

U.S. Bureau of Labor Statistics, *Employment Cost Index - December 2023*, (Published Jan. 31, 2024).....34

I. INTRODUCTION

The OCA does not join the non-unanimous settlement between Peoples Natural Gas Company LLC (Peoples or the Company) and the other parties to this proceeding, and the OCA has had only a limited opportunity to review the settlement in full as of the date of filing this Main Brief.¹ In accordance with the procedural schedule established in this proceeding, the OCA now submits this Main Brief in support of its litigation position.²

A. Description of the Office of Consumer Advocate

The Office of Consumer Advocate (OCA) is a statutory advocate with the authority and duty to represent the interest of consumers as a party before the Pennsylvania Public Utility Commission (Commission) in public utility rate requests. 71 P.S. § 309-4. The OCA's interest in this case is to ensure that the public – who ultimately pays the revenue requirement to the utility – is paying enough, but no more than is necessary, to ensure that service remains adequate, reliable, and safe while allowing the utility to have the opportunity to recover its costs and earn a fair rate of return on its investments. Tables showing the OCA's calculated revenue requirement of \$13,018,740 that reflects the OCA's adjustments to rate base, expenses, and cost of capital are attached to this Main Brief in Appendix A. See Appendix A, Tables I-VI. As required by the Interim Order on Briefs and Closing of the Record issued on May 10, 2024, tables showing a class rate impact analysis including (1) proposed monthly customer charges and percentage of increase from existing rates and (2) proposed impact on the average customer bill in dollars and percentage

¹ Peoples provided the OCA with a draft of the Non-Unanimous Settlement for the first time on May 28, 2024 at 8:38 p.m. On the same date, Peoples also indicated that it identified an error in the calculation of its present rate revenue. Given the late timing and lack of review opportunity, the OCA is unable to take any position on claimed revenue changes. The OCA reserves the right to address updates as deemed necessary pending further review and consideration of any filings that Peoples may make.

² Consistent with the Interim Order dated May 10, 2024, the OCA will file its comments to the non-unanimous settlement agreement submitted by the parties on June 13, 2024 at the same time that it files its Reply Brief in this contested matter.

of increase are attached as Appendix A, Tables VIIA, VIIB, VIIIA, and VIIB. Appendix B provides the OCA's proposed Findings of Fact, Conclusions of Law and Ordering Paragraphs. Appendix C contains a list of the OCA's Testimony and Exhibits that were admitted into the evidence in this case.

B. Statement of the Case

The OCA conducted a thorough investigation into Peoples' request for an increase in annual operating revenues of \$156,024,687, or approximately 18.7%. Of the proposed increase, Peoples sought \$148,558,437 of increased annual revenues in the Peoples Natural Gas Division (PNGD), an increase of approximately 20%, and sought \$7,466,250 from the Peoples Gas Division (PGD), an increase of approximately 8.5%. This increase would be paid for by over the more than 700,000 residential, commercial and industrial customers in southwestern and western Pennsylvania, including portions of 17 counties. Of that amount, PNGD serves approximately 635,968 customers, and PGD serves approximately 63,211 customers.

In this case, Peoples used a Historic Test Year (HTY) ending September 30, 2023, a Future Test Year (FTY) ending September 30, 2024, and a Fully Projected Future Test Year (FPFTY) ending September 30, 2025. If the Company's proposed increase is granted as requested, it will result in a 22% increase to the monthly rates of PNGD customers and 8% increase to the monthly rates of PGD customers, at an estimated consumption of 8 MCF per month. Of the Company's proposed increase, approximately 76% will come from the rates of residential customers. Further, the Company requests to consolidate the PNGD and PGD fixed monthly customer charge and volumetric rates.

Additionally, Peoples' case contained other proposals, including an alternative ratemaking proposal identified as a Weather Normalization Adjustment (WNA), discounts for certain industrial and commercial customers, and a rate design proposal that places a greater proportion

of the Company's revenue recovery in fixed charges than at present rates. Peoples has requested a return on equity (ROE) of 11.75% in an equity rich capital structure, which includes a 25-basis point management premium, for an overall rate of return (ROR) of 8.4%. Based on the Company's rate base as-filed, the revenue requirement impact of the management premium is \$7,461,843.

C. Procedural History³

On December 29, 2023, Peoples filed Original Tariff GAS – PA PUC No. 48 (Tariff No. 48) with the Commission to become effective on February 27, 2024.

On January 5, 2024, the OCA filed its Formal Complaint and Public Statement.

On March 5, March 6, and March 7, 2024, each day at 1 p.m. and 6 p.m., the Commission held Public Input Hearings in Monroeville, Butler, and telephonically, respectively. Nine customers testified at the Public Input Hearings, regarding the unaffordability of current and proposed rates, the quality of the notice the Company provided to its customers regarding the requested increase, and the WNA. OCA witness David Evrard summarized the Public Input Hearing testimony in his Direct Testimony, Exhibit DE-1.

Consistent with the procedural schedule issued by Administrative Law Judge (ALJ) Mary Long, the OCA served on the ALJ and the parties its written Direct, Rebuttal, and Surrebuttal Testimonies on March 22, 2024, April 18, 2024, and May 3, 2024, respectively, in which the OCA opposed and/or recommended adjustments to the Company's requests.⁴

Written rejoinder testimony was submitted by Peoples on May 8, 2024. An evidentiary hearing was held telephonically on May 9, 2024, during which time the OCA cross-examined

³ In the interest of brevity, the OCA presents a very brief and relevant procedural history.

⁴ All OCA testimony and exhibits are identified in Appendix C, and all documents listed in Appendix C were admitted into the record during the evidentiary hearing on May 9, 2024.

witnesses and moved all of the documents identified in Appendix C into evidence. Peoples also cross-examined OCA witnesses, but no other parties participated in the cross-examination process.

In accordance with the procedural schedule established in this proceeding, the OCA now submits this Main Brief in support of its litigation position.

D. Legal Standards

1. Utility Monopoly Regulation

Peoples is a utility provider with an exclusive monopoly franchise. Customers who reside in its service territory must buy natural gas from Peoples if they want natural gas service. Utility regulation stems from the state's police power to protect the health, safety, morals, and general welfare of their citizens. States have the power to regulate the use of private property and the rates charged by certain private companies in industries "clothed with a public interest." *Munn v. Illinois*, 94 U.S. 113, 126 (1877) (*Munn*). "[T]he regulation of utilities is one of the most important of the functions traditionally associated with the police power of the States." *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 377 (1983) (*Ark. Elec.*). The Public Utility Code (Code) governing sales that are only rationally dealt in by a monopoly is a proper exercise of the state police power to regulate the health, safety, morals, and general welfare of citizens. *Relief Elec. Light, Heat & Power Co's. Petition*, 1916 Pa. Super. LEXIS 89, **6-15 (Pa. Super. Ct. Mar. 1, 1916) (*Relief Elec.*). The Commission's comprehensive authority under the Code to oversee and regulate jurisdictional public utilities is a constitutional exercise of traditional state police powers as a reasonable exercise of police power by appropriate means for a legitimate end. *Jenkins Twp. v. Pub. Serv. Comm'n*, 1916 Pa. Super. LEXIS 30, **15-16 (Oct. 30, 1916) (*Jenkins Twp.*) ("The authority which the commission seeks to exercise in this case is clearly the exercise of the police power inherent in our State as delegated to the commission by the provisions of the Public Service

Company Law” (which the Public Utility Law of 1937 replaced) (which the Code (of 1978) replaced)).⁵

2. Burden of Proof

Peoples bears the full burden of proof to establish the justness and reasonableness of every element of its requested rate increase:

Reasonableness of rates – In any proceeding upon the motion of the Commission, involving any proposed or existing rate of any public utility, or in any proceedings upon the complaint involving any proposed increase in rates, the burden of proof to show that the rate involved is just and reasonable shall be upon the public utility.

66 Pa. C.S. § 315(a). The evidence necessary to meet that burden must be substantial, legally credible, and cannot be mere “suspicion” or “scintilla” of evidence. *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. Ct. 1980); *Lansberry v. Pa. PUC*, 578 A.2d 600, 602 (Pa. Cmwlth. Ct. 1990) (*Lansberry*).

The party with the burden of proof has a formidable task to show that the Commission may lawfully adopt its position. *Burleson v. Pa. PUC*, 461 A.2d 1234, 1236 (Pa. 1983) (*Burleson*). Even where a party has established a prima facie case, the party with the burden must establish that “the elements of that cause of action are proven with substantial evidence which enables the party asserting the cause of action to prevail, precluding all reasonable inferences to the contrary.” *Id.* Furthermore, it is well-established that the “degree of proof before administrative tribunals as well as before most civil proceedings is satisfied by establishing a preponderance of the evidence.” *Lansberry* at 602.

The burden of proof does not shift to parties challenging the rate increase, but rather must be met by the utility:

⁵ See also Charles F. Phillips, Jr., *The Regulation of Public Utilities: Theory and Practice*, 87 (Pub. Utils. Reports, Inc., 3rd ed. 1993); James H. Booser, *The Constitutional Limitations on Public Utility Regulation*, 67 Dick. L. Rev. 363, 364 (1963), available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol67/iss4/3> (last visited Mar. 21, 2024).

It is well-established that in general rate increase proceedings, the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility's burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one that that burden remains with the public utility throughout the course of the rate proceeding. It has been held that there is no similar burden placed on other parties to justify a proposed adjustment to the utility's filing.

Pa. PUC v. Pa.-American Water Co., 2004 Pa. PUC LEXIS 29 at *16-18 (Jan. 29, 2004) (*PAWC 2004*) (citing *Berner v. Pa. PUC*, 116 A.2d 738 (Pa. 1955) (*Berner*)). In *Berner*, the Pennsylvania Supreme Court stated:

[T]he appellants did not have the burden of proving that the plant additions were improper, unnecessary or too costly; on the contrary, that burden is, by statute, on the utility to demonstrate the reasonable necessity and cost of the installations and that is the burden which the utility patently failed to carry.

Berner at 744. The Commission recognizes in its rate determinations that the burden of proof will not shift to a complainant or intervener that is challenging the requested rate increase. *Pa. PUC v. Equitable Gas Co.*, 57 Pa. PUC 423, 471 (1983); *see also University of Pa. v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. Ct. 1984); *Pa. PUC v. PPL Elec. Util. Corp.*, 237 PUR4th 419 (PaPUC 2004) (Order entered Dec. 22, 2004). Thus, it is unnecessary for the OCA (or any challenger) to prove that the Company's proposed rates are unjust, unreasonable, or not in the public interest. To prevail in its challenge, Pennsylvania law requires only that the OCA show *how* the Company failed to meet its burden of proof. While subtle, this critical distinction shows that parties opposing a utility in a rate proceeding need only to shift the burden of going forward to prevail.

A public utility may elect to use a future test year (FTY) or a fully projected future test year (FPFTY) "in discharging its burden of proof." 66 Pa. C.S. § 315(e). However, the utility must provide evidence to support all estimates of increased costs in its FTY and FPFTY. The Code provides:

Whenever a utility utilizes a future test year or a fully projected future test year in any rate proceeding and such future test year or a fully projected test year forms a substantive basis for the final rate determination of the commission, *the utility shall*

provide, as specified by the commission in its final order, *appropriate data evidencing the accuracy of the estimates contained in the future test year or a fully projected future test year*, and the commission may after reasonable notice and hearing, in its discretion, adjust the utility's rates on the basis of such data.

Id. (emphasis added). Should the utility fail to prove that the projections relied upon in its FTY or FPFTY are accurate, the Commission should not accept those projections and may adjust the public utility's revenue requirement increase request to remove unsupported projections. *Id.*

3. Just and Reasonable and Not Unduly Discriminatory Rates

As a matter of law, a public utility's rates must be just and reasonable and in conformity with regulations or orders of the Commission. 66 Pa. C.S. § 1301(a). A public utility may obtain "a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment." *City of Lancaster Sewer Fund v. Pa. PUC*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*Lancaster 2002*).

The Commission "has broad discretion in determining whether rates are reasonable" and "is vested with discretion to decide what factors it will consider in setting or evaluating a utility's rates." *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky 1996*) (emphasis added). The Commission's discretion to determine if a requested rate is just and reasonable includes the "power to make and apply policy" concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors. *Popowsky v. Pa. PUC*, 665 A.2d 808, 812 (Pa. 1995).

There is ample authority for the proposition that the power to fix "just and reasonable" rates imports a flexibility in the exercise of a complicated regulatory function by a specialized decision-making body and that the term "just and reasonable" was not intended to confine the ambit of regulatory discretion to an absolute or mathematical formulation but rather to confer upon the regulatory body the power to make and apply policy concerning the appropriate balance between prices charged to utility customers and returns on capital to utility investors consonant with constitutional protections applicable to both.

Id. (citations omitted) (emphasis added).

The Commission must determine whether projected expenses “are reasonably necessary to provide service...” during the prospective period in which its rates will be in effect. *Lancaster 2002* at 982. Only prudently incurred expenses are includable in expense claims; it is the burden of the public utility to prove that the expenses incurred are just and reasonable; and it is within the discretion of the Commission to exclude expenses as unreasonable. *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. 1996) (*LP Water*) (internal citations omitted).

Additionally, rates must not be unduly discriminatory among customer groups. 66 Pa. C.S. § 1304. The Commission has discretion to determine reasonable classification of service of rates as may be justified “by a variety of considerations including the quantity of service used, the nature of the use, the time of the use, the pattern of the use, differences of conditions of service or cost of service.” *Zucker v. Pa. PUC*, 402 A.2d 1377, 1382 (Pa. Cmwlth. 1979) (*Zucker*).

A utility’s cost of providing service guides the ratemaking process. *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006) (*Lloyd*). Additional important ratemaking concerns include quality of service, rate gradualism, and rate affordability. *Pa. PUC v. Columbia Gas of Pa., Inc.*, R-2020-3018835 (Order Feb. 19, 2021) (*Columbia 2021*), at 46-47 (citing 66 Pa. C.S. §§ 523, 526(a)) (citing also *Lloyd* at 1020 and *Pa. PUC v. Twin Lakes Util., Inc.*, 2020 Pa. PUC LEXIS 340, *46-54 (Order Mar. 26, 2020)).⁶

4. Reasonable Opportunity to Earn a Fair Rate of Return

A public utility is entitled to no more than a reasonable opportunity to earn a fair rate of return on its investments dedicated to public service. *Pennsylvania Gas & Water Co. v. Pa. PUC*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975) (citations omitted). The United States Supreme Court held:

⁶ Available at <https://www.puc.pa.gov/pdocs/1693880.docx>.

The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to raise the money necessary for the proper discharge of public duties.

Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of W.Va., 262 U.S. 679, 692-93 (1923) (*Bluefield*). The allowed rate of return should reflect:

[A] return on the value of the [utility's] property which it employs for the convenience of the public equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties.

Bluefield at 692. However, a fair return for public utility service is not equivalent to “profits such as are realized or anticipated in highly profitable enterprises or speculative ventures.” *Id.* At 692-693. A fair rate of return “should be commensurate with returns on investments in other enterprises having corresponding risks” while being sufficient “to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital.” *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944) (*Hope*). The Supreme Court noted, however, that:

The rate-making process under the Act, i.e., the fixing of ‘just and reasonable’ rates, involves a balancing of the investor and consumer interests. Thus we stated...that *regulation does not insure that the business shall produce net revenues.*”

Id. (emphasis added) (internal quotations omitted); see also *Pa. PUC v. Phila. Suburban Water Co.*, 71 Pa. PUC 593, 623 (1989) (*PSW 1989*) (citing *Pittsburgh v. Pa. PUC*, 69 A.2d 844 (Pa. Super Ct. 1949)); see also *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310, 312 (1989) (*Duquesne Light*), *aff'g Barasch v. Pa. PUC*, 532 A.2d 325 (Pa. 1987).

Consumers cannot readily negotiate with a utility and must “rely upon” the Commission to provide “a complete, permanent, and effective bond of protection from excessive rates and charges” of the public utility. *Permian Basin Area Rate Cases*, 390 U.S. 747, 794-95 (1968) (*Permian Basin*) (citing *Atlantic Ref. Co. v. Pub. Serv. Comm'n*, 360 U.S. 378, 388 (1981)). The Commission’s “responsibilities include the protection of future, as well as present, consumer

interests.” *Permian Basin* at 797. Rates adopted by the Commission that are within a “zone of reasonableness” can withstand constitutional scrutiny. *Id.* at 797. The “just and reasonable” standard of the Code coincides with applicable constitutional standards, and any rate selected by the Commission from the “broad zone of reasonableness” permitted by the Code cannot properly be attacked on constitutional grounds as confiscatory. *Permian Basin* at 769-70. Rates that are determined by the Commission to be in conformity with the Code and intended to “balance the investor and the consumer interests” are constitutionally permissible. *Id.* at 770.

Cost of capital analyses are generally accepted by the Commission as a basis for determining a fair rate of return under the “just and reasonable” standard of the Code. In *PSW 1989*, the Commission defined an appropriate rate of return as:

[T]he amount of money a utility earns, over and above operating expenses, depreciation expense, and taxes, expressed as a percentage of the legally established net valuation of utility property, the rate base. Included in the “return” are interest on long-term debt, dividends on preferred stock, and earnings on common equity. In other words, the return is the money earned from operations which is available for distribution among the various classes of contributors of money capital.

PSW 1989 at 622-23 (quoting Paul J. Garfield & Wallace F. Lovejoy, *Public Utility Economics*, 116 (1964)). Additionally, the Commission stated:

A fair rate of return for a public utility, however, is not a matter which is to be determined by the application of a mathematical formula. It requires the exercise of informed judgment based upon an evaluation of the particular facts presented in each proceeding. There is no one precise answer to the question as to what constitutes the proper rate of return. The interests of the Company and its investors are to be considered along with those of the customers, *all to the end of assuring adequate service to the public at the least cost*, while at the same time maintaining the financial integrity of the utility.

Pa. PUC v. Pa. Power Co., 55 Pa. PUC 552, 579 (1982) (*Pa. Power*) (emphasis added); *see also Pa. PUC v. Nat’l Fuel Gas Dist. Corp.*, 73 Pa. PUC 552, 603-05 (1990) (*NFGD 1990*).

5. Due Consideration to the Interest of Consumers

As a matter of law, an increase in base rates involves a substantial property right, entitling ratepayers to notice and procedural due process. *McCloskey v. Pa. PUC*, 195 A.3d 1055, 1068 (Pa. Cmwlth. 2018) (*McCloskey 2018*) (citing *Barasch v. Pa. PUC*, 546 A.2d 1296, 1305-06 (Pa. Cmwlth. 1988) (*Barasch 1988*); citing also U.S. Const. amend. XIV, § 1).

Given that a utility's general rate increase request will substantially affect the interests of consumers, the Commission must "consistent with its other statutory responsibilities, take such action with due consideration to the interests of consumers." 71 P.S. § 309-5.

II. SUMMARY OF ARGUMENT

Overall Position

Peoples' general rate increase request of \$156 million in annual revenues is unnecessary and excessive. Based on the OCA's fully substantiated adjustments, Peoples' need for rate relief can be met with an annual revenue requirement increase of no more than approximately \$13 million. Peoples' unjust and unreasonable rate increase request is driven by: (1) Peoples' unreasonable and excessive return on equity claim of 11.75%, which includes an unsupported 25 basis point adder for management performance, in addition to unnecessary size and leverage adjustments, and its claim for an equity-rich capital structure; (2) the unreasonable and unsupported inflationary factors upon which Peoples' rate base claims and expense claims rely; and (3) Peoples' request for authorization of a weather normalization adjustment (WNA) that will not benefit consumers or be consistent with the efficient consumption of utility service and that need not be granted for the Company to be able to provide adequate, safe, and reliable natural gas distribution service. The Company has not met its burden of proof, and the OCA's adjustments, which are supported by substantial evidence of record, should be adopted as they would result in

just and reasonable rates that are equitable among customers and supported by sound ratemaking policy.

Rate Base and Expenses

The Company's rate base and operation and maintenance (O&M) expense claims are unreasonable based on the Company's asserted but unsupported inflationary factors. The Company has not demonstrated that it knows or can measure how much costs will increase by the end of the FPFTY. The purported inflationary factors are tainted by historical high levels of cost increases within recent years, without evidence from the Company that such high levels of increases are likely to continue through the end of the FPFTY. As a result, Peoples' unsupported inflationary adjustments to its rate base and O&M expense claims should be denied. Additionally, Peoples' claims expenses that have no nexus to providing natural gas distribution utility service, and benefit only Peoples and/or its employees, should be disallowed because they provide no ratepayer benefits. The OCA's adjustments remove or minimize unnecessary and unreasonable ratepayer expenses while ensuring that the Company has sufficient funds for all known and measurable costs.

Rate of Return

The Company's rate of return analysis submitted to support its request is entirely results-based. From soup to nuts, Peoples clearly generated its request to drive up its rate of return as high as possible to tip the balance in favor of shareholder interests. Peoples' cost of equity request includes flawed and unnecessary upward adjustments – a leverage adjustment, size adjustment, and management adder – which drive up the resultant cost of equity calculation. The Company's rate of return expert also injects unnecessary subjectivity into his calculations that swell his ultimate recommendation. Peoples also proposes using a capital structure of 54.67% common equity and 43.33% debt that is more equity rich than the average of the proxy groups and Peoples'

parent company. Customers require protection from the Commission – a protection that considers their interests as to the affordability of rates and the consequences on monthly bills of adopting an unreasonably high cost of capital and an unreasonable capital structure. That protection is needed in this case.

The OCA's recommends a market-based return on equity of 8.02%, based on a fully substantiated cost of capital analysis, and a hypothetical capital structure of 50% common equity and 50% debt for ratemaking purposes. Adoption of the OCA's recommendation on ROE alone would save consumers \$136.19 million per year in rates. The OCA's recommendations better fit the balance that is required between consumer and public interest and investor and utility need. The OCA's recommended return on equity will allow the Company's shareholders a reasonable opportunity to earn a market-based return on their investment and provide for the financial integrity of the Company while considering the interests of its customers.

Revenue Allocation and Rate Design

The Company has not presented evidence that its cost-of-service study is reasonable. Peoples included a customer component in its allocation of the cost of mains, which violates long-standing Commission precedent. Based on the faulty study, Peoples assigned excessive costs to its captive, residential customers in the form of unnecessarily high customer charges. At current rates, the Company is able to recover direct and indirect customer costs for all customers in its customer charges. However, Peoples requested an increased charge, despite the increase's violation of the principles of gradualism, disincentive for conservation, and its impact on exacerbating already unaffordable rates, to pull upon a greater pool of guaranteed monthly revenues. The OCA's alternatives to the cost-of-service study, revenue allocation, and rate design are rooted in the Commission's precedent and guiding policies, and they would result in just and reasonable rates.

Alternative Ratemaking / Weather Normalization Adjustment (WNA)

The Company's proposed WNA seeks to guarantee the Company's annual level of revenues. Utilities are not guaranteed to be able to recover their revenue requirement. Yet, Peoples requests eliminating all weather-related risk in a way likely to increase residential customers' bills during the months the WNA is in effect while offering no benefit to residential customers month-over-month or year-over-year. Weather is a risk inherent in the natural gas distribution industry, and the Company's request for authorization to eliminate that risk would result in unjust and unreasonable rates.

By charging customers for using less natural gas than under "normal" weather, the WNA decouples its revenues from its actual cost of service, as the costs incurred from actual usage decrease. This has the secondary effect of giving Peoples a cut of all savings a customer should receive from conserving energy and reducing monthly usage, as the WNA charge decreases the portion of a customer's savings they would have otherwise not been forced to pay. WNAs are also difficult for customers to understand because of the disconnect between a customer's bill and their experienced weather and Peoples proposes to make it incredibly difficult for customers to verify the accuracy of their bills by limiting what inputs into the WNA charge calculation customers can receive. Further, as WNAs are designed to neutralize year-over-year weather risk, instead of month-to-month weather risk, customers may experience significant spikes in monthly bills, especially during the months of October, April, and May, when weather varies significantly from year-to-year. The risk of substantial increases in random months as a result of the WNA charge, for which customers cannot plan disproportionately affects low-income customers, who may rely on their ability to conserve energy or budget appropriately to afford their monthly bills. Under this culmination of factors, it is clear that Peoples' proposed WNA would be unjust and unreasonable.

Low-Income Customer Assistance

Peoples is undercounting its low-income population and, as a result, is under-enrolling its low-income customers in customer assistance programs (CAP). The OCA proposes several recommendations Peoples must implement in order to provide superior outreach and identify more low-income customers. The first is to bring Peoples' standards for confirming low-income status into line with Commission regulations, which require utilities to accept self-certification of receipt of public benefits which require an income-qualifying threshold at or below the Company's low-income qualification threshold – a practice not applied by Peoples in all circumstances. The second is to provide additional stand-alone notices prior to termination, after accumulation of substantial arrearages, during the cold weather survey, and when requesting security deposits, which inform potentially payment-troubled customers of Peoples' CAP and the benefits of CAP. The third is to modify Peoples' speech analytics software to include keywords which may assist Peoples in identifying potential CAP enrollees.

The OCA further recommends that Peoples examine why it is disconnecting a disproportionate number of customers in the 40 zip codes in its service territory with the greatest proportion of Black householders compared to other portions of its service territory. Peoples has been unwilling to examine this concerning data, but it should be compelled to conduct a root cause analysis to do so. Finally, as required by Commission regulations, Peoples should consider customers' ability to afford payment arrangements before extending payment arrangements. Peoples already collects the necessary data to do so, yet it sets its payment arrangement enrollees up for failure by ignoring affordability.

Adopting the OCA's recommendations will result in utility service which is just, reasonable, and adequate. The OCA submits that the need for the aforementioned

recommendations are supported by substantial evidence, and that they are necessary to ensure that Peoples' service fulfills its obligations under Commission regulations and the Public Utility Code.

Customer Service Quality

Peoples should improve its customer service and quality of service. Currently, Peoples has limited call center hours, inadequate complaint review processes, and does not sufficiently document field process for termination. The Company could improve how it handles non-basic charges and supplier charges on customer bills, and better educate customers on shopping decisions to control its level of uncollectible accounts as required. Absent such improvement, it is possible that the Company's cost of service must be adjusted to result in just and reasonable rates, as current service may not satisfy the Company's statutory obligations to provide adequate and reasonable service. 66 Pa. C.S. § 523(a).

Discount Rates

Peoples' proposal to offer discounted contract rates below tariffed rates to large commercial and industrial customers that can claim electricity as a competitive to natural gas should be rejected. Access to electricity is ubiquitous, offering a much more significant pool of potential beneficiaries of the Company's competitive flex rate program at present, which permits competitive discounts only when the electric distribution company servicing the customer offers a competitive flex rates. This ubiquity threatens captive customers – who cannot benefit from Peoples' competitive rates despite the significant possibility of switching from natural gas to electric furnaces, appliances, etc. – should a price war emerge between EDCs and NGDCs, pushing an increased burden to recover the difference between contract and tariffed rates from captive customers. At present, no such risk exists, and Peoples has not provided sufficient evidence to show it is just and reasonable to adjust the status quo.

III. OVERALL POSITION ON RATE CASE

Peoples' request for an additional \$156 million in annual revenue far exceeds the amount of revenue necessary for it to provide safe, reliable, and adequate service at just and reasonable rates to its 700,000 customers in Southwestern Pennsylvania. Instead, Peoples could provide safe and adequate service at just and reasonable rates with a revenue increase of only \$13 million. By adopting the OCA's recommended just and reasonable rate of return and capital structure for Peoples, ratepayers would save \$136.19 million annually.

A. Peoples' Requests for Rate Base and Expense Increases are Excessive, Unsupported, and Unnecessary.

Peoples plans to invest over \$1 billion in infrastructure – primarily targeting at-risk pipe through its Long-Term Infrastructure Improvement Plan (LTIIP) – by the end of its FPFTY. OCA St. 2 at 6. The OCA is not challenging Peoples' significant and extensive updates to its plant in service; rather, the OCA's revenue requirement would fully allow this investment. Peoples' customers are entitled to safe and reliable service and – as identified by Peoples – the Company's investment in its plant will remove leak-prone pipe, especially in urban areas where there are high densities of customers. 66 Pa. C.S. § 1501; Peoples St. 1 at 10.

However, Peoples' request extends beyond merely recovering requests for the known and measurable costs of fulfilling its LTIIP and prior settlement obligations with regard to investment in plant. Peoples seeks to maximize its rate base balance by including inflation adjustments to its rate base, which it did not show to be known and measurable, and plant replaced at the request of the Commission's Gas Safety Division. OCA St. 2SR at 5-6; *see* Sections IV.A and IV.B, *infra*. These costs should not be permitted to be included because they are unsubstantiated and serve merely to permit Peoples to unreasonably inflate its recovery of costs that are not associated with plant which is proven to be used and useful.

Similarly, Peoples seeks to recover expenses which provide no benefit to ratepayers. Ratepayers should not pay employee benefits which are not shown to provide ratepayers with benefits, including tickets to sporting events or anniversary awards. OCA St. 2SR at 20; Section VI.H. Ratepayers should not pay for Peoples' lobbying efforts. OCA St. 2 at 43; Section VI.O. Ratepayers should not pay for the Company's sports advertising. OCA St. 2 at 42; Section VI.H. Ratepayers should not pay for costs that are not known and measurable, such as inflation adjustments – regardless of whether the adjustment is rooted in historical average costs or indices. OCA St. 2SR at 4; Section VI.C, VI.D. It is unjust and unreasonable to pass costs which benefit only the Company, its shareholders, and its employees onto ratepayers, who do not see the same benefits as Peoples or Essential by paying for such expenses.

Peoples did not provide evidence that such rate base or operations and management expenditures are reasonable or necessary to provide safe, adequate, and reliable service. Instead, the OCA submits that customers' quality of service will not change if Peoples' requests are authorized. If Peoples cannot meet this bar, then such requests should be denied, as the Company would not have met its burden of proof. 66 Pa. C.S. § 315(a)(e).

B. Peoples Is Not at Risk of Financial Collapse.

In this proceeding, Peoples has sounded alarm bells time and time again that, if its cost of capital request or WNA request is not granted, that it will sink into financial ruin. To stop the ringing, Peoples has demanded a 11.75% return on equity and a revenue decoupling mechanism in addition to the two forms of alternative ratemaking it has already implemented. The Company exaggerates the tenuousness of its financial position.

Peoples' claim of an 11.75% return on equity far exceeds investors' expectations, is inconsistent with the level of risk commensurate with a regulated public utility, and is largely unreasonable by unsupported size, leverage, and management performance adjustments. These

adjustments constitute approximately \$79.4 million of the Company's revenue requirement request. I&E St. 2 at 68 (\$41.8 million from a leverage adjustment, \$30.2 million from a size adjustment, and \$7.4 from a management performance adder). The inclusion of these unsupported adjustments demonstrates how Peoples is doing whatever it can to grow its return on equity request to the highest number possible, despite the fact that the Commission has consistently declined to implement them in recent cases, with incredibly few exceptions.

The Company's claimed return on equity is the most significant driver of Peoples' revenue request. Bill affordability poses paramount concerns for both Peoples' customers and the Company itself. OCA St. 6 at 14; *Pa. PUC v. Roaring Creek Water Co.*, 73 Pa. PUC 373, 400 (1990) (*Roaring Creek 1990*) (affordability "is in both the shareholders' and ratepayers' best interest. Affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service."). Yet, Peoples did not make adjustments to its return on equity request to identify that, as return on equity increases (which in turn raises rates), the risk associated with the Company collecting its authorized revenue requirement increases dramatically. Instead, it sought only to adjust its revenue requirement upwards, not to balance its interests and those of its customers.

The Company's request for the WNA is unsupported and the WNA – which, simply put, is just another form of revenue decoupling – unreasonably shifts the risk of revenue recovery from where it belongs – with the Company – to where it does not – the consumers. The Company claimed that, because other Pennsylvania natural gas distribution companies have been authorized to implement WNAs, it should be able to as well. This is not evidence that is sufficient to warrant the inclusion of the WNA, as a claim that "everybody else is doing it" is not evidence that the mechanism would result in just and reasonable rates. Peoples claimed, without any support, that

investors expect decoupling mechanisms; yet, the Company merely provided a list of regulated NGDCs with *some form* of alternative ratemaking mechanism as evidence. OCA St. 3 at 50.

Peoples has not supported any claims, catastrophized or otherwise, regarding the risk that it will be put under if its request is not adopted. Peoples will still be able to provide the same level of service, including the safety, quality and reliability of that service, without shifting its risk onto its customers. The OCA submits that if the Commission holds Peoples to its burden of proof, the evidence in this case will reveal that Peoples' return on equity request and WNA mechanism would not only result in unjust and unreasonable rates, but that it would do so unnecessarily because Peoples has not demonstrated a viable basis to believe that it is exposed to such dramatic levels of risk to require such an excessive return on equity request or a risk-shifting, revenue decoupling mechanism.

C. Peoples' Rate Relief Request Is Apathetic to its Captive Customers.

The majority of Peoples' customers are residential customers, who are captive to whatever proposals Peoples is authorized to implement. Peoples' proposals seek to maximize the revenue from its captive customers, shift costs and risks to them, while growing its revenue pool by benefitting large, industrial customers.

By way of example, Peoples failed to provide separate notices to its two rate divisions. Specifically, Peoples mailed a combined notice of the proposed rate increase to all of its customers in both divisions, the PNGD and the PGD, without designating which division served the customer. Peoples' failure to designate a customer's operating division is significant because of differences in the magnitude of the projected increase. Notably, the total bill for a PNGD residential customer using 80 Mcf per year was projected to increase from \$73.16 to \$88.79 per month or by 21.4%, but the total bill for a PGD residential customer using 80 Mcf per year was only projected to increase from \$84.00 to \$90.35 per month or by 7.6%. As the significantly higher increase for

PNGD customers reveals, the operating division distinction matters greatly to customers, but Peoples simply left it to customers to figure out on their own, directing them to call Peoples if they had questions. Yet, Peoples' call center hours are limited to business hours, likely frustrating customers' ability to identify their rate division and associated rate impact.

Peoples' residential customers are, by and large, already struggling to afford their natural gas bills. In the past seven years, residential bills in winter months have gone up by nearly \$100. OCA St. 6 at 5. Low-income customers face the most significant cost burden, as utility bills continue to occupy greater portions of their income while income growth is not nearly as high. *Id.* at 7. Under the Company's proposal, rates will grow to be more unaffordable for a larger percentage of customers than at present rates. Part of the reason for this is Peoples' request to grow its guaranteed revenue stream through higher customer charges, reducing customers' ability to control their monthly bills while ensuring that, regardless of customers' attempts to conserve energy, the Company still gets paid. The WNA augments these concerns by adding another bill component beyond customers' control.

The last-minute adoption of a three percent deadband for the WNA proposal is a thinly-veiled attempt to make the WNA seem more consumer friendly. Setting aside the fact that Peoples witnesses contradict themselves about whether or not the WNA is an effective mechanism or in which months the WNA will be in effect, the WNA is a patently consumer-unfriendly mechanism. Peoples' own data evidences that more monthly bills are increased than decreased under a WNA. Peoples St. 15-R at 15 (55% of customer bills under a WNA would be increased). While the Company indicated that only 0.07% of bills are increased by more than 100%, it is unclear how many customers would see dramatic monthly impacts under a WNA, the OCA submits that most people would not consider a 100% increase proper representation for the floor of an abnormal bill.

OCA St. 4SR at 24. In all likelihood, 0.07% is an incredibly low estimate of the dramatic impact the WNA will have.

Further exacerbating harm to captive residential customers, the Company seeks to offer cheaper rates to large commercial and industrial customers. Peoples' cost-of-service study includes a customer component to allocate the cost of mains, an unabashed attempt to allocate more revenue to high-density, low-volume customer classes – such as residential customers – to the benefit of low-density, high-volume customer classes – namely, large commercial and industrial customers. Similarly, Peoples requests an amendment to its tariff to offer contract rates below tariffed rates to large commercial and industrial customers claiming that electricity is a competitive alternative fuel source for natural gas. For many of Peoples' customers, of course it is: electric service is ubiquitous. But such requests foist the burden of Peoples' satisfaction of its revenue requirement on residential customers, away from those with greater agency to navigate captivity.

Peoples had every opportunity to present a reasonable request, supported by adequate data, which did not take advantage of its captive customers; the Company elected not to. Instead, the record reflects that for the most part, Peoples already has sufficient annual revenue to meet its obligations under law and its obligations to shareholders. The OCA has presented information that challenges Peoples case and has demonstrated that Peoples has simply not met its burden of proof with regard to most elements of its case. As presented by the OCA, Peoples is entitled to an annual revenue requirement increase of no more than \$13,018,740. For these reasons, as well as the reasons stated in the sections which follow, the Company's rate relief request should be adjusted, as recommended by the OCA.

IV. RATE BASE

A. Plant Additions

The OCA recommends that the Company’s use of “inflation factors” to estimate the increased cost of capital expenditures in its FTY and FPFTY be disallowed. Inflation factors are a broad, blanket economic adjustment rooted in inflation estimates and the Consumer Price Index (CPI) to replicate anticipated inflation over time. OCA St. 2 at 8. Inflation factors, as a result, are not specific to the cost of the thing estimated – such as anticipated increase in the cost of steel, labor, or other specific costs – but are an across-the-board increase in costs that is neither known nor measurable. *Id.*

The use of broad inflation adjustments to estimate the cost of additional plant undermines the ratemaking concept of “used and useful” and certainly does not rise to the level of meeting Peoples’ burden of proof in this proceeding. *See* 66 Pa. C.S. § 102 (defining “Rate base” as “[t]he value of the whole or any part of the property of a public utility *which is used and useful* in the public service”) (emphasis added); *see also* 66 Pa. C.S. § 315(e) (permitting the use of a FPFTY in discharging the burden of proof); *see also Pa. PUC v UGI Utilities, Inc-Electric Division*, R-2017-2640058 (Order October 25, 2018) (*UGI 2018*) at 27-31, 79 (rejecting the utility’s rate base and related expense claims in the FPFTY because the utility did not demonstrate by the close of the record that there would be “reasonable certainty” that the claimed plant would “be in operation” and thus used and useful in the FPFTY), *aff’d McCloskey 2020* at 207, n.9 (finding Commission properly excluded rate base “on the basis that there was insufficient evidence to support that it would be in service during the FPFTY.”); *see also* 66 Pa.C.S. § 315(a) (utility bears the burden of proving the justness and reasonableness of every element of its requested rate increase); *Burleson*, 461 A.2d at 1236.

Here, Peoples has not met its burden of proving how the cost of inflation Peoples has requested to add to its rate base constitutes used and useful plant in the FPFTY. Specifically, Peoples uses inflation factors of 2.31% in its FTY and an additional 2.4% in its FPFTY for LTIP capital expenditures. OCA St. 2 at 8. For its general plant expenditures, the Company uses inflation factors of 4% in its FTY and 3.5% in its FPFTY. *Id.* For its mainline extension program, Peoples used an inflation factor of 3.5% in its FPFTY. *Id.* Peoples has not substantiated that these inflation factors are targeted or specific to the costs that it anticipates for each of the above programs. Beyond concluding that “inflation is absolutely real,” Peoples has not demonstrated that the cost of inflation it estimates is reasonably likely to manifest through particular plant being put into service by the Company. OCA St. 2SR at 3. To the contrary, the Company indicates that if it is incorrect in its projection that it would use any over-collected funds due to overestimated materials costs to fund projects that may or may not occur during the FTY or FPFTY. *Id.* at 5. That is, Peoples is essentially requesting that the Commission authorize a revenue requirement for a period outside the FPFTY based on its best guess of what costs will be. *Id.* This is not permitted under applicable law or precedent. These are not small dollar amounts either, as Peoples is asking for \$27,819,503, *carte blanche*, to fund hypothetical rate base improvements which it cannot support will be reasonably certain to be used and useful during the FPFTY. Ratepayers should not fund Peoples’ speculation.

The Commission has repeatedly required specificity by the utility when using an inflation factor, and the Commission has disallowed inflation factors that are too speculative in nature. *Pa. PUC v. Phila. Elec. Co.*, 58 Pa. P.U.C. 7 (1983) (*PECO 1983*); *Nat’l Fuel Gas Dist. Corp. v. Pa. PUC*, 677 A.2d 861 (Pa. Cmwlth. 1986) (*NFG 1986*). In the 2021 Aqua water base rate case, the Commission stated, “allowing Aqua to apply a general inflation adjustment to a block of expenses

could incentivize less accurate tracking of expenses and a less rigorous approach to controlling costs for those expenses.” *Pa. PUC v Aqua Pa. Water Co.*, 2022 Pa. PUC LEXIS 161, *50-51. (Order entered May 16, 2022) (*Aqua 2022*). Additionally, the Commission found that Aqua’s “application of a General Price Adjustment to 22% of expenses is neither targeted nor specific.” *Id.* at *51.

Peoples has provided no data evidence supporting that its inflation adjustments, described above, are accurate representations of the costs which the Company knows will be incurred. Data provided by the Company indicates that its inflation factors were calculated using historical inflation data, which is an inaccurate representation of what levels of inflation will actually be experienced. OCA St. 4SR at 5. Indeed, had Peoples made its general rate increase request one year ago and relied upon the historical data provided by the Company in this case, it would likely be requesting upwards of an additional percentage point across the board for its inflationary adjustments. *See* Peoples St. 5R at 8 (the Company has experienced cost increases at a progressively slower rate since 2022, with atypically high cost increases in 2022 and 2023). By failing to establish a factual or evidentiary basis for the actual, specific inflation factors utilized, Peoples should not be able to recover such costs, as it bears the burden of proof. 66 Pa. C.S. § 315(e).

As a result, OCA witness Mugrace recommends an adjustment of (\$27,819,502) to the Company’s requested additions to rate base in its FTY and FPFTY, solely from the removal of estimated costs associated with the Company’s inflation factors. OCA St. 2 at 8; OCA Exh. DM-SR-5.

B. Robinson Township Facilities

On April 29, 2020, Peoples’ Robinson System, serving portions of Indiana County, experienced an over-pressurization event. *Pa. PUC v. Peoples Nat. Gas Co.*, Docket No. M-2023-

3024990 (Order entered May 9, 2024) (*Peoples Robinson Investigation*) at 2. As a result of the over-pressurization, over 400 privately-owned appliances as well as 4,552 feet of steel pipe and 133 service lines had to be replaced. *Id.* at 5. The settlement required that the Company replace the customer-owned appliances and service lines and not recover such costs from ratepayers. *Id.* at 13. However, the settlement agreement did not address the amount of Company-owned property which was replaced following the incident or whether the cost of replacement should be recovered from ratepayers. In prior settlements with I&E, the Commission has authorized the recovery of such rate base claims to be litigated in a base rate proceeding, instead of in an investigatory proceeding. *See, e.g., Pa. PUC v. Columbia Gas of PA, Inc.*, Docket No. M-2021-3005572 (Order Aug 24, 2023).

Peoples is seeking to recover the \$1,462,407 that it expended to replace its damaged facilities, steel pipelines, as an addition to rate base. OCA St. 2 at 10. Peoples should not be permitted to recover the cost to replace its damaged facilities from ratepayers when its own conduct directly created the need for such replacement. As the Commission's Order issued in the *Peoples Robinson Investigation* outlines, the I&E Safety Division's investigation into the over pressurization event identified that Peoples' technicians failed to follow procedures, and that Peoples' training materials "were not sufficiently detailed to ensure employees were qualified to conduct bypass operations when inspecting regulator stations." *Peoples Robinson Investigation, Order at 5*. The OCA submits that it is antithetical to permit Peoples to recover, from ratepayers, replacements costs for damaged property that relates solely to its own negligent conduct that produced the damage and where the plant would not have been replaced but for Peoples' negligence.

Peoples attempts to evade accountability for the costs of the damage it caused by claiming that “the steel pipelines in Robinson were not damaged as a result of the incident” and that the replaced pipelines “could have safely remained in service despite the incident.” Peoples St. No. 5-R at 8-9. As OCA witness Mugrace accurately explained, if it were true that the pipelines could have safely remained in the ground, then Peoples premature replacement of them deprived ratepayers of their use earlier than necessary, and it injected inappropriate cost recovery in this case because the pipelines would not have been replaced in the FPFTY. OCA St. 2SR at 6-7.

Additionally, while Peoples witness Becker also claimed that the I&E’s Safety Division compelled Peoples to replace the pipeline, which otherwise could have remained in the ground, and that the pipeline would have eventually been replaced through Peoples’ Long-Term Infrastructure Improvement Plan (LTIIIP), these claims did not bear out. *See* Peoples Statement No. 5-R at 9. Instead, evidence proves that I&E’s Safety Division directed Peoples to “accelerate replacement of assets that were *affected by the overpressure incident*” and therefore, Peoples’ decision to replace the pipeline was either made with a determination that the pipeline was affected by the over pressurization incident, see Exhibit DM-SR-38, p. 2 of 3,⁷ or was made prematurely. In either case, it should not be recoverable. Additionally, Peoples expressly admitted that but for the Robinson incident, the pipeline replacement would not have been accelerated. Exhibit DM-SR-38, p. 3 of 3. On these facts, Peoples has failed to meet that burden of proving that it is entitled to recover the pipeline replacement costs that have directly resulted from the Robinson incident, and the request for rate base inclusion of \$1,462,407 for replacement of the Robinson assets should be denied.⁸

⁷ Emphasis added.

⁸ The OCA notes that if the costs of replaced pipeline were permitted to be included in Peoples’ rate base, it would produce the contrived result of compelling ratepayers to pay for the replacement of the property, along with a

D. Act 40 Adjustment

The OCA recommends that the Company be required to commit 50% of its consolidated tax expense adjustment, or \$27,460, to utility working capital. OCA St. 2 at 65. Currently, the Company is receiving additional rate revenue earmarked for paying its state net income tax in excess of the actual tax amount. *Id.* at 63. Under Act 40 of 2016, codified at Section 1301.1 of the Code, regulated public utilities are required to use 50% of excess rates collected for the purpose of paying income tax “to support reliability or infrastructure related to the rate-base eligible capital investment” and 50% for “general corporate purposes.” 66 Pa. C.S. § 1301.1. Due to the Company’s LTIIP contributions in excess of \$508 million, Mr. Mugrace acknowledges that the company is satisfying its contributions towards infrastructure reliability under Act 40. OCA St. 2 at 63. However, the Company has provided no specific description of how the remaining excess tax revenue is going to be utilized, only that it intends to use it “for any permissible corporate purpose.” Peoples St. 7 at 23:12-13.

The OCA submits that the Company should dedicate the additional funding towards a corporate purpose which benefits ratepayers. Under the Company’s current proposal, Peoples could use the excess tax revenue to benefit its stockholders, even though any rates collected in excess of actual tax expense should provide value to ratepayers, who paid artificially higher rates than necessary. OCA St. 2 at 64. The Company should provide a specific designation for the use of the \$27,460 collected which specifically benefits ratepayers. Since it has elected to be vague rather than specific, the OCA has no reassurance that these funds will appropriately benefit ratepayers and recommends that the balance of the consolidated tax expense adjustment be used

shareholder return on the value of that property, even though Peoples’ negligence caused the damage necessitating the replacement.

as a source of non-investor-supplied funding for utility working capital. *Id.* at 65. This would reduce the revenue requirement that is necessary to be collected from ratepayers.

E. Depreciation Issues

Should the Commission grant the OCA's reductions in gross plant in service of (\$29,282,008), Mr. Mugrace's recommended adjustment to Peoples' claimed depreciation reserve of \$409,497 should be granted as well. OCA Exh. DM-6. The OCA's position on reduction to accumulated depreciation is more fully described below in Section VI.T, regarding depreciation expense. The OCA reserves the right to reply in its Reply Brief to all issues raised regarding depreciation reserve.

F. Cash Working Capital

The OCA recommends an adjustment of (\$1,139,713) to the Company's cash working capital request, for a total of \$35,117,204. OCA Exh. DM-SR-7. This amount does not include the Act 40 adjustment described above, of (\$27,460) to Peoples' working capital. The total OCA adjustment to Peoples' cash working capital is (\$1,167,173). OCA Exh. DM-SR-3. OCA witness Mugrace's recommendation flows from his adjustments to operating and maintenance expenses used to calculate the Company's cash working capital balance, as well as expenses for taxes and interest on long-term debt. OCA St. 2 at 12-13.

G. Deferred Taxes

The OCA recommends that the Company's accumulated deferred income tax (ADIT) balance be adjusted by (\$85,995) for a total ADIT balance of (\$3,146,849). OCA Exh. DM-SR-8. Mr. Mugrace's recommendation flows from the above adjustment to Peoples' claimed gross plant in service and depreciation expense, where the reduced values for both plant and depreciation results in a lower deferred tax balance. OCA St. 2 at 16.

H. Conclusion

The OCA recommends an overall adjustment to Peoples' rate base balance of (\$30,772,687) from the Company's claimed FPFTY rate base balance of \$5,587,906,895.⁹ OCA Exh. DM-SR-3. The OCA recommends the removal of the portion of rate base which constitutes "inflationary adjustments" for the FTY and FPFTY that are not supported by sufficient evidence but rely on indices and inflation factors to support additions to rate base that are not tied to specific projects, plant accounts, or other measures of rate base. Peoples also failed to support its claim for the inclusion of the plant it replaced as a result of the Robinson over pressurization event, which it would not have replaced had the event not occurred. The OCA's remaining adjustments to the Company's rate base balance – those regarding cash working capital and deferred income tax – flow from other adjustments to rate base and operating and management expenses.

Peoples has not met its burden of proving the justness and reasonableness the plant claimed in rate base and all estimations or adjustments resulting from its use of a FPFTY. 66 Pa. C.S. § 315(a), (e). The Company's request to include such costs in its rate base balance are not adequately supported by evidence of record, are not sufficiently specific, and charging customers for such inclusions would not result in just and reasonable rates. As such, the OCA's evidence offered to support its recommended adjustments outweighs the evidence presented by the Company, and the OCA's adjustments should be accepted.

V. REVENUES

The OCA did not offer adjustments to the Company's claimed operating revenue at present rates, which, as recognized by OCA witness Mugrace, the Company claimed in the amount of to

⁹ The OCA's adjustments to Peoples' rate base balance result in an overall adjustment of (\$29,691,505) to Peoples' total net gas plant in service, for an OCA recommended net plant in service balance of \$4,101,942,724.

\$833,215,510.¹⁰ OCA St. 2 at 16. While the OCA is not briefing this issue at present, the OCA reserves the right to respond in its Reply Brief if necessary.

VI. EXPENSES

Peoples has claimed annual operation and management (O&M) expenses for the FPFTY is \$227,010,807, which is comprised of \$223,598,705 of expenses at present rates and \$3,412,102 for additional uncollectible expenses. OCA St. 2SR at 2.¹¹ The OCA recommends that \$20,679,612 of the Company's claimed expenses be disallowed, comprised of a downward adjustment of O&M expenses by \$17,551,873, for a total O&M expense of \$206,331,194. *Id.* The OCA's recommended adjustments are represented in the following table:

¹⁰ Mr. Mugrace identified Peoples' Company Exhibit No. 2 Schedule No. 4 page 2 of 7. As his source for Peoples' claimed present rate revenue. While Mr. Mugrace adjusted Peoples' claimed revenue requirement of \$156,016,012 for its FPFTY as indicated herein, he did not adjust Peoples' the present rate revenue component of Peoples' operating revenue claims,

¹¹ To the extent that the OCA does not brief on a specific expense, the OCA reserves the right to respond in its Reply Brief if necessary.

Operation and Maintenance Expenses				
Claimed Expense	Company Proposed	OCA Adjustment	OCA Proposed	OCA Schedule
Labor	\$ 69,463,580	\$ (1,742,697)	\$ 67,720,883	DM-SR-11
STI/Incentive Compensation	\$ 5,624,024	\$ (3,074,490)	\$ 2,549,534	DM-SR-12
Pension	\$ 5,670,000	\$ (2,802,416)	\$ 2,867,584	DM-SR-13
PBOP	\$ 2,414,041	\$ 148,250	\$ 2,562,291	DM-SR-14
Other Employee Benefits	\$ 20,982,496	\$ (778,454)	\$ 20,204,042	DM-SR-15
Outside Services – Contracted	\$ 28,657,932	\$ (1,940,335)	\$ 26,717,597	DM-SR-16
Outside Services – IT	\$ 10,223,964	\$ (442,315)	\$ 9,781,649	DM-SR-17
Outside Services – A&G	\$ 3,383,833	\$ (428,262)	\$ 2,955,571	DM-SR-18
Corporate Insurance	\$ 9,080,331	\$ (1,648,544)	\$ 7,431,787	DM-SR-20
Injuries and Damages	\$ 2,460,710	\$ (150,237)	\$ 2,310,473	DM-SR-21
Travel	\$ 1,014,712	\$ (912,788)	\$ 101,924	DM-SR-22
Company Memberships	\$ 832,200	\$ (247,270)	\$ 584,930	DM-SR-23
Licenses & Permits	\$ 746,068	\$ (68,644)	\$ 677,424	DM-SR-24
Utilities & Fuels – Company Operations	\$ 2,949,856	\$ (172,240)	\$ 2,777,616	DM-SR-25
Advertising	\$ 1,423,934	\$ (86,938)	\$ 1,336,996	DM-SR-26
Fleet	\$ 1,170,486	\$ (71,376)	\$ 1,099,110	DM-SR-27
Materials & Supplies	\$ 11,848,248	\$ (794,687)	\$ 11,053,561	DM-SR-28
Other O&M	\$ 23,696,895	\$ (1,775,041)	\$ 21,921,854	DM-SR-29
Payment Processing	\$ 2,015,819	\$ (219,720)	\$ 1,796,099	DM-SR-31
Rate Case Expenses	\$ 1,031,000	\$ (343,667)	\$ 687,333	DM-SR-32
Total Operation and Maintenance	\$ 223,598,705	\$ (17,551,873)	\$ 206,046,832	

OCA Exh. DM-SR-10.

A. Updates to Original Filing

The above adjustments do not include an updated recommendation regarding the additional \$996,345 Peoples requested be authorized in the event its full requested revenue requirement not be granted. OCA St. 2SR at 3. Peoples’ request should not be permitted. Peoples had access to all of the information which formed the basis of its updated request at the time of filing; however, in the course of litigation, the Company realized that it should have requested additional revenue to

recover greater amounts for certain expenses under revised estimates. *Id.* Peoples did not provide adequate evidence to explain why it did not utilize its updated figures at the time of filing or how it arrived upon its updated calculations. OCA St. 2SR at 11, 28-29. Where a utility fails to provide an explanation for updated expense claims and provide evidence in support of its updated claims, the utility's updated request should be given little weight. *See, e.g., Aqua 2022* at *59 (Aqua's mid-litigation request for increase insurance claim expense based on updated experienced costs rejected as unsupported).

In this case, as in *Aqua*, Peoples has provided inadequate evidence to justify its updated information or to support its revised calculation. Therefore, the OCA's recommendation that Peoples should not recover such costs in the event of the grant of a less-than-requested revenue requirement should be granted, as Peoples has failed to meet its burden of proof.

C. Five-Year Average Increases

Peoples has included \$7,031,592 of inflationary adjustments in its expense requests, all of which should be disallowed as they are unsupported. The time frame over which Peoples chose to model its historical cost increases were averaged over periods that varied between two years to five years. *See generally*, Peoples St. 2R at 10-13, 26. However, costs do not change proportionately or evenly across the board over time, and Peoples cannot predict how costs will fluctuate with any certainty. OCA St. 2SR at 13. The Company did not provide evidence to support why a five-year annualization period was appropriate, or why it expects to experience the same cost increases by the end of the FPFTY as it has experienced, on average, during the past five years. *Id.* Costs fluctuate significantly over the period of time Peoples seeks to annualize as a result of the COVID-19 pandemic. *Id.*; *see also* Peoples Exh. 4, Sch. 22 at 2 (\$10 million fluctuation in expenses between 2021 and 2022, and \$2 million between 2022 and 2023). Peoples' evidence in support of its inflation adjustments clearly demonstrates that cost increases have lessened since

2022 and, as a result, the Company's cost adjustments based on current economic conditions are highly speculative and overstated. *Supra* at Section IV.A; Peoples St. 5R at 7-8 (showing inflation¹² and cost increases have dramatically slowed since 2022).

The Company bears the burden of proof to demonstrate that the estimates it relies upon in determining its FTY and FPFTY revenue requirements are accurate. 66 Pa. C.S. § 315(e). It has failed to do so, instead relying on historical information which is not representative of the economic conditions which will exist in the FPFTY, which does not distinguish between anticipated changes in costs within a particular expense, and which does not identify how or why the proportions of costs within an expense will change over time. All such factors are necessary and relevant considerations for the Company to meet its burden of proof..

The OCA recommends removing the \$6,755,185 in inflation adjustments identified by Peoples as being based in historical average increases.¹³ Peoples 2-R at 11:15. Peoples has not supported its claims that the historical periods represent accurate estimates of future expenses or that the historical periods used are the proper length of time over which to average expense increases; therefore, it is unjust and unreasonable to pass such estimates on to ratepayers. For these reasons, the OCA recommends disallowing Peoples' claimed expense increases that utilize historical averaging to estimate future expenses, resulting in an adjustment of (\$6,755,185) to Peoples' total claimed revenue requirement.

¹² In Peoples Statement 5R, Peoples witness Becker appears to cite to the U.S. Labor Department's Bureau of Labor Statistics Employment Cost Index (ECI) news release from January 2023 by including a screen capture of the release on page seven, line 10, without including a citation to the release or offering it as an exhibit. While Mr. Becker only includes the release's information regarding the 12-month period ending December 2023, indicating an ECI increase "4% or more," further examination of the report demonstrates that the ECI increase for the 12-month period ending December 2022 was 5.1%, or 1% greater than ECI increase mentioned by Mr. Becker. U.S. Bureau of Labor Statistics, *Employment Cost Index – December 2023*, (Published Jan. 31, 2024) available at: https://www.dol.gov/newsroom/economicdata/eci_01312024.pdf.

¹³ Such expenses include: outside services – contracted, outside services – IT, outside services – A&G, corporate insurance, injuries and damages, travel, company memberships, licenses & permits, utilities & fuels, advertising, fleet, materials & supplies, other O&M, and payment processing expenses. Peoples 2-R at 11:15.

D. Inflation Adjustments

The OCA recommends that the Company's requested inflation adjustments, including the use of historical averaging to determine future expenses, be disallowed.

The Commission should reject all claimed expense increases that are not supported by targeted or specific data demonstrating increases to each claimed expense. *Aqua 2022* at *50-51. Blanket inflation adjustments, such as the ones supported by Peoples in its filing, were recently disallowed in PGW's 2023 general rate increase request. *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 (Order entered Nov. 9, 2023) (*PGW 2023*) at 72. In that case, PGW applied a blanket 4.63% inflation adjustment to 20% of its expenses, which the Commission struck down because it was applied broadly and does not meet the "'known and measurable' standard for increasing each FTY expense claim in the FPFTY." *Id.* (citing *Pa. PUC v. Wellsboro Electric Co.*, R-2019-3008208 (Order entered April 29, 2020) (*Wellsboro 2020*)). As in *Wellsboro*, the utility bears the burden of proving that its inflationary adjustments represent known and measurable changes to costs over time and that all adjusts to expense claims "directly relate[] to the actual costs expected to be incurred in each expense account in the FPFYU." *Wellsboro 2020* at 40.

It is essential that all expense increases that a utility *guesses* may occur in the FTY or FPFTY should be viewed with healthy skepticism and carefully scrutinized by the Commission. 66 Pa. C.S. §§ 315(a), (e). Should expense increases not materialize to the extent claimed by the Company, ratepayers are not able to recover their overpayment, absent a finding that the rates as a whole are found to be unjust and unreasonable, which presents an unreasonable burden for consumers to challenge the Company's claimed excessive expenses. *Nat'l Fuel Gas Dist. Corp. v. Pa. PUC*, 464 A.2d 546, 567 (Pa. Cmwlth. Ct. 1983) ("[T]he Code does not authorize the imposition of a refund of excess revenues and improvident expenditures without consideration of the reasonableness and justice of the rates as a whole."). The Company is better able to bear the

under-recovery of cost increases over time than ratepayers are of over-recovery. When assigning risk to the uncertainty of the Company's projections, the Commission should err in placing that risk on the Company who has an annual operating income in excess of \$500 million, rather than on consumers with an annual median income that is less than \$70,000.¹⁴ OCA Exh. DM-SR-4 (Peoples has current operating revenues of \$833,215,510 and a gas supply expense of \$317,688,615, leaving an excess of \$500,000,000 of operating revenues to utilize for expenses, capital, and returns to shareholders).

Simply, Peoples should not receive revenues for expenses that it has not reasonably demonstrated will be incurred. Inflation adjustments, including those premised on historical averages of the costs experienced by the utility, are rife with uncertainty and guess work that can turn the FPFTY into a fully speculative future test year as opposed to one that is bounded by reasonable projections. The OCA fundamentally rejects, as should the Commission, any notion that simply alleging that costs have increased in the past and that inflation exists is, *ipso facto*, sufficient substantiation of Peoples' claims.

¹⁴The median Q1 mean income (or the median income of the Q1 mean incomes reported for zip codes in Peoples' service territories) for 2022 was \$16,509, which, when multiplied by four to represent similar incomes for four quarters, indicates a median annual mean income of less than \$70,000. OCA St. 6 at 7.

The OCA's recommended adjustments to the Company's revenue requirement request related to unsupported inflation adjustments are summarized in the following table:

Inflation Related Adjustments				
Cost	Company Claim	Inflation Factor	OCA Adjustment	Total Allowance
Outside Services – Contracted	\$ 28,657,932	3.75%	\$ (1,940,335.00)	\$ 26,717,597
Outside Services – IT	\$ 10,223,964	2.39%	\$ (442,315.00)	\$ 9,781,649
Outside Services – A&G	\$ 3,383,833	7.00%	\$ (428,262.00)	\$ 2,955,571
Corporate Insurance	\$ 9,080,331	13.10%	\$ (1,648,544.35)	\$ 7,431,787
Injuries and Damages	\$ 2,460,710	3.20%	\$ (150,236.67)	\$ 2,310,473
Travel	\$ 1,014,712	4.40%	\$ (83,695.00)	\$ 101,924
Company Memberships	\$ 832,200	2.18%	\$ (35,067.00)	\$ 584,930
Licenses & Permits	\$ 746,068	3.62%	\$ (68,644.00)	\$ 677,424
Utilities & Fuels - Company Operations	\$ 2,949,856	3.05%	\$ (172,240.00)	\$ 2,777,616
Advertising	\$ 1,423,934	3.20%	\$ (86,938.00)	\$ 1,336,996
Fleet	\$ 1,170,486	3.20%	\$ (71,376.00)	\$ 1,099,110
Materials & Supplies	\$ 11,848,248	2.94%	\$ (794,686.00)	\$ 11,053,561
Other O&M	\$ 23,696,895	2.94%	\$ (889,533.00)	\$ 21,921,854
Payment Processing	\$ 2,015,819	7.82%	\$ (219,720.40)	\$ 1,796,099
Total	\$ 99,504,988		\$ (7,031,592)	\$ 92,473,396

OCA Exh. DM-SR-10; Peoples St. 2-R at 11:15.

Peoples has failed to provide sufficient evidence that the cost increases it estimates are sufficiently targeted and specific to be accurate. As the party with the burden of proof, Peoples must provide evidence to ensure rates based on claimed expenses are just and reasonable. 66 Pa. C.S. §§ 315(e), 1301. It failed to do so and, as a result, all inflationary adjustments should be disallowed. The Company's claimed revenue requirement should be adjusted by (\$7,031,592).

E. Corporate Insurance

The OCA recommends an adjustment to Peoples' claimed corporate insurance expense of (\$1,648,544), for a total of \$7,431,787. OCA Exh. DM-SR-20. Mr. Mugrace recommends this adjustment because it is the estimated increase in insurance premiums in the FTY and FPFTY, a

13.1% total increase in premiums. OCA St. 2 at 38. Peoples did not provide sufficient evidence to justify claiming an increased expense over the next two years. Instead, the Company claimed that, because its insurance premiums increased between 2021 and 2023, it could estimate that the increases would continue into the FTY and FPFTY. *Id.* However, the Company's estimates are presumptive, not rooted in substantial industry forecasts for increases in insurance premiums, and prone to drastic change within the near future. *Id.* at 39.

Specifically, Mr. Mugrace described the Company's estimates as "feedback" information, meaning that Peoples based its projected increase on the information provided by its insurance brokers, as opposed to renewal agreements, contracts, or purchase orders which indicate actual costs. OCA St. 2SR at 19. This cyclical basis for determining insurance premiums is volatile, and is difficult to predict the accuracy of the Company's estimated increase in premiums, as a result. Due to the difficulty of providing an accurate estimate, the Company's request for increased premium costs should be denied, and the Company's claimed insurance expense should be adjusted by (\$1,648,544).

F. Labor/Vacancy Expense

The OCA recommends an adjustment of (\$1,742,697) to the Company's claimed labor expense of \$69,463,580, for a total labor expense of \$67,720,883. OCA St. 2 at 27. OCA witness Mugrace made this adjustment through the use of a vacancy rate ratio. *Id.* A vacancy rate ratio is a tool utilized to estimate the number of employees a utility should retain during a test year when there is uncertainty regarding the number of employees who will be employed, as a result of turnover or other, similar causes of variation in the number of full-time employees over time. *Id.* at 26. The Commission has previously accepted OCA adjustments premised on use of a vacancy rate ratio. *See, e.g.,* PGW 2023 at 59; *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2010-2215623, 2011 Pa. PUC LEXIS 185 (Order Oct. 14, 2011) (*Columbia 2011*).

In this case, Mr. Mugrace used a vacancy rate ratio because the number of vacant full time employee positions has fluctuated during the course of the proceeding, and the Company has not supplied a vacancy credit for the number of vacant positions it anticipates will remain unfilled or would result from retirements and terminations by the end of the FPFTY. OCA St. 2 at 26. The Company indicated that it expected an average of 2.7% of its full-time employee positions would be empty in 2024, during the FTY, which Mr. Mugrace adopted as his recommended vacancy rate ratio. *Id.* The vacancy rate ratio was multiplied by Peoples witness Wachter's annualized FTY labor amount of \$64,552,792 to reach Mr. Mugrace's adjustment of \$1,742,925 to Peoples' labor expense, adjusted downward to indicated Mr. Mugrace's expectation that Peoples, on average, will experience vacancies in 2.7% of its full-time employee positions. OCA Exh. DM-11.

As Peoples did not provide sufficient evidence to establish that it will experience less than a 2.7% vacancy rate by the end of the FPFTY, and provided no basis upon which the Commission could determine that Peoples will maintain a 0% vacancy, as implied by Mr. Wachter, Mr. Mugrace's testimony outweighs Peoples' claims that no costs should be disallowed. As a result, the OCA respectfully requests the Commission reduce the Company's claimed labor expense by \$1,742,697.

G. Incentive Compensation

The OCA recommends an adjustment of **(BEGIN CONFIDENTIAL)** [REDACTED] **(END CONFIDENTIAL)** to Peoples' claimed expense for an incentive program the Company has implemented for its employees, for a total allowance of **(BEGIN CONFIDENTIAL)** [REDACTED] **(END CONFIDENTIAL)**. OCA Exh. DM-SR-12.

Where an incentive compensation plan is reasonable, prudently incurred, not excessive, and there is a benefit to ratepayers, a Company may recover the expense of that program. *Pa. PUC v. PPL Elec. Util. Corp.*, R-2012-2290597 (Order entered Dec. 28, 2012) (*PPL 2012*). In *PPL*

2012 the Commission allowed incentive compensation expense because it was consistent with the Commission's "prior decisions approving incentive compensation programs that are focused on improving operational effectiveness." *PPL 2012* at 26 (citing *Pa. PUC v. Aqua Pa., Inc.*, 2008 Pa. PUC LEXIS 50, *24; *Pa. PUC v. Duquesne Light Co.*, 1987 Pa. PUC LEXIS 342 at *99-100). In *Aqua 2022*, the Commission found that Aqua's stock-based compensation was linked to performance objectives that benefit consumers, as they were linked to providing quality service at a reduced cost. Similarly, the Commission has approved incentive compensation plans where employees eligible for the compensation "have direct responsibilities for customer service and regulatory compliance or are otherwise responsible for ensuring safe and reliable service to customers." *Pa. PUC v. Pa.-American Water Co.*, 2021 PA. PUC LEXIS 55 at *59 (Order Feb. 25, 2021) (*PAWC 2021*). Having a financial metric component to the incentive compensation plan does not disqualify it from inclusion in the utility's revenue requirement, if the incentive plan establishes that eligibility for the incentive "is based on performance duties and metrics directly related to the provision of service." *Id.* at *60.

The portions of the Company's STI program Mr. Muger recommends disallowing do not provide benefits to ratepayers by offering more safe, reliable, or affordable utility service; instead, they focus on corporate objectives regarding financial performance and diversity, equity, and inclusion. OCA St. 2 at 28-29. The OCA submits that corporate objectives which serve shareholders by increasing the Company's perceived value or which further the appearance of the Company as a good corporate citizen should not be recoverable from ratepayers. OCA St. 2SR at 14-16.

The Company's argument that an incentive program entirely based on financial metrics provides ratepayers with direct benefits should be given little weight. Peoples St. 2R at 22. This is

particularly true when viewed in light of the fact that key financial performance metrics identified in the program include **(BEGIN CONFIDENTIAL)** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **(END CONFIDENTIAL)**.

Additionally, while Peoples witness Wachter claims that providing incentives drives employees to be more efficient with costs and that such savings delay the need for future rate cases, that position is directly at odds with Peoples’ position on its rate filing frequency. *See* Peoples St. No. 2-R at 22 To be sure, witness Wachter also testifies that Peoples will return for a rate increase in approximately two years, which he later indicates is “quite frankly conservative.” *Id.* at 45-46. Third, the majority of the Company’s financial metrics for awarding the incentive are not tied to financial stewardship. **(BEGIN CONFIDENTIAL)** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(END CONFIDENTIAL). As the determinants of the financial STI are separate and apart from any metric related to providing direct ratepayer benefit, the financial STI is not similar to those approved in the *PAWC 2021* or *Aqua 2022*, where the Commission found a direct connection between *both* financial performance or cost containment *and* improved quality of service, customer service, safety, compliance, or reliability. OCA St. 2SR at 16.

¹⁵ The source for this information is Peoples’ Confidential Volume 12, Ex. 19, RR-27, Attachment B, p. 8 of 12.

Similarly, the Company’s diversity, equity, and inclusion (DEI) incentive program evidences no connection between ratepayer benefits and the Company’s incentives. *Id.* at 18. While the OCA supports DEI initiatives which promote cultural competence within utilities’ points of consumer contact, as with all other expenses, the Company bears the burden of proving that its proposed expense is prudent and reasonable before it can recover the cost of that expense from ratepayers. 66 Pa. C.S. § 315. (BEGIN CONFIDENTIAL) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. (END CONFIDENTIAL) As a result, the Company has failed to meet its burden of proof regard to the categories Mr. Mugrace recommends disallowing.

Notably, Mr. Mugrace did recommend permitting the Company to recover the cost of incentive compensation for the Company’s programs “related to customer service, performance and other customer related issues.” OCA St. 2SR at 16. The Company simply did not evidence that the above two categories were tied to the same level of ratepayer benefit as those Mr. Mugrace recommends the Commission permit Peoples to recover. Therefore, the evidence weighs against permitting Peoples to recover the costs of its financial- and DEI-based short-term incentive programs. Disallowing such costs would result in an adjustment of (BEGIN CONFIDENTIAL) [REDACTED] (END CONFIDENTIAL) for an allowance of (BEGIN CONFIDENTIAL) [REDACTED] (END CONFIDENTIAL) for short-term incentive compensation. Exh. DM-SR-10.

H. Employee Expenses

The OCA recommends an adjustment of (\$527,144) to Peoples' proposed benefits compensation expense for a total benefits expense of \$20,458,479. OCA St. 2 at 33. Mr. Mugrace's recommends this reduction due to his recommended adjustment to labor expense; Peoples determined their claimed benefits compensation expense by multiplying their labor expense by 30.21%. *Id.* As such, Mr. Mugrace multiplied his adjusted labor expense balance by 30.21% to reach the adjusted benefits compensation expense.

Mr. Mugrace also recommends an additional adjustment of (\$254,437) in expenses for Employee Service and Safety Award and Employee Events. *Id.* Specifically, the Company presented no evidence to demonstrate that these awards provided ratepayers with benefit. As a result, they should not be included in the Company's revenue requirement. Therefore, the OCA recommends an overall adjustment to Peoples' benefits compensation expense of (\$778,454). OCA Exh. DM-SR-15.

I. Materials & Supplies

The OCA recommends an adjustment of (\$794,687) to the Company's claimed materials and supplies expenses, for a total allowance of \$11,053,561. OCA Exh. DM-28. First, OCA witness Mugrace removed the Company's 2.04% inflation adjustment from the claimed expense; as identified *supra* in Section VI.D. OCA St. 2 at 47. The Company similarly included a 5% inflationary increase to its overall adjustment of \$742,725 to its cost per fault, higher number of faults expected, and the higher cost of anodes, which Mr. Mugrace adjusted by (\$49,932) in order to correct the inflationary adjustment. *Id.* at 48. Peoples has not provided evidence to support the accuracy of its inflation adjustment estimates, and the inflation adjustment should be removed, resulting in an overall adjustment of (\$794,687). *Id.*

J. Pension Expense

The OCA recommends the normalization of the Company's anticipated pension expense over the next five years, for an annual pension expense of \$2,867,584. OCA St. 2 at 30. OCA's recommendation is due to the high level of annual fluctuation in pension expenses, from \$560,190 in 2020 to \$5,408,063 in 2022. *Id.* OCA witness Mugrace calculated his proposed pension expense by averaging the Company's pension expense between 2018 and 2022. *Id.*

In *PGW 2023*, the Commission made similar adjustments as a result of the OCA's recommendation, providing that:

Normalization adjustments are made to eliminate any unusual activity or event, or to stabilize fluctuations in expenses which would not reasonably be expected to recur in the future. In other words, normalization is a ratemaking technique used to smooth out the effects of an expense item that occurs at regular intervals in irregular amounts.

PGW 2023 at 82-83 (citing *Pa. PUC v. Total Environmental Solutions, Inc.*, Docket Nos. R-00072493 (Order July 30, 2008) (*TESI*) at 72). Due to the high levels of fluctuation in Peoples' pension expense since 2018, normalization is appropriate with regard to pension expense. OCA St. 2 at 30.

The Company claimed a pension expense of \$5,670,000, or the average of its pension expenses in 2022 and 2023. *Id.* While the more recent data is illustrative, it does not represent the Company's historical contributions to its pension balance. Using a normalized five-year average instead of a two-year average proposed by the Company is more representative of the likely pension expense that the Company will incur, as it incorporates the Company's historical contributions – which fluctuate significantly more than contributions in 2022 and 2023 – in addition to recent contributions. Additionally, using the five-year average smooths out the extreme increase. Therefore, the OCA recommends that the Company's claimed pension expense be adjusted by (\$2,802,416).

K. Post-Retirement Other Than Pensions (PBOP)

Similarly, the OCA recommends that the Company's PBOP expense be adjusted by \$148,250 for a balance of \$2,562,291. OCA Exh. DM-SR-14. Mr. Mugrace arrived upon the balance by first averaging the Company's PBOP expenditures between 2018 and 2022 for a total of \$1,438,988, then normalizing the average of those amounts over the next five years in the same manner as the pension expense, due to the fluctuations in PBOP balance over time from a high of \$1,636,734 in 2021 to a low of \$1,186,742 in 2019. OCA St. 2 at 32. Establishing \$1,438,988 as the Company's HTY expense for PBOP resulted in an adjustment of \$208,991, which Mr. Mugrace flowed through to the FPFTY. *Id.* Mr. Mugrace added the \$208,991 to his calculated PBOP expense, which he arrived at in the same method as the pension expense, by multiplying his adjusted labor expense by 3.475%, to arrive at \$2,353,301, for a grand total PBOP expense of \$2,562,291. *Id.* at 63. His total PBOP expense is an overall adjustment of \$148,251 from the Company's proposal.

L. Rate Case Expenses

The OCA recommends that the Company's claimed rate case expense be amortized over the next three years, for an annual rate case expense of \$687,333, an annual adjustment of (\$343,667). OCA St. 2 at 53. Mr. Mugrace's recommendation is based in the Company's historical filing frequency of three years over its previous five rate cases, as is depicted here:

Year	Entity	Docket Number
2008	Equitable	R-2008-2029325
2010	Peoples	R-2010-2201702
2012	Peoples	R-2021-2285985
2019	Peoples	R-2018-3006818
2023	Peoples	R-2023-3044549
15 years between 2008 and 2023		
Normalization Period:	15 / 5 Proceedings	= 3-year normalization period

Id. The Commission has consistently relied on the historical filing frequency of a utility to determine the length of time over which its rate case expense will be normalized. *See, e.g., PGW 2023* at 66; *Pa. PUC v. Columbia Water Co.*, Docket No. R-2023-3040258, 2024 PA. PUC LEXIS 23 at *20-21 (Order entered Jan. 18, 2024); *Pa. PUC v. Columbia Water Co.*, 2009 Pa. PUC LEXIS 1423 (Order entered June 10, 2009); *LP Water* at 1154; *Pa. PUC v. Nat’l Fuel Gas Dist. Corp.*, 84 Pa. PUC 134, 175 (1995); *Roaring Creek* 1990.

Conversely, Peoples’ position is directly at odds with precedent, because it requires the Commission to accept Peoples’ projection that it will file a rate case again within two years, when historically, Peoples has not done so. *See Peoples St. 2-R* at 44-45. If Peoples files in two years, the rate case frequency will begin to adjust downward as their filing patterns adjust. There is no reason to guess about rate case filing frequency when the facts of the past are readily observable and able to be reflected in rates. Although Peoples points to gaps in its filing frequency as attributable to a base rate case stay out period and its changes in tax accounting method, those gaps were the result of Peoples’ own business decisions. Similar decisions could be made in the future which delay Peoples present intentions. The Commission should accept Mr. Mugrace’s adjustment to the rate case expense, as it conforms with Commission precedent, and reduce the annual normalized rate case expense by \$343,667.

M. Travel, Meals, and Entertainment Expense

The OCA recommends an adjustment of (\$912,788) to Peoples' claimed contract services expense claim, for a total allowed expense of \$101,924. OCA Exh. DM-22. First, OCA witness Mugrace removed the Company's 4.4% inflation adjustment from the claimed expense; as stated *supra* in Section VI.D, inflation adjustments must be targeted, specific adjustments resulting in a known and measurable change in expense over time. OCA St. 2 at 41. Peoples has not provided evidence to support the accuracy of its 4.4% estimate, and the inflation adjustment should be removed, resulting in an initial adjustment of (\$83,695). *Id.*

Second, Mr. Mugrace recommends removal of entertainment expenses, for a second adjustment of (\$829,093) because the Company has provided no information regarding how the Company's claimed entertainment expenses are reasonable to pass on to ratepayers. *Id.* Mr. Wachter provided the following table to explain such costs:

Expense	Amount	Reason for Inclusion
Travel expense	\$184,117	These costs represent valid travel costs such as mileage reimbursement, airfare, lodging, tolls, meals while traveling, etc.
Employee Events	\$219,298	These costs mainly relate to the costs associated with an employee picnic, an annual baseball game and tailgate, an employee leadership training event and other similar costs.
Sports Sponsorship Related expense	\$323,690	Costs represent costs related to corporate functions at sporting venues and other company events. These costs include the value of the tickets received in conjunction with the advertising partnerships the Company has with the various sports teams among other costs. These tickets are used for employee recognition and other such business purposes.
Other	\$101,988	Represents other employee related costs such as other reimbursable meals incurred during approved overtime, business related meals and working meals
Total	\$829,093	

Peoples St. 2R at 31-32.

Clearly, ratepayers draw no benefit from Peoples’ employees attending sporting events, picnics, or leadership training, or from Peoples’ sports sponsorships. There is no colorable argument between such entertainment expenses and ratepayers’ quality of service, customer service, or reliability. OCA St. 2SR at 21. To the extent that entertainment constitutes a “perk” of employment with Peoples and benefits ratepayers by encouraging employee retention, Peoples has not demonstrated that such entertainment expenses are connected to incentivizing superior utility service.

Peoples also offered no response to Mr. Mugrace’s comment that the Company’s claimed travel expenses, outside of being described as “valid,” are actually connected to the provision of utility service. *See* Peoples St. 2R at 31-32. As such, Peoples has not substantiated their claim for

their travel or travel-related expenses. OCA St. 2SR at 22. Absent adequate justification for how the Company's claimed travel and entertainment expenses are connected to providing safe and adequate utility service, Mr. Mugrace's recommendation to disallow \$912,788 substantially outweighs the evidence presented by Peoples, and should be accepted.

O. Company Memberships

The OCA recommends an adjustment of (\$247,270) to the Company's claimed membership expenses, for a total allowance of \$584,930. OCA Exh. DM-23. First, OCA witness Mugrace removed the Company's 2.18% inflation adjustment from the claimed expense; as identified *supra* in Section VI.D. OCA St. 2 at 42.

Second, Mr. Mugrace recommends removal of membership dues and other organization fees from the Company's claimed expenses.¹⁶ Under the Code, utilities are not permitted to recover the costs of "membership fees, dues or charges to fraternal, social or sports clubs or organizations." 66 Pa. C.S. § 1316.1. Peoples' customers see no benefit from the Company's participation in these organizations, as they are related to civic causes or lobbying; as a result, the Company should not be able to recover the costs of memberships which reflect its corporate citizenship and should be incurred below-the-line. *Cf. Pa. PUC v. Columbia Gas of Pa.*, Docket No. R-2022-3032167, 2023 PA. PUC LEXIS 173 at *27 (Order entered June 15, 2023) (tariff charge determined by the Commission to not be necessary for the provision of service should have been included "below the line," despite providing service which is desirable for some consumers, and could not be included in rates); *cf. Pa. PUC v. Pa.-American Water Co.*, Docket No. R-00038304, 2003 Pa. PUC LEXIS 498 (Order entered Nov. 26, 2003) at *145 (charitable contributions which the

¹⁶ The Company attempted to recover the costs associated with its memberships in Curate Solutions, Energy Association of Pennsylvania, Pittsburgh Area Chamber of Commerce, Pennsylvania Chamber of Commerce for Business and Industry, the Chamber of Commerce for Greater Philadelphia, and the Women's Business Enterprise National Council. OCA St. 2 at 43.

Commission lacks authority to order a public utility to make are properly considered “below the line” for ratemaking purposes, even if such contributions may provide benefits to some ratepayers).

While Mr. Wachter claims that such organizations provide benefits to ratepayers by generally promoting the economic vitality of parts of the Commonwealth or by offering Peoples policy responses which will be similar to the responses of other NGDCs or utilities, such benefits are too theoretical to be tied to any direct benefit to ratepayers. OCA St. 2SR at 22. Absent evidence that there is *any direct* benefit to ratepayers, Peoples’ claim is substantially outweighed by the arguments presented by OCA witness Mr. Mugrace. *Id.* Therefore, the OCA requests that Peoples not be permitted the costs of membership in such organizations, and that the Commission adjust the Company’s membership expenses by (\$247,270).

Q. Other O&M

The OCA recommends an adjustment of (\$1,775,041) to the Company’s proposed Other O&M expenses for a total allowance of \$21,921,854. OCA Exh. DM-29. This adjustment has two components. The first component is the removal of an inflationary adjustment. OCA witness Mugrace removed the Company’s 2.94% inflation adjustment from the claimed expense; as identified *supra* in Section VI.D. OCA St. 2 at 48.

Second, the OCA recommends disallowing costs associated with incentive compensation. Specifically, these costs are allocated to Peoples by its corporate parent, Essential, to compensate Essential employees on same bases as outlined *supra*. As stated above, under *PPL 2012*, the utility must establish that its incentive compensation plans provide benefit to ratepayers, among other considerations. *PPL 2012, supra*. Peoples has not provided such evidence. Therefore, Mr. Mugrace recommends reducing the Other O&M expense related to incentive compensation similarly to the adjustments made to Peoples’ incentive compensation. This results in an additional adjustment of

(BEGIN CONFIDENTIAL) ██████████ (END CONFIDENTIAL), for a total adjustment to Other O&M expenses of (\$1,775,041).

R. Payment Processing

While the OCA approves the expansion of third-party service contracts to eliminate transaction fees for residential customers' online or telephonic bill payment options, the Company has not provided data sufficient to support the claimed increase in costs over time. OCA St. 2 at 51. Specifically, the Company's offer to eliminate transaction fees provides a substantial benefit to PGD customers, as PNGD customers currently do not have to pay transaction fees in order to pay their bill. *Id.* However, Peoples claims that the cost to administer these contracts will increase 7.82% year over year in its FTY and FPFTY, plus an additional 10% increase following the expiration of its initial service contract in February 2025. *Id.* at 50-52. These costs are speculative and are not substantiated; as a result, Mr. Mugrace recommends an adjustment of (\$219,721), or 50% of each of the three increases the Company claims will occur by the end of the FPFTY. In this way, the Company is able to be flexible with the increase cost that comes with additional enrollment, without risking over-recovery of the speculative cost of the contract. OCA Exh. DM-31. The Company is more than capable of updating these expense numbers in its next rate case which it projects that it will file in two years.

S. Uncollectible Accounts

The OCA recommends that the Company's uncollectible accounts expense should be set at 2.2% of the Commission-approved revenue requirement. OCA St. 2 at 54. Peoples has currently proposed a 2.2% uncollectible rate for residential customers, without adjustment for commercial and industrial write-offs. *Id.* Based on the OCA's recommended revenue requirement increase of \$12,925,540 multiplied by the Company's 2.20% uncollectible account rate to arrive at a recommended uncollectible account expense of \$284,362. OCA Exh. DM-SR-33.

T. Depreciation Expense

As a result of the OCA's recommended disallowance to a portion of Peoples' gross plant in service, as provided above in Sections IV.A and IV.B, the OCA recommends an adjustment of (\$727,743) to the Company's claimed depreciation expense. OCA Exh. DM-35. Mr. Mugrace calculated this adjustment by multiplying the disallowed portion of plant by the Company's own depreciation rates. OCA St. 2 at 55. His use of the Company's depreciation rates is consistent with past Commission practice for adjustments to depreciation expense. *PGW 2023* at 105. Further, Mr. Mugrace's use of a depreciation rate is consistent with the Company's own inflation factor, the removal of which forms the primary basis for Mr. Mugrace's depreciation adjustment. Specifically, the Company used an inflation rate to estimate the increase in costs of implementing its LTIP through the end of the FPFTY; as stated above, inflation factors are a composite multiple used to project cost increases over time, without consideration for how each constituent component cost may increase over time, or how the proportion between such costs may shift within a given expense. OCA St. 2 at 8.

It is impossible, without the Company providing evidence of how costs will increase over time, to develop individual account based on a remaining life calculation. Peoples St. 14R at 4. As stated *supra* in Section IV.A, the Company's filing included only a hypothetical increase in rate base expenditures during the FTY and FPTY which was not adequately tied to any specific investments in plant or plant accounts which would enable accurate adjustments to either rate base or depreciation expense. Mr. Mugrace, therefore, must rely on a composite depreciation factor taken from the Company's filing in order to provide an adjustment to the Company's claimed depreciation expense.

It appears that the Company, despite modification to the gross plant in service balance, would prefer if no commensurate adjustment were made to depreciation expense, as it provided

no alternative recommended calculation to Mr. Mugrace. *See generally* Peoples St. 14R. Therefore, the OCA's recommendation outweighs all other possible adjustments which may flow from the above reduction to gross plant in service, and should be accepted, and the Company's claimed depreciation expense should be adjusted by (\$727,743).

U. Conclusion Regarding Expense Adjustments

The OCA recommends an overall adjustment to Peoples' claimed expenses of (\$17,551,873) from the Company's claimed FPFTY expenses of \$223,598,705. OCA Exh. DM-SR-10.

Peoples has the burden of proving each element of its general rate increase request, which includes the operations and maintenance expenses the Company estimates it will incur in its future test years. 66 Pa. C.S. § 315(a)(e). The Company's request to recover myriad costs which provide no ratepayer benefit but, instead, directly benefit the Company's image as a corporate citizen or provide greater return to its shareholders are unsupported and should be disallowed.

VII. TAXES

A. Income Tax

Peoples proposed income tax expense of (\$59,295,394) should be adjusted to by (\$30,246,391) for a total income tax expense allowance of (\$89,541,785). OCA Exh. DM-SR-37. OCA witness Mugrace made no adjustments to how Peoples calculated its federal or state income taxes. OCA St. 2 at 61. However, due to the Company's decreased revenue requirement under the OCA's overall recommendations, Mr. Mugrace had to adjust the income taxes to reflect the reduced income. *Id.* As a result, the OCA recommends that the Company's income tax expense be set at (\$89,541,785).

B. Taxes Other Than Income Tax

The OCA recommends an adjustment of (\$417,240) to the Company's claimed expense for taxes other than income tax in the amount of \$15,353,107, for an allowance of \$14,935,867. OCA Exh. DM-SR-36. Mr. Mugrace's recommendation is based in his adjustments to the labor expense, STI expense, and gross plant in service balance. OCA St. 2 at 57. As a result, Mr. Mugrace adjusted Peoples' payroll tax by (\$389,156), the unemployment tax by (\$22,563), and property tax by (\$5,581). OCA Exh. DM-SR-36.

VIII. RATE OF RETURN

A. Introduction

In this proceeding, Peoples proposed an excessive 11.75% return on equity. Peoples Exh. PRM-1, Schedule 1, p. 1. Moreover, Peoples proposed a capital structure of 54.67% common equity and 43.33% debt for its operations. *Id.* As demonstrated by OCA witness Aaron Rothschild and discussed in this brief, the Company's proposed return on equity and capital should be rejected as they are not supported by reliable evidence and would result in unjust and unreasonable rates. Mr. Rothschild recommends the following¹⁷:

- An overall cost of capital of 6.2%
- An ROE of 8.02%
- An imputed capital structure of 50% common equity and 50% debt for ratemaking purposes
- A debt cost rate of 4.37%

Mr. Rothschild's recommendations make proper use of accepted financial theory and realistically reflect today's capital cost environment. As Mr. Rothschild's analysis relies upon more timely data and information about investor expectations than that used by Peoples' witness Paul R. Moul, it is also more congruent with Peoples' use of a FPFTY in this case, which is

¹⁷ OCA St. 3 at 8.

forward-looking and heavily reliant upon the accuracy of future projections. As explained below, Mr. Moul’s analysis relies on less timely data and information about investor expectations, placing it squarely at odds with Peoples’ filing built upon a FPPTY. For these reasons, and in recognition of the facts and analysis presented below, the Company’s requests should be rejected and the OCA’s cost of capital recommendations should be adopted.

1. Summary of OCA Position

Mr. Rothschild recommends a cost of equity of 8.02% as the most appropriate point, which is a specific point within OCA witness Rothschild’s calculated range of 7.67% to 8.37%. OCA St. 3 at 10. To arrive at this recommendation, Mr. Rothschild applied the Constant Growth Discount Cash Flow (DCF) and a Capital Asset Pricing Model (CAPM) analysis as a check on reasonableness and to ensure that the Commission is able to consider how inflation and interest rates are impacting Peoples’ cost of equity. *Id.* at 10. The below table is OCA witness Rothschild’s cost of equity model results:

TABLE 2: COST OF EQUITY MODEL RESULTS		
DCF	Low	High
Constant Growth - Sustainable Growth	8.06%	8.09%
Constant Growth - Option-Implied Growth	9.42%	9.43%
Non-Constant Growth	8.40%	8.74%
CAPM		
Spot (Feb. 29, 2024)		
Risk Free Rate - 3-Month T Bill	7.69%	8.09%
Risk Free Rate - 30-Yr T Bond	7.50%	8.07%
3-Mo. Weighted Average (Dec. 2023 to Feb. 2024)		
Risk Free Rate - 3-Month T Bill	7.82%	8.22%
Risk Free Rate - 30-Yr T Bond	7.62%	8.18%
Outer Quartile Range	7.78%	8.48%
Midpoint of Range	8.13%	

Exhibit ALR-2

OCA St. 3 at 11.

The high-end results of Mr. Rothschild’s three cost of equity models, including eight variations of the CAPM, range between 8.07% and 9.43%. OCA St. 3 at 11. The low-end results of Mr. Rothschild’s three cost of equity models, including eight variations of the CAPM, range between 7.50% and 9.42%, with a lower quartile of 7.78%. *Id.*

The following table shows the differences in recommendations between OCA witness Rothschild and Mr. Moul:

	Cost of Equity	Cost of Debt	Common Equity %	Debt %	Rate of Return
Rothschild [1]	8.02%	4.37%	50.00%	50.00%	6.20%
Moul [2]	11.75%	4.37%	54.67%	45.33%	8.40%

[1] Exhibit ALR-1

[2] Mr. Moul's Direct Testimony, Exhibit PRM-1, page 1 of 29

OCA St. 3 at 13.

Significantly, Mr. Moul’s ROE for Peoples of 11.75% is significantly higher than financial professionals expect to earn on investments in companies that are operating in highly competitive markets, including sectors such as US Large Cap and companies like Tesla and Amazon. OCA St. 3SR at 4, Table 4. Even OCA witness Rothschild’s ROE recommendation of 8.02% (and his range or 7.67% to 8.37%) for Peoples is in the middle to upper range of these expectations. OCA St. 3 at 15. However, the expectations for companies in highly competitive markets would be higher than those for utility stocks because most companies that make up the S&P 500 operate in risky markets. *Id.* The market-to-book ratios of gas utility companies show that investors expect a market return significantly less than 11.75%. OCA St. 3 at 16. The average future expected return on book equity for the five companies in OCA witness Rothschild’s proxy group is 8.60%. OCA St. 3 at 15. Mr. Rothschild’s analysis revealed that given that the price of gas utility stocks is about

one and a half times the book value, investors likely expect to earn less than 8.9%, which is far lower than Peoples’ 11.75% ROE. *Id.*

As shown in the below table, if Mr. Moul’s rate of return recommendations are adopted instead of OCA witness Rothschild’s, consumers will pay approximately \$136.19 million more per year:

TABLE 5: ANNUAL REVENUE IMPACT VS. REQUESTED - PEOPLES NATURAL GAS COMPANY LLC			
<i>(\$ million)</i>			
	Rate of Return Portion of Revenue Requirement		Difference Moul Rothschild
Rothschild	\$324.91		
Moul	\$461.10		\$136.19
Source/Inputs:			
Requested Rate Base [1]		\$	4,244.7
Federal income tax rate			21.00%
State income tax rate			7.50%
Uncollectable Expense			1.03%
[1] Volume 4, Exhibit 11 Schedule No. 1			

OCA St. 3 at 16.

Mr. Rothschild rightly concludes that current capital markets are our best source of investors’ expectations regarding future capital markets, and his analysis captured those expectations. Accordingly, the results of Mr. Rothschild’s analysis, which was constructed in a manner that timely recognized investors’ expectation for the future capital markets that Peoples FPFTY clearly must project, would lead to a far more reasonable ROE for Peoples and far more reasonable rates for consumers and his recommendations should be adopted.

B. Capital Structure

Peoples’ requested capital structure is inappropriate and inconsistent with Pennsylvania case law. Peoples’ requested capital structure has a significantly higher common equity ratio of 54.67% equity when compared to the average common equity of 47.2% used by the other five gas distribution companies that comprised Mr. Rothschild’s proxy group, identified as the “RFC Gas Proxy Group.” OCA St. 3 at 78; OCA St. 3SR at 38. Importantly, and of particular relevance to

an appropriate capital structure comparison for a regulated natural gas utility, the RFC Gas Group companies that Mr. Rothschild relied upon for his analysis used same five of the same gas utilities that Peoples' witness Moul included in his proxy group.¹⁸ However, Mr. Rothschild's RFC Gas Group excluded three additional companies that Mr. Moul relied upon for his proxy group because those companies has significantly more unregulated business operations than Peoples, providing an invalid basis for comparison. OCA St. 3 at 48-49.

Aside from being higher than its regulated peers, Peoples' requested equity ratio is significantly higher than the current consolidated equity ratio of 48.5% that is being used by Essential Utilities, Inc. (Peoples' Parent Company). OCA St. 3 at 80-81. The interrelation between Peoples' claimed capital structure in this case and the capital structure of its parent company, Essential Utilities, exists and is wholly relevant in this case. **(BEGIN CONFIDENTIAL)**

[REDACTED]

(END CONFIDENTIAL). Additionally, since OCA witness Rothschild's ultimate recommendation of 50% common equity would give Peoples' a slightly higher percentage of

¹⁸ The RFC Gas Group and Mr. Moul's proxy group both include Atmos Energy Corp, NI Source Inc., N.W. Natural, One Gas, Inc. and Spire Inc.; however, Mr. Rothschild has excluded the following three companies that Mr. Moul's proxy group includes: Chesapeake Utilities Corp, New Jersey Resources Corp, and Southwest Gas Corp. OCA St. 3 at 48.

common equity than Essential's 48.5%, the result provides a fair and reasonable level of equity for Peoples' regulated operations.

Importantly, precedent recognizes that the capital structure for companies that are wholly-owned subsidiaries, like Peoples, is not limited to an actual capital structure, and the Commission may make adjustments where circumstances may be unfair to customers. The Pennsylvania Superior Court has held that the capital structure utilities that are wholly-owned subsidiaries may not be one which it would maintain if it were obliged to obtain its debt and equity financing on the open market rather than from a parent company. The Court further explained:

In such instances the actual capital structure may be weighted too heavily on the debt side or the equity side... The use of the actual capital structure in such peculiar circumstances might be unfair to either the utility or its customers, depending upon whether debt or equity is disproportionately high. Under such circumstances the commission must make adjustments based upon substantial evidence in order to reach a fair result.

Riverton Consol. Water Co. v. Pa. P.U.C., 140 A.2d 114 at 121 (Pa. Super. 1958).

In this case, the Commission should adopt Mr. Rothschild's capital structure in the interest to fairness to ratepayers.¹⁹ OCA witness Rothschild testified that there is no reason he is aware of for Peoples to have a significantly higher common equity ratio than its ultimate parent company, Essential Utilities Inc.,²⁰ which includes non-utility operations.²¹ OCA St. 3 at 78-79. Authorizing

¹⁹ If the Commission adopts an equity component of the capital structure ratio that is higher than OCA witness Rothschild's 50%, there should be an additional reduction to the authorized ROE due to the impact of capital structure of ROE, and its subsequent impact on rates. OCA witness Rothschild's capital structure recommendation results in an overall rate of return of 6.2%. OCA St. 3 at 79. Mr. Moul's recommendations result in an overall rate of return of 8.4%. OCA St. 3 at 79. Capital structure has a major impact on revenue requirement. OCA St. 3 at 79. Even if OCA witness Rothschild's cost of equity recommendation is applied to Mr. Moul's recommended capital structure, it will increase revenue requirement by approximately an additional \$7,000,000. OCA St. 3 at 79. The OCA submits that the \$7 million burden comes at the expense of ratepayers who will pay more for essential utility service than warranted.

²⁰ Essential is the parent of Peoples' parent company, PNG Companies, LLC.

²¹ Aqua Resources is a non-utility subsidiary of Essential Utilities, Inc., providing operations and maintenance contracts, and system maintenance. You would expect a company with un-regulated operations to have a higher common equity ratio (lower percentage of debt) than a regulated subsidiary like Peoples because they are riskier. Riskier companies have less predictable earnings so they must keep their interest payments low so they can make sure they can cover their interest payments.

a regulatory capital structure for Peoples with a common equity ratio higher than other comparable utility companies without justification will result in unreasonably high rates. OCA St. 3 at 79. Simply put, Peoples has failed to meet its burden of proof in establishing that a 54.67% equity ratio is supportable or reasonable for ratemaking purposes.

It is not just the OCA that recognizes that Peoples' equity-rich capital structure is costly to ratepayers, as I&E witness Spadaccio quantified the impact ratepayers would face if Peoples' capital structure prevails: ratepayers would pay approximately an additional \$17.9 million if Peoples' claimed capital structure is approved than they would under a 50/50 "optimal" capital structure. I&E St 2 at 13. Strangely, Mr. Spadaccio nevertheless adopts Peoples' claimed capital structure despite his belief that a capital structure of 50% common equity and 50% long-term debt "is optimal when trying to balance the financial integrity of a utility as well as trying to control costs to ratepayers, in this proceeding." I&E St. 2 at 12. In fact, Mr. Spadaccio admits that six of seven companies in his proxy group have a capital structure with an equity ratio less than 50% for the most recent five-year average, and that five of those seven are below the 50% mark for the most recently available year of data, 2022. OCA St. 3R at 11. Significantly, the common equity ratio range of the other six companies in his proxy group range between 34.67% and 51.23% with an average common ratio of 41.53%. OCA St. 3R at 11. Only one outlier company in Mr. Spadaccio's proxy group (Atmos Energy) has a capital structure with a common equity ratio that is higher than 54.67% in 2022. *Id.*

As a result, Mr. Spadaccio's acceptance of the Company's proposed capital structure is inconsistent with his own testimony, his proxy group, and the interests of consumers in paying only those rates necessary to ensure the financial viability of the utility. The OCA's

recommendation more accurately reflects these interests and should be granted more weight than the recommendations of I&E.

C. Debt Cost Rate

Mr. Moul proposed using a cost of debt of 4.37%. The OCA does not object to the use of this rate and has used it in the OCA’s analysis. OCA St. 3 at 82.

D. Return on Common Equity

In arriving at a recommended 8.02% ROE, OCA witness Rothschild applied the DCF, including a Constant Growth and a Non-Constant Growth method, and a CAPM analysis to a group of similar companies using data available through February 29, 2024. OCA St. 3 at 45. In all of Mr. Rothschild’s models, both historical averages and the most recently available spot data for his inputs were used. OCA St. 3 at 47. The below table is OCA witness Rothschild’s cost of equity model results:

TABLE 2: COST OF EQUITY MODEL RESULTS		
DCF	Low	High
Constant Growth - Sustainable Growth	8.06%	8.09%
Constant Growth - Option-Implied Growth	9.42%	9.43%
Non-Constant Growth	8.40%	8.74%
CAPM		
Spot (Feb. 29, 2024)		
Risk Free Rate - 3-Month T Bill	7.69%	8.09%
Risk Free Rate - 30-Yr T Bond	7.50%	8.07%
3-Mo. Weighted Average (Dec. 2023 to Feb. 2024)		
Risk Free Rate - 3-Month T Bill	7.82%	8.22%
Risk Free Rate - 30-Yr T Bond	7.62%	8.18%
Outer Quartile Range	7.78%	8.48%
Midpoint of Range	8.13%	

Exhibit ALR-2

OCA St. 3 at 11.

OCA witness Rothschild and Peoples recommend different cost of equity percentages due to fundamentally different analytical approaches. OCA witness Rothschild focuses on market data

(e.g. stock prices, bond yields, and stock option prices) to measure investors' expectations. OCA St. 3 at 13. The reasons why OCA witness Rothschild came to a different conclusion than Peoples witness Moul include: (1) Mr. Moul's use of non-market data such as interest rate forecasts; (2) the growth rates applied in the Constant Growth DCF model; (3) the implementation of the CAPM; (4) the inclusion of a non-market-based model, the Expected Earnings Analysis; (5) adding a leverage adjustment to his DCF and CAPM results; and (6) adding a size premium adjustment to his CAPM result. OCA St. 3 at 13.

1. Proxy Group

Mr. Rothschild's proxy group includes five of the eight companies that are in Mr. Moul's Gas Group: Atmos Energy Corp., NI Source Inc., N.W. Natural, One Gas, Inc., and Spire Inc. OCA St. 3 at 48. OCA witness Rothschild excluded the following three companies from Mr. Moul's proxy group: (1) Chesapeake Utilities Corp., (2) New Jersey Resources Corp, (3) Southwest Gas Corp. OCA St. 3 at 49. These companies were excluded because they are not in the same risk category as Peoples' because each of these companies have significant unregulated assets, unlike Peoples. OCA St. 3 at 49-50.

The five companies included in Mr. Rothschild's proxy group have between 80% and 100% of assets dedicated to utility operations, as opposed to the three additional companies Mr. Moul includes, which have less than 80% of assets dedicated to utility operations. OCA St. 3SR at 39. Peoples is a regulated public utility and the companies Mr. Rothschild excluded are not fairly comparable to Peoples' level of risk. Therefore, reliance upon the excluded entities as proxies for Peoples would require the Commission to consider unregulated risk that Peoples' investors are not facing, and it would transfer that artificial risk onto Peoples' ratepayers. *Id.*

2. Discounted Cash Flow (DCF)

OCA witness Rothschild used a constant growth form of the DCF method, which determines growth based on the sustainable retention growth procedure, and a non-constant growth DCF method. The results of Mr. Rothschild's constant growth DCF model range between 8.06% and 8.09% when using a sustainable growth rate and between 9.42% and 9.43% when using an option-implied growth rate. OCA St. 3 at 50. The results of my non-constant growth DCF method indicate a COE of between 8.40% and 8.74% for the RFC Gas Proxy Group. *Id.* at 51.

a. Constant Growth Form

The Constant Growth DCF model that OCA witness Rothschild used is objective and utilized by major financial institutions, recommended by leading financial textbooks, and is based on methodologies in peer-reviewed academic journals.²² For the constant-growth rate DCF, OCA witness Rothschild utilized a growth rate of 8.6%. OCA St. 3 at 56. The average future ROE forecasted by Value Line for the RFC Gas Proxy Group between 2024 and 2027-29 is 9.00%. OCA St. 3 at 56; OCA Exh. ALR-3. The future expected ROE derived from the Zacks consensus forecast is 8.62%, and that the actual returns on equity earned by the OCA witness Rothschild's proxy group on average were 7.93% in 2021, 9.64% in 2022, and 9.05% in 2023. *Id.* Based on the combination of the forecasted ROE derived from the Zacks consensus, the recent historical actual earned returns, and Value Line's forecast, OCA witness Rothschild arrived at his an 8.60% DCF growth rate computation. *Id.*

²² J.P. Morgan Chase uses the sustainable growth form of the DCF method, as Mr. Rothschild did, in its 2019 Long-Term Capital Market Assumptions publication. OCA St. 3 at 11-12 (internal citations omitted). Principles of Corporate Finance, a leading financial textbook used in business schools and investment banks around the world, recommends using the same method OCA witness Rothschild used to calculate the cost of equity for regulated energy utility companies. OCA St. 3 at 12 (internal citations omitted). Moreover, OCA witness Rothschild's CAPM is based on methodologies used by Value Line, the Chicago Board of Options Exchange, and published in peer-reviewed academic journals (e.g., The Review of Financial Studies). OCA St. 3 at 12.

The result of DCF analysis using the Constant Growth form of the DCF indicates a cost of equity range for Peoples of between 8.06% and 8.09% for the RFC Gas Proxy Group. OCA St. 3 at 56. Since these DCF findings use analysts' forecasts to derive sustainable growth (in part) and on analysts' forecasts of dividend growth and book value growth in the non-constant form of the DCF method, the results should be considered as conservatively high as analysts' forecasts of such growth have been notoriously overstated. *Id.* OCA witness Rothschild's results are not as influenced by overly-optimistic analysts' forecasts as would have been the case if he merely used analysts' five-year earnings growth rate forecasts as a proxy for long-term growth. *Id.* Instead, the DCF methods Mr. Rothschild used compute sustainable growth rates, rather than growth rates that can exaggerate the growth rate due to assuming that a relatively short-term forecast (5 years) will remain indefinitely. *Id.*

b. Non-constant growth form

OCA witness Rothschild's non-constant growth DCF method indicates a COE of between 8.4% and 8.74%. OCA St. 3 at 58. The non-constant growth form of the DCF model determines the return on investment expected by investors based on an estimate of each separate annual cash flow the investor expects to receive. OCA St. 3 at 57.

For the purpose of this computation, OCA witness Rothschild incorporated Value Line's detailed annual forecasts to arrive at the specific non-constant growth expectations that an investor who trusts Value Line would expect. OCA St. 3 at 58; OCA Exh. ALR-3 at 3-4. In the first stage, cash flow entry is the cash outflow an investor would experience when buying a share of stock at the market price. OCA St. 3 at 57. The subsequent years of cash flow are equal to the dividends per share that Value Line forecasts. *Id.* For the intermediate years of the forecast period in which Value Line does not provide a specific dividend, the annual dividends were obtained by estimating that dividend growth would persist at a compound annual rate. *Id.* The cash flow at the conclusion

of the forecast period includes both the final year's dividend as projected by Value Line and the proceeds from selling the stock. *Id.* at 58-59. The stock price used to determine the proceeds from selling the stock was obtained by estimating that the stock price would grow at the same rate at which Value Line forecasts book value to grow. *Id.* at 59.

Mr. Rothschild used book value growth to provide an estimate of future stock price. OCA St. 3 at 58. Mr. Rothschild explained that, for any given earned return on book equity, earnings are directly proportional to the book value. *Id.* Furthermore, book value growth is the net result after the company produces earnings, pays a dividend and also, perhaps, either sells new common stock at market price or repurchases its own common stock at market price. *Id.* This multi-stage DCF model produced an average indicated COE of 8.74% based on the year-end stock price, and 8.40% based on average prices for the year ending February 29, 2024 for the Mr. Rothschild's proxy group. OCA St. 3 at 58; OCA Exh. ALR-3 at 3-4.

c. Mr. Moul's DCF Methodology Adds A Subjective Growth Component.

M. Moul claims that the DCF method has limitations. Peoples St. No. 13, p. 25. Instead of properly applying the simplified or constant DCF method, Mr. Moul adds a growth component to dividend yield even though his growth analysis gives earnings per share growth forecasts by analysts the greatest emphasis. Peoples St. No. 13, Sch. 9. This is not a reasonable attempt at a DCF. It is only a DCF method if the dividend yield is computed properly, and the growth rate used is derived from a careful study of what future sustainable growth in cash flow is anticipated by investors. OCA St. 3 at 84.

The data that Mr. Moul references from IBES/First Call, Zacks, and Value Line support the OCA's ROE recommendation. *See* OCA St. 3 at 85; Peoples St. 13 at 30-31. Below are the

five-year projected earnings per share rates by the investment research firms Peoples witness Moul chose: IBES/First Call: 5.57% ; Zacks: 5.46% Value Line: 7.31%. OCA St. 3 at 85.

Mr. Moul's 6.75% growth rate is higher than the average of IBES and Zacks' growth forecasts. The average of Value Line's earnings forecasts for the 8 companies in Mr. Moul's Gas Group is 7.31%, but this includes a 10% growth rate for Southern Gas Holdings Inc. OCA St. 3 at 85. If investors consider Southern Gas' growth rates to be an outlier and not representative of growth prospects, Mr. Moul's DCF result of 10.47% significantly overstates People's cost of equity. OCA St. 3 at 85. Additionally, Value Line's average projected growth in divides per share (5.25%), book value per share (5.69%), and cash flow per share (6.38%) for his proxy group are all lower than Mr. Moul's 6.75% growth rate. *Id.* Mr. Moul's growth rate is unreasonably high.

d. Mr. Moul's Use of Five-Year Earnings Per Share Growth Rate is Unreasonable.

Mr. Moul's growth rate calculations inappropriately uses analysts' five-year earnings per share growth without attempting to reconcile the retention rate used for computing growth with the retention rate he used to compute the dividend yield. OCA St. 3 at 89. The basic difference between Peoples' exclusive use of an analysts' earnings per share growth rate in the constant growth DCF formula and OCA witness Rothschild's use of the earnings retention rate is that Mr. Rothschild's use of the retention rate eliminates the mathematical error caused by inconsistency between the expectations for earnings per share growth and dividends per share growth. OCA St. 3 at 53. Mr. Moul's use a of analysts' five-year earnings per share growth rate forecasts without attempting to investigate what percentage of earnings companies are likely to pay out as dividends and what percentage they are likely to retina in the business (the retention rate) is unreasonable. Mr. Moul's use of a five-year earnings per share growth rate is analogous to measuring how much

money you will have in your bank account by simply adding up your paychecks. OCA St. 3SR at 14. It does not account for how much money you spend.

Mr. Rothschild's constant growth DCF model provides a more reasonable guidepost for setting a return on equity and is used by major financial institutions, such as J.P. Morgan. OCA St. 3 at 11. Mr. Moul criticizes OCA witness Rothschild for not directly using the earnings per share growth rate forecast of 5.76% used by Zacks in Mr. Rothschild's DCF analysis. However, as Mr. Rothschild pointed out, it is not appropriate to mechanically use analyst earnings per share growth rate forecasts in a constant growth DCF model because it does not ensure that the mathematical relationship between earnings, dividends, book value and stock price are respected. OCA St. 3SR at 11. If a utility company is experiencing a short-term period of high earnings growth because they are recovering from a period of low earnings, for example, using analyst 5-year earnings per share growth rate forecasts in a DCF model will overstate the COE because these growth rates are not sustainable. *Id.* In other words, the company's relatively high growth rate will not continue indefinitely. *Id.*

Using analysts' five-year earnings per share growth rate forecast in the DCF model produces unreasonable results. On average, analysts' forecasts have been almost 100 percent too high.²³ A study conducted by McKinsey & Company in 2010 found that "analysts have been persistently over optimistic for the past 25 years with estimates ranging from 10 to 12 percent a year, compared with actual earnings growth." OCA St. 3SR at 13. Moreover, financial publications do not recommend using earnings per share growth rates to calculate the cost of equity in a DCF model. OCA St. 3SR at 13. McKinsey & Company currently advises its clients to be cautious about the reliability of analysts' forecasts. OCA St. 3SR at 13-14. Thus, despite it being not a

²³ Marc H. Goedhart, Rishi Raj and Abhishek Saxena, *Equity Analysts: Still too bullish*, Spring 2010.

recommended approach, Mr. Moul chose to exclusively rely on analysts' five-year earnings per share growth rates without considering multiple factors that ensure sustainable growth. This was an unreasonable choice, and it taints Mr. Mou's methodology..

Mr. Rothschild's methodology is superior to an exclusive five-year earnings per share growth rate forecast in providing a long-term sustainable growth rate. A company can create higher future earnings by retaining a portion of the prior year's earnings in the business and purchasing new business assets with those retained earnings. OCA St. 3 at 86. There are many factors that can cause short-term swings in earnings growth rates, but the long-term sustainable growth is caused by retaining earnings and reinvesting those earnings. *Id.* Changes in earnings per share growth rates that are caused by non-recurring changes in the earned return on book equity are inconsistent with long term sustainable growth, but changes in earnings per share because of the reinvestment of additional assets is a cause of sustainable earnings growth. OCA St. 3 at 87.

Analysts' five-year consensus growth rates are not indicative of long-term sustainable growth rates. Analysts' five-year earnings per share growth rates are earnings per share growth rates that measure earnings growth from the most currently completed fiscal year to projected earnings five years into the future. OCA St. 3 at 88. OCA witness Rothschild explained that these growth rates are not indicative of future sustainable growth rates in part because the sources of cash flow to an investor are dividends and stock price appreciation. *Id.* While both stock price and dividends are impacted in the long-run by the level of earnings a company is capable of achieving, earnings growth over a period as short as five years is rarely in synchronization with the cash flow growth from increases in dividends and stock prices. *Id.* For example, if a company experiences a year in which investors perceive that earnings temporarily dipped below normal trend levels, stock prices generally do not decline at the same percentage that earnings decline, and dividends are

usually not cut just because of a temporary decline in a company's earnings. *Id.* Unless both the stock price and dividends mirror every down swing in earnings, they cannot be expected to recover at the same growth rate that earnings recover. OCA St. 3 at 88. Therefore, growth rates such as five-year projected growth in earnings per share are not indicative of long-term sustainable growth rates in cash flow. *Id.* As a result, they are inapplicable for direct use in the simplified DCF method. *Id.*

e. Mr. Moul's Leverage Adjustment in his DCF is Unreasonable.

Mr. Moul has proposed a leverage adjustment to his DCF derived cost of equity, stating “[i]n order to make the DCF results relevant to the capitalization measured at book value (as is done for rate setting purposes), the market-derived cost rate must be adjusted to account for the difference in financial risk.” Peoples St. 13 at 33. He then goes on to say: “Because the ratemaking process uses ratios calculated from a firm’s book value capitalization, further analysis is required to synchronize the financial risk of the book capitalization with the required return on the book value of the firm’s equity.” *Id.* at 34. Because of this alleged higher financial risk, Mr. Moul recommends adding 1.41% to the DCF derived cost of equity. *Id.* at 37. This upward adjustment would cost ratepayers \$48.1 million dollars per year and serves no other purpose than to inflate profit for the Company and should be rejected. I&E St. 2 at 68.

Mr. Moul bases his leverage adjustment on a misguided analysis and an inappropriate comparison of market value to book value. Mr. Moul’s leverage adjustment distorts the natural market dynamic between a regulated utility’s stock price and its allowed rate of return. OCA St. 3 at 93. According to Mr. Moul, “[t]he need for the leverage adjustment arises when the results of the DCF model (k) are to be applied to a capital structure that is different from the capital structure indicated by the market price (P).” Peoples St. 13 at 34. However, as Mr. Rothschild points out, when a company has a market to book value above 1 and is over-earning, applying the correct

rate of return to the book value could have downward pressure on the stock price. OCA St. 3 at 93.

Furthermore, as demonstrated by Mr. Rothschild, adding a 141 basis point leverage adjustment to the DCF due to the market value capital structure containing a higher percentage of common equity than book value capital structure is inappropriate as the market value capital structure having lower financial risk than the book value capital structure provides no justification to add a leverage adjustment. Market value capital structure and book value capital structure are two completely different ways of measuring the same thing. OCA St. 3 at 92. Changing from a market value orientation to a book value orientation does no more to change a company's financial risk than the weight of a person was influenced by switching to a scale calibrated in kilos instead of pounds. OCA St. 3 at 92. One does not weigh less on a scale measured by kilograms than one measuring pounds, you are just using a different scale.

Financial risk is determined by a company's ability to meet its cash flow obligations. *Id.* The most common and perhaps most important single measure of financial risk is the pretax interest coverage ratio. *Id.* The interest coverage ratio is computed by dividing the sum of interest expense and pre-tax income by interest expense. *Id.* This number is useful because it gives bondholders a sense of how far earnings would have to decline before a company would not be able to meet its interest payments. *Id.* For example, if a company has an interest coverage ratio of 3.0, this means that at its current earnings rate, its earnings available for both payment of interest and pre-tax earnings, is three times as much as is needed to make its interest payments. OCA St. 3 at 92. Lowering the market value does not directly cause a change in the coverage ratio computation. *Id.*

Significantly, I&E also demonstrated that based upon Peoples' claimed rate base, if Mr. Moul's leverage adjustment were granted, it would have a total impact of \$41.7 million and result in ratepayers funding an unwarranted additional \$41.7 million in annual rates to cover the cost of the inflated rate of return. I&E St. 2 at 53. The OCA submits that granting such an excessive, unsupported adjustment is unjustifiable in this proceeding and wholly inconsistent with any notion of just and reasonable rates. The OCA respectfully requests that the Commission expressly reject Mr. Moul's unsupported leverage adjustment.

3. Capital Asset Pricing Model (CAPM)

The CAPM predicts that for a given security, the cost of equity has a positive linear relationship to how sensitive the stock's returns are to movements in the overall market (e.g., S&P 500). OCA St. 3 at 60. A security's market sensitivity is measured by its beta. *Id.* The higher the beta of a stock, the higher the company's cost of equity—the return required by the investor to invest in the stock. *Id.*

The Commission has recently held that the CAPM is properly used as a check on the reasonableness of the DCF:

We conclude that methodologies other than the DCF can be used as a check upon the reasonableness of the DCF derived ROE calculation. Historically, we have relied primarily upon the DCF methodology in arriving at ROE determinations and have utilized the results of the CAPM as a check upon the reasonableness of the DCF derived equity return.

Aqua 2022 at *83.

In calculating the CAPM, OCA witness Rothschild determined the appropriate values or ranges of the three model inputs: 1) risk-free rate; (2) beta, and; (3) equity risk premium. Mr. Rothchild's CAPM results are as follows:

Weighted Average CAPM

TABLE 7: CAPITAL ASSET PRICING MODEL (CAPM) - INDICATED COST OF EQUITY WEIGHTED - All Inputs Weighted From December 2023 to February 2024				
	<u>3-Month Treasury Bill</u>		<u>30-Year Treasury Bond</u>	
	Historical Blended Bet	Forward Beta	Historical Blended Bet	Forward Beta
Risk-Free Rate	5.43%	5.43%	4.24%	4.24%
Beta	0.83	0.97	0.83	0.97
Risk Premium	2.87%	2.87%	4.06%	4.06%
CAPM	7.82%	8.22%	7.62%	8.18%

Source: Exhibit ALR-4, page 1

Spot CAPM

TABLE 8: CAPITAL ASSET PRICING MODEL (CAPM) - INDICATED COST OF EQUITY (SPOT) SPOT - All Inputs Based on Last Available Data as of February 29, 2024				
	<u>3-Month Treasury Bill</u>		<u>30-Year Treasury Bond</u>	
	Historical Blended Bet	Forward Beta	Historical Blended Bet	Forward Beta
Risk-Free Rate	5.45%	5.45%	4.38%	4.38%
Beta	0.83	0.98	0.83	0.98
Risk Premium	2.70%	2.70%	3.77%	3.77%
CAPM	7.69%	8.09%	7.50%	8.07%

Source: Exhibit ALR-4, page 5

OCA St. 3 at 77.

a. Risk Free Rate

OCA witness Rothschild’s spot and weighted average short-term risk-free rates for his CAPM are 5.45% and 5.43%, respectively. OCA St. 3 at 77; OCA Exh. ALR-4 at 2. Mr. Rothschild’s spot and weighted average long-term risk-free rates are 4.38% and 4.24%, respectively. OCA St. 3 at 61. Mr. Rothschild used a risk-free rate based on both long-term and short-term treasury yields given that it is reasonable to consider a risk-free rate that would apply

to both long-term and short-term investors. OCA St. 3 at 61. U.S. government bonds are reasonable to use as a risk-free rate because they have a negligible risk of default. *Id.* at 62. The value of short-term U.S. Treasury bills has a relatively low exposure to swings in the overall market. *Id.* The value of long-term U.S. Treasury bonds is relatively more exposed to the market and therefore must be used with caution. *Id.*

While it is rare for short-term interest rates to be higher than long-term interest rates given that they are less risky than long-term bonds, the Federal Reserve Bank of Atlanta estimates that, as of February 29, 2024, investors expect short-term interest rates to decrease in 2024 and 2025. OCA St. 3 at 62. This means that it is rational for investors to lock in a 4.38% interest rate on long-term bonds now if they expect short-term interest rates to decline below 4.38% in the near future. *Id.* at 62-63. As this relates to CAPM results, this is one of the rare circumstances when a short-term risk-free rate likely overstates the COE because investors expect the relatively higher short-term interest rate to be temporary. *Id.* at 63.

b. Beta

Mr. Rothschild used two betas, a historical blend and a forward beta since the cost of equity should be based on investor expectations. OCA St. 3 at 68. Mr. Rothschild chose to use option-implied betas in his CAPM analysis because, among other reasons, studies have found that betas calculated based on investor expectations (option-implied) provide information regarding future perceived risks and expectations. OCA St. 3 at 63. The following illustrates the two betas used by Mr. Rothschild in his CAPM analysis: (1) Historical Blend: 50% (6 months) + 30% (2 years) + 20% (5 years); and (2) Forward Beta: 100% Option-Implied Beta (6 months). OCA St. 3 at 66. Using established techniques, Mr. Rothschild used price data for stock options of his proxy group companies and the S&P 500 Index to determine investors' return expectations, including the relationship (covariance) between the return expectations for each individual proxy group

companies and those for the S&P 500. OCA St. 3 at 65. This covariance between the expected returns for Mr. Rothschild's proxy group and for the S&P 500 indicates what investors expect betas will be in the future. The betas based on option price calculations are referred to as "option-implied betas." *Id.*

c. Equity Risk Premium

OCA witness Rothschild used an equity risk premium in his weighted average CAPM analysis with short-term and long-term risk-free rates of 2.87% and 4.06%, respectively. OCA St. 3 at 75. Mr. Rothschild used an equity risk premium in his spot CAPM analysis with short-term and long-term risk-free rates of 2.7% and 3.77%, respectively. *Id.* A market-based way to calculate the equity risk is to use option-implied return expectations. OCA St. 3 at 76. Mr. Rothschild's equity risk premium is the expected return on the S&P 500 minus the risk-free rate. *Id.* Mr. Rothschild used the same methodology used by the Chicago Board of Options Exchange to calculate option-implied volatility and skewness. OCA St. 3 at 69. The volatility and skewness calculated in this way describe a probability function representing the possible trajectories for the S&P 500 implied by the options market. OCA St. 3 at 74. Investors have different volatility and skewness explanation over time. Due to changes across option expiration periods, OCA witness Rothschild utilized a weighted average of the entire term structure of the option-implied volatility and skewness, which for the S&P 500 typically goes out to 54 to 61 months and gives the most weight to the option expiration period of 12 months. OCA St. 3 at 76.

d. Mr. Moul's Use of a Size Adjustment in his CAPM is Unreasonable.

Peoples' provided CAPM analysis includes a "small size adjustment," which increases the CAPM's results by 102 basis points. OCA St. 3 at 96. Peoples claims that this adjustment reflects that Peoples is of relatively smaller size than the companies contained in its proxy group. *Id.* This adjustment applies to the Company's proposed CAPM results, meaning that it is tacked on after

already calculating a required return on equity, and serves merely to inflate the CAPM-calculated ROE.

Mr. Moul’s premium adder for the relatively small size of Peoples is unjustifiable. Peoples is the largest natural gas distribution company in Pennsylvania.²⁴ Peoples is requesting a gross plant in service balance over \$4 billion: it is not a small company by any standard. OCA St. 3SR at 33. Even assuming, arguendo, that Peoples were small in size, a proper analysis of the data from Ibbotson SBBI/Morningstar shows that size is a diversifiable risk and therefore does not impact the cost of equity. OCA St. 3SR at 33.

A 2018 study conducted by scholars at AQR Capital Management and Yale University found that “the size effect diminished shortly after its discovery and publication.” OCA St. 3 at 98 (internal citations omitted). The authors of this research found that data errors plagued the early studies regarding the relationship between firm size and return. *Id.* They found that the data in the earlier studies did not include delisted companies and since smaller firms are delisted more often than larger stocks, the biased data (referred as a “delisting bias”) made the returns of smaller stocks look higher than reality. *Id.*

For purposes of critical context in assessing Mr. Moul’s objectivity in assessing size as risk, it must be recognized that for each of the 21 Pennsylvania public utility rate cases in which Mr. Moul provided an expert opinion in before this Commission since 2018, he has recommended a size adjustment for 21 out of 21 of those utilities. OCA Exh. ALR-1-SR. The list of his 21 cases reveals that many of those identified are quite large, including Aqua Pennsylvania, Columbia Gas of Pennsylvania, and PECO Energy Company. *Id.* When viewed in its proper context, Mr. Moul’s recommendation for a size adjustment should be viewed with little to no weight, but there are case-

²⁴ Essential Utilities, First Quarter 2024 Earnings Report, available at: <https://www.essential.co/static-files/efdea4f8-2572-4c6d-a703-76357aff6d0f> (previously accessed on May 7, 2024).

specific defects here too. As it pertains to this case, Mr. Moul's CAPM is inflated because he takes steps to increase his results for a so-called small firm effect that has been put into serious question by recent research. Therefore, his CAPM overstates Peoples' cost of equity because the risk premium portion of this method is impacted by these exaggerated returns. OCA St. 3SR at 34.

Another significant flaw in Mr. Moul's size adjustment recommendation is that it is predicated upon technical literature that he cites supporting investment adjustments based on size that is not specific to the utility industry, negating its applicability to Peoples. I&E St. No. 2 at 58. I&E offered evidence to support to the contrary position, which is that there is no need to adjust for the firm size in utility rate regulation. *Id.* quoting Dr. Annie Wong, "Utility Stocks and the Size Effect: An Empirical Analysis," *Journal of Midwest Finance Association* 1993, pp. 95-101. Significantly, I&E also demonstrated that based upon Peoples' claimed rate base, if Mr. Moul's size adjustment were granted, it would have a total impact of \$30.2 million and result in ratepayers funding an unwarranted additional \$30.2 million in annual rates to cover the cost of the overstated rate of return. I&E St. 2 at 59-60. The OCA submits that granting such an excessive, unsupported adjustment is unjustifiable in this proceeding and wholly inconsistent with any notion of just and reasonable rates. The OCA respectfully requests that the Commission expressly reject Mr. Moul's unsupported size adjustment.

e. Mr. Moul Overvalues the CAPM Model's Results.

Mr. Moul explains that, "[t]o compute the cost of equity with the CAPM, three components are necessary: a risk-free rate of return ("Rf"), the beta measure of systematic risk ("β"), and the market risk premium ("Rm-Rf") derived from the total return on the market of equities reduced by the risk-free rate of return." Peoples St. No. 13 at 43. He uses a risk free rate of 3.75% based on interest rate forecasts and recent trends in long term Treasury yields. *Id.* at 46. Mr. Moul's market premium portion of his CAPM analysis (9.68%) is based on the forecasted S&P 500 returns, and

he adds a “small size adjustment” of 1.02% to account for his claim that the Peoples is a small firm. *Id.*

Mr. Moul’s CAPM analysis significantly and inaccurately overstates Peoples’ cost of equity. The arithmetic average return that Mr. Moul uses overstates the historical risk premium by over 200 basis points. OCA St. 3 at 97. The 2023 SBBI Yearbook shows that investors actually earned a compounded annual return of 10.1% between 1926 and 2022. *Id.* The arithmetic mean return of 12.21% is possibly valuable to stockbrokers and fund managers attempting to predict future bonuses, but not for calculating the cost of equity. *Id.* Mr. Moul’s prospective risk premium calculation is based on a DCF analysis that is not based on sustainable growth. Indeed, Mr. Moul’s DCF analysis for the S&P 500 has a growth component of an astounding 12.47%. *Id.*

4. Risk Premium

For his risk premium analysis, Mr. Moul explained that “the cost of equity capital is determined by corporate bond yields plus a premium to account for the fact that common equity is exposed to greater investment risk than debt capital.” Peoples St. 13 at 38. In this approach, he computes a 11.50% cost of equity by summing a prospective yield for long-term public utility debt (5.00%) and his estimate of an equity risk premium (6.50%). OCA St. 3 at 94. His prospective yield for long-term public utility debt of 5.00% is based on adding a 1.25% spread to Blue Chip Financials projected yields on U.S. Treasury bonds. *Id.* Mr. Moul calculates the equity risk premium (6.50%) of this approach by measuring large company stock returns over long-term corporate bonds based between 1926-2022 and presents the results in the following three categories based on the relative level of interest rates:

- Low Interest Rate: 7.13%
- Average Across All Interest Rates: 5.96%
- High Interest Rates: 4.76%

OCA St. 3 at 94. From the above data, Mr. Moul utilized a 6.50% equity risk premium, which is between the premiums during low interest rates (7.13%) and an average of the premiums during the entire historical period (5.96%). OCA St. 3 at 94.

Mr. Moul's equity risk premium method result of 11.50% is excessive primarily because the equity risk premium component of 6.50% is unreasonably high. A 6.50% equity risk premium is out of line with market data, academic studies, and the results of his own sources. OCA St. 3 at 95. Mr. Moul uses historical data from Kroll's SBBI Yearbook to support his claim that "the equity risk premium increases as interest rates decline, and it declines as interest rates increase." Peoples St. 13 at 41. He claims that this historical data supports his 6.50% equity risk premium. Peoples St. 13 at 42. However, Mr. Moul's own source, the Kroll SBBI Yearbook, considered if investors might consider future equity returns to be different than the past. OCA St. 3 at 95. The authors of this book looked beyond historical data and concluded that "the current [price-to-earnings] ratio is the market's best guess for the future of corporate earnings." *Id.* (internal citations omitted). Based on this current market data, the Kroll 2023 SBBI Yearbook calculated a...geometric supply-side equity risk premium of 4.39%." *Id.* In September 2023, Kroll found an equity risk premium of 5.5%, which is 1% lower than his estimate. *Id.* It should be further noted that Kroll's 4.39% and 5.50% equity risk premium calculations are in comparison to U.S. Treasury bonds, not the corporate bond yields used in Mr. Moul's analysis. *Id.* Since corporate bond yields are higher than U.S. Treasury bonds, Mr. Moul's equity risk premium would be expected to be lower than those calculated by Kroll. *Id.* at 95-96. Instead, his 6.50% is significantly higher. *Id.* at 96. Therefore, the results of Mr. Moul's own source indicate that his 11.50% COE result is excessive. *Id.*

Consistent with Kroll's supply-side equity risk premium analysis, OCA witness Rothschild found an equity risk premium to be considerably lower than claimed by Mr. Moul. OCA St. 3 at

96. Mr. Rothschild found an equity risk premium of between 2.70% and 4.06%, which provides additional evidence that his 11.50% COE result is excessive. *Id.*

5. Comparable Earnings

Mr. Moul selected a group of non-regulated companies that he believes to be of comparable risk to his proxy group. After subjectively selecting the companies, Mr. Moul presents the historic and value line expected return on book equity. OCA St. 3 at 99. In Mr. Moul's Schedule 14, Mr. Moul labels a column "projected 2026-28", but this column actually shows the return non book equity that Value Line forecasts, not the return that Value Line projects investors will receive on their investment as a result of purchasing the common stock at current prices. *Id.* According to Mr. Moul's schedule, the total return expected by Value Line on the book equity of these industrial companies is between a 7.00% and a high of 55.0%, for an average of 20.6% (13.3% excluding companies with values > 20%). *Id.*

Mr. Moul's comparative earnings analysis is invalid. Mr. Moul has attempted to determine the cost of equity that would be demanded by investors on the market price of a company comparable to Peoples by comparing it to the historic and projected returns on book equity of a selection of industrial companies. OCA St. 3 at 99. Mr. Rothschild explained that, leaving aside the problems with actually being able to select companies that are comparable, the overriding problem with Mr. Moul's comparable earnings analysis is that it did not address the cost of equity at all. OCA St. 3 at 99. It simply considered the returns on book equity that were achieved and are expected to be achieved by Value Line in the next 3 to 5 years. *Id.* The earned return on book equity, however, is an entirely different concept from the cost of equity. *Id.* Investors are not able to earn the return on book equity unless the market-to-book ratios of these companies are the same. OCA St. 3SR at 36. Mr. Moul has not demonstrated that the market-to book ratios of the

Companies are even close to the same. *Id.* Mr. Moul's comparable earnings approach should be disregarded.

6. Management Performance

The OCA submits that Peoples' request for a 25-basis point adder to its claimed cost of equity on the basis of purported exceptional management performance should be rejected because it is unwarranted and it would inject unjustified and inequitable cost burden on ratepayers. By way of further context, Mr. Moul adds a 25 basis point management adder for his claim of superior management performance to his 11.5% ROE recommendation to arrive at his 11.75% ROE recommendation for Peoples. OCA St. 3 at 100. At the outset, Mr. Moul's recommendation should be viewed in the appropriate context, which is with the recognition that Mr. Moul consistently recommends adjustments for management performance for the Pennsylvania companies that hire him. OCA St. 3SR at 37. Since 2018, Mr. Moul recommended management adders for claimed superior performance for 18 of the 21, or 86%, of Pennsylvania public utilities in which he provided expert testimony, calling into serious question any real notion of "superiority." *See* OCA St. 3SR at 37. In reaching his 25 basis point, Mr. Moul merely reviewed the testimony of Peoples' own witness, Mr. Huwar, President of Peoples Natural Gas. Peoples St. 13R at 46-47. There is no mathematical basis or formula Mr. Moul utilized to determine that 25 basis points. There is not even a claim that Mr. Moul reviewed Peoples' management audits at any point in his testimony. Indeed, Mr. Moul's testimony offers no justification or explanation for a management adder beyond an echo-chamber-like, generalized claim of strong management performance based on the testimony of Peoples' CEO. Mr. Moul did not attend any of the public input hearings held in this case, where customers testified that Peoples' service was problematic in several respects, including

insufficient customer service hours for customers to speak to a live representative,²⁵ inability to get answers to billing questions;²⁶ unaffordable rates;²⁷ and confusion caused by the notice Peoples issued advising customers of the increase for this case.²⁸ Thus, it does not appear that an independent review of Peoples' performance or of ratepayers' opinion of Peoples' management performance was factored into Mr. Moul's recommendation. At best, Mr. Moul's recommendation is not an informed one but rather a flawed one.

Broad consideration of the factors underlying Peoples' management performance claim is appropriate here, both because Peoples' relies on a broad interpretation of "management performance" in seeking rate recognition for its performance, and because Section 523 of the Code provides the Commission with the flexibility necessary to evidence of efficiency, effectiveness and adequacy of service. More specifically, Peoples witness Huwar asserts that decisionmakers should authorize Peoples' 0.25% addition to the determination of the return on common equity in consideration of the following areas "improving its customer service and accelerating pipeline replacements, bringing jobs to its service territory, and demonstrating that Peoples is a valuable corporate citizen." While efficient pipeline repair and replacement is a critical undertaking, and the OCA does not dispute the importance of it, Peoples shareholders already enjoy the benefit of receiving a return of and a return on their investment for the repaired and replaced property. By expanding and accelerating repair and replacement goals, Peoples is doing important work, but it is also already increasing returns for investors by expanding their ability to earn a return on more property. Accordingly, Peoples is already being compensated for doing its job, which is incumbent upon a regulated utility, and its shareholders are also already being rewarded. Furthermore,

²⁵ Tr. at 223-229.

²⁶ Tr. at 47-61.

²⁷ Tr. at 83-90; Tr. at 179-180; Tr. at 182; Tr. at 214-222.

²⁸ Tr. at 58-61.

although the OCA maintains its position that Peoples' management claims conflates corporate goodwill with ratemaking, witness Huwar's position demonstrates that Peoples has taken liberties with the factors it asks the Commission to consider in awarding it a management premium. Accordingly, the management quality, efficiency and effectiveness, and customer service issues that the OCA raises in this case are certainly within the property purview of the Commission's ratemaking determination in this case. See OCA St. 1 at 12-13.

a. Peoples' Incomplete and Confusing Notice to Customers Belies any Claim of Superior Management Performance.

Peoples began this case by sending its customers notices that placed the burden on customers to figure out the extent of the rate increase they might soon face. Specifically, Peoples mailed a combined notice of the proposed rate increase to all of its customers in both division, the PNGD and the PGD. OCA Exh. BA-6. Peoples sent the same public notice of this rate case to all its customers without separating the notices to its two divisions even though the bill impacts differ between those two divisions. Peoples' notice directed customers to call the Company if they were uncertain about which division provided their service, thereby placing the burden on the customer to take additional steps to determine how much more money they may have to pay for service. OCA St. 1 at 14. Here, the importance of clearly designating the customers' operating division as part of an effective notice is underscored by the significance of the differences in the magnitude of the projected increase. Notably, the total bill for a PNGD residential customer using 80 Mcf per year was projected to increase from \$73.16 to \$88.79 per month or by 21.4%., but the total bill for a PGD residential customer using 80 Mcf per year was only projected to increase from \$84.00 to \$90.35 per month or by 7.6%. As the significantly higher increase for PNGD customers reveals, the operating division distinction matters greatly to customers, but Peoples simply left it to customers to figure it out on their own. OCA St. 1 at 15.

As an additional barrier to being informed about the extent of the rate increase, they might soon face, Peoples' live customer service hours are limited to Monday through Friday, from 7 a.m. through 5 p.m., posing access issues to customers who may work or have other obligations during these limited hours. OCA St. 5 at 33-34. Peoples' haphazard noticing, which directs customers to call Peoples to identify the operative service division, and then provides those customers with limited and inaccessible call center hours, impose multiples levels of barriers upon customers who ought to be able to readily identify what is being proposed. The OCA submits that Peoples' clear failure to prioritize customer noticing in its rate proposal process is directly at odds with the type of management performance that warrants an award of additional basis points.

b. Peoples Management Effectiveness and Prudence Decreased After its Acquisition by Essential

Additionally, Peoples business decision to be acquired by Aqua America, Inc.²⁹ in 2020 was accompanied with a commitment to pass along resulting future costs savings or rate benefits from operational efficiencies in future rate cases, but these have not materialized in identifiable savings within this rate case. OCA St. 1 at 11-12. In this case, Peoples argues that there is no requirement that its demonstrate or report cost savings in this case, and that tax savings have previously materialized. Peoples St. No. 2-R at 59-60. Yet, Peoples response does not answer its prior commitment to pass along any future costs savings or rate benefits from *operational efficiencies* in future rate proceedings. OCA St. 1SR at 4.

While it remains unclear whether and to what extent any operational efficiencies have benefited customers, the record here shows that customers are now being asked to pay higher costs that have directly resulted from the acquisition. Significantly, noting that the acquisition did not close until 2020, when Peoples' pension expense was \$560,190, after the acquisition, in 2021,

²⁹ Aqua America Inc., like Peoples, is now part of Essential Utilities.

Peoples' pension expense ballooned almost ten-fold to \$5,343,118. OCA St. 2SR at 28. Peoples witness Wachter indicates that the increase results from a change in the pension funding approach that was made since the acquisition by Essential Utilities on March 16, 2020. Peoples St. 2-R at 47-48. The OCA submits that an almost ten-fold increase of annual pension costs that have directly result from the acquisition demonstrates that the acquisition has served to significantly escalate costs in a manner that is not outweighed by any demonstrable cost savings or efficiencies, as none are shown to exist in this case. The OCA respectfully submits that the demonstrated cost inefficiency is directly at odds with the sort of prudent management that should be rewarded as exemplary management performance. Rewarding Peoples with a premium that ratepayers must also bear the burden of funding would be completely antithetical to just and reasonable ratemaking.

c. Peoples' Overall Management Performance Leaves Significant Room for Improvement and is not Exemplary

Furthermore, OCA witnesses Alexander and Colton have identified additional reasons why Peoples' management performance award request is unwarranted and should be denied. Ms. Alexander identifies deficiencies in the following area: Peoples' service termination procedures relating to requirements for personal contact, insufficiency of policies and disclosures to tenants, concerns with Peoples' billing for non-basic charges, need for improved customer education as a collections mitigation tool, issues with customer complaint evaluation and analysis, and problematic customer rate increase notices, and limited call center hours. OCA St. 5. For Mr. Colton's part, he identifies Peoples collections performance as being inconsistent with exemplary management performance because it has an "unreasonable reliance on the use of nonpayment disconnections as a collections device." OCA St. 6 at 77. Mr. Colton also identified that Peoples has a substantial and increasing number of residential customers in debt and that it is not responding to this increase by increasing the percentage of accounts in debt being placed on

payment arrangements. OCA St. 6 at 68-69. The OCA submits that the customer service, compliance, and collections issues Ms. Alexander and Mr. Colton have identified form yet more reasons why ratepayers should not be forced to pay more under for claimed exemplary management when those claims do not bear out.

The OCA submits that the record in this case, including the reasons identified below, each of which own its own merits denial of Peoples request, compound to demonstrate that Peoples is not entitled to any upward ROE adjustment on the basis of management performance. Lack of merit aside, for further informed decision making, it is imperative that the Commission also consider the rate impact of permitting such an award. Peoples' 25 basis point ROE management adder only serves to further increase a return on equity that is already on the higher end of the range and is an attempt to collect approximately \$7,411,009 more from ratepayers for management doing what it is required to do under the Code. Peoples' request for a 25 basis point adder due to an unsubstantiated claim of exemplary management performance should be denied. The OCA submits that granting such an excessive, unsupported return adder is unjustifiable in this proceeding and wholly inconsistent with any notion of just and reasonable rates. The OCA respectfully requests that the Commission expressly reject Mr. Moul's unsupported management performance adjustment.

D.1. I&E's Recommended Rate of Return Is Also Excessive.

I&E witness Spadaccio recommended an ROE of 9.95% and a capital structure of 54.67% common equity and 45.33% long-term debt. I&E St. 2 at 6. Mr. Spadaccio's recommended 9.96% ROE for Peoples is higher than warranted given the market based data and proxy group applicable to this case. OCA St. 3R at 3. Mr. Spadaccio's recommendation is based exclusively on his DCF result of 9.96%. *Id.* Mr. Spadaccio provides a CAPM analysis for comparative purposes, but not as a check on his DCF results. *Id.*

Mr. Spadaccio's 9.96% DCF result is excessive because he uses an unreasonably high growth rate of 5.91%. Mr. Spadaccio based his growth rate on analysts' five-year earnings per share growth rate forecasts for the companies in his proxy group without accounting for how much these earnings investors expect will be retained in the business and how much will be paid out as dividends. OCA St. 3R at 4. Mechanically using analyst earnings per share growth rates as a growth rate in a DCF model is akin to calculating how much money someone will have in their bank account at retirement by counting only income and ignoring any expenses that person spends out of their bank account. OCA St. 3R at 5. As both Mr. Moul and Mr. Spadaccio use five-year earnings per share growth rates, their DCF results are unreasonably high.

Mr. Spadaccio's CAPM result of 10.91% does not provide a useful comparison to his DCF model because the 8.17% market risk premium component he selected is excessive. OCA St. 3R at 7. As discussed *supra*, the market risk premium that investors are currently demanding is between 2.7% and 4.06%. OCA St. 3R at 7. The market risk premium is a measure of the additional return investors require to invest in equity as compared to lower risk debt (generally U.S. Treasury bonds). *Id.* Miscalculating this number can result in an inaccurate estimate of the cost of equity. *Id.*

The CAPM model estimates cost of equity by adding a market risk premium to a risk-free rate, including making adjustments for the relative risk of utility companies (referred to as "beta"). OCA St. 3R at 7. Adding eight-hundred and seventeen basis points to the risk-free rate is clearly excessive. Duff & Phelps / Kroll, a source relied upon by Mr. Moul in his CAPM analysis, calculated a "geometric supply-side equity risk premium of 4.39%" based on their own analysis of historical market returns over the past 98 years. OCA St. 3R at 8. If Mr. Spadaccio had used a market risk premium component of 4.39%, his CAPM result would have been an 8.27% cost of

equity, which is very close to OCA witness Rothschild's recommended range of 7.5% and 8.22%. OCA St. 3R at 8. As Mr. Spadaccio used a market risk premium that veers far above what is an accurate representation of investors' equity return expectations the Commission should disregard Mr. Spadaccio's flawed CAPM result.

E. Conclusion as to Rate of Return

1. Peoples' and I&E's Calculated Returns on Equity are Excessive and Should Not Be Adopted.

Mr. Moul's 11.50% ROE recommendation, before his recommended 25-basis point recognition for management performance, is significantly above Peoples' market-based COE and should not be the starting point for any increase to Peoples' ROE to recognize management performance. Mr. Spadaccio's recommended 9.96% ROE for Peoples is higher than warranted given the market based data and proxy group applicable to this case. OCA St. 3R at 3. The OCA strongly urges the Commission to adopt Mr. Rothschild's ROE recommendation of 8.02% (7.67% - 8.37%) without any adjustment for management performance. OCA St. 3 at 103. It is important to recognize that Mr. Rothschild's analysis demonstrates that Peoples' requested ROE should be rejected because it is higher than its market-based COE. OCA St. 3 at 104.

Mr. Moul recommends that the Company be allowed a return on equity of 11.75%. Mr. Moul's DCF result of 11.88% is above the market-based COE because (1) it has an unsustainable growth rate component (6.75%) and (2) he adds a leverage adjustment that misrepresents the basics of evaluating a company's cost of equity. Without his leverage adjustment, his DCF result is 10.47% which is still unreasonably high. OCA St. 3 at 101. Mr. Moul's Risk Premium method was developed based upon an improper mathematical approach to quantifying historic actual returns. *Id.* Mr. Moul's CAPM approach relies on an excessive market risk premium, an improper inflation of the "beta" because of a high market-to-book ratio, and an invalid "size premium." *Id.*

The incorrect claim that investors demand a higher cost of equity to invest in a small company (referred to as “size premium”) is manufactured by an incorrect use of data. *Id.* Mr. Moul’s Comparable Earnings method is not really an equity costing method at all, as no consideration was given to investors’ reactions to the earned returns on book equity. *Id.*

2. The OCA’s Recommended Rate of Return Is Supported By Market Expectations, Is Reasonable, and Should Be Adopted.

The OCA submits that the extra \$136.19 million that ratepayers will be forced to pay if Peoples’ ROE position is adopted, none of which has been demonstrated to provide them with better or safer service, will make essential utility service more expensive and likely less accessible for ratepayers. Such an outcome is wholly unnecessary, as Peoples’ inflated analysis has been refuted by Mr. Rothschild as being higher than necessary to attract investors. To be sure, Mr. Moul was unable to identify any natural gas distribution utility in United States that has been granted an authorized return of 11.75% or higher in the past two years. I&E Exh. No. 2, Sch. 13.

By way of contrast, OCA witness Rothschild properly concluded that the cost of equity allowed for Peoples should be between 7.67% to 8.37% (recommended at 8.02%). OCA St. 3 at 101. Based on Mr. Rothschild’s recommended common equity ratio of 50.00%, this results in an overall cost of capital of between 6.02% and 6.37% (recommended at 6.20%). *Id.* If the Commission decides to use Peoples’ requested capital structure of 54.67% common equity and 45.33% debt instead of Mr. Rothschild’s recommended 50% common equity and 50% debt capital structure, Mr. Rothschild recommended a reduced authorized ROE of 7.84% (7.49% - 8.19%) to account for the lower financial risk of a capital structure with more equity. *Id.*

IX. REVENUE ALLOCATION AND RATE DESIGN

A. Introduction

The OCA respectfully requests that the Commission reject the Company's proposed rate structure and accept the OCA's proposed alternative. Peoples' class cost of service study (CCOSS) incorrectly partially relies on the minimum/design day method, instead of solely relying on the more accurate peak and average method, which has been accepted and preferred by the Commission. The OCA's changes to the Company's proposed revenue allocation and rate design maintain a cost-of-service basis, without attempting to unreasonably cross-subsidize classes, while satisfying the Commission's stated goals of gradualism, affordability, and incentivizing conservation. As a result, the OCA's alternative rate structure should be accepted by the Commission and, to the extent any party's proposal conflicts with the OCA's, the OCA's should be given greater weight when determining just and reasonable rates.

B. Cost of Service

The OCA's proposed cost-of-service study should be given greater weight than the cost-of-service studies performed by other parties. Mr. Clarence Johnson, the OCA's cost-of-service witness, utilized the peak-and-average method to perform his cost-of-service recommendation in this proceeding. OCA St. 4 at 19. I&E also used a peak and average method in its cost-of-service study. *See* I&E St. at 27. OCA and I&E both used the peak and average method because it has consistently and historically been preferred by the Commission to determine the cost of providing natural gas distribution services. *See, e.g., Columbia 2021* at 215-18 (citing Commission precedent regarding adoption of the peak and average method while further elaborating on the reasonableness of the peak and average methodology). The peak and average method considers the costs associated with building out design day infrastructure, as well as the everyday cost of service, without relying on subjective, hypothetical methodologies that unnecessarily penalize customer

classes with high density, such as the methods relied on by the Company, Peoples' Industrial Intervenors (PII), and the OSBA. OCA St. 4SR at 2.

The purpose of a CCOSS is to allocate costs among classes of customers of a utility in accordance with cost causation principles, meaning that the class of customers responsible for a certain portion of a utility's cost to provide service should pay that portion. OCA St. 4 at 5. While the CCOSS is an illustrative tool in highlighting cross-subsidization, it is prone to subjectivity; as a result, how portions of plant, such as mains, or other costs are allocated in a CCOSS can have a dramatic impact on the study's results. *Id.* at 9. To minimize subjectivity, an effective CCOSS eliminates reliance on hypothetical costs or models, and instead looks at the actual costs which vary with the addition or subtraction of a single customer in each class. *Id.* at 10-11. Peoples serves the following classes of customers, which it included in its cost of service studies: Residential Service (RS), Small General Service (SGS), Medium General Service (MGS), and Large General Service (LGS). Peoples' St. No. 15 at 8.³⁰

In this case, Peoples' CCOSS is unnecessarily subjective and relies on hypothetical allocation methods to assign costs amongst customer classes. It also allocates costs to non-MGS, MLS, and LGS customer classes which are incurred only by MGS, MLS, and LGS customers. Similar methodologies are used by PII and OSBA. As a result, the Commission should grant the CCOSS provided by Peoples, PII, and OSBA with little weight. Instead, the Commission should provide greater weight to the CCOSS provided by OCA witness Johnson, who conformed to the Commission's preferred peak and average method and accurately allocated costs amongst

³⁰ Peoples' customer classes are configured as combined classes that include both sales service and transportation customers. Accordingly, the RS class includes residential customers served under Peoples' Rates RS, the SGS class includes small commercial and industrial customers served under Peoples' Rates SGS, GSS and GS-T, the MGS class includes medium-sized commercial and industrial customers served under Peoples' Rates MGS and GSL and GS-T, and the LGS class includes large commercial and industrial customers served under Peoples' Rates LGS, GSL, GST and GS-T. Peoples St. 15 at 9.

customer classes and adopt Mr. Johnson’s recommendation when allocating revenue between classes.

1. The Commission Should Reject the Usage of the Minimum Systems Method and Rely Entirely on the Peak and Average Method when Allocating the Cost of Distribution Mains.

In its filing, Peoples utilized a customer component in its cost-of-service studies to determine how the cost of distribution mains is allocated across customer classes. OCA St. 4 at 11. The Commission has recently, and historically, rejected the inclusion of a customer component when allocating the costs of mains. *See Columbia 2021* at 215-18; *PGW 2023* at 137; *Pa. PUC v. Nat’l Fuel Gas Dist. Co.*, 83 Pa. P.U.C. 262, 360 (1994). Instead, the Commission has preferred the allocation of mains costs in accordance with the quantity of gas supplied – which is the fundamental function of a natural gas distribution system – considering both the average load and the peak load that the mains will transport. *Columbia 2021* at 217.

By way of background, Peoples used the minimum systems method when determining how to allocate the cost of distribution mains. OCA St. 4 at 11. The minimum systems method relies on a study that attempts to develop the cost of a hypothetical distribution system with no gas load carrying capability.” Sufficiently, the minimum system study “does not reflect the cost of sizing the main to carry any volume of gas” and it requires an analyst to assume that the main costs are not demand-related and should be allocated on a customer basis. OCA St. 4 at 11-12. In this case, Peoples allocated its minimum system costs of mains to the customer cost component, meaning that it assumed that the cost of mains is associated with the addition or subtraction of a customer, and not to the demand component. *Id.* at 13. The result is that high-density, lower-use customers are assigned costs which are disproportionate to the cost burden they actually place on the system because those costs are assumed to correspond to the number of customers served by mains and not the natural gas throughput required of those mains. *Id.* at 16.

Peoples proposes that 48% of the cost of distribution mains should be assigned using this customer component. The remaining 52% will be allocated through the use of design day demand, or the peak throughput that the utility expected would be simultaneously demanded by consumers at the time that the main was installed. OCA St. 4 at 19, 24. PII and OSBA presented similar recommendations. OCA St. 4R at 3, 9. While the design day demand cost allocation method is preferable to the use of a customer component, as under the minimum system method, it is still not ideal. Design day demand largely influences the size of installed mains and the capacity of the system to deliver the throughput required to handle the natural gas usage during the most extreme weather the utility expects its customers to experience. *Id.* at 21. However, the cost to install a main with greater capacity is only marginally more expensive than the cost to install one of lesser capacity, as the majority of costs associated with the installation of main are independent of the size of the main. *Id.* at 22.

To better address cost causation, OCA witness Johnson recommends that the Commission rely on the peak and average method for determining the cost of mains, as it has done in similar, previous cases. *See, e.g., Columbia 2021* at 215-28. Under the peak and average method, the cost of distribution mains is allocated 50% to the average annual actual demand (throughput) of the main and 50% to the design day demand of the main. OCA St. 4 at 19. Utilizing both average actual demand and design day demand recognizes the variable nature of natural gas distribution, where demand is constantly in flux and costs cannot be allocated purely by costs incurred through actual average usage or through the peak throughput of the system. *Id.* at 20. As a result, the marginal increase in cost of providing service for peak demand over average demand is properly incorporated into the peak and average model.

Importantly, including a customer component in the allocation of the cost of mains increases costs assigned to the residential customer class at a disproportionate rate to the quantity of natural gas or the length or size of main required to service residential customers. OCA St. 4R at 4. For example, the average length of main required to service Peoples' five largest industrial customers would serve, on average, 28 customers in Peoples' service territory. *Id.* at 5. In other words, providing a customer cost component in the cost-of-service study shifts costs from high-demand customers in low-density customer classes to low-demand customer classes with higher customer density; in other words, large commercial and industrial customers benefit to the detriment of Peoples' captive, residential customers. *Id.*

The actual usage characteristics and design of a system have significantly more influence on the cost of service in a distribution system than the number of customers serviced by the system. As a result, the Commission should give little weight to the Company's proposed usage of the minimum/design day allocation of the cost of distribution mains, which incorporates a customer cost component and is inconsistent with Commission precedent. Instead, the OCA respectfully requests that the Commission adopt the CCOSS proposed by Mr. Johnson, which appropriately uses the peak and average method to allocate the cost of distribution main in accordance with the actual usage and design of Peoples' system.

2. The Commission Should Assign the Costs of Six Account Executives' Salaries to the MGS, MLS, and LGS Classes in the CCOSS, as they Provide Service Exclusively to Large Commercial and Industrial Customers.

In Peoples' cost-of-service studies, the Company spread the cost incurred by six major account executives – whose work provides service exclusively for the MGS, MLS, and LGS classes – across all customer classes. OCA St. 4 at 25. While the OCA does not dispute that such executives may be necessary for the Company to provide specialized service to large commercial or industrial customers, the cost to provide such service should not be spread across all customer

classes. *Id.* Where possible, the Commission should avoid cross-subsidization and properly assign costs to customer classes which contribute to the causation of those costs, unless there are additional considerations which warrant departure from this principle. *Lloyd* at 1020.

In this case, Peoples agreed that the non-capital costs associated with the accounts identified by Mr. Johnson should be assigned to the MGS, MLS, and LGS classes. OCA St. 4SR at 14. Peoples identified the non-capital costs as totaling \$728,049. *Id.* As a result, the OCA recommends that the Commission adopt Peoples' and the OCA's adjustment to the CCOSS, allocating the \$728,049 cost of these account executive by 50% to the MGS class, 45% to LGS, and 5% to MLS, and give little weight to other parties' response to the OCA and Peoples' agreements regarding this adjustment. *Id.*

C. Revenue Allocation

Based on the OCA's peak and average CCOSS, the OCA recommends that the Commission reduce the proportion of the revenue requirement currently borne by residential customers, as residential customers are subsidizing the revenue requirements of other classes under the Company's proposal. *See* OCA St. 4 at 27.

Once the Commission has adopted a cost-of-service study, the Commission then determines inter-class rates, "which involves the assignment of the revenue requirement between the various customer classes." *Pa. PUC v. PECO Energy Co. – Gas Division*, Docket No. R-2020-3018929 (Order entered June 22, 2021) (*PECO Gas 2021*) at 247. Revenue allocation should seek to eliminate class cross-subsidization and move towards cost of service. *Lloyd* at 1020. However, the Commission is also charged with balancing public policy considerations such as gradualism, incentivizing conservation, and ensuring that rates are affordable for all customers when allocating revenues between classes. *PGW 2023* at 146 and *PECO Gas 2021* at 247.

Under the peak and average CCOSS, residential Peoples customers are paying 114.5% of their cost of service, meaning that residential customers are cross-subsidizing other classes at current revenues under the Company’s current proposal. OCA St. 4 at 27. OCA witness Johnson provided the following analysis of Peoples’ customers relative rate of return (RROR), or “the extent that classes’ present revenues produce rates of return, which are higher or lower than the system earned rate of return. A RROR above 1.0 indicates a class that is above average, in terms of compensatory rates, and a RROR below 1.0 indicates a class that is below average.” *Id.*

OCA Recommended CCOSS (000s)	Company Request					
	Total	RES	SGS	MGS	LGS	MLS
Total Base Revenues	\$678,599	\$450,261	\$67,294	\$91,419	\$52,951	\$16,675
Relative Rate of Return (Current Rates)	1	1.145	0.583	0.463	1.819	-0.979

Id. Compared to residential customers, small- and medium-sized commercial customers and main-line service customers would be paying substantially less than their cost of service, compared to other classes. Increasing the residential class’s cost burden in accordance with the Company’s request would violate the principle of designing rates in accordance with cost of service.

As a result, Mr. Johnson prepared a revenue allocation which is in accordance with actual cost of service using the peak and average method, as seen in the below table. *See* OCA Exh. CJ-1.

	RES	SGS	MGS	LGS	MLS
Current Base Revenues	\$347,867	\$43,991	\$57,024	\$48,982	\$6,997
Company Proposed Increase	\$132,254	\$19,861	\$18,436	\$3,187	\$0
Company Post-increase Revenues	\$480,121	\$63,852	\$75,460	\$52,169	\$6,997
Percent Increase	38.0%	45.1%	32.3%	6.5%	0.0%
OCA Proposed Increase	\$102,395	\$23,302	\$34,395	\$3,968	\$9,678
OCA Post-increase Revenues	\$450,261	\$67,294	\$91,419	\$52,951	\$16,675
OCA Percent Increase	29.4%	53.0%	60.3%	8.1%	138.3%

OCA St. 4 at 29. Under his primary recommendation, residential customers will still continue to bear their cost of service, while providing small subsidies to other classes, to conform to gradualism. Excluding Rate MLS, the system average increase under Mr. Johnson’s proposal is 37.7%, meaning that all classes – except for Rate MLS – will see revenue increases within 1.5 (56.6%) to 2.0 (75.4%) times the system average increase, or the Commission’s preferred metric for a gradual increase. *PECO Gas 2021* at 249.

Mr. Johnson also prepared an alternative revenue allocation, which sets an upper limit on class increases to 1.5 times the system average increase, to alleviate concerns of gradualism, as seen in the below table. *See* OCA Exh. CJ-2.

Alternative Gradualism Revenue Distribution (000s)

	Total	RES	SGS	MGS	LGS	MLS
Current Revenue	\$504,861	\$347,867	\$43,991	\$57,024	\$48,982	\$6,997
Revenue Increase	\$173,738	\$103,511	\$22,700	\$29,424	\$8,425	\$9,678
Base Revenues	\$678,599	\$451,378	\$66,691	\$86,448	\$57,407,	\$16,675
Percent Increase	34.4%	29.8%	51.6%	51.6%	17.2%	138.3%
Increase Ratio		86.5%	149.9%	149.9%	50.0%	401.9%

OCA St. 4 at 31. However, if the Commission scales back rates in accordance with a revenue requirement less than that requested by the Company in its filing, gradualism concerns should be sufficiently alleviated that Mr. Johnson’s primary recommendation should be adopted, instead.

Rate MLS’s increase under Mr. Johnson’s proposals is not a relevant consideration under the principle of gradualism. Specifically, Rate MLS is a new rate class proposed by the Company in this filing; instead, it represents a sub-class of LGS, where customers pay negotiated contract rates. OCA St. 4 at 30. Due to the negotiated basis of MLS customers’ rates, gradualism should not be considered, and, instead, MLS customers should be assigned their full cost of service to prevent that revenue from being allocated to other classes, causing unreasonable class cross-subsidization. *Id.* at 30-31. Competitive customer classes should be allocated their actual cost of service, instead of having that actual cost reduced by the classes’ competitive discount, as proposed by PII; competitive classes’ benefits from threatening load loss to the Company should not create burdens for other customer classes. OCA St. 4R at 20. Peoples agrees that MLS customers should not have revenue allocation limited under the theory of gradualism. Peoples St. 15-R at 40. I&E witness Cline also reaches a similar conclusion, on the basis that MLS customers are members of

a new customer class, and, therefore, cannot be subject to rate shock due to paying their full cost of service. I&E St. 3 at 38.

The OCA respectfully requests that the Company's proposal be modified as recommended by Mr. Johnson because the Company's proposal is based in an inaccurate cost of service study which deviates from the Commission's preferred peak and average cost of service methodology. Therefore, the Commission should allocate revenues in accordance with Mr. Johnson's primary recommendation to prevent residential customers from unnecessarily bearing the cost of service of other customer classes. OCA Exh. CJ-1. Alternatively, if the Commission is concerned that the increase to small- and medium-sized commercial customers may cause rate shock, then the Commission should adopt Mr. Johnson's alternative recommendation. OCA Exh. CJ-2.

D. Rate Design

The OCA's adjustments to the Company's proposed tariff should be adopted because, without them, the Company's proposed tariff would not result in just and reasonable rates. The OCA recommends reducing the residential customer charge. Residential customer charges should not increase because the current customer charges comport with cost-of-service principles as they provide sufficient revenue for both direct customer costs and shared indirect customer costs, comports with the policy of gradualism, better incentivizes energy conservation, and considers affordability. Further, the Company's request to include electricity as a competitive alternative for the purposes of offering flex rates should be denied because granting the request is inconsistent with the Commission's policies on competitive rates.

1. Peoples' Proposed Residential Customer Charge Increase Should Be Rejected Because the Proposal Does Not Conform to the Cost of Service.

The OCA recommends that the Commission adopt PNGD's current residential customer charge for all residential customers in this proceeding. PNGD's current customer charge currently

includes the direct customer costs of residential customers of \$9.00, in addition to \$5.50 which contribute to indirect, shared customer costs. OCA St. 4 at 34. As such, Peoples actual cost of service, as adjusted under the peak and average method adopted by the OCA and I&E, supports not increasing residential customer charges for Peoples' residential customers,

Residential customers in the PNGD currently pay a fixed monthly customer charge of \$14.50 and customers in the PGD currently pay a fixed monthly customer charge of \$15.75. Peoples Exh. 14, App'x A at 36, C at 75. Peoples has proposed increasing the fixed monthly customer charge to \$21.50, an increase of 48.3% (\$7) for PNGD customers and 36.5% (\$5.75) for PGD customers. Exh. 14, App'x D at 40. Peoples' request is not supported by the weight of the evidence, as its customer charges are based in its proposed cost of service, which disproportionately and inappropriately assigns costs to residential customers due to the inclusion of a customer component in its cost of service study. *Supra* at Section IX.B.1.

OCA witness Johnson's peak and average CCOSS determined that the cost to serve residential customers is \$9.00 at the Company's requested revenue requirement, which is significantly less than the customer charges in both PNGD and PGD. OCA St. 4 at 34; OCA Exh. CJ-3. Specifically, Mr. Johnson provides that:

When new residential customers initiate service or existing customers leave the system, the primary increase or decrease in cost pertains to billing, collection, and metering. In some cases, a service line may have to be extended to a new customer. Therefore, a compensatory customer charge can be based on the following direct cost components: O&M expense for meters, services, meter reading, and customer accounting, and return and depreciation on meter, regulator, and service investment, minus credits for customer-related late fee and connection charges. In my view, general overhead, such as administrative and general expense and general plant should be excluded from the customer charge computation, because these costs do not vary directly with number of customers. This approach has been termed the "direct cost method" or "basic customer charge." . . . So long as the customer charge covers the direct costs of becoming a customer and provides a contribution to recovery of shared indirect costs, the charge does not produce a cross-subsidy. . .

OCA St. 4 at 33-34. By utilizing the direct cost method, Mr. Johnson was able to produce a cost per residential customer which, at the Company's current fixed monthly customer charges, covers the costs incurred by the residential class as well as indirect costs shared with other customer classes. *Id.* at 34. As such, Mr. Johnson's proposal avoids unreasonable class cross-subsidization.

The Commission has previously relied upon the direct cost method of determining customer charges based on the cost of service. *See, e.g., Pa. PUC v. PPL Gas Utilities Corporation*, Docket No. R-00061398, 2007 Pa. PUC LEXIS 2 at *210 (Order entered Feb. 8, 2007) (*PPL Gas 2007*). While the Commission has recognized that indirect customer costs, "such as employee benefits, local taxes and other general and administrative costs . . . may be considered for inclusion in the customer charge, [] such claims are subject to scrutiny on a case-by-case basis." *Pa. PUC v. Aqua Pa., Inc.*, Docket No. R-00038805, 2004 Pa. PUC LEXIS 39 at *98 (Order entered July 23, 2004) (*Aqua 2004*). The OCA submits that the direct cost method of cost allocation provides optimal results during the rate setting process because it relies exclusively on the costs that vary with the addition or subtraction of a single customer.

The direct cost allocation method is an uncomplicated analytical framework to produce a basis for rates which is grounded in customer costs, as opposed to costs which are influenced by or vary with customers' demand. Peoples' proposed customer charge includes costs which more appropriately vary with demand, including the cost of mains, than the number of customers. OCA St. 4 at 36; *see also Columbia 2021* at 264 (adopting the Recommend Decision's rejection of a proposed customer charge increase where the customer charge included the cost of mains under the Company's proposed, and rejected, CCSS). Further, I&E's proposed residential customer charge includes administrative and general expenses, which is inappropriate, as such costs are not chargeable directly to any particular customer class, but are indirectly incurred by *all* customer

classes, not just residential customers. OCA St. 4R at 17-18. Peoples' and I&E's recommended residential customer charges, therefore, should be given little weight, as they seek to recover costs which do not vary directly with the addition or subtraction of a single customer.

As such, the OCA recommends that the Commission adopt Mr. Johnson's proposed fixed monthly customer charge for residential customers of \$14.50. OCA St. 4 at 38. Mr. Johnson's proposed charge would fully cover the direct cost of service for residential customers while allowing for \$5.50 of each customer's fixed charge to be applied to costs shared across Peoples' customer classes. *See Aqua 2004* at *98. Peoples has not presented evidence sufficient to explain why, in this case, recovering indirect customer costs in excess of PNGD's current customer charge is necessary, or would result in just and reasonable rates. Such claims are subject to the Commission's scrutiny and require evidence that the inclusion of indirect customer costs would result in just and reasonable rates. 66 Pa. C.S. § 315(a) (emphasis added). Peoples has presented no evidence to support that it would be just or reasonable to force its captive residential customers to bear indirect costs in excess of the current subsidy provided to other classes.

Setting a customer charge of \$14.50 would permit residential customers to provide a subsidy to other customer classes – as they currently already are – without needing a dramatic increase in rates for residential customers or other customer classes. The Company's proposed customer charge of \$21.50 is far in excess of the direct and indirect cost of service for residential customers and should be given little weight. The evidence presented by the OCA should be given substantially more weight, and, therefore, the OCA's proposed residential customer charge should be adopted because it is the only proposal which correctly allocates direct and indirect costs to the residential customer charge while reducing inter-class subsidies.

2. Peoples' and I&E's Proposed Residential Customer Charge Increase Should Be Denied Because the Proposal Undermines Rate Gradualism, Conservation, and Affordability.

In addition, Peoples' proposed customer charge does not comply with the principles of gradualism, does not incentivize conservation, and increases unaffordability. As proposed, the portion of a residential customer's bill over which that customer will have no control will change by 36% – 48% under the Company's proposal. Exh. 14, App'x A, C, D. Giving customers additional control over their bill promotes conservation by providing accurate price signals of how a customer's usage impacts the cost on the utility to provide them with service.

The Commission has previously approved increases which are based in cost of service but are moderated in accordance with the principle of gradualism, where an increase in rates towards full cost of service is phased in over time to prevent customers from rate shock or facing too high of a bill increase all at once. *See, e.g., PGW 2023* at 164. While the OCA submits that the customer charge for residential which it proposes in this case is based in the cost of service, the residential customer charge proposed by Peoples still violates the principle of gradualism, and any increase towards that charge should be moderated in accordance therewith.

The Commission has previously relied upon the “total bill impact” standard to determine whether an increase in a customer charge violates the principle of gradualism. *UGI Electric 2018* at 174. While the OCA does not support the usage of the total bill impact standard, due to how increases to fixed customer charges increase unaffordability, the total bill impact of the Company's proposed increase demonstrates that the increase would violate principles of gradualism. Under the Company's current proposed rates, a customer using approximately 3.2 MCF in a month will have 50% of their bill be represented in the customer charge in either PNGD or PGD.³¹ Exh. 14,

³¹ Customer charge / volumetric charge = number of MCF where volume and customer charge are equal portions of the bill. PNGD: 20.5117 / 6.3920 = 3.208698 MCF. PGD: 21.154 / 6.5124 = 3.248215 MCF.

App'x D. At current rates, the customer charge is 50% of a customer's bill at usage levels of approximately 2.8 MCF in PNGD and 2.2 in PGD. Exh. 14, App'x A, B. As such, especially during the summer months – where customer usage more likely comes from appliances, if there is usage, and not heating – increasing the customer charge will have a significant impact on customers' ability to adapt to their new rates.

Using the Company's FPFTY average annual usage of approximately 84.7 MCF, 31% of a customer's annual bill will be in customer charges. Exh. 3, Sch. 15, Attachment A, p. 3.³² At the Company's noticed annual usage of 80 MCF, the percentage of a customer's annual bill is even greater. This demonstrates that a significant portion of a customer's overall annual billing will come from its customer charge, which violates the principle of gradualism. *Compare with PGW 2023* at 165 (14.2% of an average customer's annual bill represents the customer charge) and *PECO Gas 2021* at 276 (17.4% of a customer's monthly bill at 8 MCF represents the fixed customer charge). The Commission has recently rejected a customer charge proposal that increased a customer's monthly bill by over one-third of the monthly bill, which would be the result of the Company's proposal in this case. *Columbia 2021* at 264 (adopting the Recommend Decision's rejection of a proposed customer charge increase on the basis of gradualism concerns, even after adopting the total bill impact standard).

Having such a high proportion of a customer's annual bill be rooted in the customer charge also distorts price signals and reduces incentives for energy conservation. Mr. Johnson, in his testimony, provides the example of replacing gas appliances with pilot lights (furnace, range,

³² Volumes sold in MCF / (Number of Bills / 12 months) = Average consumption in MCF per customer, per year.
48,318,424 / (6,845,788 / 12) = 84.6975.
(12 months * Customer Charge) / (Volumes sold in MCF * Distribution Rate + 12 months * Customer Charge) * 100% = Portion of a customer's annual bill attributed to the customer charge.
PNGD: (12 * 20.5117) / (84.6975 * 6.3920 + 12 * 20.5117) * 100% = 31.2%
PGD: (12 * 21.1535) / (84.6975 * 6.5124 + 12 * 21.1535) * 100% = 31.5%

fireplace, and water heater) with gas appliances without pilot lights. OCA St. 4 at 37. The small act of eliminating pilot lights would produce an additional \$22 (or 15% of total savings of \$147) in annual savings from reduced usage at a hypothetical customer charge of \$14.75, instead of the Company's proposed \$21.50 charge. *Id.* at 38. Improving home efficiency from upgrading a furnace, for example, could provide substantially more savings. *Id.* As a result, customers see a reduced incentive to conserve energy due to the smaller portion of their bill that they can control.

This is especially true for low-income customers, who may attempt to avoid the cost of natural gas service through reducing their consumption in unsafe ways. OCA St. 6 at 50. As OCA witness Colton explains:

“Reducing consumption” is not merely associated with energy efficiency improvements. Low-income households, especially vulnerable low-income households (e.g., elderly, disabled, families with children), will take actions to try to reduce their bills to more affordable levels, frequently involving substantial household deprivation or the undertaking of substantial risks. Available research documents that low-income households also seek to reduce bills by reducing consumption through actions such as closing parts of their home; reducing heating temperatures (even if to unsafe or unhealthy levels); or substituting the use of ovens or stoves to heat limited areas of their homes rather than using their heating systems to heat the entire home.

OCA St. 6 at 51. Mr. Colton also provided the following chart to further illustrate the importance of bill control for low-income customers.

Energy Reduction Actions in Response to Inability-to-Pay by Range of Federal Poverty Level
 (each attributed to “not having enough money to pay energy bill”)

	Closed off part of home			Kept an unsafe or unhealthy temperature			Used kitchen stove or oven to heat		
	0-50%	51-100%	101-150%	0-50%	51-100%	101-150%	0-50%	51-100%	101-150%
Almost Every Month	10%	14%	7%	8%	3%	3%	1%	1%	1%
Some Months	24%	13%	14%	18%	12%	10%	14%	11%	8%
1-2 Months	12%	10%	11%	7%	8%	9%	22%	19%	14%
Never / No	54%	63%	67%	67%	76%	76%	63%	69%	77%
No response.	0%	0%	< 1%	0%	1%	2%	0%	0%	1%

OCA St. 6 at 52. Ms. Lou Ann Byrnes, a customer from Wexford, PA, testified at the March 6, 2024 Public Input Hearing with anecdotal evidence of these common practices. Tr. 214-22. Specifically, Ms. Byrnes testified that, in her previous role as a school counselor in Peoples’ service territory, she had seen and heard from a number of her students whose families were unable to heat their home at safe temperatures during the winter, and sometimes had to choose between eating and maintaining the home’s unsafe temperatures. *Id.* Not only are the aforementioned usage reduction practices unsafe, but it is possible that customers may resort to more extreme measures – posing greater risks to themselves, their families, and their neighbors – in order to reduce usage, when usage is no longer the greatest determining factor in monthly natural gas bills. OCA St. 6 at 53.

Increasing unaffordability of consumer bills through raising fixed customer charges poses a serious concern to all Peoples’ customers, including non-low-income, confirmed low-income, and CAP customers. There are few considerations as important as affordability, as affordability “is in both the shareholders' and ratepayers' best interest. Affordable bills will maximize revenues

for the Company and will enable ratepayers to continue to receive an essential service.” *Roaring Creek 1990* at *116. When customers are unable to pay their bills in full and on time, they face an uphill battle to get back on track; PNGD imposes late payment charges of 1.5% on the full unpaid balance of a customer’s bill each month, and PGD imposes a similar charge of 1.25%. OCA St. 6 at 59. Missing one payment could place low-income customers on a path towards default and disconnection, as low-income customers’ ability to control their total bill decreases with each missed or late payment. Similarly, increasing fixed customer charges also increases the amount Peoples will have to collect from non-CAP customers on a dollar-for-dollar basis to fund the percentage of income program component of CAP. *Id.* at 50.

As a result, the Company’s proposal to increase customer charges undermines important Commission policy objectives. Peoples’ proposal violates the principal of gradualism because the customer charge will represent a substantially greater proportion of a customer’s average bill in both PNGD and PGD, especially during summer and shoulder months when customers may have low or no natural gas usage and the customer charge represents their total bill. Similarly, the requested increased customer charge impedes conservation by setting the portion of a bill that a customer control at approximately 71% of the overall bill for a month with average usage, meaning that customers will see less benefit from increasing conservation. Low-income customers, who often rely on energy conservation to be able to afford their natural gas bills, will suffer from such increased customer charges.

Therefore, the Commission should give little weight the Company’s proposed residential customer charge of \$21.50, and instead grant substantial weight to the customer charge proposal of \$14.50 recommended by OCA witness Johnson. Mr. Johnson’s recommendation is based in the direct customer cost Peoples incurs for offering service to residential customers, affords residential

customers’ contributions to shared, indirect costs, incorporates considerations for gradualism, conservation, and affordability.

E. Bill Impacts

The OCA’s bill impact analysis is provided in Appendix A, Tables VIIIA and VIIIB attached to this Brief. In relevant part, a comparison of the bill impacts of Peoples’ proposal and the OCA’s proposal to residential customers is as follows:

Estimated Percentage Impact With Riders and Cost of Gas						
OCA Residential (80 units consumption per year)						
	OCA Proposed	PNGD Current	Percent	PNGD Current	Percent	
			Incr.		Incr.	
Customer Charge Monthly Average	\$ 14.50	\$ 14.50	6.7%	\$ 15.75	-28.4%	
Delivery Charge Monthly Average	\$ 29.14	\$ 26.41	6.7%	\$ 45.16	-28.4%	
Cost of Gas	\$ 26.43	\$ 26.43		\$ 26.43		
Estimated Riders	\$ 2.97	\$ 5.64		\$ (4.44)		
Total Monthly Bill	\$ 73.04	\$ 72.98	0.1%	\$ 82.90	-11.9%	

OCA App’x A, Table VIIIA.

F. Summary and Alternatives

The OCA’s cost-of-service study, revenue allocation, and rate design are supported by the evidence of record. OCA witness Johnson utilized the peak and average method to conduct the CCOSS, which is favored by Commission precedent. Using the peak and average CCOSS, the OCA’s revenue allocation moves all classes closer to paying their actual cost of service. With the adjustments to the cost-of-service study and revenue allocation proposed by Mr. Johnson, the OCA recommends that the current residential charge for PNGD customers be maintained, as it recovers all residential direct costs and a significant portion of shared indirect costs. Attached as Appendix

A, Tables VIIA and B is the OCA's full revenue allocation proposal³³ and Tables VIIIA and B include the OCA's rate design proposal, including rate impacts for revenue at present rates. The OCA's recommendations would result in just and reasonable rates, as they comply with the Commission's stated policies and precedent and are supported by evidence of record.

The Company's proposed deviations from Commission policy and precedent are, inversely, not supported by evidence of record. The Company seeks to use a minimum system/design day CCOSS and allocates the cost of main using a customer component, neither of which are supported by Commission precedent, and which explicitly favor large industrial and commercial customers over captive residential customers as a result of customer density. Peoples' revenue allocation flows from its inappropriate CCOSS, similarly increasing residential rates far in excess of the actual direct and indirect cost of service. The Company, as a result, seeks to recover over 30% of residential rates in fixed customer charges, which includes recovery of indirect costs without adequate evidentiary support to satisfy the Commission's scrutiny and undermines the Commission's policies regarding gradualism, incentivizing conservation, and affordability.³⁴

X. WEATHER NORMALIZATION ADJUSTMENT

Peoples' request to implement a WNA should be denied by the Commission. A WNA is a revenue decoupling mechanism used to shift the risk of recovery of a utility's revenues onto ratepayers as temperatures continue to get warmer over time.³⁵ OCA St. 2 at 22. The theoretical purpose of a WNA is levelized revenues over time to provide a more stable and guaranteed revenue

³³ OCA Appendix A, Table VIIA includes the OCA's proposed revenue allocation at the OCA's recommended revenue requirement. OCA Appendix A, Table VIIB includes the OCA's proposed revenue allocation at Peoples' recommended revenue requirement.

³⁴ As the OCA's recommendations were formulating using the Company's requested revenue requirement, should the full revenue requirement not be granted, the OCA recommends that its revenue distribution be scaled back proportionately in order to reflect the adopted revenue requirement. OCA St. 4 at 31. In the event of a scale back, volumetric rates should be decreased in accordance with the Company's reduced revenue requirement.

³⁵ Climate change refers to long-term shifts in temperatures and weather patterns.

stream for the NGDC that is less dependent on weather-driven consumption. While this alternative ratemaking mechanism is clearly intended to benefit the Company, Peoples has provided no evidence that ratepayers will benefit from the implementation of the WNA. OCA St. 1 at 22.

A. Description of the WNA

The proposed WNA would adjust residential and small- and medium-sized commercials customers' monthly bill for the quantity of gas which the Company projected they would use based on predicted "normal" weather for that month. *Id.* Under Peoples' WNA proposal, if a month is warmer than anticipated during the months of October 1 through May 31, and if customers use less natural gas than the Company anticipated, the customer will receive a charge for the quantity of gas the Company believes the customer hypothetically would have used had the weather been as cold as the Company anticipated; the inverse is true for weather that is colder than the Company anticipated, resulting in a credit on customers' bills. Peoples St. No. 3 at 15. The WNA does not address non-weather-related factors which may affect usage and can cause significant bill impact to customers whose usage does not move in the direction anticipated by the WNA. Peoples St. No. 15-R at 20.

The proposed WNA is an alternative ratemaking mechanism. OCA St. 4SR at 23. To determine "just and reasonable alternative distribution ratemaking mechanisms and rate designs that promote the purpose" of the Commission's policy and the policy laid out in Section 1330, the Commission developed 14 factor it considers in a policy statement. 52 Pa. Code § 69.3302(a).³⁶ This policy statement was enacted following the passage of Section 1330 of the Code, which permits the Commission to use alternative rate mechanisms to further policy objectives, including energy efficiency. 66 Pa. C.S. § 1330. Section 1330 specifically states that "[i]t is the policy of the

³⁶ The 14-question test is analyzed in full in OCA Exh. DE-1, and incorporated herein by reference.

Commonwealth that utility ratemaking should encourage and sustain investment through appropriate cost-recovery mechanisms to enhance the safety, security, reliability or availability of utility infrastructure and be consistent with the *efficient consumption* of utility service.” 66 Pa. C.S. § 1330(a)(2) (emphasis added).

Under those factors, Peoples’ proposed WNA would not result in just and reasonable rates. The factors can generally be grouped into four distinct categories: cost-of-service, customer legibility, impact on low-income customers, and impact on customer conservation incentives. 52 Pa. Code § 69.3302. While no one factor is dispositive, the totality of all factors materially relevant to Peoples’ proposed WNA weigh against its authorization and implementation.

B. Peoples’ Proposed WNA Undermines Cost of Service Considerations.

Peoples’ proposed WNA would decouple its revenue from the use of its infrastructure and the associated cost of service. As a customer’s usage goes down because of warmer than normal weather, decreasing their demand and associated use of Peoples’ infrastructure (*i.e.*, mains, etc.), the WNA portion of their bill goes up. *See, e.g.*, PIH Exh. NH-1 at 3. While the WNA factor is not as large as the distribution rate, unless the predicted weather is approximately twice as cold as the actual weather, meaning that customers will be able to see savings from reduced usage, the WNA still obscures price signals for customers. It escapes reason that a customer should not see a dollar-for-dollar reduction in their bill which results from improving efficiency in the home or otherwise reducing usage because of weather.

It is a primary concern of the Commission that alternative ratemaking is, in some way, rooted in the cost of service. 52 Pa. Code § 69.3301 (“an alternative rate design methodology should reflect the sound application of cost-of-service principles”); 52 Pa. Code § 69.3302(a) (factors 1, 3, 4, and 14 directly pertain to cost-of-service considerations). The passage of Section 1330 of the Code does not alter the fact that cost-of-service is an important consideration in

determining just and reasonable rates. *Lloyd* at 1020. A WNA's attempt to increase revenue from a decreased cost of service is contrary to Commission policy with respect to cost of service.

By decoupling the cost of service from consumption, the proposed WNA would make it more difficult for customers to estimate their monthly bills, especially given that the WNA charge or credit does not respond to changes in weather as a customer experiences those changes. 52 Pa. Code § 69.3302(a)(8). Peoples has proposed that 5,341 heating degree days (HDDs) be used as the "normal" number of HDDs (NHDDs) each month; Peoples has proposed that its NHDD number will not be "rolling," meaning that it will automatically adjust month-to-month or year-to-year. OCA Exh. DM-39 at 42. If a customer experiences an atypically warm February, they may anticipate the following March and April to be warm as well; however, under the Company's proposal, the WNA factor would not adjust for a warmer spring than anticipated following a warmer winter than anticipated. *Id.*

Instead, customers will be paying based on the Company's predetermined "normal" that is set based on a historic period, which is entirely separated from the experienced changes in weather the customer and the region are experiencing. This could impact a customer's ability to understand month-over-month changes in billing, which should be decreasing due to warmer weather and less gas usage but would not be decreasing due to increasing WNA charges that are meant to keep the Company whole. In turn, this would impact a customer's ability to accurately predict and budget for what their natural gas bill will actually be.

The Company's claims that the proposed WNA will reduce bill volatility on an annual basis or during unseasonably warm or cold months is, at best, irrelevant. Customers do not value bill stability in the abstract. Customers expect their monthly bills to relate to their usage and the weather and certainly do not appreciate having a charge added to their bill because they used less

gas than Peoples anticipated all in the name of bill stability or volatility reduction. OCA St. 2 at 23 (noting the inverse relationship between WNA charges increasing bills while usage decreases is likely to cause customer frustration); PIH Exh. NH-1; Tr. 214-222 (Mrs. Byrnes' testimony that WNAs are unfair to customers who are penalized for using less gas). If Peoples seeks to reduce volatility in customer bills as a result of seasonal fluctuation in bills, the Company can promote budget billing to its customers, which is already available under the Commission's regulations and permits reconciliation of over- or under-billing, which the WNA does not, and specifically applies to heating customers, who are likely to experience the weather sensitivity upon which the WNA is based. OCA St. 6 at 64; 52 Pa. Code § 56.12(8). Peoples both admits that customers who wish to stabilize monthly bills can sign up to be enrolled in a budget billing program and that it has not conducted any survey of its customers to gauge their interest in having a WNA mechanism for purposes of receiving bills that reflect normalized weather conditions. Tr. at 325, 332.

Thus, Peoples has not provided any evidence to demonstrate that customers either need or are interested in having a WNA implemented for reducing bill volatility. For these reasons, Peoples' proposed WNA should not be granted, because it is not supported by cost-of-service principles, which are an important consideration under the Commission's policy statement factors 1, 3, 4, and 14. 52 Pa. Code § 69.3302(a).

C. Peoples' Proposed WNA Disincentivizes Customer Conservation.

Because the WNA divorces the cost of service from the customer's ultimate bill, customers are less able to control their ultimate bill, which reduces consumer incentives to limit their consumption or improve their energy efficiency. This undermines factors 5 and 6 of the Commission's stated policy on alternative ratemaking. 52 Pa. Code § 69.3302(a).

The Commission has long prioritized the importance of accurate price signaling when determining just and reasonable rates. *See, e.g., Pa. PUC v. PPL Electric Utils. Corp.*, Docket No.

R-2012-2290597, 2012 Pa. PUC LEXIS 1757, *210 (Order Oct. 19, 2012) (placing sufficient revenue requirement in distribution rates to ensure customers receive accurate price signals and have control over their bills). Peoples' proposed WNA obscures those signals.

The fact that the WNA will only affect the distribution portion of a customer's bill, and not the commodity portion of the bill, is insufficient to indicate that the WNA will not have a chilling effect on customer conservation. OCA St. 1SR at 10. Of the \$6.3920³⁷ PNGD customers would be charged monthly per MCF at the Company's proposed rates, \$5.3734³⁸ is considered the "delivery charge"; similarly, for PGD customers, \$5.4938³⁹ of the \$6.5124⁴⁰ per MCF charge is identified as "delivery charge." Peoples Exh. 14, App'x D at 3. Clearly, the vast majority of the portion of a customer's bill which varies with usage – 84% for both service territories – is affected by the WNA.

As such, Peoples' claim that the incentive for customers to conserve will still manifest from reductions to the commodity charge places an overstated emphasis on the commodity charge's overall percentage of a customer's bill. OCA St. 1SR at 10. Customers are likely to see very little impact to their bill as a result of conservation measures under Peoples' proposed WNA, even with reduction to the commodity portion of their bill. Furthermore, customers are not likely going to distinguish the commodity portion of their bill from the distribution portion or notice that the commodity price per MCF stays the same between bills while the distribution rate changes. OCA St. 1SR at 10.

Further, to the extent that customers elect to take conservation measures if the WNA is put in place, a portion of those savings will be sacrificed to the Company under the proposed WNA. OCA St. 4SR at 25. The Company should not be rewarded for the conservation efforts of its

³⁷ Peoples Exh. 14, App'x D at 3, Column 14, Row "Total per MCF": \$6.3920.

³⁸ Peoples Exh. 14, App'x D at 3, Column 14, Row "Delivery Charge": \$5.3734.

³⁹ Peoples Exh. 14, App'x D at 3, Column 15, Row "Delivery Charge": \$5.4938.

⁴⁰ Peoples Exh. 14, App'x D at 3, Column 15, Row "Total per MCF": \$6.5124.

customers. Customers are entitled to see the dollar-for-dollar decrease to their bill which directly corresponds to the lesser usage resulting from their investment in conservation; there should be no disconnect between their meter reading and the amount that they pay, which would exist under the proposed WNA. *Id.* For the reasons set forth above, Peoples' proposed WNA weighs against implementation due to how it disincentivizes conservation, which the Commission considers under factors 5 and 6 of its policy statement. 52 Pa. Code § 69.3302(a).

D. Peoples' Proposed WNA Is Not Understandable for Customers.

As explained above in subsection B, the WNA as a concept is difficult to understand for customers given that the costs to serve the customer are divorced or decoupled from the customer's consumption of gas. Moreover, customers are left without adequate protections under the WNA proposal. 52 Pa. Code § 69.3302(a)(12)(13); *see also* OCA Exh. DE-2 at 1-2; Tr. 47-67, 214-22; PIH Exh. NH-1. Peoples failed to provide customers with an adequate notice of the WNA proposal. OCA Exh. BA-6. Specifically, the Company's notice stated: "The WNA would adjust certain customers' bills to reflect normalized weather conditions." *Id.* This notice does not indicate which customers would be affected, how the adjustments would be made to the bill, or what "normalized weather conditions" actually means. The notice does not indicate how customers should anticipate their bills would be affected, how to budget for the WNA, or whether the WNA was considered when calculating the noticed rate impact. It was not considered. *Id.*⁴¹ As a result, at the threshold, the Company failed to properly inform affected customers how their bills would be impacted if the WNA were approved.

⁴¹ In its notice in this proceeding, included as OCA Exh. BA-6, Peoples did not include information regarding how the WNA will impact monthly bills, how customers can better budget with a WNA in effect, or if the WNA was included in the noticed increase. *See* Tr. 47-61, 214-22 (two customers testified that they believed the WNA's rate impact was included in the noticed bill increase amount when it was not).

Additionally, Peoples' proposed bill language regarding the WNA is inadequate under the standards set forth in Chapter 56 of the Commission's regulations. Customers must be able to calculate their bills using the information included in the bill, which is not possible under the Company's proposal. Tr. at 331-332. Chapter 56 of the Commission's regulations addresses the components a regulated utility must generally include in its bills. 52 Pa. Code § 56.15. Among the requirements are the customer's meter readings at the beginning and end of the customer's billing cycle, basic charges, adjustment charges, credits made to the account during the billing period, and "an explanation of how to verify the accuracy of a bill." *Id.*

Customers should not be required to bear the burden of determining how the WNA portion of the bill is calculated through scavenging multiple documents for each of the determinants of the WNA charge. To be sure, the WNA calculation is complex with inputs that include technical terms not likely to be known to the average consumer such as normal heating degree days, actual heating degree days, a customer's total monthly Mcf consumption, the customer's baseload Mcf consumption, and the Company's distribution charge. *Id.* In attempt to diminish the obtuseness, complexity and time-consuming challenges that customers would have to navigate to understand any WNA charge on their bill, Peoples' witness Scanlon's answer to the problem is that customers can access Peoples tariff to see the calculation because it "is no different than any other rate component that the Company has." *Id.* at 337. The OCA rejects any notion that the WNA is like every other rate component that Peoples has in place, because it causes changes in a customer's bill based on a factor that they cannot control – weather – and the complexity of the calculation is unparalleled.

Customers are also likely to be confused by the difference between their billed metered usage and their WNA usage. Peoples' distribution charge is billed "per MCF," meaning that

customers can directly compare their metered usage to the overall distribution charge. OCA St. 5 at 26. However, under Peoples' proposal, the MCF usage indicated in the WNA charge will differ from the actual metered MCF usage, which will lead to customer confusion.

Further, if the customer does not have access to the differential between the portion of their bill determined by actual usage as compared to the Company's hypothetical usage, then the customer cannot verify the accuracy of their bill. It is unreasonable to expect, as the Company does, that a residential customer will pore over the Company's tariff and other filings to identify how the WNA is calculated on their bill when the bill, under the Commission's regulations require bills to permit a customer to verify the accuracy of their bill. *Id.*; *see also* Tr. 336-337. For these reasons, Peoples' proposed WNA should not be implemented, as enforcing an alternative ratemaking mechanism which misleads and takes advantage of consumers would not result in just or reasonable rates, and consumer legibility is a critical component of the Commission's analysis under factors 12 and 13 of its policy statement. 52 Pa. Code § 69.3302(a).

E. Peoples' Proposed WNA Disproportionately Impacts Low-Income Customers.

The proposed WNA has a disproportionate, negative impact on Peoples' low-income customers. 52 Pa. Code § 69.3302(a)(7). At the outset, the proposed WNA will apply to confirmed low-income customers enrolled in Peoples' customer assistance program (CAP), though CAP customers will only be charged their percentage of income payment under. OCA St. 6 at 60. As a result, the amount of any WNA adjustment will also apply to the cost of the CAP program recovered from non-CAP customers; in other words, non-CAP customers who are subject to the WNA will have to pay not only their own WNA adjustments, but also those of CAP customers. Peoples St. 3 at 17. This double-recovery is inequitable and a flaw in the Company's WNA proposal. If the Company excluded CAP customers from the customer classes to whom or to which

the WNA would apply, then there would be no double-recovery of WNA charges from non-CAP customers through the universal services rider.

WNA charges are also likely to be more significant for low-income customers than for non-low-income customers. As explained by OCA witness Colton, low-income customers are less likely to be able to utilize energy efficiency measures in the home to reduce their overall natural gas usage, including home insulation, sealing one's home, or through installing a programmable thermostat. OCA St. 6 at 61-64. Due to a decreased ability to influence natural gas usage through efficiency measures in the home, low-income customers must use disproportionately more natural gas to heat the same space than a non-low-income customer during winter months, or they must resort to more extreme measures to control temperatures. *Id.*; *see also supra* at Section IX.D.2. Higher usage translates into a larger WNA charge, meaning that low-income customers are necessarily going to see a greater bill impact than non-low-income customers, if the WNA is approved.

In establishing the WNA, Peoples did not consider the monthly impact on customers, but instead focused on the annual impact to customers, and the overall impact to customers over several years. Tr. at 350. However, many customers struggle to afford their utility bills on a month-to-month basis, and considerations regarding consumer impact and affordability should be made on a month-to-month basis, instead of year-over-year. OCA St. 6SR at 15. Especially during winter months, when natural gas bills increase in cost, residential customers can afford to pay a lesser percentage of their natural gas bills than during shoulder and summer months. OCA St. 6 at 65. Peoples did not provide evidence sufficient to alleviate the concern that, during particularly warm months – and especially during the shoulder months of October, November, April, and May – residential customers could see significant increases in their monthly bills as a result of the WNA,

making such bills unaffordable. Even if, on a year-over-year basis, the customer is receiving credits to their bill during colder-than-normal months, such credits would not relieve that customer of the heavy energy burdens they may face during warmer-than-normal months.

F. Peoples' Proposed WNA Impacts Affordability For All Customers and Will Potentially Result in Net Over Collections.

As noted, in establishing the WNA, Peoples did not consider the monthly impact on customers, but instead focused on the annual impact to customers, and the overall impact to customers over several years. Tr. at 350. Peoples presented testimony that, over the past seven years, had the WNA been in effect, only 0.07% of all monthly bills (18,233 of 26,047,142 bills) issued by Peoples would have been increased by at least 100% as a result of the WNA. OCA St. 4SR at 24. Peoples also presented testimony that 2.6% of all monthly bills issued during the month of May 2018 (12,700 of 482,435 bills) would have been increased by at least 100%. *Id.* Peoples did not identify the number of bills that would have been increased by less than 100%. Peoples did not acknowledge the fact that a customer may view an increase of as little as 10% (or less) as significant, especially for customers living on fixed incomes. *Id.* The average nominal increase to the bills included in the 0.07% identified by Peoples was \$82.27 – this is no small sum. There is a wide range of customer incomes and what customers would consider to be a significant charge on their bills. Peoples St. 15R at 20. Peoples even admitted that for customers who are living paycheck to paycheck, a \$82.27 WNA charge could significantly impact the customer's bill. Tr. 353.

Furthermore, Peoples' data supports the conclusion that, over the past seven years, the WNA would have resulted in a net over collection of an additional \$9.9 million as a result of WNA charges on monthly bills. OCA St. 4SR at 23. Peoples admits to this impact, but it seeks to diminish the significance of the \$9.9 million additional collection by characterizing it as “an extremely small percentage of total revenues.” *See* Tr. at 346-347. The OCA avers that customers

who would have been demonstrably paying more during those years do not have the luxury of characterizing that hardship in terms of Peoples revenue.

When considering if the WNA would result in just and reasonable rates, it is imperative to consider all customers, not merely those that would recognize benefit from a WNA credit because they are able to financially plan year-over-year instead of month-over-month. To be sure, Peoples has not produced any evidence that customers would actually be able to do such planning, so even that claim is wholly speculative. For some customers, the coin only has one side: the possibility that the WNA could increase their bill to the point they could not afford it. The WNA will have a disproportionate impact on low-income customers, and Peoples has provided no data which alleviates affordability concerns for customers whose WNA charge may push their natural gas bill out of an affordable range. For these reasons, Peoples' proposed WNA weighs against implementation, as it negatively impacts low-income customers and consumer assistance programs, as is considered under the Commission's policy statement's factor 7. 52 Pa. Code § 69.3302(a)(7).

G. Peoples Cannot Meet its Burden of Proof for the Proposed WNA by Relying on the Existence of Other Utilities' WNAs.

WNAs have been put into effect by four NGDCs in Pennsylvania: the Philadelphia Gas Works, UGI Utilities, Inc., National Fuel Gas Company, and Columbia Gas of Pennsylvania. However, the Commission's decision to authorize WNAs for other NGDCs does not mean that Peoples has met its burden of proof in this case that the proposed WNA would result in just and reasonable rates. 66 Pa. C.S. §§ 315(a), 1301, 1330. The faulty logic of such a position is akin to arguing that a revenue requirement determination made in a Columbia Gas rate case ought to automatically entitle Peoples to the same level of revenue that Columbia Gas received. OCA St. No. 4R at 23. The Commission should not permit Peoples to be absolved of its burden of proof to

support the WNA by merely pointing to the other utilities. The OCA submits that the Commission's obligation to give due consideration to consumers' interests requires much more than the regulatorily-equivalent claim of "everyone else is doing it."

During almost the entirety of this proceeding, until the day before the evidentiary hearing when it submitted its rejoinder testimony, Peoples vehemently opposed implementing the WNA with a deadband, a mechanism used by three out of four NGDCs in Pennsylvania to limit customer bill impact for small changes in weather. In its opposition to instituting a deadband, Peoples explained that a deadband would reduce the effectiveness of the WNA, and therefore, its value to both the Company and customers. Peoples St. 15 at 57. More specifically, Peoples argued that "the deadband negates the purpose of the WNA mechanism." Peoples St. No. 3-R at 6. Peoples has never retracted Ms. Scanlon's conclusion, and it remains Peoples' of-record position.

Despite asserting that a deadband should not be adopted as it negates the purpose of the WNA, in her Rejoinder Testimony, Ms. Scanlon proposed a deadband. Peoples St. 3-RJ at 3.⁴² While Peoples has indicated that it is open to exploring ways to mitigate unreasonably high bills surprising customers, including having the WNA not be effective during the month of May and implementing a 3% deadband, Peoples has provided no support that the limitations on its WNA will alleviate the concerns raised by OCA witnesses regarding the WNA. *See, e.g.*, Peoples St. 3SR at 4 ("Peoples continues to examine different options for mitigating potential large bill adjustments in months with low actual HDDs as compared to anticipated HDDs."). Absent data supporting that Peoples' proposed guardrails would prevent significant deviations in customer rate

⁴² While Peoples modified its initial WNA proposal by offering to include a 3% deadband reluctantly and belatedly in the proceedings, Peoples did not provide additional evidence regarding how the deadband would affect or augment the stated aims of the WNA proposal, for the Company or for consumers. Instead, Peoples' witnesses maintained that the deadband reduces the efficacy of the WNA proposal. Tr. 322-24, 345. As such, there is no record evidence to indicate how a deadband could make the WNA a just and reasonable alternative ratemaking mechanism, when no such evidence supported the implementation of the WNA to begin with.

impact, Peoples should not be given latitude as if such protections are sufficient to guarantee that resulting rates would be just and reasonable.

Further, the other four NGDCs have received their WNA mechanisms as a result of settlements. *See Pa. PUC v. Phila. Gas Works*, Docket No. R-00017034 (Order entered Aug. 9, 2002); *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2012-2321748 (Order entered May 23, 2013); *Pa. PUC v. UGI Utilities, Inc. – Gas Division*, Docket No. R-2021-3030218 (Order entered Sept. 15, 2022); *Pa. PUC v. Nat’l Fuel Gas Dist. Corp.*, Docket No. R-2022-3035730 (Order entered June 15, 2023). Settlements must be found by substantial evidence to be in the public interest in order for the Commission to approve them, and, to be in the public interest, involve compromise between the disparate positions of utilities and advocates in order. 52 Pa. Code § 5.232(d). Peoples has not obtained the support of a unanimous settlement to implement its proposed WNA, as prior NGDCs have.

In addition, the WNAs currently in effect in Pennsylvania each began as pilot programs. *See OCA St. 4R at 23* (“[P]ilot programs are intended to gather information on rate making mechanisms in order to evaluate problems in the program and determine the need for improvements or discontinuation.”). Peoples did not propose a pilot program, nor did it indicate in its filing that it incorporated any data produced by other NGDCs’ pilot programs in the design of its WNA. *Id.* at 24.

The existence of other WNAs does not satisfy Peoples’ burden of proof that its WNA would result in just and reasonable rates. *See Bell Atl. – Pa., Inc. v. Pa. PUC*, 672 A.2d 352, 354 (Pa. Cmwlth. Ct. Dec. 18, 1995) (administrative agencies are not bound by the rule of *stare decisis*, but are, instead, tasked with rendering consistent opinions that affirm, overrule, or distinguish prior opinions). As noted by Peoples’ witnesses, Peoples does not have the “same customer profile,

weather, and more” as other NGDCs in Pennsylvania, and to say that other NGDCs have been approved to implement WNAs does not mean that Peoples should be able to, as well. Peoples St. 3R at 13:16-17; Peoples St. 15R at 19:3-20:1. It also means that, just because other NGDCs have implemented WNAs does not mean that Peoples’ customers will understand the complex calculations involved in translating weather and usage data into a charge on their bill. Peoples St. 3R at 9. Peoples provided no evidence that other NGDCs’ customers actually understand the WNA, how it is calculated, or how their month-to-month usage affects their monthly bill under a WNA. OCA St. 5SR at 14.

Further, following PGW’s overcollection of \$12 million in May 2022 from its WNA, the Commission has more data now regarding the perils of WNAs than it did at the time prior WNAs were implemented; specifically, WNAs have, on net, collected more in rates from consumers than they have provided credits, without having been shown to substantially improve the financial viability of Pennsylvania NGDCs. *See* OCA St. 4SR at 27; OCA St. 3 at 50 (Peoples did not present evidence regarding the potential impact the proposed WNA will have on investor expectations). Therefore, the instant general rate increase request and proposed WNA are easily distinguishable from the cases wherein other NGDCs were authorized to implement their WNAs.

In essence, any arguments raised by Peoples or other parties that Peoples’ proposed WNA should be implemented because other NGDCs have WNAs should be rejected. Peoples must demonstrate that the WNA *the Company proposed* would result in just and reasonable rates. 66 Pa. C.S. § 315(a), 1301, 1330. It has failed to do so.

H. Peoples’ WNA Should Be Rejected Because it Shifts the Company’s Risk of Recovery to Customers and Provides Customers With Little Benefit.

The purpose of the WNA is to effectively guarantee that Peoples will receive the revenue requirement authorized in its general rate increase proceeding by eliminating a risk inherent in the

natural gas distribution business – weather-driven consumption. OCA St. 4 at 42. Peoples’ attempt to claim that the WNA is “revenue neutral” is premised on the idea that the Company’s revenues are as close as possible to the Company’s revenue requirement, as-filed. OCA Exh. DE-1 at 1-2. However, for customers, the WNA is revenue neutral only if the amount that Peoples’ customers pay in charges as a result of the WNA is identical to the amount that Peoples’ customers receive in credits. *Id.* It is indisputable that the WNA, under the Company’s proposal, is a rate requested to guarantee its profit in the face of warming weather and earn at a revenue requirement set by a higher number heating degree days than should reasonably be anticipated. Peoples’ request alleviates the Company’s burden of setting its rates at a reasonable number of HDDs when, under the WNA, Peoples could set the number of HDDs as high as it can get away with to ensure substantial earnings over weather expectations.

Utilities are not entitled to assurance during ratemaking that they will be able to recover net revenues; instead, utilities are granted the *opportunity* to recover their authorized revenue increase. *Hope*, 320 U.S. at 603. This is a critical distinction. In Pennsylvania, there is no statutory guarantee of net revenues, judicial or Commission precedent which supports the guarantee of recovering net revenues, and the public interest weighs against guaranteeing levels of revenues. *Pa. Elec. Co. v. Pa. PUC*, 502 A.2d 130, 133-35 (Pa. 1985) (determining just and reasonable rates does not require setting rates which are guaranteed to ensure continued net revenues). As a result, Peoples’ request to implement a revenue mechanism which seeks to set a floor of recovery at the Commission’s authorized levels of revenue is not guaranteed.

Not guaranteeing a utility’s revenue recovery benefits utility consumers. OCA St. 4SR at 22. Regulatory lag incentives public utilities to strive for maximum cost and operational efficiency between rate cases. *Id.* Traditionally, utility rates are *not* fixed on a sliding scale intended to

guarantee recovery of a fixed revenue amount for the utility. By not fixing rates on a sliding scale, recovery lag appropriately places the risk of recovery on the utility and thus minimizes the risk borne by captive customers of the public utility of the utility's management spending in an excessive, imprudent, or unnecessary manner. Regulatory lag encourages the utility to spend prudently only on necessary infrastructure improvements and on reasonable expenses. OCA St. 4 at 41-42. There is no clear evidence that ratepayers will see anything but harm from reducing or eliminating regulatory lag, absent demonstration that such will "enhance the safety, security, reliability or availability of utility infrastructure and be consistent with the efficient consumption of utility service." OCA St. 4SR at 23; 66 Pa.C.S. § 1330(a)(2).

Peoples already avails itself of multiple ratemaking mechanisms which reduce company risk in the long term. Specifically, the Company utilized an FPFTY in this rate proceeding, which provides for present revenues at future levels of expenses and plant investment. OCA St. 1 at 20. Peoples has also recently used a Distribution System Improvement Charge (DSIC), which guarantees a particular rate of return on all plant investment a utility makes between general rate increase requests. *Id.* Both of these mechanisms are intended to reduce regulatory lag and provide the Company with revenues sufficient to incentivize reducing the frequency of rate increase requests. *Id.* However, they have the secondary effect of decoupling a utility's expenses from its revenues by setting present rates at future levels of expenses and permitting the Company to earn revenues in excess of the authorized level of expenses for its future test year. *Id.*

The Company has provided no evidence that it is in need of additional revenue decoupling mechanisms to maintain an overall level of revenue which is just and reasonable for Peoples to earn. OCA St. 4R at 25. To the extent that the Company may need additional revenues based on weather-related risk, Peoples' testimony presents an intent to request additional rate relief in about

two years, at which time it will be able to request additional revenues to reflect the weather experienced in the FPFTY. Peoples St. No. 2-R at 45-46. Peoples has maintained throughout this proceeding that the intent of the WNA is to guarantee the Company earns its authorized revenue requirement. OCA Exh. DE-1 at 1-2. Importantly, Peoples has claimed that over a length of time, the total weather-related cumulative impact of the WNA is expected to be zero or near zero, which directly contradicts that Peoples has an established need to implement the WNA. *See* Peoples St. No. 3-R at 11. Peoples sells its customers a false promise: WNA charges this month are a down payment on WNA credits in the event of a colder-than-normal winter.

Instead, due to warming weather, the WNA is almost certainly going to increase customer rates over time without providing any additional benefit to ratepayers. 52 Pa. Code § 69.3302(a)(9). The Company has provided no evidence of a net benefit to customers. OCA St. 2 at 17. The risk of customers dramatically overpaying for identical usage levels outweighs the possibility that in some winter months, customers may have bills which align with their expectations, or are reduced. As a result, the WNA proposed by Peoples is constructed to obscure the true cost to consumers, does not satisfy the Commission's policies regarding alternative ratemaking, and reduces consumers' ability to control their bills.

Upon considering the Company's proposed WNA in the context of the Commission's guiding policy statements on alternative ratemaking methods, as well as the statutory basis for such methods, the Company's proposal should be rejected because it undermines cost-of-service principles, reduces consumer incentives to reduce energy usage, obscures price signals and makes customer bills more unpredictable, has a disproportionate impact on low-income customers, is difficult to understand for consumers, and lacks any consumer protections. 66 Pa. C.S. § 1330(a)(2); 52 Pa. Code §§ 69.3301, 69.3302; OCA Exh. DE-1. As-written, the Company's

proposed WNA would not result in just and reasonable rates, and Peoples has not satisfied its burden of proof that the WNA would result in just and reasonable rates. Therefore, the OCA respectfully requests that Peoples' proposal to implement a WNA be denied.

XI. LOW-INCOME CUSTOMER SERVICE ISSUES

Peoples must make several adjustments to its treatment of low-income customers, both confirmed low-income customers and unconfirmed low-income customers. Rates set in this proceeding must be just and reasonable, which requires balancing the interests of *all* consumers, including low-income, residential consumers, with the interests of the Company. *See, e.g., Pittsburgh v. Pa. PUC*, 126 A.2d 777, 784-85 (Pa. Super. Ct. 1956). There are few considerations as important as affordability, as affordability “is in both the shareholders' and ratepayers' best interest. Affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service.” *Roaring Creek 1990* at *116.

Affordability for low-income customers is a paramount rate consideration. The Code “seeks to ensure that service remains available to *all* customers on reasonable terms and conditions.” 66 Pa. C.S. § 1402(3) (emphasis added). NGDCs, specifically, are required to assist low-income customers with affording their natural gas service. 66 Pa. C.S. § 2203(7). Customer assistance programs should seek to enroll low-income customers as quickly as possible to encourage customers to maintain good payment habits while guaranteeing the servicing utility revenues, minimizing arrears, and reducing termination expenses. OCA St. 6 at 17-18. As a result, the OCA submits that NGDCs are obligated to provide service to their low-income customers which increases affordability – even if the customers are not enrolled in the NGDC's customer assistance program – and reduces the accrual of arrearages and number of terminations.

Peoples' bills have increased dramatically over the past several years, from \$114.07 in 2016 for a typical winter month (usage of 15 MCF) to \$207.71 in 2023, an 84% increase. OCA St. 6 at 5. Such dramatic increases have a disproportionate impact on low-income customers, occupying greater portions of a customer's income, as utility bill increases have outpaced income growth. *Id.* at 7. The Commission's affordability benchmark, that a natural gas bill should occupy no more than 6% of a CAP-qualifying customer's monthly income, will be far exceeded for the Company's customers who earn at or below the lowest quintile of income for customers in the Company's service territory, at 7.8% of monthly income at existing rates and 9.4% of monthly income under proposed rates. *Id.* at 8. Both the breadth and depth of unaffordability of natural gas distribution rates will increase substantially under the Company's current proposal. *Id.* at 10-11. As a result, it is essential that the Commission act to protect the Company's customers who may not be able to afford service. In addition to recommending the Commission adopt an overall lower revenue requirement increase that will allow the Company to recover its reasonable costs and result in a lower rate increase, the OCA identified several areas where the Company could improve its protections for low-income customers and urges the Commission to adopt these protections to remove service barriers for Peoples' most vulnerable customers.

Furthermore, service must be adequate, efficient, safe, and reasonable. 66 Pa. C.S. § 1501. In setting just and reasonable rates, the Commission "shall consider...the efficiency, effectiveness and adequacy of service of each utility." 66 Pa. C.S. § 523. The Commission can order improvements to service as a condition of any rate increase. *Pa. PUC v. Pa. Gas & Water Co.*, 74 PUR4th 238, 244-45 (1986) (*PG&W 1986*); *Pa. PUC v. Phila. Gas Works*, 2000 Pa. PUC LEXIS 876, *41-44 (Order Nov. 22, 2000) (*PGW 2000*). The Commission can direct the adequate,

reasonable, safe, sufficient service to be observed and furnished by the utility. 66 Pa. C.S. §§ 1504, 1505.

A. Root Cause Analysis to Address Disproportionate Disconnections

The OCA recommends that Peoples conduct a root cause analysis to determine why there are a disproportionate number of terminations for nonpayment in the portions of the Company's service territory with the highest proportions of Black householders. OCA St. 6 at 22. While the OCA is not alleging in this proceeding that such terminations are targeted or that the discriminatory effects of the Company's actions are intentional, the correlative data requires investigation by the Company. If the Company continues to refute the existence of such data, the Commission should investigate.

OCA witness Colton identified that, in the 40 zip codes within Peoples' service territory that contain the greatest proportion of Black householders, customers are terminated for nonpayment at a greater rate than in other portions of the Company's service territory. *Id.* at 22. There is no evidence to indicate that there is a greater concentration of low-income customers in these 40 zip codes, which may have explained the disproportionately high rate of terminations in these areas. *Id.* However, Mr. Colton could identify no specific data which would explain why these 40 zip codes have a higher rate of terminations for nonpayment than other zip codes. *Id.* at 21. As such, Mr. Colton recommended that the Company conduct a root cause analysis to determine why there is a disconnect between the income level of the communities within the 40 zip codes with the highest proportion of Black householders and the number of terminations for nonpayment. *Id.* at 22.

While Peoples asserts that there is no connection between the demographics of a portion of its service territory and the number of disconnections, it could not explain the fact that relevant data support Mr. Colton's conclusion. OCA St. 6SR at 11. Despite the Company's response, there

is no data which explains the relationship between the zip codes with the greatest proportion of Black householders and the level of terminations in such zip codes. *Id.* The level of intentionality behind the disproportionate number of disconnections in the zip codes with the greatest proportion of Black householders is irrelevant; the Company’s claim that its process is “color-blind” does not alleviate the conclusions that must be drawn from the data presented by Mr. Colton. Peoples St. 16-RJ at 3. Peoples should conduct a root cause analysis to determine *why* there is a connection between higher levels of termination and a higher presence of Black householders to ensure that there is no portion of Peoples’ termination process which may be compromised by unintended and implicit biases. OCA St. 6 at 22.

Peoples’ dismissive approach reflects poorly on its overall quality of service or willingness to improve its quality of service; however, the OCA is not arguing that Peoples’ overall revenue requirement claim or claim for management efficiency should be impacted by Mr. Colton’s suggestion or presented evidence. The Commission should take this opportunity to direct and the Company to conduct a root cause analysis, as suggested by Mr. Colton, in order to ensure that its termination procedures do not have any incidental discriminatory impacts. *Id.*

B. Peoples Must Conform its Confirmation of Low-Income Status to Meet Commission Regulations.

The Commission’s regulations require that any NGDC that has “obtained information that would reasonably place the customer in a low-income designation” to consider that customer a “confirmed low-income customer.” 52 Pa. Code § 62.2. However, despite this clear requirement, Peoples only currently considers CAP customers and customers who received LIHEAP cash or crisis grants within the past 24 months to be confirmed low-income customers. OCA St. 6 at 24-25. Importantly, Peoples’ criteria for identifying confirmed low-income customers omits a customer’s self-certification of income, received certification from the customer’s income source,

or through a customer contact. *Id.* at 25. OCA witness Colton recommended that Peoples modify its internal low-income confirmation procedure to include all options available to customers under the Commission’s regulations, including self-certification, for *all instances*, including service disconnection and reconnection, without requiring verification of precise income levels. As part of its rejoinder case, Peoples explained that while its reporting erroneously excluded inclusions of verbal attestations, it has adopted verbal attestations for purposes of its criteria for identifying confirmed low-income customers and it will correct erroneous reporting. Peoples St. 9-RJ at 2-3. Therefore, OCA requests that the Commission direct Peoples to correct its reporting on its confirmed low income customer count in a regulatorily compliant manner.

C. Peoples Should Make Additional Customer Contacts to Ensure Low-Income Customers Have the Opportunity to Apply for CAP and Receive its Benefits.

The OCA recommends that Peoples adopt internal policies which provide information regarding CAP to customers who may be or are likely to be payment troubled to ensure that as many CAP-eligible customers are enrolled as CAP as would choose to enroll with complete information regarding the program. Maximizing enrollment in CAP can provide substantial benefit to CAP-eligible customers, non-CAP customers, and Peoples by reducing Peoples’ termination and uncollectible expenses, which is proportionately incurred by non-CAP, confirmed low-income customers. OCA St. 6 at 16. The Commission has previously stated that public utilities should be enrolling customers in CAPs as early as possible “to maintain good payment habits and avoid accruing utility debt,” instead of waiting until a customer has fallen into arrears or broken a payment arrangement to begin the process of enrollment. *2019 Amendments to Policy Statement on Customer Assistance Program, 52 Pa. Code § 69.261–69.267*, Docket No. M-2019-3012599 (Order Sep. 19, 2019)⁴³ at 46.

⁴³ Available at: <https://www.puc.pa.gov/pedocs/1643025.docx>.

Currently, Peoples has identified that it has 51,072 confirmed low-income customers, of whom only 29,091, or 57%, are enrolled in CAP. OCA St. 6 at 12. BCS, however, estimates that Peoples has a total of 146,971 low-income customers, meaning that approximately 95,899, or 65%, of Peoples' customers may be low-income but not confirmed low-income, with only 20% of all potential low-income customers being enrolled in CAP. *Id.* at 13. The OCA recommends the Commission direct the Company to take targeted education efforts during the following contacts with customers who are likely payment challenged or low-income to improve enrollment in CAP: (1) prior to termination; (2) during the cold weather survey⁴⁴; and (3) when requesting a cash security deposit (as discussed further below). Further, the cost of providing additional notice to potentially CAP-eligible customers would not likely be significant, due to the relatively low cost of providing notice to confirmed low-income customers at present rates – approximately \$25,000 in 2023 – and would likely be offset by additional revenues under Peoples' CAP program. OCA St. 6SR at 3, 4. Increasing the number of opportunities to educate customers on Peoples' CAP is more likely to result in a greater proportion of eligible customers being enrolled and meet the Commission's policy goals with regard to CAPs, maximizing the number of customers receiving affordable bills they can pay regularly and in full.

1. Prior to Termination.

“Disconnection of service has rate implications to all customers. Minimizing disconnections would minimize these adverse rate impacts.” OCA St. 6 at 27. One manner in which the Company could reduce the number of terminations is by utilizing the termination process to inform the customers Peoples seeks to terminate that they may qualify for CAP and suspend termination procedures. Termination should be a last resort, as it “is the most serious consequence

⁴⁴ Peoples accepted the OCA's proposal to include a standalone notice during its cold weather survey. Peoples St. 9R at 12.

of customer nonpayment and is viewed as a last resort when customers fail to meet their payment obligations.” *Id.* Peoples should be making every effort to ensure its customers *maintain* their natural gas service. *Id.* at 28 (emphasis added). Commission regulations also require public utilities to fully explain “all available methods for avoiding a termination.” 52 Pa. Code § 56.97(a)(2) (emphasis added).

By informing customers subject to termination that they may be able to enroll in CAP and that enrollment in CAP could suspend their termination and put them on a path to arrearage forgiveness, Peoples would be offering qualifying customers the option to elect to enroll in CAP over having their service disconnected. *Id.* at 29. Currently, the termination rate for non-payment is 50% higher for confirmed low-income customers than it is for Peoples’ customers generally. *Id.* While Peoples committed to providing written communications to confirmed low-income customers before terminating the customer for non-payment, the written communications have not proven to be sufficient to prevent a significant number of confirmed low-income customers’ terminations for non-payment. *Id.* at 30.

As discussed *infra*, in Section XII.B.3, the Company is required to initiate personal contact prior to termination under the Code. 66 Pa. C.S. § 1406(b). The OCA recommends that the Company pair its written notice to confirmed low-income customers prior termination with informing confirmed low-income customers of their ability to apply for CAP for a stay of termination and the ability to have arrearage forgiveness. In this way, Peoples will make strides towards ensuring that it is maximizing customers’ ability to maintain their natural gas service while minimizing the rate impact to non-low-income customers from terminated service.

2. When Requesting a Cash Security Deposit.

At the time that Peoples requests a cash security deposit from a residential customer, that customer should be provided information regarding CAP and an explanation that customers who

are income-eligible for CAP are exempt from security deposits and ensure that the customer has the time to apply for CAP or self-certify their income prior to issuing a demand for a security deposit. OCA St. 6 at 13. Currently, the Company requires a cash security deposit from customers who were recently delinquent on monthly bills, defaulted on a payment arrangement, or who have had their service terminated. OCA St. 6 at 42. Such customers are likely to be payment troubled and more likely to qualify for CAP than customers seeking connection who would not be subject to a cash security deposit requirement. *Id.* Peoples' current practices only provide relief from security deposits for those customers who have already reported low-income status, despite the fact that the Code prohibits public utilities from collecting cash security deposits from customers who would be eligible for enrollment in a CAP. OCA St. 6SR at 6; 66 Pa. C.S. § 1404(a.1).

Peoples' argument that its current practices are sufficient to prevent the collection of security deposits from low-income customers is undercut by the under-acknowledgement of the number of low-income customers within its service territory that have not confirmed their low-income status. OCA St. 6SR at 6. The burden of providing CAP enrollment information to customers at the time of requesting a security deposit is a low one. By providing customers with information regarding CAP and the deposit prohibition for CAP-qualifying customers, Peoples will ensure that it is only collecting cash security deposits from whom it may collect such deposits while also providing customers with information regarding CAP and the benefits of enrolling in CAP, without encountering any hardship or difficulty from providing such information. OCA St. 6SR at 6.

D. Peoples Should Consider Payment Arrangement Affordability Prior to Offering a Payment Arrangement.

Under the Commission's regulations, a public utility is required to consider a customer's ability to pay when establishing a payment arrangement with that customer. 52 Pa. Code §

56.97(b). Currently, Peoples does collect customer income information to determine the length of an offered payment arrangement; however, OCA understands that Peoples does not use the gross monthly income and household size to determine whether the customer can actually afford the payment arrangement. Gross monthly income and household size are the criteria used to determine what the customer earns as the percentage of the Federal Poverty Level (FPL) and to determine CAP eligibility. OCA St. 6 at 34. Hence, it would be reasonable for the Company to review such criteria to determine if the customer can actually afford the payment arrangement.

A utility's offering a payment arrangement to a customer that a customer cannot afford may alleviate an immediate problem of termination for non-payment but the solution is illusory as it is an ineffective means to reduce accrual of an additional arrearage balance in the long-term because the unaffordable payment arrangement merely adds a monthly charge to a bill the customer already cannot afford. *Id.* at 5. As evidence of this, Peoples' payment arrangements for customers at or below 150% FPL were unsuccessful 36% - 55% of the time since 2021. *Id.* at 34. Peoples is also disconnecting approximately twice as many confirmed-low-income customers as it is entering into payment arrangements with. OCA St. 6SR at 9-10. The number of low-income customers subject to terminations and payment arrangements is also likely much greater than indicated by the data provided by Peoples. *Id.* at 10.

Further, because Peoples is collecting the information necessary to determine whether a customer could qualify for a payment arrangement, the Company should utilize the customer contact for establishing a payment arrangement to enroll those customers in CAP, instead. By enrolling the customer in CAP instead of offering a payment arrangement, Peoples would begin offering CAP-eligible customer with monthly bills they can afford, work the customers towards arrearage forgiveness, and reduce uncollectible expenses passed onto other customers as a result

of unaffordable payment arrangements. *Id.* at 35. As a result, the OCA recommends that Peoples provide a standalone, plain English notice to confirmed low-income customers during the process of enrolling those customers in a payment arrangement which informs the customer of their right to enroll in a CAP program and the benefits of the CAP program to customers with an arrearage balance.

E. Peoples Should Implement Speech Analytics to Detect Low-Income Customers.

The OCA recommends that Peoples utilize its current speech analytics software to identify customers who may be payment troubled. Being payment troubled is a manner to identify potential CAP customers and it should not be considered a pre-requisite to qualifying for CAP. OCA St. 6 at 44. As a result, Peoples should be able to use the software currently employed to review call center conversations, Verint Automated Call Monitoring and Speech Analytics (Verint), to identify keywords which might indicate that a customer calling into the call center is payment troubled. *Id.* at 46.

At present, Peoples primarily uses Verint to confirm that calls into its call center are properly categorized as an emergency call through reviewing call transcripts for specific search terms Peoples designated as being associated with an emergency call. *Id.* Speech analytics software such as Verint are powerful tools for public utilities to review call center performance; importantly, they can be modified to trigger different results from different search terms and are not necessarily siloed to produce results for only whether or not a call contains key terms relevant to an emergency. *Id.* Instead, Peoples could likely, with little difficulty, modify Verint to signal when a customer call uses terms which indicate the customer may be payment troubled, such as during a personal contact with a customer for termination for non-payment, establishing a payment arrangement, or similar types of customer contacts. *Id.* at 47. Peoples' allegations that adapting Verint could take

“considerable dedicated time, effort, and expense to begin using the software” as recommended by Mr. Colton are not supported by any data. Peoples St. 16RJ at 4.

Therefore, the OCA recommends that Peoples utilize its Universal Services Advisory Group (USAG) to identify terms which, when reviewed by Verint, may assist in identifying a low-income or payment troubled customer. Peoples’ assurances that its call center is adequately trained to identify low-income customers do not nullify Mr. Colton’s recommendation, as additional methods of identifying low-income customers are unlikely to substantially burden the Company while ensuring that the Company is using all means at its disposal to fulfill its statutory obligation to provide affordable service for all of its customers. *Id.*; *see also* 66 Pa. C.S. § 2203(7). Using Verint, the Company would be able to follow-up with Verint-identified customers regarding bill assistance, budget billing, or other programs which would benefit payment troubled customers.

F. Peoples Acceptance of OCA’s Recommendations

As part of its rebuttal case, Peoples accepted several recommendations offered by OCA witness Colton. Peoples accepted the OCA’s recommendation that the Company include a stand-alone, plain English notice regarding the benefits of CAP enrollment, including arrearage forgiveness benefits, at the time of its Cold Weather Survey. Peoples St. 9R at 12. Peoples also accepted several tariff recommendations, which are memorialized in Peoples Exh. DMF-1R. Additionally, Peoples accepted OCA’s recommendation of using a combined CAP base participation rate of 30,800. Peoples St. 3-R at 38. The OCA memorializes this acceptance here for the record.

XII. CUSTOMER/QUALITY OF SERVICE ISSUES

In this case, management quality, efficiency and effectiveness, and customer service issues exist and that they should be considered by the Commission in its setting of just and reasonable rates for Peoples’ ratepayers.

Service⁴⁵ must be adequate, efficient, safe, and reasonable. 66 Pa. C.S. § 1501. In setting just and reasonable rates, the Commission “shall consider...the efficiency, effectiveness and adequacy of service of each utility.” 66 Pa. C.S. § 523. The Commission can direct the adequate, reasonable, safe, sufficient service to be observed and furnished by the utility. 66 Pa. C.S. §§ 1504, 1505. The Commission can order improvements to service as a condition of any rate increase. *PG&W 1986*; *PGW 2000*. The Commission has recently and properly recognized that “[a] base rate proceeding “is the proper venue for hearing []customer service issues.” *PGW 2023* at 193. In the 2023 PGW base rate case, the Commission explicitly identified that the following factors were relevant considerations in evaluating whether PGW’s proposed rates were just and reasonable: (1) PGW management quality, efficiency, and effectiveness; (2) service quality and reliability; and (3) effect on universal service. *Id.* at 193-194, citing 52 Pa. Code §§ 69.2703(a)(6)-(8).⁴⁶ The Commission may also condition a portion of a utility’s requested rate increase on its compliance with service adequacy objectives. *Nat’l Utils. v. Pa. PUC*, 709 A.2d 972, 977-78 (Pa. Cmwlth. Ct. 1998) (quoting *D.C. Transit System, Inc. v. Wash. Metro. Transit Comm’n*, 466 F.2d 394, 417 (D.C. Cir. 1972)).

The burden of proof to demonstrate that a public utility’s services are adequate is on the utility; other parties are not required to demonstrate the utility’s services are inadequate for the

⁴⁵ “Service” is used broadly and inclusively, and captures “any and all acts done, rendered, or performed” by public utilities. 66 Pa. C.S. § 102; *West Penn Power Co. v. Pa. PUC*, 578 A.2d 75, 77 (Pa. Cmwlth. Ct. 1990). As such, all parts of a public utility’s customer service must be adequate in order for the utility to comply with the requirements of Section 1501 of the Code, and “inappropriate and unreasonable treatment to customers can be interpreted as inadequate service.” *See, e.g., Laura Andracchio Johnson and Charles Johnson v. Duquesne Light Co.*, Docket No. C-2022-3032695, 2023 PA. PUC LEXIS 343 at *17 (Order entered Dec. 21, 2023) (citing *Barbara R. Lolly v. Duquesne Light Co.*, Docket No. C-2010-2167824 (Order entered May 9, 2011)).

⁴⁶ Although the Commission’s citation was made in the context of a Policy Statement applicable to PGW’s cash flow ratemaking method, it would be antithetical to public policy and to the principles of just and reasonable ratemaking to determine that Peoples’ status as an investor-owned utility somehow exempts it from meeting these standards. On the contrary, since Peoples is seeking a management performance award of 25 basis points, scrutiny of the ratemaking considerations identified for PGW becomes even more important in this case.

Commission to decide that such is the case. 66 Pa. C.S. § 315(c); *Pa. PUC v. Duquesne Light Co.*, Docket No. R-2021-3024750 (Order entered Dec. 16, 2021) at n. 14 (“While Section 315(a) addresses the utility's burden with respect to ‘rates,’ Section 315(c) also places on the utility the burden to show that the service and facilities it provides are ‘adequate, efficient, safe, and reasonable[.]’”).

The OCA offers the following recommendations for improvement in Peoples’ quality of customer service and asks that they be imposed as conditions of any rate increase awarded to Peoples.

A. Non-Basic Services

Peoples currently bills for “Peoples Protection Program” charges, which are programs offered by third-parties to insure the customer’s water and sewer service, gas service line, heating and cooling appliances, and in-house and exterior electric lines. OCA St. 5 at 28. Peoples advertises such programs through bill inserts that display the Peoples logo; however, Peoples divorces itself from any responsibility relating to the terms and conditions, prices, and service quality of these providers. *Id.* On customer bills, protection program charges are correctly billed as “non-basic” charges. *Id.* While evidence has not come to light which indicates that Peoples terminates customers for non-payment of these non-basic charges, the Company *does include* these charges in its negotiated payment arrangements with customers. *Id.*

Peoples utilizes its logo on marketing materials for the protection program, and its call center staff have scripts which are used to offer such programs to Peoples customers without providing an adequate description of the relationship between Peoples and the third-party. *Id.* at 29. Customers are enrolled without needing a signature, do not receive the terms and conditions of subscription until after enrollment, need to take affirmative steps to unsubscribe from the

program, and cannot ask the utility for help should the third-party service provider violate the terms and conditions or provide less than adequate service. *Id.*

These are not consumer-friendly practices or adequate or reasonable utility service. 66 Pa.C.S. § 1501. Peoples, as a monopoly utility service, is in an immense position of privilege to advertise the services of third-parties and affiliates. Customer confusion is likely to arise when Peoples bills for services tangential to natural gas distribution, and those services are not being provided by Peoples or regulated by the Commission. OCA St. 5 at 29. The likelihood of confusion is increased by the use of the Company's logo on marketing materials, inclusion of non-basic services on customer bills, and inclusion of marketing materials in monthly bills, all of which carry the imprimatur of being a regulated service. At best, such practices may be misleading to a consumer, but when coupled with the fact that non-basic charges are being built into customer payment arrangements and subsuming limited resources that ought to be devoted to accessing essential utility service, the OCA avers that such action crosses the threshold into unreasonable service in contravention of Section 1501 of the Code.

As a result, the OCA recommends that Peoples ensure that the Company does not include non-basic services in any payment arrangements with customers and that, if customers indicate difficulty paying bills, the Company train its call center representatives to advise the customer to cancel all non-basic services in which they are enrolled. OCA St. 5SR at 16. The OCA further recommends that the Commission investigate Peoples' practice of offering protection programs to ensure that no ratepayer revenues are subsidizing any activities of the unregulated third-parties or Peoples' actions on behalf of the third-parties. OCA St. 5 at 30. While Peoples witness Wachter claimed that a prior Management Audit did not raise any issues with Peoples billing for non-basis charges or affiliated transactions, Mr. Wachter failed to recognize the concerns OCA raised

regarding Peoples use of third party contactors to market service to its customers. OCA St. 5SR at 14.

Additionally, discovery responses issued in this case conflicted with Peoples' representations that it does not provide customers lists to third parties and that it does not market services to its customers at its call centers. Specifically, the bills issued to customers label these services as "Peoples Protection Services." Furthermore, Peoples' website promotes these "Peoples Protection Programs" to its customers and includes unpaid "protection" program fees in negotiated payment plans. OCA St. 5SR at 15. Therefore, OCA witness Alexander explained that it was clear to her that Peoples promotes these non-basic services to its customers such that there is an intent to market these programs on behalf of these providers. *Id.* Additionally claimed revenues from third parties were extremely low, \$734 for HomeServe and \$10,045 for IGS Energy Home Service, given that Peoples bills over 65,000 customers for one or more of those programs. *Id.* at 15-16. On these bases, Ms. Alexander's recommendations stand and they should be adopted.

B. Operational Issues

1. The Company Should Expand its Call Center Hours.

The OCA recommends that the Company conduct an evaluation of the potential to expand its call center hours. *Id.* at 34. During the Public Input Hearings, Mr. Krenitsky testified that he had difficulty getting a hold of assistance from Peoples due to their limited call center hours. Tr. 226. Peoples operates its call center from 7:00 am to 5:00 pm, Monday through Friday. OCA St. 5 at 34. Limiting access to call center assistance to traditional business hours prevents many customers who are working during that time from being able to contact the Company if they need assistance. *Id.*

A utility's ability to hear and respond to customer concerns is a critical component of providing adequate and reasonable utility service. OCA St. 1SR at 14. Currently, the adequacy of

Peoples' service is limited by the ability of its customers to reach the Company outside of business hours. Peoples has not demonstrated that its limited call center hours are able to provide adequate service to those customers who are unable to make calls during traditional business hours and, as such, 66 Pa. C.S. § 315(c). In response to Ms. Alexander's recommendation, Peoples witness Wachter testified that extending the hours will result in higher costs that will justify future recovery. Peoples Statement No. 2R at 62. However, as witness Alexander explained, it is too soon to know whether any cost may materialize that would not otherwise be subsumed with cost savings resulting from gained efficiencies. OCA St. 5SR at 16. In any case, it is Peoples' obligation to allocate its internal expenditure priorities to meet regulatory obligations and customer service expectations. *Id.* Therefore, the OCA recommends that the Company evaluate expanding its call center hours to reduce customer barriers to receiving customer assistance.

2. The Company Must Improve its Complaint-Handling Process By Conducting a Root Cause Analysis.

Peoples does not adequately investigate its non-compliance with Commission regulations when handling consumer complaints. The Commission's Bureau of Consumer Services (BCS) reported the Company's number of verified infractions or confirmed "misapplication[s] or infringement[s] of a Commission regulation," such as those in Chapter 56 increased from 13 to 33 from 2022 to 2023. OCA St. 6 at 15. This is a significant increase. *Id.* Despite the increase, Peoples does not indicate whether or how its management investigated the increase in infractions or sought to respond to the increase by conducting a complaint analysis, or root cause analysis. *Id.* at 16. The OCA submits that Peoples' lack of urgency to design and implement processes that decrease non-compliance, which now has instead led to an increase the number of those instances, is completely antithetical to the type of customer service that warrants the recognition of a management performance premium.

OCA witness Alexander recommends that the Company conduct a root cause analysis of its's increased number of infractions. *Id.* Ms. Alexander defines "root cause analysis" as:

A root cause is defined as a factor that caused a nonconformance and should be permanently eliminated through process improvement. The root cause is the core issue—the highest-level cause—that sets in motion the entire cause-and-effect reaction that ultimately leads to the problem(s).

Root cause analysis (RCA) is defined as a collective term that describes a wide range of approaches, tools, and techniques used to uncover causes of problems. Some RCA approaches are geared more toward identifying true root causes than others, some are more general problem-solving techniques, and others simply offer support for the core activity of root cause analysis.

There are many methodologies, approaches, and techniques for conducting root cause analysis, including: (1) Events and causal factor analysis; (2) Change analysis; Barrier analysis; (3) Management oversight and risk tree analysis; and (4) Kepner-Tregoe Problem Solving and Decision Making. *Id.* at 18-19 (utilizing the American Society for Quality standards).

Peoples, instead of conducting a root cause analysis as described by Ms. Alexander, has investigated infractions through "coaching" the employee who handled the complaint without verifying that the infraction was the result of an internal systems defect, such as employee training. *Id.* at 17. While Ms. Alexander identified certain instances where an internal system change properly flowed from employee "coaching," Ms. Alexander was not able to identify where the Company conducted a root cause analysis to determine if an error resulted from systemic defects and could not attribute internal system changes to a proper systems analysis. *Id.* It is imperative that the Company take accountability for infractions through an internal controls audit and management evaluation which may proactively mitigate the possibility of infractions without relying on BCS to identify failures. *Id.*

Importantly, the Company should investigate its review process to distinguish between complaints which arise out of – or are “symptoms” of – internal defects which are a high-level cause of non-compliance, and individual employee errors. *Id.* at 19. While the Company claims that complaints are resolved on case-by-case basis, this is precisely the issue: Peoples should be examining common themes between and among complaints and attempting to discern patterns from complaints, instead of siloing individual complaints as singular instances of error. OCA St. 5SR at 9. Chapter 56 compliance is essential to the provision of adequate and reasonable service and is required of all public utilities. *See* 66 Pa.C.S. § 2206(a). The Company’s failure to investigate internal causes of non-compliance is worrisome and should be mitigated. As such, the OCA recommends that the Company conduct regular root cause analyses at intervals established by internal benchmarks, such as every three months or every five infractions, and commit to reducing infraction numbers to at or below 2022 levels. OCA St. 5 at 19-20.

3. The Company’s Training Regarding Termination Procedure Must Be Improved.

Peoples does not adequately train its field personnel who are responsible for personal contact prior to termination. Under Chapter 14 of the Code, a public utility is required to personally contact a customer before terminating their service, once at least three days before initiating termination and once, in-person, at the time of termination. 66 Pa. C.S. § 1406(b). Peoples’ internal training materials did not inform Peoples’ field personnel of Chapter 14’s personal contact requirements or indicate that field personnel were otherwise aware of the requirements. OCA St. 5 at 23; OCA Exh. BA-4. Without evidence of adequate training or confirmation from management oversight of field personnel’s personal contact, the Commission cannot be certain that Peoples is complying with its obligations under the Code. OCA St. 5 at 24. As a result, the OCA recommends that the Company implement training protocols to ensure that its field personnel are aware of the

Company's legal obligations during a termination proceeding, and that the Company begin documenting management oversight of field personnel's training and execution of personal contact prior to termination. *Id.* While the Company is currently documenting overall compliance with Company standards through management observation of field personnel, due to the gravity of a termination of natural gas service, compliance with termination requirements should be documented, specifically, in addition to the Company's current efforts. *Id.* As Peoples has not provided documentation demonstrating full compliance with termination procedures, the Commission should require that the Company's updated training materials and observation documentation be filed in a compliance filing at this docket number within three months following issuance of a Commission order in this proceeding. OCA St. 5SR at 10.

4. The Company Must Improve its Communication and Processes to Tenants in Terminated Shared Premises.

The OCA recommends that Peoples implement improved protections for tenants of leased premises where the landlord is responsible for natural gas service, in cases where the landlord's service is terminated. OCA St. 5 at 25. Sections 1521 through 1533 of the Code, or the Discontinuance of Service to Leased Premises Act (DSLPA), govern the responsibilities of public utilities with respect to notifying tenants of landlords whose natural gas service is terminated and offering a tenant the ability to resume service at their leased premises. 66 Pa. C.S. §§ 1521-33. Peoples current policy requires an applicant for natural gas distribution service owning a shared premise, where one meter serves multiple units, to offer natural gas distribution service to the shared premise. OCA St. 5 at 24.

Under the DSLPA, a tenant should be permitted to assume service of natural gas distribution to a shared premise where the owner (landlord) of the property is at risk of disconnection as a result of past-due bills. 66 Pa. C.S. § 1527(a). The OCA is concerned that

Peoples' current policy may prevent tenants from being able to preserve natural gas service at their leased premises. As a result, the OCA makes the following recommendations with regard to how

Peoples should adjust their policies:

Peoples should allow tenants to affirmatively request that their personal information not be provided to the landlord/owner.

Peoples' policies and disclosures should reflect that landlords may not retaliate against their tenants for 1) the tenant exercising their right to pay the utility bill to continue service under the landlord's name, and 2) to recover this payment by deducting the payment from their rental payment.

Peoples should accept from tenants; medical certificates and protection from abuse orders, or court orders issued by a court of competent jurisdiction in the Commonwealth, which provide clear evidence of domestic abuse.

Peoples should not terminate a landlord/tenant account during the months of December through March for households with income at or below 250% of the federal poverty income guidelines.

OCA St. 5 at 25-26. These recommendations will protect the rights of tenants to continued utility service under the DSLPA without violating Commission policy protecting tenants from paying for utility usage for which they are not responsible. Additionally, OCA Witness Alexander explained that she is unaware of any lawful or regulatory basis for denying PFA rights to tenants and that since Peoples provides medical emergency right to a tenant, there is no basis for refusing to provide PFA rights. OCA St. 5R at 13.

5. The OCA Supports the Company's Proposal to Eliminate Bill Payment Fees.

As stated *supra*, in Section VI.R, the OCA supports the inclusion of the cost of expanding transaction fee-free access to PGD customers in this proceeding. PGD customers currently pay \$1.95 per transaction made using a credit card, "eAccount," or via the phone or IVR. OCA St. 5 at 27. Currently, PNGD customers do not pay such charges; as a result, PGD customers should not be charged transaction fees. *Id.* Therefore, the cost to eliminate transaction fees for PGD customers

should be recovered in base rates, as proposed by the Company. The OCA's recommended allowance for such costs is provided above, in Section VI.R.

6. The Company Should Expand its Education Efforts to Better Inform Consumers About Supplier Charges.

While Peoples, as an NGDC, merely acts as a billing agent for customers who elect to utilize a natural gas supplier (NGS) instead of their default service, Peoples should improve its customer education to ensure customers understand the costs associated with shopping for an NGS. OCA St. 5 at 31. Of the 80,325 residential Peoples customers shopping as of December 2023, 99% were paying more than default service for their natural gas and 86% were paying over twice the price to compare for NGS service. *Id.* at 31. Customers paying such high bills pose a long-term risk to all of Peoples' customers, as high bills pose a risk of high costs from overdue bills, increased call center activity, payment arrangement, termination of service, and uncollectible expenses. *Id.* Peoples has an obligation to mitigate such costs. *Id.* The OCA's recommendations are geared towards ensuring that Peoples fulfills this obligation through increased education and transparency.

Therefore, the OCA recommends that the Company expand its customer education with regard to shopping for an NGS to ensure that customers are aware of the potential for increased bills or are aware of the length of their contract remaining. *Id.* Additional customer education would not interfere with customer choice for a supplier but would mitigate the harm which inattention to the duration of a contract or a misunderstanding of the terms of a contract. Further, Peoples' bills should directly compare the commodity price a customer is paying with the price to compare on a side-to-side, apples-to-apples basis. This would ensure customers who are saving through shopping or receiving default service can be confident in their decisions, while customers who are paying in excess of the price to compare will be unquestionably informed of the excess

price they pay. *Id.* While Peoples witness Palombo states that Peoples is open to discussing additional customer education on retail choice, but that Commission approval would be required, Ms. Alexander indicated that she is unaware that Peoples is required to seek Commission approval to educate its customers as recommended. OCA St. 5R at 11. On the contrary, well-designed and factual information provided to customers who shop in a timely manner could allow them to make more informed decision about their bills and this could also result in decreased collection costs for Peoples. OCA St. 5SR at 11. Ms. Alexander's recommendation is appropriate and it should be adopted.

XIV. DISCOUNT RATES

A. Electricity as a Competitive Alternative

Peoples is proposing unjustified and unwarranted revisions to Rule 20 of its tariff to permit electricity to be considered a competitive alternative for purposes of negotiating discounted rates for commercial and industrial customers. Peoples' proposal to expand its authority to offer negotiated contract rates to customers with the claimed potential to utilize electricity instead of natural gas service creates a substantial risk that competitive customers will receive unreasonable cross-subsidization from other rate classes. OCA St. 4 at 46. The Company has presented no evidence that the difference in cost of service between competitive rates and actual cost is not being borne by other classes; expanding the Company's negotiated rate authority is likely to shift cost burdens to other class. OCA St. 4 at 47. Therefore, the Commission should give the Company's request little weight and reject its proposal.

Currently, the Company is permitted to offer competitive rates to customers using more than 50,000 MCF per year when the customer can use an alternative fuel source, such as bypassing the Company's service lines to an interstate natural gas pipeline or a different natural gas delivery

company. Peoples Exh. 14, App'x A at 29. Electricity only qualifies as an alternative source of fuel if an electric distribution company offers a "flex" rate to the customer. *Id.*

The OCA opposes the Company's request. As stated by Mr. Johnson:

Negotiated discounted rates should be allowed only in a careful and limited manner because they pose a significant risk of undue price discrimination within Peoples' rate classes. It would be unreasonable to offer a flex rate to customers where the electric utility has not offered the customer a flex rate to that customer. The mere possibility that an electric utility might offer a flexed rate at some point is an insufficient basis for Peoples to discount its rates to that customer.

OCA St. 4 at 47.

OCA witness Johnson explains in detail that there are several policy reasons why the Commission should reject Peoples' proposal. First, as the Commission regulates both electric distribution and gas distribution utilities, it should be concerned about the impact on the customer base of both utilities. When the gas utility and the electric utility compete based on their full cost tariff offerings, regulation should encourage customers to choose the rate that is most cost-effective, to the benefit of long run costs, in order to prevent intra-class price discrimination and limit competitive revenue losses. Moreover, if the competing electric utility knows that Peoples can offer a flex rate only in response to an electric utility flex rate, this may properly incent the electric utility from not seeking authority to offer flex rates. However, if the gas utility is allowed to offer a discounted rate in order to undercut the electric utility's full cost tariff, the electric utility may believe it has no other option than to seek authorization for its own flex rates. Thus, a price war could ensue to the detriment of all other ratepayers. OCA St. 4 at 48.

Additionally, it is inequitable to establish electricity as a competitive alternative, as while virtually any type of customer, including residential customers, could convert to electricity. Peoples does not propose discounted rate treatment to customers served by the residential tariff simply on the basis that they may convert to electricity, and this exemplifies not only the disparity

of Peoples' proposal, but also of the fallacy of extending competitive alternative criteria to include access to electricity. Access to electricity is far too extensive for it to be used a qualifying basis for commercial and industrial customers to access discounted rates, and more must be required to ensure that Peoples' rates are just, reasonable, and non-discriminatory. *Id.* at 49. While Peoples attempts to claim that other Pennsylvania gas utilities, including Columbia Gas, PGW, UGI, and National Fuel use flex rates to compete with electric providers, those claims are not supported here where Peoples provides no explanation of how the identified companies use flex rate to compete with electric providers. *See* Peoples St. 7-R at 6. Peoples' reliance on other companies, without supporting context or analysis, to support its own unique proposals is a consistent theme in this case, and the OCA submits that it is insufficient to meet Peoples' burden.

Currently, the Company is permitted to offer flex rates to customers which claim electricity as a competitive alternative if, and only if, the customer is currently offered an electric flexed distribution rate by the EDC. Peoples Exh. 14, App'x A at 29. As a result, EDCs which service Peoples' flex rate customers are able to determine whether or not they wish to offer that customer a flexed rate, and it can weigh the value of engaging in price competition with Peoples. *Cf. Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies*, Docket Nos. P-2011-2277868 and I-2012-2320323 (Order May 4, 2017) (*GOG Investigation*) at 51 ("we believe that customers who have the capability of obtaining their natural gas supplies from more than one NGDC should be offered a flexible rate to eliminate price competition between NGDCs"). Price competition which has been involuntarily foisted upon EDCs which service customers in Peoples' service territory can only harm captive customers for both Peoples and the EDCs, creating a "race to the bottom" to minimize the cost to the large

commercial or industrial customers subsidized by rate classes incapable of receiving competitive rates. OCA St. 4 at 48-49.

Further, due to the fundamental differences between NGDC and EDC service, the Commission cannot accurately set and maintain a price floor. Price floors are a critical protection for captive customers. This is why, in its investigation into gas-on-gas competition, the Commission determined that a floor must be set on how low competitive rates could be, namely “at the lowest applicable tariffed rate of the NGDCs available to serve each customer.” *GOG Investigation* at 52. The Commission reasoned that:

To the extent that gas-on-gas customers are receiving discounts that are greater than the difference in the applicable tariffed rates of competing NGDCs, we find these discounts exceed the amounts needed to neutralize the price differences for distribution service. Consequently, these excess discounts result in an unreasonable preference for customers receiving these excess discounts and result in discrimination toward other ratepayers that underwrite the revenue shortfalls.

Id. at 51-52. While the Commission’s prior investigation was into gas-on-gas competition and not electric-on-gas competition, the reasoning the Commission relied upon was based in fundamental ratemaking principles which require protection for captive customers to avoid unreasonable class cross-subsidization. *Id.* at 52. Price floors are essential to prevent changes to a utility’s revenue allocation which place a disproportionate burden on residential customers.

By requesting additional authority to offer competitive rates to customers which can claim electricity as a competitive alternate fuel source, Peoples is seeking to create price competition between itself and EDCs which service its customers. OCA St. 4SR at 31. Creating price competition incurs significant costs for captive customers due to the nearly ubiquitous access to electric distribution facilities. *Id.* at 30. Peoples’ proposal would shift the cost burden to its largely residential customer base – customers without the ability to receive discounts for their ability to

switch to electric-only service, despite active competition between electric and gas for residential customers for things like appliances. *Id.*

Peoples has provided no evidence of weight which establishes that securing the ability to offer competitive flex rates to customers that can claim electricity is a competitive alternative to Peoples' service provides sufficient value to the Company's system to warrant the inter-class cost subsidization necessary to achieve the Company's proposed revenue requirement. As presented by OCA witness Johnson, Peoples' captive customers must already bear the revenue shortfall resulting from the Company's competitive flex rates; expanding the pool of potential competitive customers or lowering the price floor on current potential competitive customers, will result in captive customers bearing an even greater revenue shortfall than at present rates. OCA St. 4SR at 30-31. Therefore, Peoples has not met its burden of proof to establish that offering flex rates to customers which can claim electricity as a competitive alternate fuel source would result in just and reasonable rates, and its proposal should be denied.

XVI. CONCLUSION

In summary, Peoples has not met its burden of demonstrating the reasonableness of every element of its claims for rate base, expenses, rate of return, capital structure, revenue allocation, cost of service allocation, rate design, and alternative ratemaking. Accordingly, it is well within the discretion of the ALJ and the Commission to deny, and the ALJ and the Commission should deny, Peoples' ratemaking claims and requests in this proceeding that are challenged by the OCA and should adopt the OCA's fully substantiated recommendations related to such claims. The Commission should also adopt the OCA's recommendations relating to the improvement of Peoples' low-income customer assistance and customer service quality as such recommendations

are supported by substantial evidence of record and will ensure consumer access to adequate and reasonable utility service.

Respectfully submitted,



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

Counsel for:
Patrick M. Cicero, Consumer Advocate

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923
Phone: 717-783-5048
Fax: 717-783-7152

Jacob Guthrie
Harrison Breitman
Assistant Consumer Advocates
OCAPNG2023BRC@paoca.org

Dated: May 30, 2024

TABLE I
Peoples Natural Gas Company, LLC
INCOME SUMMARY
R-2023-3044549

	Pro Forma		OCA		OCA		Total
	Pro Forma	Company	Present Rates	OCA	OCA	OCA	Allowable
	Present Rates (1)	Adjustments	(Revised) (1)	Adjustments	Pro Forma	Revenue	Revenues
	Present Rates (1)	(1)	(Revised) (1)		Present Rates	Increase	
	\$	\$	\$	\$	\$	\$	\$
Operating Revenue	833,215,510	156,026,122	989,241,632	0	833,215,510	12,913,244	846,128,754
Expenses:							
O & M Expense	541,287,319	3,412,102	544,699,421	(20,679,641)	524,019,780	284,091	524,303,871
Depreciation	134,219,598	0	134,219,598	(409,501)	134,629,100	0	134,629,100
Taxes, Other	15,353,167	0	15,353,167	(417,300)	14,935,867	0	14,935,867
Income Taxes:							
State	(18,714)	0	(18,714)	0	(18,714)	0	(18,714)
Federal	(91,325,720)	32,049,042	(59,276,678)	(30,246,393)	(89,523,071)	2,652,122	(86,870,949)
Total Expenses	599,515,650	35,461,144	634,976,794	(51,752,835)	584,042,962	2,936,213	586,979,175
Net Inc. Available for Return	233,699,860	120,564,978	354,264,838	51,752,835	249,172,548	10,038,239	259,210,787
Rate Base	4,215,125,164	0	4,215,125,164	(30,931,664)	4,184,193,500		4,184,193,500
Rate of Return	5.54%		8.40%				6.19500000%

(1) Company Main Brief

TABLE I(A)
Peoples Natural Gas Company, LLC
RATE OF RETURN
R-2023-3044549

	<u>Structure</u>	<u>Cost</u>	<u>After-Tax Weighted Cost</u>	<u>Effective Tax Rate Complement</u>	<u>Pre-Tax Weighted Cost Rate</u>
Total Cost of Debt			2.18500000%		
Long-term Debt	50.00%	4.37%	2.18500000%		2.19%
Short-term Debt	0.00%	0.00%	0.00000000%		
Preferred Stock	0.00%	0.00%	0.00000000%	0.790000	0.00%
Common Equity	<u>50.00%</u>	8.02%	<u>4.01000000%</u>	0.790000	<u>5.08%</u>
	<u>100.00%</u>		<u>6.19500000%</u>		<u>7.27%</u>
Pre-Tax Interest Coverage	3.32				
After-Tax Interest Coverage	2.84				

TABLE I(B)
Peoples Natural Gas Company, LLC
REVENUE FACTOR
R-2023-3044549

100%	<u>1.00000000</u>
Less:	
Uncollectible Accounts Factor (*)	0.02200000
PUC, OCA, OSBA Assessment Factors (*)	0.00000000
Gross Receipts Tax	0.00000000
Other Tax Factors- late payment fees	<u>0.00600000</u>
	0.98400000
State Income Tax Rate (*)	<u>0.00000000</u>
Effective State Income Tax Rate	<u>0.00000000</u>
Factor After Local and State Taxes	0.98400000
Federal Income Tax Rate (*)	<u>0.21000000</u>
Effective Federal Income Tax Rate	<u>0.20664000</u>
Revenue Factor (100% - Effective Tax Rates)	<u><u>0.77736000</u></u>
	1.28640527

(*) Company Main Brief

TABLE II
Peoples Natural Gas Company, LLC
SUMMARY OF ADJUSTMENTS
R-2023-3044549

OCA							
<u>Adjustments</u>	<u>Rate Base</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Depreciation</u>	<u>Taxes-Other</u>	<u>State Income Tax</u>	<u>Federal Income Tax</u>
	\$	\$	\$	\$	\$	\$	\$
RATE BASE:							
CWC:							
Int. & Div. (Table IV)	(158,982)						
Taxes (Table V)	0						
O & M (Table VI)	(1,139,712)						
Gas Plant In Service	(29,282,008)						
Accumulated Depreciation	(409,497)						
Gas Storage Underground	0						
Other WCA	0						
Deferred Income Taxes	85,995						
Other Deductions	0						
CTA	(27,460)						
REVENUES:							
		846,234,250				0	177,709,193
EXPENSES:							
Group Insurance - Employee Ben.			(\$778,484)			0	163,482
Insurance, Other - Corporate			(\$1,648,544)			0	346,194
Labor			(\$1,742,697)			0	365,966
STIP			(\$3,074,490)			0	645,643
Outside Services - Contracted			(\$1,940,335)			0	407,470
Outside Services - IT			(\$442,315)			0	92,886
Outside Services - A&G			(\$428,262)			0	89,935
Leased Equip./Rent - Building			\$0			0	0
Fleet			(\$71,376)			0	14,989
Utilities and Fuel			(\$172,240)			0	36,170
Advertising			(\$86,938)			0	18,257
Materials and Supplies			(\$794,687)			0	166,884
Natural Gas Supply			\$0			0	0
License and Permits			(\$68,644)			0	14,415
Co. Memberships			(\$247,270)			0	51,927
Travel			(\$912,788)			0	191,685
Other O&M			(\$1,775,041)			0	372,759
Debt Issuance Costs			\$0			0	0
Payment Processing Fees			(\$219,720)			0	46,141
Rate Case Expenses			(\$343,667)			0	72,170
Uncollectibles			(\$3,127,740)			0	656,825
Interest on Customer Deposits			\$0			0	0
Injuries and Damages			(\$150,237)			0	31,550
Post Retirement Benefits			\$148,250			0	(31,133)
Pensions			(\$2,802,416)				
TAXES:							
Interest Synchronization (Table III)						0	(1,541,305)
TOTALS	(30,931,664)	13,018,740	(20,679,641)	(409,501)	(417,300)	0	(30,246,393)

TABLE III
Peoples Natural Gas Company, LLC
INTEREST SYNCHRONIZATION
R-2023-3044549

	Amount \$
Company Rate Base Claim	4,215,125,164
OCA Rate Base Adjustments	<u>(30,931,664)</u>
OCA Rate Base	4,184,193,500
Weighted Cost of Debt	<u>2.18500000%</u>
OCA Interest Expense	91,424,628
Company Claim (1)	<u>84,085,080</u>
Total OCA Adjustment	(7,339,548)
Company Adjustment	<u>0</u>
Net OCA Interest Adjustment	(7,339,548)
State Income Tax Rate	<u>0.00%</u>
State Income Tax Adjustment	<u>0</u>
Net OCA Interest Adjustment	(7,339,548)
State Income Tax Adjustment	<u>0</u>
Net OCA Adjustment for F.I.T.	(7,339,548)
Federal Income Tax Rate	<u>21.00%</u>
Federal Income Tax Adjustment	<u><u>(1,541,305)</u></u>

(1) Company Main Brief

TABLE IV
Peoples Natural Gas Company, LLC
CASH WORKING CAPITAL - Interest and Dividends
R-2023-3044549

Accrued Interest	Long-Term Debt		Short-Term Debt		Preferred Stock Dividends	
Company Rate Base Claim	\$4,215,125,164	\$4,215,125,164	Company Rate Base Claim	\$4,215,125,164	Company Rate Base Claim	\$4,215,125,164
OCA Rate Base Adjustments	<u>(\$30,931,664)</u>	<u>(\$30,931,664)</u>	OCA Rate Base Adjustments	<u>(\$30,931,664)</u>	OCA Rate Base Adjustments	<u>(\$30,931,664)</u>
OCA Rate Base	\$4,184,193,500	\$4,184,193,500	OCA Rate Base	\$4,184,193,500	OCA Rate Base	\$4,184,193,500
Weighted Cost of Debt	<u>2.18500000%</u>	<u>0.00%</u>	Weighted Cost Pref. Stock	<u>0.00000000%</u>	Weighted Cost Pref. Stock	<u>0.00000000%</u>
OCA Annual Interest Exp.	<u>\$91,424,628</u>	<u>\$0</u>	OCA Preferred Dividends	<u>\$0</u>	OCA Preferred Dividends	<u>\$0</u>
Average Revenue Lag Days	59.4	59.4	Average Revenue Lag Days	59.4	Average Revenue Lag Days	59.4
Average Expense Lag Days	<u>35.2</u>	<u>0.0</u>	Average Expense Lag Days	<u>0.0</u>	Average Expense Lag Days	<u>0.0</u>
Net Lag Days	<u>24.3</u>	<u>59.4</u>	Net Lag Days	<u>59.4</u>	Net Lag Days	<u>59.4</u>
Working Capital Adjustment						
OCA Daily Interest Exp.	\$250,478	\$0	OCA Daily Dividends	\$0	OCA Daily Dividends	\$0
Net Lag Days	<u>-7.82</u>	<u>59.4</u>	Net Lag Days	<u>59.4</u>	Net Lag Days	<u>59.4</u>
OCA Working Capital	(\$1,958,738)	\$0		\$0		\$0
Company Claim (1)	<u>(\$1,799,756)</u>	<u>\$0</u>	Company Claim (1)	<u>\$0</u>	Company Claim (1)	<u>\$0</u>
OCA Adjustment	<u>(\$158,982)</u>	<u>\$0</u>		<u>\$0</u>		<u>\$0</u>
Total Interest & Dividend Adj.	<u>(\$158,982)</u>					

(1) Company Main Brief.

TABLE V
Peoples Natural Gas Company, LLC
CASH WORKING CAPITAL -TAXES
R-2023-3044549

Description	Company Proforma Tax Expense Present Rates	OCA Adjustments	OCA Pro forma Tax Expense Present Rates	OCA Allowance	OCA Adjusted Taxes at Present Rates	Daily Expense	Net Lead/ Lag Days	Accrued Tax Adjustment
PUC Assessment	\$3,435,715	\$0	\$3,435,715	\$0	\$3,435,715	\$9,412.92	0.00	\$0
Public Utility Realty	\$1,064,828	(\$5,581)	\$1,059,247		\$1,059,247	\$2,902.05	0.00	\$0
Capital Stock Tax	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
State and Use	\$2,602,000	\$0	\$2,602,000		\$2,602,000	\$7,128.77	0.00	\$0
Other	\$1,679,000	\$0	\$1,679,000		\$1,679,000	\$4,600.00	0.00	\$0
Payroll Taxes	\$6,211,692	(\$411,719)	\$5,799,973		\$5,799,973	\$15,890.34	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
	\$0	\$0	\$0		\$0	\$0.00	0.00	\$0
State Income Tax	(\$18,714)	\$0	(\$18,714)	\$0	(\$18,714)	(\$51.27)	0.00	\$0
Federal Income Tax	\$0	(\$30,246,393)	(\$30,246,393)	\$2,652,122	(\$27,594,271)	(\$75,600.74)	0.00	\$0
	<u>\$14,974,521</u>	<u>(\$30,663,693)</u>	<u>(\$15,689,172)</u>	<u>\$2,652,122</u>	<u>(\$13,037,050)</u>			
						OCA Allowance		0
						Company Claim (1)		<u>0</u>
						OCA Adjustment		<u><u>0</u></u>

(1) Company Main Brief

TABLE VI
Peoples Natural Gas Company, LLC
CASH WORKING CAPITAL -- O & M EXPENSE
R-2023-3044549

Description	Company Pro forma F.T.Y. Expense	OCA	OCA Pro forma Expenses	Lag Days	Lag Dollars
Service Company	\$0	\$0	\$0	0.00	\$0
Chemicals	\$0	\$0	\$0	0.00	\$0
Group Insurance - Employee Ben.	\$20,982,496	(\$778,454)	\$20,204,042	0.00	\$0
Insurance, Other - Corporate	\$9,080,331	(\$1,648,544)	\$7,431,787	0.00	\$0
Labor	\$69,463,580	(\$1,742,697)	\$67,720,883	0.00	\$0
STIP	\$5,624,024	(\$3,074,490)	\$2,549,534		
Outside Services - Contracted	\$28,657,932	(\$1,940,335)	\$26,717,597		
Outside Services - IT	\$10,223,964	(\$442,315)	\$9,781,649		
Outside Services - A&G	\$3,383,833	(\$428,262)	\$2,955,571		
Leased Equip./Rent - Building	\$4,584,081	\$0	\$4,584,081	0.00	\$0
Fleet	\$1,170,486	(\$71,376)	\$1,099,110	0.00	\$0
Utilities and Fuel	\$2,949,856	(\$172,240)	\$2,777,616		
Advertising	\$1,423,934	(\$86,938)	\$1,336,996		
Materials and Supplies	\$11,848,248	(\$794,687)	\$11,053,561	0.00	\$0
Natural Gas Supply	\$317,688,615	\$0	\$317,688,615	0.00	\$0
License and Permits	\$746,068	(\$68,644)	\$677,424	0.00	\$0
Co. Memberships	\$832,200	(\$247,270)	\$584,930	0.00	\$0
Travel	\$1,014,712	(\$912,788)	\$101,924	0.00	\$0
Other O&M	\$23,696,895	(\$1,775,041)	\$21,921,854		
Debt Issuance Costs	\$404,371	\$0	\$404,371		
Payment Processing Fees	\$2,015,819	(\$219,720)	\$1,796,099		
Rate Case Expenses	\$1,031,000	(\$343,667)	\$687,333		
Uncollectibles	\$13,635,521	\$0	\$13,635,521	0.00	\$0
Interest on Customer Deposits	\$284,603	\$0	\$284,603		
Injuries and Damages	\$2,460,710	(\$150,237)	\$2,310,473		
Post Retirement Benefits	\$2,414,041	\$148,250	\$2,562,291	0.00	\$0
Pensions	\$5,670,000	(\$2,802,416)	\$2,867,584	0.00	\$0
	<u>\$541,287,320</u>	<u>(\$17,551,871)</u>	<u>\$523,735,449</u>	<u>0.00</u>	<u>\$0</u>
OCA Average Revenue Lag	59.4				
Less: OCA Avg. Expense Lag	<u>35.2</u>				
Net Difference	24.3	Days			
OCA Pro forma O & M Expense per Day	<u>\$1,434,892</u>				
OCA CWC for O & M	\$35,117,204				
Less: Company Claim (1)	<u>\$36,256,916</u>				
OCA Adjustment	<u>(\$1,139,712)</u>				

(1) Company Main Brief

TABLE VIIIA
 Peoples Natural Gas Company, LLC
 Revenue Allocation at OCA Proposed Revenue Requirement
 R-2023-3044549

Class Revenue Distribution at OCA Proposed Revenue Requirement

	Total	RES	SGS	MGS	LGS	LGS-Mainline
Present Revs	#####	#####	#####	#####	#####	\$6,996,935
OCA Increase	\$ 12,925,913					
CJ-2 Increase (Table VIIB)	#####	#####	#####	#####	\$ 8,424,950	\$9,677,596
Scale Back Incr.	\$ 12,925,913	\$ 7,701,126	\$ 1,688,826	\$ 2,189,147	\$ 626,809	\$ 720,004
Percent Increase	2.6%	2.2%	3.8%	3.8%	1.3%	10.3%
Ratio to Average	100.0%	86.5%	149.9%	149.9%	50.0%	401.9%

(Note: Scale Back to Class Ratios on Ex. CJ-2)

TABLE VIIB
Peoples Natural Gas Company, LLC
Revenue Allocation at Peoples' Proposed Revenue Requirement
R-2023-3044549

Class Revenue Distribution at Peoples' Proposed Revenue Requirement
(thousands of dollars)

	Total	RES	SGS	MGS	LGS	LGS-MLS
Current Revenues	\$ 504,861	\$ 347,867	\$ 43,991	\$ 57,024	\$ 48,982	\$ 6,997
Increase Per OCA CCOSS	\$ 173,738	\$ 102,395	\$ 23,302	\$ 34,395	\$ 3,968	\$ 9,678
Gradualism Adjustment		\$ 1,116	\$ (603)	\$ (4,970)	\$ 4,457	\$ -
Revenue Increase	\$ 173,738	\$ 103,511	\$ 22,700	\$ 29,424	\$ 8,425	\$ 9,678
Total Base Revenues	\$ 678,599	\$ 451,378	\$ 66,691	\$ 86,448	\$ 57,407	\$ 16,675
Percent Increase	34.41%	29.76%	51.60%	51.60%	17.20%	138.31%
Times System Average		86.5%	149.9%	149.9%	50.0%	401.9%

Gradualism Constraints:

- (1) No Class Increase Less Than 50% Average Increase.
- (2) SGS and MGS Increase Capped at 50% Average Increase.

TABLE VIIIA
Peoples Natural Gas Company, LLC
Residential Rate Design and Rate Impact at OCA Proposed Revenue Requirement
R-2023-3044549

Residential Per OCA Proposed		Current Res.	Percent Incr.	Current Res.	Percent Incr.
<i>Base Rates (Per Month) exclude cost of gas</i>		PNG Division		PG Division	
Customer Charge	\$14.50	\$14.50	0%	\$15.75	-7.9%
Consumption (delivery)	\$4.37	\$3.96	10.3%	\$6.77	-35.5%
80 units (Annual)	\$349.63	\$316.86		\$541.94	
Total Annual Base Rate	\$523.63	\$490.86	6.7%	\$730.94	-28.4%
Average Monthly Base Rate	\$43.64	\$40.91	6.7%	\$60.91	-28.4%

Estimated Percentage Impact With Riders and Cost of Gas						
OCA Residential (80 unit consumption)						
	OCA Proposed	PNGD Current	Percent Incr.	PGD Current	Percent Incr.	
Monthly Base Rate	\$ 43.64	\$ 40.91	6.7%	\$60.91	-28.4%	
Cost of Gas	\$ 26.43	\$ 26.43		\$ 26.43		
Estimated Riders	\$ 2.97	\$ 5.64		(\$4.44)		
Total Monthly Bill	\$ 73.04	\$ 72.98	0.1%	\$ 82.90	-11.9%	

TABLE VIII B
Peoples Natural Gas Company, LLC
Non-residential Volumetric Base Rates and Rate Impact at OCA Proposed Revenue Requirement (Excluding MLS)
R-2023-3044549

Base Revenues Per MCF without cost of gas

(Excluding MLS)

	Per OCA Rev Allocation	MCF	Per MCF Rate
SG	\$ 45,680,217	10,530,513	\$ 4.34
MGS	\$ 59,213,152	17,718,295	\$ 3.34
LGS	\$ 49,609,076	46,824,279	\$ 1.06

PNG Division

(Excluding MLS Current Base Revs	MCF	Per MCF	Increase Per MCF
SG	\$37,953,653	9,652,865	\$ 3.93 10.3%
MGS	\$49,213,705	16,205,838	\$ 3.04 10.0%
LGS	\$48,404,592	37,589,883	\$ 1.29 -17.7%

PG Division

(Excluding MLS Current Base Revs	MCF	Per MCF	Increase Per MCF
SG	\$6,037,737	877,648	\$ 6.88 -36.9%
MGS	\$7,810,300	1,512,457	\$ 5.16 -35.3%
LGS	\$7,574,609	9,234,395	\$ 0.82 29.2%

(1) The OCA did not propose customer charges for non-residential classes. As such, the above rate design pertains only to the non-gas cost volumetric rate increases experienced by non-residential customers, excluding MLS.

Base Revenues Per Customer without cost of gas

(Excluding MLS)

	Per OCA Rev Allocation	Customers	Rev Per Customer
SG	\$ 45,680,217	48,437	\$ 943
MGS	\$ 59,213,152	5,515	\$ 10,737
LGS	\$ 49,609,076	260	\$ 190,560

PNG Division

(Excluding MLS Current Base Revs	Customers	Rev Per Customer	Increase per Customer
SG	\$37,953,653	44507	\$ 853 10.6%
MGS	\$49,213,705	5074	\$ 9,699 10.7%
LGS	\$48,404,592	232	\$ 209,016 -8.8%

PG Division

(Excluding MLS Current Base Revs	Customers	Rev Per Customer	Increase per Customer
SG	\$6,037,737	3930	\$ 1,536 -38.6%
MGS	\$7,810,300	441	\$ 17,726 -39.4%
LGS	\$7,574,609	29	\$ 263,465 -27.7%

PUBLIC OCA Proposed Findings of Fact

III. OVERALL POSITION ON RATE CASE

1. By adopting the OCA’s recommended just and reasonable rate of return and capital structure for Peoples, ratepayers would save \$136.19 million annually. OCA St. 2SR at 2.
 - A. **Peoples’ Requests for Rate Base and Expense Increases are Unsupported and Unnecessary.**
 2. Peoples plans to invest over \$1 billion in infrastructure – primarily targeting at-risk pipe through its Long-Term Infrastructure Improvement Plan (LTIIP) – by the end of its FPFTY. OCA St. 2 at 6.
 3. Peoples’ investment in its plant will remove leak-prone pipe, especially in urban areas where there are high densities of customers. Peoples St. 1 at 10.
 4. Peoples includes inflation adjustments in its rate base and plant replaced at the request of the Commission’s Gas Safety Division. OCA St. 2SR at 5-6.
 5. Peoples requested ratepayers pay employee benefits including tickets to sporting events or anniversary awards. OCA St. 2SR at 20.
 6. Peoples requested ratepayers pay for Peoples’ lobbying efforts. OCA St. 2 at 43.
 7. Peoples requested ratepayers pay for the Company’s sports advertising. OCA St. 2 at 42.
 8. Peoples requested ratepayers pay for costs that are not known and measurable, such as inflation adjustments. OCA St. 2SR at 4.
 - B. **Peoples Is Not at Risk of Financial Collapse.**
 9. Peoples’ claimed leverage, size, and management performance adjustments to its return on equity will cost ratepayers approximately \$79.4 million, if approved. I&E St. 2 at 68 (\$41.8 million from a leverage adjustment, \$30.2 million from a size adjustment, and \$7.4 from a management performance adder).
 10. Bill affordability poses paramount concerns for both Peoples’ customers and the Company itself. OCA St. 6 at 14.
 11. As support for Peoples’ claim that investors expect decoupling mechanisms, the Company provided a list of regulated NGDCs with some form of alternative ratemaking mechanism. OCA St. 3 at 50.
 - C. **Peoples’ Rate Relief Request Fails to Consider the Needs of its Captive Customers.**
 12. Peoples mailed a combined notice of the proposed rate increase to all of its customers in both divisions, the PNGD and the PGD, without designating which division served the customer receiving the notice. OCA Exh. BA-6.

13. The total bill for a PNGD residential customer using 80 Mcf per year was projected to increase from \$73.16 to \$88.79 per month or by 21.4%, but the total bill for a PGD residential customer using 80 Mcf per year was only projected to increase from \$84.00 to \$90.35 per month or by 7.6%. OCA Exh. BA-6.
14. In the past seven years, residential bills in winter months have gone up by nearly \$100. OCA St. 6 at 5.
15. Low-income customers face the most significant cost burden, as utility bills continue to occupy greater portions of their income while income growth is not nearly as high. OCA St. 6 at 7.
16. Peoples' own data evidences that more monthly bills are increased than decreased under a WNA. Peoples St. 15-R at 15.

IV. RATE BASE

A. Plant Additions

17. Inflation factors are a broad, blanket economic adjustment rooted in inflation estimates and the Consumer Price Index (CPI) to replicate anticipated inflation over time, are not tied to specific accounts, and represent costs that are neither known nor measurable. OCA St. 2 at 8.
18. Peoples uses inflation factors of 2.31% in its FTY and an additional 2.4% in its FPFTY for LTIIP capital expenditures, 4% in its FTY and 3.5% in its FPFTY for general plant expenditures, and 3.5% in its FPFTY for its mainline extension program. OCA St. 2 at 8.
19. Peoples is asking for \$27,819,502 to fund hypothetical rate base improvements through the use of inflation factors. OCA St. 2 at 5.
20. Data provided by the Company indicates that its inflation factors were calculated using historical inflation data, which is an inaccurate representation of what levels of inflation will actually be experienced, due to atypically high cost increases in 2022 and 2023 and slowed cost increases since 2022. OCA St. 4SR at 5.
21. Peoples' rate base balance at the end of its FPFTY is \$4,184,352,477. OCA Exh. DM-SR-3.

B. Robinson Township Facilities

22. On April 29, 2020, Peoples' Robinson System, serving portions of Indiana County, experienced an over-pressurization event which damaged 400 privately-owned appliances as well as 4,552 feet of steel pipe and 133 service lines. *Pa. PUC v. Peoples Natural Gas Company LLC*, Docket No. M-2023-3024990 (Order May 9, 2024) at 2, 5.
23. Peoples is seeking to recover the \$1,462,407 expended to replace its damaged facilities, steel pipelines, through an addition to rate base. OCA St. 2 at 10.
24. I&E Pipeline Safety Division's investigation into the over pressurization event identified that Peoples' technicians failed to follow procedures, and that Peoples' training materials

“were not sufficiently detailed to ensure employees were qualified to conduct bypass operations when inspecting regulator stations.” *Pa. PUC v. Peoples Natural Gas Company LLC*, Docket No. M-2023-3024990 (Order May 9, 2024) at 5.

25. Evidence proved that I&E’s Pipeline Safety Division directed Peoples to “accelerate replacement of assets that were affected by the overpressure incident” OCA Exh. DM-SR-38.
26. Peoples admitted that, but-for the Robinson incident, the pipeline replacement would not have been accelerated. OCA Exh. DM-SR-38.

D. Act 40 Adjustment

27. Peoples’ claimed consolidated tax expense adjustment is \$54,920. OCA St. 2 at 65.
28. Peoples Long-Term Infrastructure Improvement Plan contributions exceed \$508 million. OCA St. 2 at 63.
29. Peoples did not demarcate \$27,460 of its consolidated tax expense adjustment for use in general corporate purposes. OCA St. 2 at 65.
30. The OCA recommends \$27,460 of Peoples’ revenue requirement be contributed to non-investor-supplied funding for utility working capital. OCA St. 2 at 65.

E. Depreciation Issues

31. Peoples’ claimed accumulated depreciation reserve is \$1,456,324,499, which includes \$409,497 in depreciation associated with the claimed rate base for the bare steel pipe replaced following the Robinson overpressurization event and inflation adjustment. OCA Exh. DM-SR-3.
32. Peoples’ accumulated depreciation reserve is \$1,456,733,996 for its FPFTY period. OCA Exh. DM-SR-3.

F. Working Capital

33. Peoples’ claimed cash working capital request is \$36,256,916 for its FPFTY period. OCA Exh. DM-SR-7.
34. Peoples’ claimed cash working capital request is based on its revenue requirement and associated operations and management expenses at the time of filing. OCA St. 2 at 12-13.
35. Peoples’ cash working capital balance is \$35,117,204 for its FPFTY period, following the reduction of cash working capital by \$1,139,711 associated with operations and management expenses, exclusive of the OCA’s recommended Act 40 adjustment. OCA Exh. DM-SR-7.

G. Deferred Taxes

36. Peoples claimed (\$3,232,844) for accumulated deferred income taxes during its FPFTY period. OCA Exh. DM-SR-8.

37. Peoples' claimed accumulated deferred income taxes is based on its revenue requirement and associated operations and management expenses at the time of filing. OCA St. 2 at 16.
38. Peoples' accumulated deferred income taxes balance for its FPFTY period is (\$3,146,849), following the increase of accumulated deferred income tax by \$85,995 associated with operations and management expenses. OCA Exh. DM-SR-8.

V. REVENUES

39. Peoples' authorized operating revenues at present rates are \$833,215,510, which no party challenged. OCA St. 2 at 16.

VI. EXPENSES

40. Peoples has claimed annual operation and management (O&M) expenses for the FPFTY is \$227,010,807, which is comprised of \$223,598,705 of expenses at present rates and \$3,412,102 for additional uncollectible expenses. OCA St. 2SR at 2.
41. Peoples is authorized \$206,331,194 in total operation and management expenses for its FPFTY, reduced from the requested amount by \$17,551,873 in expenses which may not be recovered from ratepayers. OCA St. 2SR at 2.

A. Updates to Original Filing

42. In rebuttal, Peoples requested an additional \$996,345 in operations and management expenses for its FPFTY, associated with inaccurate calculations of its labor and post-retirement benefits other than pension expenses in its initial filing. OCA St. 2SR at 3.
43. Peoples had access to all of the information which formed the basis of its updated request at the time of filing, but identified in the course of litigation that its claimed costs were less than updated estimates. OCA St. 2SR at 3.
44. Peoples did not support the calculations underlying its request for an additional \$996,345 in operations and management expenses for its FPFTY, or provide evidence to explain why it did not use the updated figures at the time of filing. OCA St. 2SR at 11, 28-29.

C. Five-Year Average Adjustments

45. Peoples included \$7,031,592 of inflationary adjustments in its expense requests. Peoples St. 2-R at 11:15.
46. Peoples relied on historical, multi-year averaging for estimating inflationary cost increases to all operations and management expenses other than injuries and damages and advertising. Peoples St. 2-R at 12. The time frame used by Peoples for its multi-year averaging varied between two and five years. Peoples St. 2R at 10-13, 26.
47. Peoples did not provide evidence to support why a five-year annualization period was appropriate, or why it expects to experience the same cost increases by the end of the FPFTY as it has experienced, on average, during the past five years. OCA St. 2SR at 13.

48. As a result of the COVID-19 pandemic, costs fluctuated significantly over the period of time Peoples seeks to use for its multi-year averaging method. OCA St. 2SR at 13. However, since 2022, cost increases experienced by Peoples have dramatically slowed. Peoples St. 5R at 7-8.

D. Inflation Adjustments

49. Peoples is better able to bear the under-recovery of cost increases over time than ratepayers are of over-recovery, should the Company’s projected increases not materialize, as most ratepayers do not have operating incomes in excess of \$500 million as the Company does, and the budgeting flexibility which flows from significant operating income. OCA St. 2 at 4, 23; OCA Exh. DM-SR-4.
50. Median income in Peoples’ service territory is less than \$70,000. OCA St. 6 at 7.

E. Corporate Insurance

51. Peoples’ claimed corporate insurance expense is \$9,080,331. OCA St. 2 at 38.
52. Peoples’ claimed corporate insurance expense includes a 13.1% inflation factor based on Peoples’ insurance brokers’ feedback that experienced costs have increased in previous years, inflating its insurance expense by \$1,648,544. OCA St. 2 at 38. Peoples did not provide projected increases based in renewal agreements, contracts, or purchase orders which indicate actual costs. OCA St. 2SR at 19.
53. Feedback-based estimates are presumptive, not rooted in substantial industry forecasts for increases in insurance premiums, and prone to drastic change within the near future. OCA St. 2SR at 19.
54. The OCA’s recommended corporate insurance expense is \$7,431,787, which is Peoples’ claimed corporate insurance expense less the \$1,648,544 increase resulting from the 13.1% inflation factor. OCA St. 2SR at 20.

F. Labor/Vacancy Expense

55. Peoples’ claimed labor expense is \$69,463,580. OCA St. 2 at 25.
56. The OCA proposed a vacancy rate ratio be applied to Peoples’ claimed labor expense. OCA St. 2 at 27. The OCA used a vacancy rate ratio of 2.7%, a ratio which was supplied by Peoples for the portion of its full-time employee positions which will be vacant in 2024. OCA St. 2 at 26.
57. Using Peoples’ supplied vacancy rate ratio results in an FPFTY labor expense adjustment of \$1,742,935 for the portion of Peoples’ claimed full-time employee positions which will be left vacant by the end of the FPFTY. OCA St. 2 at 27.

G. Incentive Compensation

58. (BEGIN CONFIDENTIAL) [REDACTED]

68. The OCA recommends that Peoples’ claimed benefits compensation expense be reduced by \$781,581, which includes disallowance of the \$254,43 associated with employee awards and events, as well as applying the vacancy rate ratio adjustment to the amount claimed, which further reduces the claimed expense by \$527,144. OCA Exh. DM-SR-15.

I. Materials and Supplies

69. Peoples’ claimed materials and supplies expense is \$11,848,247. OCA St. 2 at 47.
70. Peoples included inflation factor, a 2.94% general inflation factor, was applied to an FTY-specific 5% inflation factor increase attributed to higher costs per fault, number of faults expected, and cost of anodes. OCA St. 2 at 48. These inflation factors increase Peoples’ claimed expense by \$794,686. OCA St. 2 at 48.
71. The OCA’s recommended materials and supplies expense is \$11,053,561, following the removal of the 2.94% inflation factor applied to the materials and supplies expense and applied to the 5% inflationary increase attributed to higher costs per fault, number of faults expected, and cost of anodes. OCA St. 2 at 48. The OCA does not contest the additional costs related to the increased cost of faults and anodes, only the inflationary increase applied to those increased costs. OCA Exh. DM-SR-28.

J. Pension Expense

72. Peoples claimed a pension expense of \$5,670,000, based on its average pension expense from 2022 and 2023. OCA St. 2 at 30.
73. Peoples’ pension expense for 2018 through 2022 fluctuated significantly, from \$560,190 in 2020 to \$5,408,063 in 2022. OCA St. 2 at 30.
74. Peoples’ average actual pension expense between 2018 and 2022 was \$2,867,584. OCA St. 2 at 30. The OCA recommends that the five-year average pension expense for actual contributions between 2018 and 2022 be used as Peoples’ pension expense allowance. OCA St. 2 at 30.

K. Post-Retirement Other Than Pensions

75. Peoples’ claimed expense for post-retirement benefits other than pensions is \$2,414,040, which includes \$779,921 which Peoples has requested be tracked between this general rate increase request and its next request for rate relief. OCA St. 2 at 32.
76. Peoples’ post-retirement benefits other than pensions expense for 2018 through 2022 fluctuated significantly, from \$1,186,742 in 2019 to \$1,636,734 in 2021. OCA St. 2 at 32.
77. Peoples’ average post-retirement benefits other than pensions between 2018 and 2022 was \$1,438,988, which was \$208,991 less than Peoples’ claimed HTY post-retirement benefits other than pensions expense. OCA St. 2 at 32.
78. Before adjustments, Peoples’ post-retirement benefits other than pensions expense is \$2,353,301, or 3.475% of Peoples’ actual labor expense – the proportion of Peoples’ claimed post-retirement benefits other than pensions expense to its labor expense at the time of filing – under the OCA’s vacancy rate ratio. OCA St. 2 at 32.

79. The OCA recommends that Peoples’ post-retirement benefits other than pensions expense allowance be set at \$2,562,291, or the vacancy rate ratio adjusted post-retirement benefits other than pensions expense amount increased by the \$208,991 difference between Peoples’ claimed historic test year post-retirement benefits other than pensions expense and the OCA’s normalized amount. OCA St. 2 at 32.
80. The OCA accepts that, any adjustment to Peoples’ post-retirement benefits other than pensions expense may require further adjustment to the \$779,921 which Peoples has requested be tracked between this general rate increase request and its next request for rate relief. Peoples St. 2-R at 49:11.

L. Rate Case Expense

81. Peoples’ claimed rate case expense is \$1,031,000. OCA St. 2 at 52.
82. Peoples used a two-year amortization period for Peoples’ total rate case expense of \$2,062,000. OCA St. 2 at 52.
83. Peoples five most recent rate cases were filed in 2008, 2010, 2012, 2019, and 2023. OCA St. 2 at 53.
84. With five rate cases filed in a span of 15 years, the average number of years between rate cases is three years. OCA St. 2 at 53.
85. The OCA’s recommended annual rate case expense is \$687,333, or \$2,062,000 normalized over a period of three years. OCA St. 2 at 53.

M. Travel, Meals, and Entertainment Expense

86. Peoples’ claimed travel and entertainment expense is \$1,014,712. OCA St. 2 at 41.
87. Peoples’ claimed expense includes entertainment expenses totaling \$829,093, which includes general travel expenses not tied to the provision of natural gas distribution service, costs for employee events such picnics and an annual baseball game, costs incurred to advertise in sporting venues, and other related costs. Peoples St. 2-R at 31-32. Such events are not associated with providing ratepayers with enhanced customer service, quality of service, safety, or reliability. OCA St. 2SR at 21.
88. The OCA’s recommended travel and entertainment expense is \$101,924, after the removal of the 4.4% inflation factor and \$829,093 in unjustified travel and entertainment expenses. OCA St. 2SR at 22.

O. Company Memberships

89. Peoples’ claimed company memberships expense is \$832,199. OCA St. 2 at 42.
90. Peoples’ company memberships expense includes \$212,202 in costs associated with membership in civic and lobbying groups, such as chambers of commerce and the Energy Association of Pennsylvania. OCA St. 2 at 43.

91. The OCA’s recommended company memberships expense is \$584,930, after the removal of the 2.18% inflation factor and \$212,202 in unjustified company membership costs. OCA St. 2SR at 22.

Q. Other Operations and Management Expenses

92. Peoples’ claimed other operations and management expense is \$23,696,894. OCA St. 2 at 48.

93. Of those expenses, (BEGIN CONFIDENTIAL) \$ [REDACTED]
[REDACTED]
[REDACTED]. (END CONFIDENTIAL) OCA St. 2 at 49.

94. The OCA’s recommended other operations and management expense is \$21,921,854, after removing the \$885,507 related to financial incentive compensation allocated from Peoples’ corporate parent and \$889,533 related to Peoples’ use of a 2.94% inflation factor to increase its other operations and management expense. OCA St. 2 at 49.

R. Payment Processing

95. Peoples’ claimed payment processing fee expense is \$2,015,819. OCA St. 2 at 51.
96. Payment processing fee expenses pertain to eliminating transaction fees for utility bill payments. OCA St. 2 at 51. In this proceeding, Peoples is expanding access to fee-free payments from only Peoples Natural Gas Division customers to Peoples Gas Division customers, as well. OCA St. 2 at 51.
97. Peoples applies an inflation factor to its future and fully projected future test years if 7.82% in addition to a 10% estimated cost increase in February 2025 associated with the renewal of Peoples’ initial service contract. OCA St. 2 at 50-52.
98. It is likely that, following Peoples Gas Division customers’ access to fee-free utility bill payments, the costs associated with eliminating payment processing fees will increase. OCA St. 2SR at 25.
99. The OCA does not contest that such payment processing fee expenses are appropriately recovered. OCA St. 2 at 52.
100. The OCA’s proposed payment processing fee expense is \$1,796,099, following the removal of 50% of Peoples’ applied inflation factor increases. OCA St. 2 at 52.

S. Uncollectible Accounts

101. Peoples’ claimed uncollectible accounts expense is \$13,635,520. OCA St. 2 at 54.
102. Peoples adjusted its uncollectible balance by \$3,412,102 by multiplying the \$156,095,549 in additional requested revenue by a 2.20% uncollectible rate. OCA St. 2 at 54. The OCA accepts Peoples’ methodology of determining uncollectible expense increases by multiplying additional revenues by a 2.20% uncollectible rate. OCA St. 2 at 54.

103. The OCA recommends an uncollectible accounts expense of \$284,362, or 2.2% of its recommended revenue requirement increase of \$13,018,740. OCA St. 2 at 54.

T. Depreciation Expense

104. Peoples' claimed depreciation expense is \$129,015,596. OCA St. 2 at 55.

105. Peoples' claimed depreciation expense includes depreciation for all depreciable plant in its gross plant in service balance claimed in this proceeding. OCA St. 2 at 55.

106. The OCA's recommended disallowance of \$30,772,687 to Peoples' claimed rate base balance requires a corresponding reduction to depreciation expense. OCA St. 2 at 55.

107. The OCA's recommended depreciation expense is \$128,287,853, after the reduction of \$5,679 in production plant depreciation expense, \$83,104 in transmission plant depreciation expense, \$389,630 in distribution plant depreciation expense, and \$249,331 in general plant depreciation expense. OCA Exh. DM-SR-35. These values were calculated by multiplying the OCA's recommended adjustment to Peoples' claimed gross plant in each plant category by Peoples' depreciation rates for that plant category. OCA St. 2 at 55.

VII. TAXES

A. Income Tax

108. Peoples' claimed income tax expense is (\$59,295,394). OCA St. 2 at 61.

109. The OCA's recommended adjustments to Peoples' revenues require corresponding adjustments to Peoples' claimed income taxes. OCA St. 2 at 61.

110. The OCA recommends an income tax balance of (\$89,541,785), based on the application of the federal income tax rate to Peoples' lower federal taxable income prior to its net operating loss. OCA St. 2 at 61.

B. Taxes Other Than Income Tax

111. Peoples' claimed taxes other than income taxes are \$15,353,107. OCA St. 2 at 57. Such taxes include federal payroll tax, unemployment tax, property tax, and others. OCA St. 2 at 57.

112. The OCA's recommended adjustments to Peoples' labor expense, short-term incentive compensation expense, and gross plant in service expenses require corresponding adjustments to Peoples' claimed taxes other than income taxes balance. OCA St. 2 at 57.

113. The OCA recommends a taxes other than income taxes balance of \$14,935,867, following the removal of \$389,156 in payroll tax and \$22,563 in unemployment tax following the OCA's labor expense adjustment, and an additional removal of \$5,581 following the OCA's adjustment to Peoples' gross plant in service claim. OCA St. 2 at 57.

VIII. RATE OF RETURN

A. Introduction

114. A major driver of Peoples' \$156 million rate relief request is its unreasonable rate of return request, consisting of an unreasonably high return on equity (ROE) of 11.75%, inclusive of a management performance adder, and an unreasonable, equity-rich capital structure to a total Company basis of 54.67% equity and 43.33% debt. OCA St. 3 at 12.
115. Peoples requests at overall weighted average rate of return of 8.4%. OCA St. 3 at 12.
116. The OCA recommends a market-based return on equity of 8.02%, which includes the OCA's discounted cash flow result in the range of 7.67% to 8.37% and use of the capital asset pricing model analysis as a check on reasonableness and to ensure that the Commission is able to consider how inflation and interest rates are impacting Peoples' cost of equity. OCA St. 3 at 10.
117. The OCA recommends a reasonable, hypothetical capital structure of 50% equity and 50% debt be used to set Peoples' rate relief, which is above the median and mean common equity ratio of the natural gas distribution companies in the OCA's recommended proxy group. OCA St. 3 at 78.
118. The OCA's adjustments would produce an overall weighted average rate of return of 6.2%. OCA St. 3 at 8.
119. The discounted cash flow and capital asset pricing model analyses relied upon by OCA witness Aaron Rothschild are utilized by major financial institutions, leading financial textbooks, and financial publications. OCA St. 3 at 11-12.
120. The OCA's recommended cost of equity is in the middle to upper range of investor expectations for the cost of equity of a natural gas distribution company similar to Peoples. OCA St. 3 at 15.
121. With the OCA's recommended cost of equity, Peoples will be able to raise the capital it needs to provide safe and reliable service OCA St. 3 at 15.

B. Capital Structure

122. Peoples' requested capital structure has a significantly higher common equity ratio of 54.67% equity when compared to the average common equity of 47.2% used by the other five gas distribution companies that comprised the OCA's recommended proxy group. OCA St. 3 at 78; OCA St. 3SR at 38.
123. Peoples' requested equity ratio is significantly higher than the current consolidated equity ratio of 48.5% that is being used by Essential Utilities, Inc. (Peoples' Parent Company). OCA St. 3 at 80-81.
124. **(BEGIN CONFIDENTIAL)** [REDACTED]
[REDACTED]
[REDACTED]. **(END CONFIDENTIAL)** OCA St. 3 at 82.

125. Essential has subsidiaries that do not include regulated utility operations, meaning that they are more likely to have higher debt-to-equity ratios than its regulated subsidiaries, including Peoples. OCA St. 3 at 78-79.
126. A higher common equity ratio means less debt, a lower chance of financial stress/risk, and therefore a lower cost of equity. OCA St. 3 at 79.
127. Every 1% increase in a utility's common equity ratio requires a 0.04% reduction in the cost of equity to correspond to the utility's lower risk. OCA St. 3 at 80.
128. If Peoples is authorized to set rates based on its claimed actual capital structure of 54.67% common equity and 45.33% debt, then Peoples' authorized cost of equity should be reduced by 0.187%, to correspond with the lower risk. OCA St. 3 at 80.

C. Debt Cost Rate

129. The OCA does not contest Peoples' claimed cost of debt of 4.37%. OCA St. 3 at 82.

D. Return on Common Equity

130. The OCA's return on common equity calculation relies on market prices to measure investors' expectations, instead of relying on analyst forecasts or historical data. OCA St. 3 at 13.
131. OCA witness Rothschild modified the proxy group presented by Peoples, including five of eight natural gas utilities initially proposed, in recommending the 8.02% cost of equity and 50/50 capital structure. OCA St. 3 at 49.
132. The OCA's recommended proxy group consists of Atmos Energy Corporation, NiSource Incorporated, Northwest Natural Holding Company, One Gas, Incorporated, and Spire Incorporated. OCA St. 3 at 49. The three excluded natural gas utilities included Chesapeake Utilities Corporation, New Jersey Resources Corporation, and Southwest Gas Corporation, which derive significant proportions of their revenue from unregulated natural gas activities. OCA St. 3 at 50.
133. Peoples requested authorization to implement a weather normalization adjustment as part of its request for rate relief. Peoples St. 13 at 9-10. A weather normalization adjustment is a revenue decoupling mechanism. OCA St. 1 at 21.
134. Revenue decoupling mechanisms shift the risk of revenue recovery from the utility to its ratepayers. OCA St. 1 at 21.
135. Peoples has also used a fully projected future test year as part of its request for rate relief, and recently implement a distribution system improvement charge. OCA St. 1 at 20.
136. Fully projected future test years and distribution system improvement charges decreases the risk a utility bears as a result of regulatory lag. OCA St. 1 at 20.
137. Peoples' cost of equity analysis does not consider the decreased risk Peoples would bear or currently bears through the use of alternative ratemaking mechanisms including the

- weather normalization adjustment, fully projected future test year, and distribution system improvement charges. OCA St. 3 at 50.
138. Lesser financial risk requires a lower cost of equity, as riskier investments require greater returns to draw investors, while less risky investments – such as investment in a regulated natural gas distribution company – require lesser returns to draw investors. OCA St. 3 at 59.
 139. The OCA’s discounted cash flow cost of equity analysis result is between 8.4% and 8.74%. OCA St. 3 at 53.
 140. The discounted cash flow method measures the present value of future cash payments from the purchase of common stock, where such payments come in the form of current and future dividends and proceeds from selling the stock, or the growth in share value. OCA St. 3 at 51.
 141. OCA witness Rothschild performed two discounted cash flow analyses: the constant growth form, where growth of retained earnings and dividends is presumed to be constant, and non-constant growth form, where growth of retained earnings and dividends is estimated separately each year an investor expects to receive earnings. OCA St. 3 at 51, 57.
 142. OCA witness Rothschild’s constant growth form calculated a cost of equity range between 8.06% and 8.09%. OCA St. 3 at 52-53.
 143. The constant growth model used by OCA witness Rothschild is used by major financial institutions, recommended by leading financial textbooks, and is based on methodologies in peer-reviewed academic journals. OCA St. 3 at 12.
 144. OCA witness Rothschild’s non-constant growth form calculated a cost of equity range between 9.42% and 9.43%. OCA St. 3 at 53.
 145. Discounted cash flow analyses which use analysts’ forecasts to calculate a sustainable growth rate, dividend growth, or book value growth are conservatively high as analysts’ forecasts of such growth rates have been notoriously overstated. OCA St. 3 at 56.
 146. Peoples relied on analysts’ forecasts to estimate the growth rate for its cost of equity, which contributed to Peoples’ use of a growth rate of 6.75%, or 1.49% higher than the highest estimate of investor-expected growth rate determined by the OCA. OCA St. 3 at 85, OCA Exh. ALR-3.
 147. Book value growth is an accurate estimate of future stock price because earned returns on book equity are directly proportionate to book value growth, as it is the net result of proceeds from revenues or sales of stock less paid dividends or repurchased stock. OCA St. 3 at 58.
 148. The leverage adjustment applied by Peoples to its discount cash flow results would cost ratepayers \$48.1 million per year. I&E St. 2 at 68.
 149. The capital asset pricing model estimates an investment’s required return proportionate to the risk of the investment – measured in the investment’s volatility compared to the

- volatility of the overall market – relative to risk-free investments, normally U.S. Treasury bonds. OCA St. 3 at 59.
150. The OCA’s calculated cost of equity under the capital asset pricing model ranges between 7.62% and 8.22%. OCA St. 3 at 77.
 151. Inputs to the capital asset pricing model include the (1) risk-free rate, (2) beta, and (3) equity risk premium. OCA St. 3 at 77.
 152. OCA witness Rothschild used U.S. Treasury bonds to calculate the risk-free rate, which is common for the capital asset pricing model, and included estimated risk-free rates using both 3-month U.S. Treasury bonds and 30-year U.S. Treasury bonds to represent a mix of short- and long-term investors. OCA St. 3 at 61.
 153. OCA witness Rothschild performed capital asset pricing analyses using historical blend and option-implied betas to represent historical and forward-looking investor expectations. OCA St. 3 at 63.
 154. OCA witness Rothschild’s option-implied beta analysis is consistent with the Chicago Board of Options Exchange’s widely-used Volatility and SKEW indices. OCA St. 3 at 69-70.
 155. OCA witness Rothschild performed capital asset pricing analyses using an equity risk premium calculated by determining the option-implied expected return on the S&P 500 and subtracting the risk-free rate. OCA St. 3 at 74.
 156. Peoples’ provided capital asset pricing model analysis includes a “small size adjustment,” increasing the calculated results by 102 basis points. OCA St. 3 at 96.
 157. OCA witness Rothschild’s option-implied equity risk premium analysis is used by the Chicago Board of Options Exchange to calculate its widely-used Volatility and SKEW indices. OCA St. 3 at 74.
 158. The artificial adjustments proposed by Peoples to increase its cost of equity beyond any market-based analysis increase rates by a total of approximately \$79.4 million, with \$41.8 million from a leverage adjustment, \$30.2 million from a size adjustment, and \$7.4 from a management performance adder. I&E St. 2 at 68.
 159. Of the 21 Pennsylvania rate cases which Peoples’ rate of return witness Paul Moul identified that he has testified in since 2018, Mr. Moul recommended a size adjustment in 21 of them. OCA Exh. ALR-1-SR.
 160. Of the 21 Pennsylvania rate cases which Peoples’ rate of return witness Paul Moul identified that he has testified in since 2018, Mr. Moul recommended a leverage adjustment in 21 of them. OCA Exh. ALR-1-SR.
 161. Of the 21 Pennsylvania rate cases which Peoples’ rate of return witness Paul Moul identified that he has testified in since 2018, Mr. Moul recommended a management performance adder in 18, or 86%, of them. OCA Exh. ALR-1-SR.

162. At the public input hearings in this proceeding, Peoples’ customers testified regarding insufficient customer service hours for customers to speak to a live representative,¹ inability to get answers to billing questions;² unaffordable rates;³ and confusion caused by the notice Peoples issued advising customers of the increase for this case.⁴
163. Peoples mailed a combined notice of the proposed rate increase to all of its customers in both divisions, the Peoples Natural Gas Division and the Peoples Gas Division, without informing customers how to determine which Division they were in, placing the burden on the customer to determine the service division. OCA Exh. BA-6.
164. Peoples’ failure to designate a customer’s operating division is of significant import because of differences in the magnitude of the projected increase. The total bill for a PNGD residential customer using 80 Mcf per year was projected to increase from \$73.16 to \$88.79 per month or by 21.4%., but the total bill for a PGD residential customer using 80 Mcf per year was only projected to increase from \$84.00 to \$90.35 per month or by 7.6%. OCA St.1 at 15.
165. Peoples’ live customer service hours are limited to Monday through Friday, from 7 a.m. through 5 p.m., posing access issues to customers who may work or have other obligations during these limited hours. OCA St. 5 at 33-34.
166. Peoples knew since 2021 that it would be filing a rate case by no later than December 31, 2023, evidencing years of planning opportunities that somehow failed to translate into appropriate customer notices. OCA St. 1SR at 12.
167. Peoples’ business decision to be acquired by Aqua America, Inc. in 2020 (later Essential) was accompanied with a commitment to pass along resulting future costs savings or rate benefits from operational efficiencies in future rate cases. OCA St. 1 at 11-12.
168. Following acquisition by Aqua America, Inc. (later Essential), Peoples’ pension expenditures increased by an order of magnitude, from \$560,190 in 2020 to \$5,343,118 in 2021, which Peoples attributes to increased pension expenditures under Essential’s ownership. Peoples St. No. 2-R at 47-48.
169. OCA witness Barbara Alexander identified the following areas as deficient, regarding Peoples’ management effectiveness: Peoples’ service termination procedures relating to requirements for personal contact, insufficiency of policies and disclosures to tenants, concerns with Peoples’ billing for non-basic charges, need for improved customer education as a collections mitigation tool, issues with customer complaint evaluation and analysis, and problematic customer rate increase notices, and limited call center hours. *See generally* OCA St. 5.

¹ Tr. at 223-229.

² Tr. at 47-61.

³ Tr. at 83-90; Tr. at 179-180; Tr. at 182; Tr. at 214-222.

⁴ Tr. at 58-61.

170. OCA witness Roger Colton provided evidence which shows that Peoples has an “unreasonable reliance on the use of nonpayment disconnections as a collections device.” OCA St. 6 at 77.
171. Peoples has a substantial and increasing number of residential customers in debt and that it is not responding to this increase by increasing the percentage of accounts in debt being placed on payment arrangements. OCA St. 6 at 68-69.

D.1 I&E’s Recommended Rate of Return Is Also Excessive.

172. I&E witness Spadaccio recommended an ROE of 9.95% and a capital structure of 54.67% common equity and 45.33% long-term debt. I&E St. 2 at 6.
173. Mr. Spadaccio’s recommendation is based exclusively on his DCF result of 9.96%. OCA St. 3R at 3. Mr. Spadaccio provides a CAPM analysis for comparative purposes, but not as a check on his DCF results. OCA St. 3R at 3.
174. Mr. Spadaccio based his growth rate on analysts’ five-year earnings per share growth rate forecasts for the companies in his proxy group without accounting for how much these earnings investors expect will be retained in the business and how much will be paid out as dividends. OCA St. 3R at 4.
175. Mr. Spadaccio’s CAPM result of 10.91% does not provide a useful comparison to his DCF model because the 8.17% market risk premium component he selected is excessive. OCA St. 3R at 7.
176. Duff & Phelps / Kroll, a source relied upon by Mr. Moul in his CAPM analysis, calculated a “geometric supply-side equity risk premium of 4.39%” based on their own analysis of historical market returns over the past 98 years. OCA St. 3R at 8.
177. If Mr. Spadaccio had used a market risk premium component of 4.39%, his CAPM result would have been an 8.27% cost of equity, which is very close to OCA witness Rothschild’s recommended range of 7.5% and 8.22%. OCA St. 3R at 8.

E. Conclusion as to Rate of Return

178. The parties were not able to identify any natural gas distribution utility in United States that has been granted an authorized return of 11.75% or higher in the past two years. I&E Exh. No. 2, Sch. 13.

IX. RATE STRUCTURE

B. Cost of Service

179. The OCA recommends the use of the peak-and-average method to the cost-of-service analysis in this proceeding. OCA St. 4 at 19.
180. I&E also used the peak-and-average method to the cost-of-service analysis in this proceeding. I&E St. 2 at 27.

181. The peak and average method considers the costs associated with building out design day infrastructure, as well as the everyday cost of service, without relying on subjective, hypothetical methodologies that unnecessarily penalize customer classes with high density. OCA St. 4SR at 2.
182. The purpose of a cost of service study is to allocate costs among classes of customers of a utility in accordance with cost causation principles, meaning that the class of customers responsible for a certain portion of a utility's cost to provide service should pay that portion. OCA St. 4 at 5.
183. While cost of service studies are prone to subjectivity, an effective CCOSS eliminates reliance on hypothetical costs or models, and instead looks at the actual costs which vary with the addition or subtraction of a single customer in each class. OCA St. 4 at 9-11.
184. Peoples serves the following classes of customers, which it included in its cost of service studies: Residential Service (RS), Small General Service (SGS), Medium General Service (MGS), and Large General Service (LGS). Peoples' St. No. 15 at 8.
185. Peoples utilized a customer component in its cost-of-service studies to determine how the cost of distribution mains is allocated across customer classes. OCA St. 4 at 11.
186. Peoples used the minimum systems method when determining how to allocate the cost of distribution mains. OCA St. 4 at 11.
187. The minimum systems method relies on hypothetical natural gas distribution systems which have no throughput of natural gas to allocate costs. OCA St. 4 at 11-12.
188. Minimum systems studies assigns greater costs to high-density, lower-use customers than to low-density, higher-use customers. OCA St. 4 at 16.
189. Peoples proposed allocating 48% of the cost of mains using the minimum systems method, and 52% of the cost of mains using the design day demand method. OCA St. 4 at 19, 24.
190. Design day demand analysis allocates costs based on the peak throughput that the utility expected would be simultaneously demanded by consumers at the time that the main was installed. OCA St. 4 at 19, 24.
191. Design day demand largely influences the size of installed mains and the capacity of the system to deliver the throughput required to handle the natural gas usage during the most extreme weather the utility expects its customers to experience. OCA St. 4 at 21.
192. The cost to install a main with greater capacity is only marginally more expensive than the cost to install one of lesser capacity, as the majority of costs associated with the installation of main are independent of the size of the main. OCA St. 4 at 22.
193. Under the peak and average method, the cost of distribution mains is allocated 50% to the average annual actual demand (throughput) of the main and 50% to the design day demand of the main. OCA St. 4 at 19.
194. Utilizing both average actual demand and design day demand recognizes the variable nature of natural gas distribution, where demand is constantly in flux and costs cannot be

allocated purely by costs incurred through actual usage or through the peak throughput of the system. OCA St. 4 at 20.

195. Including a customer component in the allocation of the cost of mains increases costs assigned to the residential customer class at a disproportionate rate to the quantity of natural gas or the length or size of main required to service residential customers. OCA St. 4R at 4.
196. Peoples spread the cost incurred by six major account executives – whose work provides service exclusively for the MGS, MLS, and LGS classes – across all customer classes. OCA St. 4 at 25.
197. Peoples agreed that the non-capital costs associated with the accounts identified by the OCA should be assigned to the MGS, MLS, and LGS classes. OCA St. 4SR at 14.
198. Peoples and the OCA agreed that the cost of these executives should be allocated by 50% to the MGS class, 45% to LGS, and 5% to MLS. OCA St. 4SR at 14.

C. Revenue Allocation

199. Under the OCA’s proposed cost of service study, Peoples’ residential customers are paying 114.5% of their cost of service, meaning that residential customers are currently cross-subsidizing other classes at current revenues. OCA St. 4 at 27.
200. Under the OCA’s proposed cost allocation, residential customers will still continue to bear their cost of service, while providing small subsidies to other classes. OCA St. 4 at 29.
201. Rate MLS is a new rate class proposed by the Company in this filing; instead, it represents a sub-class of LGS, where customers pay negotiated contract rates. OCA St. 4 at 30.
202. Rate MLS’s revenue allocation should not consider gradualism concerns, due to the new nature of the class and its use of bargained-for agreements to determine actual rates. OCA St. 4R at 20; Peoples St. 15-R at 40.

D. Rate Design

203. Peoples is proposing to recover through its volumetric charge the cost of capacity – including the Allegheny Valley Capacity Charge (AVCC), natural gas, delivery, expected uncollectible expenses (Rider Merchant Function Charge (MFC)), cost of administering the universal services program (Rider USP), cost to procure the natural gas distributed to customers (Rider Gas Procurement Charge (GPC)), cost for upgrades to the Company’s distribution network between rate cases (Rider Distribution System Improvement Charge (DSIC)), and costs associated with taxes (Tax Repairs Surcredit, Rider State Tax Adjustment Surcharge, and Rider Tax Cuts and Jobs Act). Peoples Exh. 14, App’x D.
204. Peoples Natural Gas Division’s current customer charge currently includes the direct customer costs of residential customers of \$9.00, in addition to \$5.50 which contribute to indirect, shared customer costs. OCA St. 4 at 34.

205. Residential customers in the PNGD currently pay a fixed monthly customer charge of \$14.50 and customers in the PGD currently pay a fixed monthly customer charge of \$15.75. Peoples Exh. 14, App'xs A at 36, C at 75.
206. Peoples has proposed increasing the fixed monthly customer charge to \$21.50, an increase of 48.3% (\$7) for PNGD customers and 36.5% (\$5.75) for PGD customers. Exh. 14, App'x D at 40.
207. The direct cost allocation method is an uncomplicated analytical framework to produce a basis for rates which is grounded in customer costs, as opposed to costs which are influenced by or vary with customers' demand. OCA St. 4 at 33-34.
208. Peoples' proposed customer charge includes costs which more appropriately vary with demand, including the cost of mains, than the number of customers. OCA St. 4 at 36.
209. I&E's proposed residential customer charge includes administrative and general expenses, which is inappropriate, as such costs are not chargeable directly to any particular customer class, but are indirectly incurred by *all* customer classes, not just residential customers. OCA St. 4R at 17-18.
210. The OCA's proposed charge would fully cover the direct cost of service for residential customers while allowing for \$5.50 of each customer's fixed charge to be applied to costs shared across Peoples' customer classes. OCA St. 4 at 38.
211. Under Peoples' current proposal, the portion a residential customer's bill over which that customer will have no control will change by 36% – 48% under the Company's proposal. Exh. 14, App'x A, C, D.
212. Under Peoples' current proposal, the fixed customer charge will transition from being 17.3% (PNGD) - 20.5% (PGD) of the customer's total monthly bill at current rates, using 8 MCF (above the FPFTY average monthly usage of 7.1 MCF), to 28.6% (PNGD) - 28.9% (PGD) of a customer's total monthly bill under the proposed rate design. Exh. 14, App'x A, C, D.
213. Under Peoples' current proposal, a customer using approximately 3.2 MCF in a month will have 50% of their bill be represented in the customer charge in either PNGD or PGD. Exh. 14, App'x D.
214. At current rates, the customer charge is 50% of a customer's bill at usage levels of approximately 2.8 MCF in PNGD and 2.2 in PGD. Exh. 14, App'x A, B.
215. Under Peoples' current proposal, a customer with average annual usage of 84.7 MCF will pay 31% of their annual bill in customer charges. Exh. 3, Sch. 15, Attachment A, p. 3.
216. Low-income customers are particularly impacted by having greater customer charges, as they are less able to control their total bill amount. OCA St. 6 at 51.
217. Ms. Lou Ann Byrnes, a customer from Wexford, PA, testified at the March 6, 2024 Public Input Hearing testified that, in her previous role as a school counselor in Peoples' service territory, she had seen and heard from a number of her students whose families were unable

to heat their home at safe temperatures during the winter, and sometimes had to choose between eating and maintaining the home's unsafe temperatures. Tr. 214-22.

218. Usage practices such as keeping temperatures in the home at unhealthy levels or using the kitchen stove or oven to heat the home are unsafe and pose substantial risk to Peoples' customers. OCA St. 6 at 53.
219. When customers are unable to pay their bills in full and on time, they face an uphill battle to get back on track; Peoples Natural Gas Division imposes late payment charges of 1.5% on the full unpaid balance of a customer's bill each month, and Peoples Gas Division imposes a similar charge of 1.25%. OCA St. 6 at 59.
220. Increasing fixed customer charges also increases the amount Peoples will have to collect from non-CAP customers on a dollar-for-dollar basis to fund the percentage of income program component of CAP. Id. at 50.

X. WEATHER NORMALIZATION ADJUSTMENT

A. Description of the WNA

221. A weather normalization adjustment (WNA) is a tool used to shift the risk of recovery of a utility's revenues onto ratepayers as weather continues to get warmer over time. OCA St. 2 at 22.
222. The WNA adjusts residential and small- and medium-sized commercial customers' monthly bill for the quantity of gas which Peoples projected they would use based on a predict "normal" weather for that month. OCA St. 1 at 22.
223. Peoples seeks approval to implement the WNA during the period extending from October 1 through May 31, as Peoples has identified that time period as comprising the heating season months. Peoples St. No. 3 at 17.
224. If a month is warmer than anticipated during the months of October 1 through May 31, and customers use less natural gas than anticipated, the customer receives a charge for the quantity of gas Peoples believes the customer would have used, had the weather been as cold as anticipated; the inverse is true for weather that is colder than anticipated, resulting in a credit on customers' bills. Peoples St. No. 3 at 15.
225. The WNA does not address non-weather-related factors which may affect usage and can cause significant bill impact to customers whose usage does not move in the direction anticipated by the WNA. Peoples St. No. 15-R at 20.
226. A WNA is an alternative ratemaking mechanism. OCA St. 4SR at 23.

B. Peoples' Proposed WNA Undermines Cost of Service Considerations.

227. As natural gas usage decreases, the costs Peoples incurs to provide service decrease due to reduced wear and tear while the WNA portion of a customer's bill would increase. PIH Exh. NH-1 at 3.

228. Peoples has proposed that 5,341 heating degree days (HDDs) be used as the “normal” number of HDDs (NHDDs) each month; Peoples has not proposed that its NHDD number will be “rolling,” meaning that it will automatically adjust month-to-month or year-to-year. OCA Exh. DM-39 at 42.
229. Peoples claims that the proposed WNA will reduce bill volatility on an annual basis or during unseasonably warm or cold months is not supported by evidence of record. OCA Exh. DE-1 at 5.
230. Customers can reduce their bill volatility for unseasonable variations in weather through the use of budget billing, which is already available under the Commission’s regulations and permits reconciliation of over- or under-billing, which the WNA does not, and applies to heating customers, who are likely to experience the weather sensitivity upon which the WNA is based. OCA St. 6 at 64.
231. Customers expect their monthly bills to relate to their usage and the weather and certainly do not appreciate having a charge added to their bill because they used less gas than Peoples anticipated all in the name of bill stability or volatility reduction. OCA St. 2 at 23 (noting the inverse relationship between WNA charges increasing bills while usage decreases is likely to cause customer frustration); PIH Exh. NH-1; Tr. 214-222 (Mrs. Byrnes’ testimony that WNAs are unfair to customers who are penalized for using less gas).
232. Peoples did not conduct any survey of its customers to gauge their interest in having a WNA mechanism for purposes of receiving bills that reflect normalized weather conditions. Tr. at 332.

C. Peoples’ Proposed WNA Disincentivizes Customer Conservation.

233. Of the \$6.3920⁵ PNGD customers would be charged monthly per MCF at the Company’s proposed rates, \$5.3734⁶ is considered the “delivery charge”; similarly, for PGD customers, \$5.4938⁷ of the \$6.5124⁸ per MCF charge is identified as “delivery charge.” Peoples Exh. 14, App’x D at 3. As a result, of the volumetric portion of a customer’s bill represents approximately 84% of a customer’s overall bill. Peoples Exh. 14, App’x D at 3.
234. Customers are not likely to distinguish the commodity portion of their bill from the distribution portion or notice that the commodity price per MCF stays the same between bills while the distribution rate changes. OCA St. 1SR at 10.
235. To the extent that customers elect to take conservation measures if the WNA is put in place, a portion of those savings will be sacrificed to the Company under the proposed WNA. OCA St. 4SR at 25.
236. Customers are entitled to see the dollar-for-dollar decrease to their bill which directly corresponds to the lesser usage resulting from their investment in conservation; there

⁵ Peoples Exh. 14, App’x D at 3, Column 14, Row “Total per MCF”: \$6.3920.

⁶ Peoples Exh. 14, App’x D at 3, Column 14, Row “Delivery Charge”: \$5.3734.

⁷ Peoples Exh. 14, App’x D at 3, Column 15, Row “Delivery Charge”: \$5.4938.

⁸ Peoples Exh. 14, App’x D at 3, Column 15, Row “Total per MCF”: \$6.5124.

should be no disconnect between their meter reading and the amount that they pay, which would exist under the proposed WNA. OCA St. 4SR at 25.

D. Peoples’ Proposed WNA Is Not Understandable for Customers.

237. Peoples notice stated: “The WNA would adjust certain customers’ bills to reflect normalized weather conditions.” OCA Exh. BA-6. This notice does not indicate which customers would be affected, how the adjustments would be made to the bill, or what “normalized weather conditions” actually means, how customers should anticipate their bills would be affected, how to budget for the WNA, or whether the WNA was considered when calculating the noticed rate impact. OCA Exh. BA-6.
238. Customers will not be able to determine the accuracy of their monthly bill based on the information available on their bill. Tr. at 331-332.
239. Peoples’ distribution charge is billed “per MCF,” meaning that customers can directly compare their metered usage to the overall distribution charge. OCA St. 5 at 26. WNA-adjusted usage will not be the same as the meter readings available on customer bills. Tr. at 331-332.
240. Customers are not likely to pore over Peoples’ tariff and other filings to identify how the WNA is calculated on their bill when the bill, as would be required under Peoples’ proposal. Tr. 336-337.

E. Peoples’ Proposed WNA Disproportionately Impacts Low-Income Customers.

241. The proposed WNA will apply to confirmed low-income customers enrolled in Peoples’ customer assistance program (CAP), though CAP customers will only be charged their percentage of income payment under. OCA St. 6 at 60.
242. The amount of any WNA adjustment will also apply to the cost of the CAP program recovered from non-CAP customers, which results in Peoples recovering WNA charges from non-CAP customers for both those customers’ WNA charges as well as WNA charges which are recovered through the cost of providing customer assistance programs. Peoples St. 3 at 17.
243. Low-income customers are less likely to be able to utilize energy efficiency measures in the home to reduce their overall natural gas usage, including home insulation, sealing one’s home, or through installing a programmable thermostat. OCA St. 6 at 61-64.
244. Low-income customers generally use disproportionately more natural gas to heat the same space than a non-low-income customer during winter months, or they must resort to more extreme measures to control temperatures. OCA St. 6 at 61-64.
245. Peoples evaluated the WNA on a year-over-year basis, instead of analyzing the month-to-month impact the WNA may have on customers, including low-income customers. Tr. at 350.

F. Peoples’ Proposed WNA Impacts Affordability for All Customers and Will Potentially Result in Net Over Collections

- 246. Many customers struggle to afford their utility bills on a month-to-month basis, and considerations regarding consumer impact and affordability should be made on a month-to-month basis, instead of year-over-year. OCA St. 6SR at 15.
- 247. Residential customers can afford to pay a lesser percentage of their natural gas bills than during shoulder and summer months. OCA St. 6 at 65.
- 248. Over the past seven years, 0.07% of all monthly bills issued by Peoples would have been increased by at least 100% as a result of the WNA, had it been in effect during that time. OCA St. 4SR at 24.
- 249. 2.67% of all monthly bills issued during the month of May were increased by at least 100%. OCA St. 4SR at 24.
- 250. Peoples did not identify the number of “abnormal bills” that were increased by less than 100%, despite the fact that a customer may view an increase of as little as 10% as a large spike. OCA St. 4SR at 24.
- 251. The average increase to the bills included in the 0.07% identified by Peoples was \$82.27. Peoples St. 15R at 20.
- 252. Customers who are living paycheck to paycheck may be significantly impacted by an “abnormal” bill which resulted from the implementation of a WNA. Tr. 353.
- 253. Over the past seven years, the WNA would have resulted in an additional \$9.9 million being collected by Peoples in monthly bill increases. OCA St. 4SR at 23.

G. Peoples Has not Meet its Burden of Proof for the Proposed WNA by Relying on the Existing of Other Utilities’ WNAs.

- 254. Peoples’ position is that a deadband would reduce the effectiveness of the WNA, and therefore, its value to both the Company and customers. Peoples St. 15 at 57.
- 255. Peoples nevertheless subsequently identified it would implement a 3% deadband and display the WNA as a separate line item on customers’ bills. Peoples St. No. 3RJ at 3.
- 256. Further, the four NGDCs who have received Commission approval to implement their WNA mechanisms did so as a result of settlements. *See Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00017034 (Order entered Aug. 9, 2002); *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2012-2321748 (Order entered May 23, 2013); *Pa. PUC v. UGI Utilities, Inc. – Gas Division*, Docket No. R-2021-3030218 (Order entered Sept. 15, 2022); *Pa. PUC v. Nat’l Fuel Gas Distribution Corp.*, Docket No. R-2022-3035730 (Order entered June 15, 2023).
- 257. In addition, the WNAs currently in effect in Pennsylvania each began as pilot programs. *See* OCA St. 4R at 23 (“[P]ilot programs are intended to gather information on rate making mechanisms in order to evaluate problems in the program and determine the need for improvements or discontinuation.”). Peoples did not propose a pilot program, nor did it

indicate in its filing that it incorporated any data produced by other NGDCs’ pilot programs in the design of its WNA. OCA St. 4R at 24.

258. Peoples does not have the “same customer profile, weather, and more” as other NGDCs in Pennsylvania. Peoples St. 3R at 13:16-17; Peoples St. 15R at 19:3-20:1.
259. Peoples provided no evidence that other NGDCs’ customers actually understand the WNA, how it is calculated, or how their month-to-month usage actually affects their monthly bill. OCA St. 5SR at 14.
260. PGW overcollected \$12 million in May 2022 from its WNA. OCA St. 4SR at 27.
261. WNAs have, on net, collected more in rates from Pennsylvania consumers than they have provided credits. OCA St. 4SR at 27.
262. The WNA is revenue neutral only if the amount that Peoples’ customers pay in charges as a result of the WNA is identical to the amount that Peoples’ customers receive in credits. OCA Exh. DE-1 at 1-2.

H. Peoples’ WNA is Rejected Because it Shifts the Company’s Risk of Recovery to Customers and Provides Customers With Little Benefit.

263. Setting a revenue floor for Peoples would reduce the impact of regulatory lag. OCA St. 4SR at 22.
264. Regulatory lag is a critical tool which incentives public utilities to strive for maximum cost efficiency between rate cases. OCA St. 4SR at 22.
265. Regulatory lag reduces the revenue risk borne by the customers of public utilities by preventing utilities from needlessly investing in infrastructure replacements that are not necessary by fixing the prices of a utility over time, but not its net revenues, and limiting its cash flow for excessive spending in expenses or capital improvements. OCA St. 4 at 41-42.
266. As the NHDDs for the WNA are set in this proceeding, the longer Peoples goes without filing for additional rate relief permits the Company to keep earning based on 2022 weather data, when temperatures could be substantially warmer. OCA St. 4SR at 23.
267. Peoples utilized a Fully Projected Future Test Year in this rate proceeding, which provides for present revenues at future levels of expenses and plant investment. OCA St. 1 at 20.
268. Peoples has also recently used a Distribution System Improvement Charge (DSIC), which guarantees a particular rate of return on all plant investment a utility makes between general rate increase requests. OCA St. 1 at 20.
269. Fully Projected Future Test Years and Distribution System Improvement Charges are intended to reduce regulatory lag and provide the Company with revenues sufficient to incentivize reducing the frequency of rate increase requests. OCA St. 1 at 20.
270. Fully Projected Future Test Years and Distribution System Improvement Charges have the secondary effect of decoupling a utility’s expenses from its revenues by setting present

rates at future levels of expenses and permitting the Company to earn revenues in excess of the authorized level of expenses for its future test year. OCA St. 1 at 20.

271. Peoples’ testimony presents an intent to request additional rate relief in about two years, at which time it will be able to request additional revenues to reflect the weather experienced in the FPFTY. Peoples St. No. 2-R at 45-46.

XI. LOW-INCOME CUSTOMER SERVICE ISSUES

272. Peoples’ bills have increased dramatically over the past several years, from \$114.07 in 2016 for a typical winter month (usage of 15 MCF) to \$207.71 in 2023, an 84% increase. OCA St. 6 at 5.

273. Dramatic bill increases have a disproportionate impact on low-income customers, occupying greater portions of a customer’s income, as utility bill increases have outpaced income growth. OCA St. 6 at 7.

274. The Commission’s affordability benchmark, that a natural gas bill should occupy no more than 6% of a CAP-qualifying customer’s monthly income, will be far exceeded for the Company’s customers who earn at or below the lowest quintile of income for customers in the Company’s service territory, at 7.8% of monthly income at existing rates and 9.4% of monthly income under proposed rates. OCA St. 6 at 8.

A. Root Cause Analysis to Address Disproportionate Disconnections.

275. In the 40 zip codes within Peoples’ service territory that contain the greatest proportion of Black householders, customers are terminated for nonpayment at a greater rate than in other portions of the Company’s service territory. OCA St. 6 at 22.

276. There is no evidence to indicate that there is a greater concentration of low-income customers in these 40 zip codes, which might explain the disproportionately high rate of terminations in these areas. OCA St. 6 at 22.

277. There is no data which explains why these 40 zip codes have a higher rate of terminations for nonpayment than other zip codes. OCA St. 6 at 21.

B. Peoples Must Conform its Confirmation of Low-Income Status to Meet Commission Regulations.

278. Peoples only currently considers CAP customers and customers who received LIHEAP cash or crisis grants within the past 24 months to be confirmed low-income customers. OCA St. 6 at 24-25.

279. Peoples’ definition of confirmed low-income customers omits a customer’s ability to self-certify their income, received certification from their income source, or through a customer contact. OCA St. 6 at 25.

280. Customers who can confirm they are receiving benefits under Supplemental Nutrition Assistance Program (SNAP), Temporary Aid to Needy Families (TANF), Medicaid, or free school lunches are able to demonstrate that they may be reasonably placed in a low-income designation in exactly the same manner as the receipt of LIHEAP grants. OCA St. 6 at 25.

C. Peoples Should Make Additional Customer Contacts to Ensure Low-Income Customers Have the Opportunity to Apply for CAP and Receive its Benefits.

- 281. Maximizing enrollment in CAP can provide substantial benefit to CAP-eligible customers, non-CAP customers, and Peoples by reducing Peoples' termination and uncollectible expenses, which is proportionately incurred by non-CAP, confirmed low-income customers. OCA St. 6 at 16.
- 282. Peoples has identified that it has 51,072 confirmed low-income customers, of whom only 29,091, or 57%, are enrolled in CAP. OCA St. 6 at 12.
- 283. BCS estimates that Peoples has a total of 146,971 low-income customers, meaning that approximately 95,899, or 65%, of Peoples' customers may be low-income but not confirmed low-income, with only 20% of all potential low-income customers being enrolled in CAP. OCA St. 6 at 13.
- 284. Disconnection of service has rate implications to all customers. Minimizing disconnections would minimize these adverse rate impacts. OCA St. 6 at 27.
- 285. Termination is the most serious consequence of customer nonpayment and is viewed as a last resort when customers fail to meet their payment obligations. OCA St. 6 at 27.
- 286. The termination rate for non-payment is 50% higher for confirmed low-income customers than it is for Peoples' customers generally. OCA St. 6 at 29.
- 287. Peoples requires a cash security deposit from customers who were recently delinquent on monthly bills, defaulted on a payment arrangement, or who have had their service terminated. OCA St. 6 at 42.
- 288. Customers who qualify for security deposit exemption are likely to be payment troubled and more likely to qualify for CAP than customers seeking connection who would not be subject to a cash security deposit requirement. OCA St. 6 at 42.
- 289. Peoples' current practices only provide relief from security deposits for those customers who have already reported low-income status, despite the fact that the Public Utility Code prohibits public utilities from collecting cash security deposits from customers who would be eligible for enrollment in a CAP. OCA St. 6SR at 6.

D. Peoples Should Consider Payment Arrangement Affordability Prior to Offering a Payment Arrangement.

- 290. Peoples does collect customer income information to determine the length of an offered payment arrangement; however, Peoples did not provide that it uses the gross monthly income and household size – the determinants of the percentage of the Federal Poverty Level (FPL) at which a customer earns, which is also used to determine CAP eligibility – of a customer entering into a payment arrangement to determine whether or not the customer can afford the payment arrangement. OCA St. 6 at 34.
- 291. Peoples' payment arrangements for customers at or below 150% FPL were unsuccessful 36% - 55% of the time since 2021. OCA St. 6 at 34.

292. Peoples is disconnecting approximately twice as many confirmed-low-income customers as it is entering into payment arrangements with. OCA St. 6SR at 9-10.

E. Peoples Should Implement Speech Analytics to Detect Low-Income Customers.

293. Peoples uses Verint Automated Call Monitoring and Speech Analytics (Verint) to review call center conversations. OCA St. 6 at 46.

294. At present, Peoples primarily uses Verint to confirm that calls into its call center are properly categorized as an emergency call through reviewing call transcripts for specific search terms Peoples designated as being associated with an emergency call. OCA St. 6 at 46.

F. Peoples' Acceptance of OCA's Recommendations

295. Peoples accepted the OCA's recommendation that the Company include a stand-alone, plain English notice regarding the benefits of CAP enrollment, including arrearage forgiveness benefits, at the time of its Cold Weather Survey. Peoples St. 9R at 12.

296. Peoples also accepted several tariff recommendations, as elaborated in Peoples Exh. DMF-1R.

297. Peoples accepted OCA's recommendation of using a combined CAP base participation rate of 30,800. Peoples St. 3-R at 38.

XII. Customer Service Issues

A. Non-Basic Service

298. Peoples currently bills for "Peoples Protection Program" charges, which are programs offered by third-parties to insure the customer's water and sewer service, gas service line, heating and cooling appliances, and in-house and exterior electric lines. OCA St. 5 at 28.

299. Peoples advertises third-party programs through bill inserts. OCA St. 5 at 28.

300. On customer bills, protection program charges are correctly billed as "non-basic" charges. OCA St. 5 at 28.

301. Peoples utilizes its logo on marketing materials for the protection program, and its call center staff have scripts which are used to offer such programs to Peoples customers without providing an adequate description of the relationship between Peoples and the third-party. OCA St. 5 at 29.

302. Customers are enrolled without needing a signature, do not receive the terms and conditions of subscription until after enrollment, and need to take affirmative steps to unsubscribe from the program. OCA St. 5 at 29.

303. Peoples' website promotes these "Peoples Protection Programs" to its customers and includes unpaid "protection" program fees in negotiated payment plans. OCA St. 5SR at 15.

304. Peoples' claimed revenues from third parties were extremely low, \$734 for HomeServe and \$10,045 for IGS Energy Home Service, given that Peoples bills over 65,000 customers for one or more of those programs. OCA St. 5SR at 15-16.

B. Operational Issues

305. During the Public Input Hearings, Mr. Krenitsky testified that he had difficulty getting a hold of assistance from Peoples due to their limited call center hours. Tr. 226.

306. Peoples operates its call center from 7:00 am to 5:00 pm, Monday through Friday. OCA St. 5 at 34.

307. Limiting access to call center assistance to traditional business hours prevents many customers who are working during that time from being able to contact the Company if they need assistance. OCA St. 5 at 34.

308. The Commission's Bureau of Consumer Services (BCS) reported the Company's number of verified infractions or confirmed "misapplication[s] or infringement[s] of a Commission regulation," such as those in Chapter 56 increased from 13 to 33 from 2022 to 2023. OCA St. 5 at 15.

309. Peoples has investigated infractions through "coaching" the employee who handled the complaint without verifying that the infraction was the result of an internal systems defect, such as employee training. OCA St. 5 at 17.

310. Peoples has not conducted a root cause analysis to determine if an error resulted from systemic defects and could not attribute internal system changes to a proper systems analysis. OCA St. 5 at 17.

311. Peoples' internal training materials did not inform Peoples' field personnel of Chapter 14's personal contact requirements or indicate that field personnel were otherwise aware of the requirements. OCA St. 5 at 23; OCA Exh. BA-4.

312. Peoples current policy requires an applicant for natural gas distribution service owning a shared premise, where one meter serves multiple units, to offer natural gas distribution service to the shared premise. OCA St. 5 at 24.

313. There is no lawful or regulatory basis for denying PFA rights to tenants and that since Peoples provides medical emergency right to a tenant, there is no basis for refusing to provide PFA rights. OCA St. 5R at 13.

314. Of the 80,325 residential Peoples customers shopping as of December 2023, 99% were paying more than default service for their natural gas and 86% were paying over twice the price to compare for NGS service. OCA St. 5 at 31.

315. Customers paying such high bills poses a long-term risk to all of Peoples' customers, as high bills pose a risk of high costs from overdue bills, increased call center activity, payment arrangement, termination of service, and uncollectible expenses. *Id.* Peoples has an obligation to mitigate such costs. OCA St. 5 at 31.

316. Well-designed and factual information provided to customers who shop in a timely manner could allow them to make more informed decision about their bills and this could also result in decreased collection costs for Peoples. OCA St. 5SR at 11.

XIV. DISCOUNT RATES

A. Electricity as a Competitive Option

317. Peoples is permitted to offer competitive rates to customers using more than 50,000 MCF per year when the customer can use an alternative fuel source, such as bypassing the Company's service lines to an interstate natural gas pipeline or a different natural gas delivery company. Peoples Exh. 14, App'x A at 29.
318. Electricity only qualifies as an alternative source of fuel if an electric distribution company offers a "flex" rate to the customer. Peoples Exh. 14, App'x A at 29.
319. When gas utilities are allowed to offer a discounted rate in order to undercut the electric utility's full cost tariff, the electric utility may believe it has no other option than to seek authorization for its own flex rates, which creates the risk of a price war. OCA St. 4 at 48.
320. Peoples does not propose discounted rate treatment to customers served by the residential tariff simply on the basis that they may convert to electricity OCA St. 4 at 48.
321. Negotiated discounted rates should be allowed only in a careful and limited manner because they pose a significant risk of undue price discrimination within Peoples' rate classes. OCA St. 4 at 47.
322. Price floors are essential to prevent changes to a utility's revenue allocation which place a disproportionate burden on residential and other captive customers. *Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies*, Docket Nos. P-2011-2277868 and I-2012-2320323 (Order May 4, 2017) at 52.
323. Creating price competition incurs significant costs for captive customers due to the nearly ubiquitous access to electric distribution facilities. OCA St. 4SR at 30.
324. Peoples' captive customers must already bear the revenue shortfall resulting from the Company's competitive flex rates. OCA St. 4SR at 30-31.
325. Peoples has not provided any evidence to support its claim that other Pennsylvania gas utilities use flex rates to compete with electric providers in the same manner proposed by Peoples in this case. *See* Peoples St. 7-R at 6.

OCA Proposed Conclusions of Law

Overall

1. The regulation of utilities is one of the most important functions traditionally associated with the police power of the States. *Ark. Elec. Coop. Corp. v. Ark. Pub. Serv. Comm'n*, 461 U.S. 375, 377 (1983) (*Ark. Elec.*).
2. The Public Utility Code (Code) governing sales that are only rationally dealt in by a monopoly is a proper exercise of the state police power to regulate the health, safety, morals, and general welfare of citizens. *Relief Elec. Light, Heat & Power Co's. Petition*, 63 Pa. Super. 1, *5-10 (1916), 1916 Pa. Super. LEXIS 89, **6-15 (*Relief Elec.*); *Jenkins Twp. v. Pub. Serv. Comm'n*, 65 Pa. Super. 122 (1916), 1916 Pa. Super. LEXIS 30, **15-16 (*Jenkins Twp.*).
3. Peoples Natural Gas Company LLC (Peoples) is a public utility as defined in Section 102 of the Public Utility Code. 66 Pa. C.S. § 102.
4. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa. C.S. § 101, *et seq.*
5. The utility requesting the rate increase has the burden of establishing the justness and reasonableness of every element of its requested rate increase. 66 Pa. C.S. §§ 315(a), 1301; *Lower Frederick Twp. Water Co. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).
6. Peoples has the burden of proving that every element of its proposed rates are just and reasonable. 66 Pa. C.S. §§ 315(a), 1301, and 1308(e).
7. A utility which relies on the use of a fully projected future test year “in discharging its burden of proof,” and must provide “appropriate data evidencing the accuracy of the estimates contained in the future test year or a fully projected future test year.” 66 Pa. C.S. § 315(e).
8. As a matter of law, a public utility’s rates must be just and reasonable and in conformity with regulations or orders of the Commission. 66 Pa. C.S. § 1301(a).
9. A public utility may obtain “a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers[,] as well as a reasonable rate of return on its investment.” *City of Lancaster Sewer Fund v. Pa. PUC*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*Lancaster 2002*).
10. The Commission “has broad discretion in determining whether rates are reasonable” and “is vested with discretion to decide what factors it will consider in setting or evaluating a utility’s rates.” *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky 1996*).

11. The Commission has the “power to make and apply policy” concerning the appropriate balance between rates charged to consumers and returns allowed to utility investors. *Popowsky v. Pa. PUC*, 665 A.2d 808, 812 (Pa. 1995).
12. Given that a utility’s general rate increase request will substantially affect the interests of consumers, the Commission must “consistent with its other statutory responsibilities, take such action with due consideration to the interests of consumers.” 71 P.S. § 309-5.
13. Peoples has not met its burden of proving its requested annual revenue increase of \$156 million will produce just and reasonable rates.
14. The OCA’s adjustments to the overall revenue requirement are supported by substantial evidence of record.
15. An overall revenue requirement increase of \$13 million, as based on the OCA’s fully-substantiated adjustments, will produce rates that are just and reasonable, equitable among customer groups, and in the public interest, will allow Peoples to recover its reasonable costs, have an opportunity to earn a fair rate of return, and maintain its financial stability to provide safe and adequate service to consumers.

Rate Base

16. Peoples has failed to meet its burden of proving that it is entitled to recover the pipeline replacement costs that have directly resulted from the Robinson incident, and the request for rate base inclusion of \$1,462,407 for replacement of the Robinson assets should be denied.
17. To determine whether property will be “used and useful” in the FPFTY, a utility must sufficiently demonstrate by the close of the record that the utility property is reasonably certain to be used and useful in the FPFTY. *Pa. PUC v. UGI Utils., Inc. - Elec. Div.*, R-2017-2640058 (Order Oct. 25, 2018), at 27-31 (*UGI 2018*), *aff’d by McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020) (*McCloskey 2020*).
18. Peoples has failed to meet its burden of proving that the \$27,819,503 included in rate base as a result of inflation adjustments to anticipated capital improvements are reasonably certain to be used and useful in the FPFTY.
19. Inflation factors that are too speculative in nature are insufficient to satisfy a utility’s burden of proof that such costs will materialize. *Pa. PUC v. Phila. Elec. Co.*, 58 Pa. P.U.C. 7 (1983) (*PECO 1983*); *Nat’l Fuel Gas Dist. Corp. v. Pa. PUC*, 677 A.2d 861 (Pa. Cmwlth. 1986) (*NFG 1986*).
20. Peoples has met its burden of proof regarding the inclusion of the remaining \$4.1 billion (net of retirements and net of excluded property) included in rate base in the FPFTY and allowed for the purposes of applying the utility’s return on that property.
21. Peoples has not met its burden of proof regarding its cash-working capital request.

22. The OCA’s adjustments to Peoples’ cash working capital are supported by substantial evidence.
23. Peoples’ cash working balance should be adjusted, based on the OCA’s adjustments to operations and management expenses by (\$1,139,713).
24. Peoples has not met its burden of proof regarding its accumulated deferred income tax request.
25. The OCA’s adjustments to Peoples’ accumulated deferred income tax are supported by substantial evidence.
26. Peoples’ accumulated deferred income tax should be adjusted, based on the OCA’s adjustments to operations and management expenses by (\$152,826).

Revenues

27. Peoples has met its burden of proof regarding its claimed revenues of \$833,215,510.

Expenses

28. The Commission must determine whether projected expenses “are reasonably necessary to provide service...” during the prospective period in which its rates will be in effect. *Lancaster 2002* at 982.
29. Only prudently incurred expenses are includable in expense claims; it is the burden of the public utility to prove that the expenses incurred are just and reasonable; and it is within the discretion of the Commission to exclude expenses as unreasonable. *Popowsky v. Pa. PUC*, 674 A.2d 1149, 1154 (Pa. Cmwlth. 1996) (*LP Water*).
30. Peoples has not met its burden in demonstrating that its claims for labor, STI/incentive compensation, pension, post-retirement benefits other than pensions, other employee benefits, outside services – contracted, outside services – IT, outside services – A&G, corporate insurance, injuries and damages, travel, company memberships, licenses & permits, utilities & fuels – company operations, advertising, fleet, materials & supplies, other O&M, payment processing, rate case expenses, or uncollectible accounts expenses are reasonable and prudently incurred.
31. The OCA’s proposed adjustments to Peoples’ claimed expenses above are supported by substantial evidence, are reasonable, and shall be adopted.
32. Peoples has not met its burden in demonstrating that its updated expense requests made in rebuttal are reasonable and prudently incurred.
33. Where a utility fails to provide an explanation for updated expense claims and provide evidence in support of its updated claims, the utility’s updated request should be given little weight. *See, e.g., Aqua 2022* at *59.

34. Blanket inflation adjustments do not satisfy a utility’s burden of proof, as they do not meet the “known and measurable” standard for cost adjustments in the future or fully projected future test years, and that such costs “directly relate[] to the actual costs expected to be incurred in each expense account in the FPFYY.”. *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 (Order entered Nov. 9, 2023) (*PGW 2023*) at 72; *Pa. PUC v. Wellsboro Electric Co.*, R-2019-3008208 (Opinion and Order entered April 29, 2020) (*Wellsboro 2020*).
35. Consumers are unable to recover overpayment for future expenses which do not materialize. *Nat’l Fuel Gas Distrib. Corp. v. Pa. PUC*, 464 A.2d 546, 567 (Pa. Cmwlth. Ct. 1983).
36. Peoples did not meet its burden of proof that its inflation adjustments are known and measurable and are reasonable and prudently incurred.
37. The OCA’s proposed removal of inflation adjustments, including such adjustments made through the use of historical averaging, is supported by substantial evidence and such costs cannot be recovered by Peoples.
38. Incentive compensation must be reasonable, prudently incurred, not excessive, and provide a benefit to ratepayers to be recovered by a utility. *Pa. PUC v. PPL Elec. Util. Corp.*, R-2012-2290597 (Order entered Dec. 28, 2012) (*PPL 2012*); *Pa. PUC v. Aqua Pa., Inc.*, 2008 Pa. PUC LEXIS 50, *24; *Pa. PUC v. Duquesne Light Co.*, 1987 Pa. PUC LEXIS 342 at *99-100.
39. Peoples did not meet its burden of proof that its claimed incentive compensation is reasonable, prudently incurred, not excessive, and provides a benefit to ratepayers.
40. The OCA’s proposed removal of the costs of incentive compensation associated with financial and diversity, equity, and inclusion is supported by substantial evidence and such costs cannot be recovered by Peoples.

Rate of Return

41. A public utility which dedicates its facilities and assets to public service is entitled to no more than a reasonable opportunity to earn a fair rate of return on shareholder investment. *City of Pittsburgh v. Pa. PUC*, 126 A.2d 777, 785 (Pa. Super. 1956) (*City of Pittsburgh II*).
42. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to raise the money necessary for the proper discharge of public duties. *Bluefield Water Works and Improvement Co. v. Public Serv. Comm’n of W.Va.*, 262 U.S. 679, 692-93 (1923) (*Bluefield*).
43. A return on the value of the [utility’s] property which it employs for the convenience of the public equal to that being made at the same time on investments in other business undertakings which are attended by corresponding risks and uncertainties. *Bluefield* at 692.

44. A fair rate of return “should be commensurate with returns on investments in other enterprises having corresponding risks” while being sufficient “to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and attract capital.” *Federal Power Commission v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) (*Hope*).
45. The rate-making process under the Act, *i.e.*, the fixing of just and reasonable rates, involves a balancing of the investor and consumer interests. However, regulation does not ensure that the business shall produce net revenues. *Hope* at 603; *see also Pa. PUC v. Philadelphia Suburban Water Co.*, 71 PaPUC 593, 623 (1989) (*PSW 1989*) (citing *Pittsburgh v. Pa. PUC*, 69 A.2d 844 (Pa. Super Ct. 1949)); *see also Duquesne Light Co. v. Barasch*, 488 U.S. 299, 310, 312 (1989) (*Duquesne Light*), *aff’g Barasch v. Pa. PUC*, 532 A.2d 325 (Pa. 1987).
46. Actual capital structures weighted too heavily on the debt side or equity side may be adjusted by the Commission based upon substantial evidence to reach a fair result. *Riverton Consol. Water Co. v. Pa. P.U.C.*, 140 A.2d 114 at 121 (Pa. Super. 1958).
47. The evidence shows the Company’s proposed 11.75% ROE is contrary to law because it will not produce just and reasonable rates.
48. Peoples’ proposed capital structure of 54.67% equity and 45.33% debt is contrary to law because it will not produce just and reasonable rates.
49. The OCA’s recommendations for an 8.02% return on equity and 50% equity and 50% debt capital structure will allow Peoples to have an opportunity to earn a fair rate of return within the zone of reasonableness and maintain its financial integrity and stability to provide safe and adequate natural gas distribution service to consumers. *Bluefield* at 692-93; *Hope* at 603; *Duquesne Light* at 310, 312.
50. The OCA’s recommendations for an 8.02% return on equity and 50% equity and 50% debt capital structure protect consumer interests from paying excessive rates.
51. The OCA’s recommendations for an 8.02% return on equity and 50% equity and 50% debt capital structure are based on fully substantiated cost of capital analyses. *Pa. Power* at 579; *NFGD 1990* at 603-05; *PSW 1989* at 622-23.
52. The OCA’s recommendations for an 8.02% return on equity and 50% equity and 50% debt capital structure fall within the zone of reasonableness that will produce just and reasonable rates. *City of Pittsburgh II* at 785.
53. Peoples has not demonstrated by a preponderance of evidence that its request for a management performance adder of 25 basis points is either necessary or just and reasonable.
54. Based on substantial record evidence, the requested increment of 25 basis points in ROE is unsupported and excessive and would impose significant additional costs onto consumers without justification in the law.

55. The Commission is not obliged to grant a management performance adder in determining the authorized ROE under the constitutional limits because a reward for management performance is not commensurate with returns on investments in other enterprises having corresponding risks. *Bluefield* at 692; *Hope* at 603.
56. While Section 523 authorizes the Commission to consider the efficiency, effectiveness and adequacy of service when determining just and reasonable rates, it requires the Commission to “give effect to this section by making such adjustments to specific components of the utility’s claimed cost of service as it may determine to be proper and appropriate.” 66 Pa. C.S. § 523.
57. It would be neither proper nor appropriate for the Commission to award shareholder interests based on prudent managerial performance when shareholders themselves cannot expect an additional ROE simply due to prudent managerial performance when they invest in competitive firms in the marketplace. *Bluefield* at 692-93; *Hope* at 603; *Duquesne Light* at 310, 312.
58. Peoples’ evidence of past and current management performance is countered by substantial record evidence as presented by the OCA regarding less-than-exemplary service and customer service.
59. Peoples has not met its burden of supporting its request for the management performance adder with substantial evidence or shown that it will produce just and reasonable rates.

Customer Notices Regarding Rate Changes

60. An increase in base rates involves a substantial property right, entitling ratepayers to notice and procedural due process. *McCloskey v. Pa. PUC*, 195 A.3d 1055, 1068 (Pa. Cmwlth. 2018) (*McCloskey 2018*) (citing *Barasch 1988* at 1305-06; U.S. Const. amend. XIV, § 1).
61. The Company has not met its burden of showing that its existing customer notices provide adequate and reasonable notice about bill impact of the proposed rate increase between its rate divisions, at both the time of filing and closely following the Commission’s final order approving new rates.

Rate Structure and Rate Design

62. The Commission has recently, and historically, rejected the inclusion of a customer component when allocating the costs of mains. See *Pa. PUC v. Columbia Gas of Pa, Inc.*, R-2020-3018835 (Order Feb. 19, 2021) (*Columbia 2021*) at 215-18; *PGW 2023* at 137; *Pa. PUC v. National Fuel Gas Distribution Co.*, 83 Pa. P.U.C. 262, 360 (1994).
63. Peoples did not meet its burden of proof to support the inclusion of a customer cost component when allocating the cost of mains between customer classes.

64. The OCA’s recommendation to remove the customer component when allocating the cost of mains is supported by substantial evidence and fundamental ratemaking principles and would result in just and reasonable rates.
65. A utility’s cost of providing service guides the ratemaking process with the additional important consideration of quality of service, rate gradualism, and rate affordability. *Lloyd v. Pa. PUC*, 904 A.2d 1010, 1019-21 (Pa. Cmwlth. 2006) (*Lloyd*); *Columbia 2021* at 46-47 (citing 66 Pa. C.S. §§ 523, 526(a)).
66. Revenue allocation should seek to eliminate class cross-subsidization and move towards cost of service and cannot unduly discriminate among customer groups. *Lloyd* at 1020; 66 Pa. C.S. § 1304.
67. Fixed customer charges should provide an accurate depiction of the fixed costs a utility incurs to service that customer, regardless of their usage, and properly include only those charges which vary with the addition or subtraction of a single customer. *Pa. PUC v. PECO Energy Company – Gas Division*, Docket No. R-2020-3018929 (Order June 22, 2021) (*PECO Gas 2021*) at 274; *Pa. PUC v. PPL Gas Util. Corp.*, R-00061398, 137 (Order Feb. 8, 2007); *Pa. PUC v. PPL Elec. Util. Corp.*, Docket No. R-2012-2290597 (Order Dec. 28, 2012) at 131.
68. The Commission may consider additional factors when setting fixed customer charges, such as gradualism, affordability, and incentives to conserve energy, especially to scale back proposed customer charges from the cost of service. *See, e.g., PECO Gas 2021* at 274 (“Rate design requires a careful balance of the competing interests of customer classes as well as prudent application of the principles of cost causation, gradualism, and overall fairness”).
69. Conversely, when determining which costs should be included in volumetric rates, the Commission should consider conservation, which is incentivized by shifting costs to volumetric charges, and affordability, which is enhanced by shifting costs to volumetric charges. *Cf. Columbia 2021* at *81.
70. While fixed customer charges properly include only those direct customer costs which vary with the addition or subtraction of a single customer, indirect customer costs may be considered by the Commission for inclusion in a customer charge, subject to scrutiny on a case-by-case basis. *Pa. PUC v. PPL Gas Utilities Corporation*, Docket No. R-00061398, 2007 Pa. PUC LEXIS 2 at *210 (Order entered Feb. 8, 2007) (*PPL Gas 2007*); *Pa. PUC v. Aqua Pa., Inc.*, Docket No. R-00038805, 2004 Pa. PUC LEXIS 39 at *98 (Order entered July 23, 2004) (*Aqua 2004*).
71. There are few considerations as important as affordability, as affordability “is in both the shareholders' and ratepayers' best interest. Affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service.” *Roaring Creek 1995* at *116.

72. Peoples did not provide sufficient evidentiary support for the inclusion of extensive indirect costs in its residential customer charge recommendation of \$21.50 and, as a result, its request to include such indirect costs should be rejected.
73. Peoples' proposed residential customer charge would not result in just and reasonable rates and should be rejected.
74. The OCA's recommended customer charge of \$14.50 provides recovery for Peoples' direct customer costs while providing sufficient revenues to cover certain indirect costs from residential customers.
75. The OCA's customer charge recommendation is supported by substantial evidence, considers gradualism, incentives to conservation, and affordability, and would result in just and reasonable rates.

Weather Normalization Adjustment

76. The Commission has the authority and discretion to permit alternative ratemaking where it will produce just and reasonable and non-discriminatory rates. 66 Pa.C.S. §§ 1330, 1301, 1304.
77. The Commission has the authority and discretion to permit alternative ratemaking where it will enhance the safety, security, reliability, or availability of utility infrastructure and is consistent with efficient consumption of utility service. 66 Pa.C.S. § 1330(a)(2).
78. Administrative agencies are not bound by the rule of *stare decisis* and may render inconsistent opinions that may overrule or distinguish prior opinions. *Bell Atl. – Pa., Inc. v. Pa. PUC*, 672 A.2d 352, 354 (Pa. Cmwlth. Ct. Dec. 18, 1995).
79. Utilities are not entitled to assurance during ratemaking that they will be able to recover net revenues; instead, utilities are granted the *opportunity* to recover their authorized revenue increase, and the public interest weighs against guaranteeing particular levels of revenue. *Hope* at 603; *Pa. Elec. Co. v. Pa. PUC*, 502 A.2d 130, 133-35 (Pa. 1985).
80. Peoples has not met its burden of proving that its proposed Weather Normalization Adjustment (WNA) will produce just, reasonable and non-discriminatory rates.
81. Peoples has not met its burden of proving the WNA will enhance the safety, security, reliability, or availability of utility infrastructure and is consistent with efficient consumption of utility service. 66 Pa.C.S. § 1330(a)(2).
82. Substantial record evidence demonstrates that the proposed WNA will harm customers generally and disproportionately harm low-income customers.
83. Peoples' request to implement a WNA mechanism should be denied because Peoples has not shown that implementation of the WNA would result in just and reasonable rates.

Low-Income Customer Service

84. Rates set in this proceeding must be just and reasonable, which requires balancing the interests of *all* consumers, including low-income, residential consumers, with the interests of the Company. *Pittsburgh v. Pa. PUC*, 126 A.2d 777, 784-85 (Pa. Super. Ct. 1956).
85. There are few considerations as important as affordability, as affordability “is in both the shareholders' and ratepayers' best interest. Affordable bills will maximize revenues for the Company and will enable ratepayers to continue to receive an essential service.” *Pa. PUC v. Roaring Creek Water Co.*, Docket No. R-00943177, 1995 Pa. PUC LEXIS 67 at *116 (Order entered May 31, 1995) (*Roaring Creek 1995*).
86. The Public Utility Code “seeks to ensure that service remains available to *all* customers on reasonable terms and conditions.” 66 Pa. C.S. § 1402(3) (emphasis added).
87. Natural gas distribution companies, specifically, are required to assist low-income customers with affording their natural gas service. 66 Pa. C.S. § 2203(7).
88. Peoples has not met its burden of proving that its termination procedures are consistent with the Commission’s regulatory standards.
89. The OCA’s recommendation that Peoples conduct a root cause analysis to determine why Peoples is disconnecting a disproportionate number of customers in the 40 zip codes in its service territory with the highest proportion of Black householders is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.
90. Commission regulations require that any natural gas distribution company which has obtained information which indicates that has “obtained information that would reasonably place the customer in a low-income designation” consider that customer a “confirmed low-income customer.” 52 Pa. Code § 62.2.
91. Peoples has not met its burden of proving that its classification of customers as “confirmed low-income customers” is in compliance with Commission regulations.
92. The OCA’s recommendation that Peoples expand its definition to include customers who confirm their low-income status by providing evidence of their receipt of public benefits which require CAP-qualifying income levels is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.
93. Peoples has not met its burden of proving that it is providing sufficient stand-alone notices to potentially payment-troubled customers regarding its customer assistance programs and the associated benefits of arrearage forgiveness.
94. The OCA’s recommendation that Peoples issue such stand-alone notices prior to termination, during Peoples’ cold-weather survey, and when requesting a security deposit is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.

95. Peoples has not met its burden of proving that it is adequately considering, when offering payment arrangements, the ability of its customers to afford offered payment arrangements, as required by Commission regulations.
96. The OCA’s recommendation that Peoples consider a customer’s ability to afford a payment arrangement when the payment arrangement is offered is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.

Customer Service and Quality of Service

97. The Commission has recently and properly recognized that “[a] base rate proceeding “is the proper venue for hearing []customer service issues.” *PGW 2023* at 193.
98. Customer service which a public utility provides to its customers must be adequate, efficient, and reasonable, in addition to the provision of utility service. 66 Pa. C.S. § 1501.
99. “Service” is interpreted broadly and inclusively, and captures “any and all acts done, rendered, or performed” by public utilities. 66 Pa. C.S. § 102; *West Penn Power Co. v. Pa. PUC*, 578 A.2d 75, 77 (Pa. Cmwlth. Ct. 1990).
100. All parts of a public utility’s customer service must be adequate in order for the utility to comply with the requirements of Section 1501 of the Public Utility Code, and “inappropriate and unreasonable treatment to customers can be interpreted as inadequate service.” *Laura Andracchio Johnson and Charles Johnson v. Duquesne Light Co.*, Docket No. C-2022-3032695, 2023 PA. PUC LEXIS 343 at *17 (Order entered Dec. 21, 2023) (citing *Barbara R. Lolly v. Duquesne Light Co.*, Docket No. C-2010-2167824 (Order entered May 9, 2011)).
101. The Commission may prescribe standards and practices to be followed by any or all public utilities, meaning that the Commission can issue standards to public utilities for the quality of customer service provided on an individual basis. 66 Pa. C.S. § 1504.
102. The Commission may adjust a utility’s cost of service study results when allocating revenue and designing rates. 66 Pa. C.S. § 523(a).
103. The Commission may condition a portion of a utility’s requested rate increase on its compliance with service adequacy objectives. *Nat’l Utils. v. Pa. PUC*, 709 A.2d 972, 977-78 (Pa. Cmwlth. Ct. 1998) (quoting *D.C. Transit System, Inc. v. Wash. Metro. Transit Comm’n*, 466 F.2d 394, 417 (D.C. Cir. 1972)).
104. Peoples has not met its burden of proving that its call center hours are consistent with its obligation to provide safe, effective, and reliable service as required. 66 Pa. C.S. § 1501.
105. The OCA’s recommendation that Peoples consider expanding its call center hours is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.

106. Peoples has not met its burden of proving that its investigation of misapplications or infringements of a Commission regulation are consistent with its obligation to provide safe, effective, and reliable service as required. 66 Pa. C.S. § 1501.
107. The OCA’s recommendation that Peoples conduct root cause analyses to determine the source of the error giving rise to misapplications or infringements of a Commission regulation is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.
108. Peoples has not met its burden of proving that its termination procedures are complaint with Commission regulations..
109. The OCA’s recommendation that Peoples be required to file updated training materials and observation documentation in a compliance filing at this docket number within three months following issuance of a Commission order in this proceeding is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.
110. Peoples has not met its burden of proving that its procedures for non-basic services and charges are just and reasonable.
111. The OCA’s recommendation that Peoples assure the Commission that it does not include non-basic services in any payment arrangements with customers and that, if customers indicate difficulty paying bills, the Company advise the customer to cancel all non-basic services in which they are enrolled is supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.
112. Peoples has not met its burden of proving that the rates, rules, and regulations in its existing and proposed tariffs regarding the rights of tenants or individuals protected by a Protection From Abuse order are just and reasonable and consistent with applicable standards.
113. The OCA’s proposed tariff changes regarding the same are supported by substantial evidence and shall be adopted to ensure adequate and reasonable service.

Discount Rates – Electricity as a Competitive Option

114. Revenue allocation should seek to eliminate class cross-subsidization and move towards cost of service and cannot unduly discriminate among customer groups. *Lloyd* at 1020; 66 Pa. C.S. § 1304.
115. Peoples did not support its request to offer competitive flex rates to customers claiming electricity as a competitive alternative fuel source with substantial evidence.
116. Peoples’ request to offer competitive flex rates to customers claiming electricity as a competitive alternative fuel source would result in undue discrimination across customer classes and unjust and unreasonable rates for Peoples’ captive customers, and should be rejected.

OCA Proposed Ordering Paragraphs

It is hereby ORDERED THAT:

1. Peoples Natural Gas Company LLC shall not place into effect the rates, rules, and regulations contained in Original Tariff GAS – PA PUC No. 48, which have been found to be unjust, unreasonable and, therefore, unlawful.
2. Peoples Natural Gas Company LLC is authorized to file tariffs, tariff supplement, or tariff revisions containing rates designed to produce no more than an annual base rate increase of \$13,018,740.
3. Peoples Natural Gas Company LLC shall file detailed calculations with its tariff filing, which shall demonstrate to this Commission’s satisfaction that the filed rates comply with the proof of revenue, in the form and manner customarily filed in support of compliance tariffs.
4. The request of Peoples Natural Gas Company LLC to implement a Weather Normalization Adjustment is denied.
5. Peoples Natural Gas Company LLC shall take steps to improve outreach, intake, and enrollment in its Customer Assistance Program; conduct root cause analyses of its misapplications and violations of Commission regulations as well as its disproportionate number of disconnections in the 40 zip codes with the highest proportion of Black householders; and consider customers’ ability to afford offered payment arrangements.
6. Peoples Natural Gas Company LLC shall develop and file at this docket number a compliance filing no later than three months after a final order is entered in this proceeding all training materials and observation of compliance with Commission regulations for its termination procedures.
7. Peoples Natural Gas Company LLC shall revise its tariff to facilitate compliance with Commission regulations regarding the rights of tenants and individuals protected by a Protection From Abuse order to avoid termination, as recommended by the Office of Consumer Advocate.
8. The request of Peoples Natural Gas Company LLC to offer competitive flex rates to customers claiming electricity as a competitive alternative to natural gas distribution services is denied.
9. Peoples Natural Gas Company LLC shall comply with all directives, conclusions and recommendations contained in this Commission’s Opinion and Order that are not the subject of individual ordering paragraphs as fully as if they were the subject of specific ordering paragraphs.

10. The Complaints filed by the various parties to this proceeding at Docket Number R-2023-3044549 are granted in part and denied in part, to the extent consistent with this Commission’s Opinion and Order.

DATE: _____

Mary D. Long
Administrative Law Judge

**LIST OF EVIDENCE ADMITTED INTO THE EVIDENTIARY RECORD BY THE
OFFICE OF CONSUMER ADVOCATE**

The Office of Consumer Advocate (OCA) submitted the following evidence into the evidentiary record in the above captioned proceedings at the evidentiary hearings held on May 9, 2024.

DIRECT TESTIMONY

- OCA Statement 1: Direct Testimony of David T. Evrard consisting of 29 pages of testimony and Exhibits DE-1 through DE-2 along with a signed verification of David T. Evard.
- OCA Statement 2-Public Version: Direct Testimony of Dante Mugrace consisting of 65 pages of testimony, Appendix A and Exhibits DM-1 through DM-39 with a signed verification of Dante Mugrace
- OCA Statement 2-Confidential Version: Direct Testimony of Dante Mugrace consisting of 65 pages of testimony, Appendix A and Exhibits DM-1 through DM-39 with a signed verification of Dante Mugrace
- OCA Statement 3-Public Version: Direct Testimony of Aaron L. Rothschild consisting of 102 pages of testimony, Appendices A through G, and Exhibits ALR-1 through ALR-6 with a signed verification of Aaron L. Rothschild.
- OCA Statement 3-Confidential Version: Direct Testimony of Aaron L. Rothschild consisting of 102 pages of testimony, Appendices A through G, and Exhibits ALR-1 through ALR-6 with a signed verification of Aaron L. Rothschild.
- OCA Statement 4: Direct Testimony of Clarence L. Johnson consisting of 49 pages of testimony, Appendix A and Exhibit CJ-1 through CJ-9 with a signed verification of Clarence L. Johnson.
- OCA Statement 5: Direct Testimony of Barbara R. Alexander consisting of 34 pages of testimony and Exhibits BA-1 through BA-6 with a signed verification of Barbara R. Alexander.
- OCA Statement 6: Direct Testimony of Roger Colton consisting of 85 pages of testimony and Exhibits RDC-1 through RDC-9 with a signed verification of Roger Colton.

REBUTTAL TESTIMONY

- OCA Statement 3R: Rebuttal Testimony of Aaron L. Rothschild consisting of 12 pages of testimony and a signed verification of Aaron L. Rothschild.

OCA Statement 4R: Rebuttal Testimony of Clarence L. Johnson consisting of 27 pages of testimony, Exhibits CJ-R-1 through CJ-R-2 and a signed verification of Clarence L. Johnson.

SURREBUTTAL TESTIMONY

OCA Statement 1SR: Surrebuttal Testimony of David T. Evrard consisting of 14 pages of testimony along with a signed verification of David T. Evrard.

OCA Statement 2SR-Public Version: Surrebuttal Testimony of Dante Mugrace consisting of 33 pages of testimony, Appendix A and Exhibits DM—SR-1 through DM-SR-3 with a signed verification of Dante Mugrace

OCA Statement 2SR-Confidential Version: Surrebuttal Testimony of Dante Mugrace consisting of 33 pages of testimony and Exhibits DM-SR-1 through DM-39 with a signed verification of Dante Mugrace

OCA Statement 3SR-Surrebuttal Testimony of Aaron L. Rothschild consisting of 40 pages of testimony and Exhibit ALR-1-SR with a signed verification of Aaron L. Rothschild.

OCA Statement 4SR: Surrebuttal Testimony of Clarence L. Johnson consisting of 32 pages of testimony and Exhibits CJ-1-SR through CJ-2-SR with a signed verification of Clarence L. Johnson.

OCA Statement 5SR: Surrebuttal Testimony of Barbara R. Alexander consisting of 17 pages of testimony and Exhibits BA-1-SR through BA-5-SR with a signed verification of Barbara R. Alexander.

OCA Statement 6SR: Surrebuttal Testimony of Roger Colton consisting of 21 pages of testimony and Exhibits RDC-1-SR through RDC-4-SR with a signed verification of Roger Colton.