
Anthony D. Kanagy

akanagy@postschell.com
717-612-6034 Direct
717-731-1985 Direct Fax
File #: 199787

May 30, 2024

VIA ELECTRONIC FILING

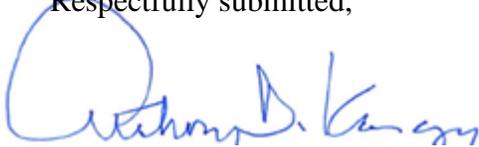
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: PA PUC, et al. v. Peoples Natural Gas Company LLC
Docket Nos. R-2023-3044549, et al.

Dear Secretary Chiavetta:

Attached for filing please find the Main Brief submitted on behalf of Peoples Natural Gas Company LLC (“Peoples”) in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/kl

cc: The Honorable Mary D. Long (*via email; w/attachment*)
Certificate of Service

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA EMAIL AND/OR FIRST-CLASS MAIL

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

Gina L. Miller, Esquire
Harrison Breitman, Esquire
Jacob D. Guthrie, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
gmliller@paoca.org
hbreitman@paoca.org
jguthrie@paoca.org
OCAPNG2023BRC@paoca.org

Scott Granger, Esquire
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P. O. Box 3265
Harrisburg, PA 17105-3265
sgranger@pa.gov

Kevin J. Moody, Esquire
Pennsylvania Independent Oil & Gas Asso.
212 Locust Street, Suite 600
Harrisburg, PA 17101-1510
kevin@pioga.org
PIOGA

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

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrrlaw.com
*Pennsylvania Weatherization Providers
Task Force Inc.*

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
cmincavage@mcneeslaw.com
abakare@mcneeslaw.com
kstark@mcneeslaw.com
Peoples Industrial Intervenors

Terri Grinner
811 Robin Drive
Pittsburgh, PA 15220
mtgrinner@aol.com

Lawrence Feder
4028 Park Place
Glenshaw, PA 15116
Larry_feder@yahoo.com

Daniel Killmeyer
184 McKay Road
Saxonburg, PA 16056
Dandan4863@gmail.com

Rachel Havrilla
708 Bellaire Avenue
Pittsburgh, PA 15226
Rachelhavrilla92@gmail.com

Mary Frey
904 Race Street
Altoona, PA 16601

William A. Weis
989 Waldwick Drive
Pittsburgh, PA 15237

Representative Frank Burns
House of Representatives
72nd Legislative
PO Box 202072
332 Main Capitol
Harrisburg, PA 17120
repburns@pa.house

Date: May 30, 2024



Anthony D. Kanagy

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Office of Consumer Advocate	:	
Office of Small Business Advocate	:	Docket No. R-2023-3044549
Peoples Industrial Intervenors	:	C-2024-3045268
	:	C-2024-3045385
v.	:	C-2024-3045960
	:	
Peoples Natural Gas Company LLC	:	

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

Meagan Moore (ID # 317936)
Senior Attorney
Peoples Natural Gas Company LLC
375 North Shore Drive
Pittsburgh, PA 15212
Phone: 412-208-6527
E-mail: Meagan.Moore@peoples-gas.com

Michael W. Gang (ID # 25670)
Anthony D. Kanagy (ID # 85522)
Nicholas A. Stobbe (ID # 329583)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mgang@postschell.com
akanagy@postschell.com
nstobbe@postschell.com

Date: May 30, 2024

Counsel for Peoples Natural Gas Company LLC

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I. INTRODUCTION

On December 29, 2023, Peoples Natural Gas Company LLC (“Peoples” or the “Company”) filed with the Pennsylvania Public Utility Commission (“Commission”) its 2023 Base Rate Case Filing (“Filing”), which consisted of Retail Tariff Gas – PA PUC No. 48, Supplier Tariff Gas – PA PUC No. S-4, responses to filing requirements and standard data requests, and supporting direct testimony and exhibits. In Retail Tariff Gas – PA PUC No. 48, Peoples is seeking a rate increase, pursuant to 66 Pa.C.S. § 1308 of the Public Utility Code (“Code”), of approximately \$156.0 million annually, exclusive of the roll-in of surcharges. Further Peoples’ proposed Tariff Gas – PA PUC No. 48 and Supplier Tariff Gas — PA PUC No. S-4 include the unification of the distribution rates of its two divisions as well as consolidation of each division’s tariffs on file with the Commission.

Ultimately, certain of the parties were able to reach a non-unanimous settlement of all issues (“Non-Unanimous Settlement”) that contains compromises on the following issues in this proceeding: (1) Revenue requirement and rate increase; (2) Allocation of the revenue increase to the classes; (3) Rate design of the class rates including merger of the distribution rates of the Company’s PNG and PG divisions separate distribution rates into uniform rates for all classes, except for a few LGS customers; (4) combined retail and supplier tariffs; (5) authorization to implement a Weather Normalization adjustment (“WNA”) for heat sensitive customers; and (6) Resolutions of complex tax matters related to the Peoples election of the Repairs Deductions; and (7) other compromises to complete the merger of 3 separate gas companies in western Pennsylvania into a single efficient company.

The Non-Unanimous Settlement is joined by the Commission’s Bureau of Investigation and Enforcement (“I&E”), the Office of Small Business Advocate (“OSBA”), the Peoples Industrial Intervenors (“PII”), and the Pennsylvania Independent Oil & Gas Association

(“PIOGA”) (hereinafter, the “Settlement Parties”). In addition, the Company has entered into a Low Income Stipulation with the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”) and the Pennsylvania Weatherization Providers Task Force (“PWPTF”). The Office of Consumer Advocate’s (“OCA”) issues are reserved for litigation. Additionally, Peoples has entered into a Present Revenue Stipulation with I&E, OSBA, and PII, which CAUSE-PA, PWPTF, and PIOGA have indicated their non-opposition to. The OCA is not joining the Present Revenue Stipulation.

PWPTF and CAUSE-PA are not signatories to the Non-Unanimous Settlement, but have indicated that they do not oppose the Non-Unanimous Settlement.

A. DESCRIPTION OF THE COMPANY

Peoples is a “public utility” and a “natural gas distribution company” as those terms are defined under the Public Utility Code, 66 Pa. C.S. §§ 102 and 2202, subject to the regulatory jurisdiction of the Commission. Peoples provides natural gas service to approximately 700,000 customers throughout its service territory which includes a large portion of Western Pennsylvania.

Peoples recently consisted of two Pennsylvania gas utilities, Peoples Gas Company LLC and Peoples Natural Gas Company LLC. The Commission approved the merger of two aforementioned companies on August 25, 2022, at Docket Nos. A-2021-3029831 and A-2021-3029833, *et al.* These entities are now both under Peoples Natural Gas as separate divisions—Peoples Natural Gas Division (“PNGD”) and Peoples Gas Division (“PGD”).

The Commission recently approved the consolidation of the PNGD and PGD gas cost rates in the 2023 PGC proceeding at Docket No. R-2023-3037928. However, the divisions currently have separate tariffs. In this proceeding, Peoples is proposing to merge the tariffs and base rates of the two divisions and is requesting approval to combine the accounting and record-keeping and to terminate the current requirement to maintain separate books and records.

B. STATEMENT OF THE CASE

Peoples' Statement of the Case is contained throughout Sections I, (A) and (C), *infra* and *supra*, and will not be restated here.

C. PROCEDURAL HISTORY

On December 29, 2023, Peoples filed with the Commission its 2023 Base Rate Case Filing.

On January 5, 2024, Peoples was served with the Formal Complaint and Public Statement filed by the OCA at Docket No. C-2024-3045268. That same day, the OCA entered a Notice of Appearance.

Also on January 5, 2024, I&E entered a Notice of Appearance.

On January 8, 2024, Peoples was served with the Petition to Intervene of PIOGA.

On January 11, 2024, Peoples was served with the Formal Complaint, Public Statement, and Verification of OSBA at Docket No. C-2024-4035385. That same day, the OSBA also entered a Notice of Appearance.

On January 15, 2024, Peoples filed an Answer to OCA's Complaint.

On January 18, 2024, the Commission entered an Order instituting an investigation into the lawfulness, justness, and reasonableness of the rates, rules and regulations contained the proposed original Tariff Gas — PA PUC No. 48 and proposed Tariff Gas – PA PUC No. S-4. The January 18, 2024 Order also suspended both proposed Tariff Gas PA PUC Nos. 48 and S-4 until September 27, 2024, unless otherwise directed by Order of the Commission, and assigned the case to the Commission's Office of Administrative Law Judge.

Also on January 18, 2024, Peoples was served with the Petition to Intervene of PWPTF.

On January 22, 2024, Peoples filed Supplement No. 1 to Tariff Gas – PA PUC No. 48 and Supplement No. 1 to Tariff Gas – PA PUC No. S-4, pursuant to the Commission's January 18,

2024 Order, suspending the proposed rates and rules in Retail Tariff Gas – PA PUC No. 48 and Supplier Tariff Gas – PA PUC No. S-4 until September 27, 2024.

Also on January 22, 2024, Peoples filed an Answer to OSBA’s Complaint.

Also on January 22, 2024, the Commission issued a Telephonic Prehearing Conference Notice, scheduling a Prehearing Conference for February 2, 2024, at 10:00 a.m.

On January 23, 2024, the ALJ issued a Prehearing Conference Order, directing the parties to file Prehearing Conference Memoranda on or before 12 noon on February 1, 2024, among other things.

On January 23, 2024, Peoples was served with the Petition to Intervene and Answer of the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (“CAUSE-PA”).

On February 1, 2024, CAUSE-PA, OCA, OSBA, I&E, PWPTF, PIOGA, and PII filed Prehearing Conference Memoranda.

Also on February 1, 2024, PII filed a Complaint.

On February 2, 2024, the Prehearing Conference was held as scheduled.

On February 7, 2024, Peoples filed a letter indicating that it would not be filing an Answer to PII’s Complaint.

On February 9, 2024, Peoples filed Proofs of Publication with the Commission.

On February 13, 2024, the Commission issued a Telephonic Public Input Hearings Notice, scheduling telephonic public input hearings for March 7, 2024, at both 1:00 p.m. and 6:00 p.m.

Also on February 13, 2024, the Commission issued an In-Person Public Input Hearings Notice, scheduling in-person public input hearings on March 5, 2024, at both 1:00 p.m. and 6:00 p.m., and on March 6, 2024, at both 1:00 p.m. and 6:00 p.m.

On February 14, 2024, the Commission issued a Telephonic Evidentiary Hearings Notice, scheduling telephonic Evidentiary Hearings for April 9, 10, and 15, 2024.

On February 16, 2024, Peoples filed corrected Exhibits with the Commission.

On February 29, 2024, the OCA filed a Withdrawal of Appearance for Christopher M. Andreoli.

On March 5 and 6, 2024, the In-Person Public Input Hearings were held as scheduled.

On March 7, 2024, the Telephonic Public Input Hearings were held as scheduled.

On March 18, 2024, the OCA filed a Withdrawal of Appearance for Aron J. Beatty.

On March 22, 2024, the OCA, I&E, OSBA, CAUSE-PA, PWPTF, PIOGA, and PII submitted Direct Testimony.

On March 25, 2024, the ALJ issued an Interim Order Rejecting OSBA Statement No. 1.

On March 28, 2024, the OSBA filed revised Direct Testimony.

On April 18, 2024, Peoples, I&E, OCA, OSBA, and PII submitted Rebuttal Testimony.

On May 3, 2024, Peoples, OCA, I&E, CAUSE-PA, PIOGA, and PII submitted Surrebuttal Testimony.

On May 6, 2024, Carrie B. Wright entered her Notice of Appearance on behalf of I&E.

On May 8, 2024, Peoples submitted Rejoinder Testimony.

On May 9, 2024, the Telephonic Evidentiary Hearing was held as scheduled and all parties' testimony and exhibits were admitted into the record.

On May 10, 2024, the Commission issued a Hearing Cancellation Notice, cancelling the Evidentiary Hearings on May 10 and 15, 2024.

Also on May 10, 2024, the ALJ issued an Interim Order on Briefs, Non-Unanimous Settlement, and Closing of the Record.

D. LEGAL STANDARDS

Under the Public Utility Code, a public utility's rates must be just and reasonable and cannot result in unreasonable rate discrimination. 66 Pa. C.S. §§ 315(a), 1301 and 1304. A public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa. C.S. § 315(a); *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00038805, 236 PUR 4th 218, 2004 Pa. PUC LEXIS 39 at *48 (Order entered Aug. 5, 2004) (“*Aqua 2004 Order*”). “It is well-established that the evidence adduced by a utility to meet this burden must be substantial.” *Lower Frederick Twp. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

However, a public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims made in its filing that no other party has questioned. As the Commonwealth Court has explained:

While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.

Allegheny Center Assocs. v. Pa. PUC, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. PUC v. PECO*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (Order dated May 16, 1990); *Pa. PUC v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (Order dated Jan. 31, 1991). In addition, tariff provisions previously approved by the Commission are deemed just and reasonable and, therefore, a party challenging a previously approved tariff provision bears the burden to demonstrate that the Commission's prior approval is

no longer justified. *See, e.g., Pa. PUC v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45, at *165-68 (Order entered Sept. 28, 2007) (adopting the ALJ's discussion on burden of proof).

Further, a party that raises an issue that is not included in a public utility's general rate case filing bears the burden of proof. For example, in *Pa. PUC v. Metropolitan Edison Company, et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (Order entered Jan. 11, 2007), a party offered proposals to have the companies incur expenses not included in their filings. The ALJ held that, as the proponent of a Commission order with respect to its proposals, the party bears the burden of proof as to proposals that are not included in the companies' filings. The Commission agreed and adopted the ALJ's conclusion that Section 315(a) of the Public Utility Code cannot reasonably be read to place the burden of proof on the utility with respect to an issue the utility did not include in its general rate case filing and which, frequently, the utility would oppose. *Id.*, at *111-12.

II. SUMMARY OF ARGUMENT

Peoples has three primary goals in this proceeding. One goal is obtaining a reasonable increase in base rates after a nearly five-year hiatus since its last base rate case. The second goal is obtaining a Weather Normalization Adjustment ("WNA") to stabilize its annual revenues from year to year. Both of these goals are critical in supporting the Company's aggressive and accelerating replacement of at-risk pipelines and aging infrastructure. The third goal is that Peoples is seeking to merge the rates of its two remaining divisions, to the greatest extent possible, thereby completing the more than decade-long combination of three gas distribution companies in Western Pennsylvania.

All of the above goals would be accomplished by the Non-Unanimous Settlement which, if approved, would serve the long-term interests of Peoples customers and the Company. Because

the Settlement is not unanimous, the ALJ and the Commission must address all issues in the proceeding.

OCA is the only party in this proceeding that opposes the WNA. The opposition is based on a desire to return to a rate design that does not provide the Company with a reasonable opportunity to earn a rate of return in a continuing period of warmer-than-normal weather on the theory that the status quo benefits customers. The approach does not properly balance the Commission's requirements to consider the viability of the utility over the long term to serve customers and the customers interest in fair rates. The Commission has recognized this several times in granting permission to four other jurisdictional gas distribution companies. Denying Peoples the WNA would disadvantage Peoples in capital markets as compared to these companies in Pennsylvania as many other companies that are authorized to use such mechanisms across the country.

OCA also proposes extreme adjustments to various components of the Company's revenue requirement under the guise of protecting customers from increases in rates. An illustration of the unreasonableness of OCA's proposed adjustments is the OCA's proposal to grant only \$13.0 million in revenue increase to a Company that has not had a base rate increase in nearly five years and anticipates spending nearly \$2 billion on LTIP investments alone from the last rate case through the end of the FPFTY in this case. Examples of the extreme OCA adjustments are: an ROE that is more than 200 basis points below the DSIC ROE of 10.15%; a proposed hypothetical capital structure to include less equity capital than the Company reasonably employs; rejection of the effect of increased costs of expenses in the FTY and FPFTY expenses on the basis that only known and certain costs can be included in projected costs.

Peoples also notes that it is cognizant of the effects of rising utility rates of low-income customers. Peoples has entered into a stipulation with CAUSE-PA and PWPTF to strengthen and expand its low-income customer assistance programs. In this regard, Peoples and its parent Essential Utilities are increasing their annual shareholder contributions to Peoples Hardship Fund from \$850,000 to \$965,000 as part of the Non-Unanimous Settlement.

Peoples submits that the ALJ and the Commission should approve the WNA. In addition, a reasonable analysis of the revenue requirement record and application of Commission precedents and practices will establish that the revenue requirement equals or exceeds the amount necessary to justify the \$93 million increase in base rates provided in the Non-Unanimous Settlement.

Finally, Peoples notes that the revenue allocation and rate design provided in the Non-Unanimous Settlement balances the positions of revenue allocation and rate design in the record, including the position of OCA. This settlement provides both reasonable allocation and also permits merger of the Peoples division rates for all customer classes.

III. OVERALL POSITION ON RATE CASE

As noted above, the Company has spent and is continuing to spend hundreds of millions of dollars annually to replace its aging infrastructure to allow it to continue to provide safe and reliable services to customers. This proceeding has been litigated extensively by the parties. The Company was able to enter into a Non-Unanimous Settlement with I&E, OSBA and PIOGA that addresses all of their issues. The Company also has entered into a Low-Income Stipulation with CAUSE-PA and PWPTF which resolves their issues.

The Company originally filed for a revenue increase of approximately \$156 million. This original revenue increase was recently reduced to approximately \$153.7 million due to the Company correcting an error in its initial filing. Under the Non-Unanimous Settlement, the

Company is agreeing to a revenue increase of \$93 million, which is significantly lower than it as-filed position.

The Company has effectively resolved all issues with all parties except for OCA. The Company respectfully requests that the ALJ and the Commission approve the Non-Unanimous Settlement and the Low-Income Stipulation without modification.

IV. RATE BASE

Peoples proposed rate base for the FPFTY ending September 30, 2025, is as follows:

<u>Description</u>	<u>Amount</u>
Gas Plant in Service	\$5,587,906,895
Less: Accumulated Depreciation	<u>1,456,324,493</u>
Net Plant	4,131,582,402
Less: Accumulated Deferred Income Taxes	3,232,844
Plus: Materials and Supplies	5,569,985
Plus: Gas Stored Underground	46,928,664
Plus: Prepayments	5,776,406
Plus: Cash Working Capital, less	36,256,917
Less: Customer Deposits	4,065,751
Less: Customer Advances	<u>3,690,614</u>
Total Rate Base	\$ 4,215,125,164

Proposed adjustments to Peoples rate base are addressed in the following subsections of this Main Brief.

A. PLANT ADDITIONS

OCA witness Mugrace proposes to reject \$27,819,503 of Peoples projected additions to gas plant in service (“GPIS”) to remove Peoples’ estimates of increased costs of contactors and materials to replace aging pipelines and other facilities. Mr. Mugrace contends that these projections of increased costs are not known and certain and should be rejected. OCA St. No. 2, pp. 6-10.

There are several flaws in Mr. Mugrace’s contention. First, Mr. Mugrace does not recognize the evidence that Peoples’ costs of replacing pipelines, which are installed primarily by contractors, have been increasing consistently. Peoples Witness Becker explained that these costs were increasing approximately 4% per year between 2016 and 2019 and then grew to an average annual compound growth rate of approximately 17% during the period 2021 to 2022. Peoples St., No. 5, p. 7. There is no basis to conclude that the rise in these costs will suddenly stop. In contrast, Mr. Becker provided data that showed that Peoples contracts with suppliers for 2023 and 2024 provided for increases in labor costs from 2 to 5%. Peoples St. No. 5-R, p. 8. Accordingly, it would be unreasonable to reject Peoples’ adjustments to projected replacement costs, which OCA witness Becker notes range from 2.31% for Long Term Infrastructure Improvement Plan (“LTIP” replacements”) and 2.31% to 4% for General Plant capital expenditures. OCA St. No. 2 p. 8. Peoples St. No. 5-R, p. 8.

Second, Mr. Becker also explained that if the projected increases in pipeline and other plant replacement costs somehow did not materialize, which is highly unlikely, the Company would use such funds to replace additional facilities in the FPFTY to further achieve its long-term safety and reliability objectives. Peoples St. No. 5-RJ, p. 2. In this regard, the Commission routinely requires utilities to report their actual FPFTY plant additions after the end of that year.

This report has been requested by I&E Witness Cline and accepted by the Company in the Non-Unanimous settlement. I&E St. No. 3, p. 3. Non-Unanimous Settlement, Par. 47. In addition, no charges are permitted under the Distribution System Improvement Charge (“DSIC”) until the level of projected plant additions is actually achieved. Non-Unanimous Settlement Par. 45. Accordingly, there are multiple protections and incentives for the Company to achieve its plant projections.

Finally, OCA witness Mugrace’s recommendation to require a “known and certain” standard to the cost of projected capital additions, and, as addressed infra, to an array of projected expenses, is unreasonable in evaluating projections in a FPFTY. By definition, the future cannot be known with certainty. The statutory standard in evaluating the projections in a FPFTY is whether the projections are reasonably supported. 66 Pa. C.S. § 315(e). Peoples’ projected plant additions have been fully supported. Mr. Mugrace’s adjustments should be rejected.

B. ROBINSON TOWNSHIP FACILITIES

OCA witness Mugrace also proposes to remove from GPIS the actual cost of replacing at-risk bare steel pipe in Robinson Township that has already been completed at the cost of \$1,462,407. Mr. Mugrace proposes this adjustment because the Commission’s Bureau of Safety (“Bureau”) required the Company to replace these pipelines in connection with the resolution of an over-pressure issue which damaged some customers facilities. OCA St. No. 2, pp. 8-9.

The Company has explained that the overpressure issue was resolved and that the Company paid the costs of damages to customers’ property and is not claiming these costs. Peoples replaced the at-risk bare steel pipe in the related system at the Bureau’s direction, even though those facilities were not affected by the incident. Mr. Becker explained that the facilities could have safely remained in service at the time and not been replaced. Peoples St. No. 5-R, p. 9, lines 2-3. Those facilities were on the list of pipelines that are most likely to have deterioration and leaks

and that are among the highest risks to safety and reliability. Peoples St. No. 2-R, p. 9. Peoples St. No. 5RJ, pp. 3-4.

Mr. Mugrace's argument is simply that the plant would not have been replaced but for the incident. However, it was replaced at the Commission's direction and that in itself is a basis for including it in GPIS; the new pipelines are serving customers. In addition, Peoples explained that it is was one of the pipelines that would have been replaced irrespective of the incident in the relatively near future. Also, the Company explained that it would have used the funds to replace other pipelines in the same time period if the Bureau had not directed the replacement. Peoples St. No. 5, p. 3.

The Robinson Township facilities are in service and are properly included in GPIS and rate base. OCA's adjustment should be rejected.

C. CAPITALIZATION CHANGES

In some circumstances part of costs incurred by the Company are capitalized and included in GPIS and rate base instead of recovering the entire cost as an expense. An example is the costs of compensation and benefits of Company employees. To the extent employees work on capital projects, their compensation is capitalized.

Two adjustments recommended by I&E suggest increased portions of costs to be capitalized. One of I&E witness Keller's adjustments proposed increased capitalization in the amount of \$810,857 of Outside Services-Contracted, but I&E has withdrawn this adjustment in its surrebuttal testimony because the Company explained that these costs are not properly capitalized. I&E St. No. 1, p. 18; Peoples St. No. 2R, pp. 49-51; I&E St. No. 1-SR, p. 17.

In a second adjustment, I&E witness Keller proposes adjustments to corporate insurance costs. Mr. Keller proposes to both decrease the projected increase in premiums and to capitalize

31.9% of his reduced costs as opposed to 19.7% proposed by the Company. I&E St. No. 1, pp. 19-24. The expense adjustment proposed by Mr. Keller is addressed in the expense section of this brief, *infra*. As shown on a chart on page 22 of Mr. Keller's direct testimony that insurance costs were significantly lower in 2021 and 2022 and capitalization rates were significantly higher than the actual data for 2023. In fact, 24.7% of costs were capitalized in 2023 even though total costs increased in 2023. It is more realistic that capitalization amounts will remain steady at higher levels of premium costs for 2023 and higher costs going forward as compared to Mr. Keller's 3-year average. I&E St. No. 1. p. 22. I&E's capitalization adjustment for corporate insurance should be rejected or modified to reflect the 2023 data.

Finally, it should be noted that any increase the amount of costs for an increase in the capitalization percentage should added to claimed amounts for GPIS.

D. ACT 40 ADJUSTMENT

Act 40 is codified as Section 1301.1 of the Public Utility Code. Section 1301.1(a) of the Code eliminated the consolidated tax adjustment ("CTA"), which formerly used income tax deductions of affiliates of utilities to reduce income taxes charged to utility customers. Section 1301.1(b) requires the utility to account for the use of the funds received from the termination of the CTA, with 50% going to support plant additions/infrastructure and the second 50% to be used for general corporate purposes. OCA witness Mugrace contends the \$27,500 should be deducted from rate base through a reduction to working capital, because utilities' general corporate purpose is to serve customers. OCA St. No. 2, pp. 62-65.

The Commission has found that utilities may use these funds for any general corporate purpose and that they should not be deducted from rate base. Peoples has explained that this amount is used to fund a small portion of its much larger operating expense of over \$200 million.

Peoples St. No. 6-RJ, pp. 2-3. In a recent UGI rate case the Commission accepted this explanation and rejected OCA's proposal to deduct the funds from rate base. OCA appealed the Commission's decision in the UGI case on this issue and the Commission's decision was affirmed by the Commonwealth Court. *McCloskey v. Pa. PUC*, 225 A.3d 192, 210-211 (Pa. Cmwlth. 2020). OCA has provided no basis to depart from this decision. OCA's adjustment should be rejected.

E. DEPRECIATION ISSUES

As explained previously, OCA witness Mugrace proposed reductions to projected GPIS additions and proposed to remove from current GPIS the investment to replace at-risk bare steel pipelines in Robinson Township should be rejected. Mr. Mugrace also removed the accumulated depreciation for these items. OCA St. No 2, p. 11. Mr. Mugrace's GPIS adjustments and accumulated depreciation adjustments should both be rejected.¹

F. CASH WORKING CAPITAL

OCA witness Mugrace proposed to reduce Peoples' cash working capital ("CWC") component of rate base from \$35,256,917 to \$35,001,694. Mr. Mugrace explained that his proposed change was solely to reflect the effects of his lower levels of recommended expenses in this proceeding and not any defect in the analysis. OCA St. No. 2, p. 12. I&E also proposed to adjust CWC to reflect its expense adjustments. I&E St. No. 1, pp. 34-37.

The final amount of cash working capital should be recalculated using Peoples study to reflect the allowed operating expenses in this proceeding.

¹ Mr. Mugrace also reduced depreciation expense for these plant investments by \$727,743. OCA St. No. 2, p. 56. This adjustment should also be rejected along with his GPIS adjustments. Note also that Mr. Mugrace's depreciation adjustments are also improperly calculated. Peoples St. No. 14-R, pp. 3-5; Peoples St. No. 14-RJ, p. 2.

G. DEFERRED TAXES

Current income taxes are explained later in this main brief. OCA witness Mugrace also made adjustments to reduce accumulated deferred income taxes (“ADIT”) to reflect his previously referenced reductions to the GPIS balance. OCA St. No.2, pp 13-16 . These ADIT reductions should be rejected along with his GPIS adjustments.

V. REVENUES

I&E initially proposed an adjustment to present revenues related to its disagreement with how the Company normalized HDD. I&E St. No. 3, pp. 17-21. I&E subsequently corrected this adjustment in surrebuttal testimony. I&E St. No. 3-SR, pp. 14-15.

The Settlement resolves this issue between I&E and the Company. The Settlement adopts the number of HDD proposed by the Company but agrees that the number is the result of negotiations and does not reflect the acceptance or rejection of any parties’ methodology for calculating HDD and is not precedential or prejudicial against any methodology proposed by any party in any future proceeding. Non-Unanimous Settlement ¶ 43

In addition, as noted in the Present Revenue Stipulation, the Company discovered an error in its present revenues in the case. The error increases present revenue by \$2,361,164, which reduces the Company’s as-filed revenue increase from \$156,026,122 to \$153,664,958.

VI. EXPENSES

A. UPDATES TO ORIGINAL FILING

As explained by Peoples witness Wachter, the Company identified three adjustments to its claim in discovery. The Company identified these adjustments to parties in discovery responses and reflected the updates in its rebuttal testimony. Peoples St. No. 2-R, p. 5. The impact of these adjustments would have increased the Company’s claim by approximately \$996,345 excluding the CWC amount. In rebuttal, the Company explained that it was not proposing to increase its claim

for these adjustments over the as-filed amount of \$156 million. However, the Company explained that the Commission should reflect these updates to the extent that the Commission disallowed other expenses or reduced the Company's overall rates of return. Peoples St. No. 2-R, p. 5, lines 6-8.

It is normal practice in a base rate proceeding for a utility to include updates to its claim, including both increases or decreases, to correct mistakes or to reflect new information. OCA objected to the Company updating its claim. OCA witness Mugrace argued:

“In my view, the Company should not be able to receive a greater increase in revenue requirement for specific expenses than the amount requested in the initial filing.”

OCA St. No. 2-SR, p. 3, lines 9-10.

OCA's one-sided approach to updating the expense items should be denied. The updates were provided to parties on March 13, 2024, and the parties had ample time to ask discovery regarding these updates. Peoples St. No. 2-RJ, p. 5. It is unreasonable and punitive to the Company to only allow updates that decrease the Company's claim. Notably, OCA updated its position in surrebuttal testimony. OCA's updates included both increases and decreases to the Company's claim. In surrebuttal, the OCA proposed to further reduce the Company's rate base by approximately \$23 million as compared to its position in direct testimony. *See* OCA St. No. 2, p. 3, line 22 compared to OCA St. No. 2-SR, p. 2, line 17. In surrebuttal, OCA also proposed to increase the Company's O&M expenses by approximately \$3 million from its direct testimony position. *See* OCA St. No. 2, p. 4, line 3 compared to OCA St. No. 2-SR, p. 2, line 24.

The OCA included both decreases and increases in its surrebuttal update because it is standard practice to include both decreases and increases. The Company also reflected decreases and increases in its updates. *See* Peoples St. No. 2-R, p. 5, lines 13-18. Notably, the Company

recently discovered that it had inadvertently excluded \$2.3 million in revenues from an LGS customer in this case. The Company entered into a Present Revenue Stipulation with the parties to address this issue, which reduces the Company's overall revenue increase by \$2.3 million. Both the Company's increases and decreases to the as-filed claim should be accepted.

B. GAS SUPPLY EXPENSE

As noted above, I&E proposed to reduce the Company's present revenues by \$9,311,915 based on I&E's proposal to exclude the 65-year regression analysis when calculating HDD. I&E St. No. 3, p. 20. In rebuttal, Peoples witness Wachter explained that I&E witness Cline's adjustment to revenues failed to offset gas cost revenues in the calculation. As noted above in Section V, Revenues, this issue has been resolved with I&E.

C. FIVE-YEAR AVERAGE INCREASES

The Company's claim includes adjustments to several expenses to reflect a five-year, year over year, average increase. These expenses include Outside Services, Corporate Insurance, Travel, Company Memberships, Licenses and Permits, Utilities and Fuel, Fleet, Materials and Supplies, and other O&M. The five-year, year over year, average increases are based on the historic average increase for each specific category of expense. The five-year, year over year, increases were applied to the FTY and FPFTY to determine the amount for each category of expense. Peoples St. No. 2-R, pp. 11-12.

OCA proposed to disallow the Company's adjustment to apply the historic five-year, year over year, average increases to these expense categories. The total OCA disallowance related to the multi-year historic average methodology was \$6,518,012. Peoples St. No. 2-R, p. 12. OCA proposed to disallow these adjustments on the basis that they are not "known and measurable." OCA St. No. 2, p. 34. OCA witness Mugrace also states:

These inflationary adjustments are typically blanket adjustments or increases which do not directly relate to actual costs expected to be incurred by Peoples in the period in which rates are to be set.

OCA St. No. 2, p. 34, lines 13-15.

Mr. Mugrace goes on to suggest that increases in costs should be contractual before they can be approved.

The rationale cited by OCA in support of disallowing the five-year average increases is flawed, and OCA's proposed disallowance should not be accepted. First, OCA confuses the five-year average increases proposed by the Company with a blanket inflation adjustment that is unrelated to the specific expense. Company witness Wachter explained that utilizing a five-year average increase is different than utilizing a generic inflation adjustment because the five-year methodology uses known and measurable historic increases for each specific expense account. Peoples St. No. 2-R, p. 10, lines 17-20. The adjustments to each category of expenses are based on actual historic increases for that specific category.

OCA witness Mugrace proposes to only allow increases from HTY expenses when they are expressly provided for by contract. OCA's proposal is unreasonable because Peoples does not enter into extended term contracts for most expenses. Peoples St. No. 2-R, p. 12, lines 17-20. Peoples did rely on contractual increases where it has longer term contracts, such as for union pay increases.

OCA's position is also unreasonable because it effectively limits non-contractual expenses increases to the HTY expense level. This is contrary to established ratemaking principles in Pennsylvania which allow utilities to project expenses for both the FTY and FPFTY. Section 315(e) of the Public Utility Code expressly allows the use of a FPFTY and allows utilities to estimate expenses for the FPFTY when the utility provides "appropriate data evidencing the

accuracy of the estimates contained in the FTY or FPFTY.” 66 Pa. C.S. § 315(e). The Company’s provision of 5 years of historic actual increases meets this statutory standard. OCA’s attempts to limit the effectiveness of the FTY and FPFTY should not be accepted, especially where the Company is experiencing significant increases in costs on an annual basis.

The OCA’s position is also inconsistent with the Commission’s Order in *Pa. PUC v. Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc.*, Docket Nos. R-2021-3027385, *et. al.* (Order entered May 16, 2022). (“*Aqua 2022*”). In this case, the Commission approved use of a three year, year-over-year, average increase to adjust general liability insurance.² OCA St. No. 2, pp. 38-39; OCA St. No. 2SR, p. 19. The ALJ and the Commission should approve the Company’s year over year increases in this case.

D. INFLATION ADJUSTMENTS

The Company claimed limited general inflation adjustments with respect to the categories of expenses: Injuries and Damages (\$150,236 adjustment) and Advertising (\$86,937 adjustment). The Company utilized the CPI – Consumer Price Index for both of these categories of 3.20%. Peoples Volume 1, Exhibit No. 4, Schedule 1, p. 33.

The OCA witness Mugrace opposes the Company’s proposal to apply the general inflation adjustment for these two limited categories. He states that the Company cannot predict what level of inflation may occur, and, therefore, the inflation adjustments should be denied. OCA St. No. 2SR, p. 13, lines 9-10. He also argues that world-wide inflation is not a basis for applying an inflation adjustment and that inflation stabilized in 2022. OCA St. No. 2SR, p. 13, lines 11-19.

² The Company notes that I&E’s three year average increase was adopted over Aqua’s five year average increase in that case. The Company also notes that no party has proposed a different period for calculating the average historic increase in this case.

OCA's proposal to disallow inflation adjustments for these two expense categories should be denied. The Commission has allowed general inflation adjustments when they are applied to limited categories of expenses. In *PA PUC v. PECO Energy Company – Gas Division*, Docket No. R-2020-3018929, Order entered June 22, 2021, p. 10 ("PECO Gas"), the Commission approved the application of the Consumer Price Index ("CPI") to Outside Services Costs.

Mr. Mugrace's claim that inflation ceased being an issue in 2022 is also incorrect. As explained by Peoples witness Wachter, monthly inflation during 2022 and 2023 averaged 5.49%. Peoples St. 2-R, p. 15, lines 5-7.

Peoples' proposal to include general inflation factors to these two limited categories is reasonable and should be approved.

E. CORPORATE INSURANCE

The Company's claim for corporate insurance includes an increase of 12.9% from the HTY expense applied to the FTY and FPFTY claims. Peoples St. No. 2-R, pp. 25-26. This increase was based on the actual percentage increase experienced by the Company from 2021 to 2022 and from 2022 to 2023. The categories of insurance coverage include Excess Liability, Directors & Officers, Cybersecurity and Property.

OCA proposed to completely disallow all proposed increases in corporate insurance. The amount of OCA's proposed disallowance is \$1,648,544. OCA's proposed disallowance was based on its argument that the price increase was speculative and not a long-term trend. OCA St. No. 2, pp. 38-39; OCA St. No. 2SR, p. 19.

The Commission should not accept OCA's position. Insurance costs have not stabilized, and the Company provided evidence from third-party insurance brokers supporting this fact. Peoples St. No. 2-R, p. 26. The insurance market is in considerable flux with costs increasing for

reduced coverage. OCA's position to completely disallow proposed increases in corporate insurance is unreasonable given current market conditions, and it should be denied.

F. LABOR/VACANCY EXPENSE

In this proceeding, the Company proposed a vacancy adjustment of 8 open positions. In direct testimony, Company witness Wachter explained that the Company has experienced higher average vacancies since COVID but expects to be at COVID average vacancy levels by the end of the FPFTY. Peoples St. No. 2, p. 12.

I&E and OCA both proposed adjustments to the Company's vacancy adjustments. I&E proposed a reduction to the Company's labor expense of \$2,272,848. I&E St. No. 1-SR, p. 3. I&E's adjustment was based on a vacancy adjustment of 56 positions or 48 additional vacancies from the Company's original employee complement.

OCA proposed to reduce labor expense by \$1,742,699. OCA Exhibit DM-11. OCA's adjustment is not based on a specific number of additional vacant positions but is based on a 2.7% vacancy rate applied to the FTY labor balance. OCA St. No. 2, p. 27.

The parties labor expense adjustments should be denied for several reasons. First, since the rate case was filed, the Company hired 52 new employees. Peoples St. No. 2-R, p. 17, lines 12-13. In addition, Peoples witness Wachter explained that national employee resignations have recently hit a three-year low. Peoples St. No. 2-R, p. 17, lines 7-12; Exhibit No. APW-R-2. OCA's and I&E's adjustments to the Company's vacancy rate do not reflect recent hiring and resignation trends.

In addition, the OCA double-counted the 8 vacant positions that were already included in the Company's claim. If this error is corrected, OCA's labor expense adjustment is \$1,495,494 (\$1,742,699 - \$247,205). *See* Peoples St. No. 2-R, p. 18; Peoples St. No. 2-RJ, p. 7. Mr. Mugrace does not have a reasonable basis for refusing to correct this error. He does not dispute the fact that

he made the error, but states that he is unsure of how the Company calculated the adjustment. OCA St. No. 2-SR, p. 11, lines 10-13. This argument should not be accepted. The Company explained Mr. Mugrace's error in rebuttal testimony and Mr. Mugrace could have asked a discovery question asking the Company to explain the basis of the Company's correction. *See* Peoples St. No. 2-R, p. 18. In addition, the \$247,205 is simply the total salaries of the 8 vacant positions reduced by the capitalized portion. Peoples St. No. 2-RJ, p. 7. Mr. Mugrace's claimed ignorance on the basis of the calculation is not a sufficient reason to deny the correction, especially when Mr. Mugrace does not dispute the fact that he made an error concerning the labor adjustments proposed by the parties. If the OCA's labor adjustment is accepted, it should only be \$1,495,494 and not \$1,742,699.

I&E and OCA also make several related adjustments to labor-related expenses based upon their vacancy adjustments. These include adjustments to employee benefits and payroll taxes. If the parties' vacancy adjustments are denied, the related adjustments to employee benefits and payroll taxes should also be denied. Peoples St. No. 2, p. 18.

G. INCENTIVE COMPENSATION

1. Introduction

OCA proposes to disallow two components of the Company's incentive compensation. The first component is related to the Company's Short Term Incentive Program ("STIP"). The second component is related to the Company's Diversity, Equity and Inclusion ("DEI") incentive compensation cost. Both of these proposed adjustments should be denied.

2. OCA's Proposal to Disallow STIP Costs Should Be Denied.

Peoples' incentive compensation program includes various metrics that are designed to benefit customers by retaining talented employees. These methods include Financial, Safety, Customer Satisfaction, Environmental Stewardship, DEI and Industrial Performance goals.

Incentive compensation is one form of compensation offered by the Company. Most utilities in Pennsylvania offer incentive compensation, and the Company must offer incentive compensation in order to attract and retain employees. Peoples St. No. 2-R, p. 20. In order to ensure that all of its compensation paid to employees is reasonable, the Company conducts unbiased reviews and surveys to ensure that its compensation packages are in line with market conditions. The Company relies on Salary.com, Willis Towers Watson, and American Waterworks Association to ensure market competitiveness. In addition, the Company's Executive Compensation Committee employs an independent compensation consultant to benchmark executive compensation. Peoples St. No. 2-R, pp. 20-21.

OCA proposes to disallow \$2,562,451 of STIP costs that are related to financial metrics. OCA St. No. 2, p. 28. OCA witness Mugrace argues that this compensation is related to the Company's financial goals and does not benefit customers. OCA St. No. 2-SR, p. 16, line 26.

The OCA's proposed disallowance of STIP incentive compensation costs should be denied. OCA has not argued that the Company's overall compensation levels are too high. In addition, the Company has demonstrated that incentive compensation is necessary for the Company to attract and retain employees, which directly benefits customers. Moreover, financial metrics provide customers with a direct benefit by incentivizing employees to reduce costs where possible. Peoples St. No. 2-R, pp. 19-20.

OCA's position is also contrary to Commission precedent with respect to allowing utilities to recover incentive compensation costs related to financial metrics. The Commission recently applied this standard in approving the recovery of stock-based incentive compensation in *Pa. PUC v. UGI Utilities, Inc. - Electric Division*, Docket No. R-2017-2640058 (Order entered October 25, 2018) ("*UGI Electric*"):

We find that [UGI] has provided substantial evidence of record to demonstrate that the incentive compensation program as a whole includes both financial and operating metrics and goals which benefit customers.

Where, as here, the incentive program as a whole establishes that the employees' eligibility to receive the benefit is based on performance duties and metrics directly related to the provision of service, the fact that the program includes a financial metric does not disqualify it from allowance as an expense for inclusion in the rate base. We find that because UGI's incentive compensation plan is reasonable, prudently incurred, and is not excessive in amount, UGI is permitted full recovery of this expense.

UGI Electric, pp. 73-74. Here, the Company has demonstrated that its incentive compensation plans include both financial and operating metrics and goals. The Company further demonstrated that its incentive compensation package is reasonable, prudently incurred, and not excessive in amount.

The Commission has also reviewed and approved incentive compensation programs in numerous prior rate cases. *See e.g., Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597, 2012 Pa. PUC LEXIS 1757 (Recommended Decision dated Oct. 19, 2012) ("*PPL Electric 2012 RD*"); *Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597, at p. 26 (Order entered Dec. 28, 2012) ("*PPL Electric 2012*"); *Aqua 2008*, at *20-26; *Pa. PUC v. Duquesne Light Co.*, 63 Pa. PUC 337, 1987 Pa. PUC LEXIS 342 (Order dated March 10, 1987); *Pa. PUC v. PPL Gas Utilities Corporation*, Docket No. R-00061398, 2007 Pa. PUC LEXIS 2 (Order entered Feb. 8, 2007); *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2008-2073938, 2008 Pa. PUC LEXIS 32 (Order dated Dec. 19, 2008). In these cases, and others, the Commission has established a bright line test for incentive compensation expense. If the incentive compensation programs of the utility are reasonable and provide a benefit to ratepayers, then they may be recovered in their entirety. *See, e.g., PPL Electric 2012*, p. 26.

3. The OCA's Proposal To Disallow DEI Incentive Compensation Costs Should Be Summarily Dismissed.

In addition to proposing to disallow incentive compensation costs related to financial metrics, OCA also proposes to disallow \$512,612 of incentive compensation related to fostering Diversity, Equity and Inclusion. OCA St. No. 2, p. 28. OCA witness argues that the DEI aspect of the incentive compensation program does not benefit ratepayers. OCA St. No. 2-SR, p. 17.

OCA's proposed disallowance of DEI incentive costs should be strongly rebuffed and denied. It is clear that promoting DEI is quite important to the Commission. On February 1, 2024, the Commission entered an Order revising its Diversity Policy Statement. Diversity Policy Statement Revision of 52 Pa. Code §§ 69.801-69.807; Docket No. M-2023-3038267. Therein, the Commission expanded the application of its Diversity Policy Statement. In the Order, the Commission stated on page 2:

Diversity is an economic reality that public utilities should include in their corporate strategies now and in the future, and they should associate diversity with their business objectives and strategies.

This is exactly what the Company is doing by including DEI goals in its incentive compensation plan.

Likewise, Commissioner Zerfuss, in her August 3, 2023, statement provided with the Commission's initial proposed amendments to the Policy Statement, Zerfuss stated:

The utilities' diversity programs impact and strengthen the relationships between utilities and the customers that live and work in their communities and, ultimately, the way customers are served.

Statement of Commissioner Kathryn L. Zerfuss, Docket No. M-2023-3038217.

Mr. Wachter explained that the Company's DEI program is designed to accomplish the same objectives stated by Commissioner Zerfuss. Mr. Wachter stated:

Our diversity goals were established to promote a workforce that matches the diversity of our customer base and to promote diversity

in our procurement practices. By aligning our workforce to our customer base, it enables our employees to better respond to the needs of those communities.

Peoples St. No. 2-RJ, p. 9, lines 12-15.

The DEI incentive compensation goals are clearly aligned with the Commission's diversity goals and clearly benefit customers.

Somewhat ironically, OCA submitted comments in the Diversity Policy Statement proceeding indicating that it supported the Commission's policy goals and that promoting diversity benefits customers. *See* Peoples St. No. 2-R, p. 24. Now OCA proposes to disallow costs that encourage implementation of DEI goals. The ALJ and the Commission should not accept OCA's proposed disallowance of DEI incentive compensation costs.

H. EMPLOYEE EXPENSES

In this proceeding, Peoples included \$221,500 of expense for Employee Service and Safety Awards and \$32,937 for Employee Events. The Company provides Service Awards that reward employees for their commitment to the Company. Peoples St. No. 2-R, p. 28. These awards were reinstated to address employee dissatisfaction and are intended to encourage employees to continue their tenure at the Company. The Company also has a Safety Program and provides employees the opportunity to receive Safety Awards for not incurring OSHA injuries and not getting into motor vehicle accidents. Peoples St. No. 2-R, p. 29. These awards are a reminder for employees and encourage them to work safely which saves the Company and customers money.

The Company also incurs costs for employee events including employee gatherings, the Special Olympics Polar Event and team lunches. Peoples St. No. 2-R, pp. 29-30. These events promote employee camaraderie and engagement, which benefits customers through employee retention and reduced absenteeism, among other things. Peoples St. No. 2-R, p. 30.

OCA proposes to disallow the Employee Service and Safety Awards of \$221,500 and the Employee events of \$32,937. OCA St. No. 2, p. 33. OCA witness Mugrace argues that these costs do not benefit ratepayers. OCA St. No. 2, p. 33; OCA St. No. 2-SR, p. 20.

OCA does not recognize the benefits of encouraging employees to remain with the Company and to perform their duties safely. OCA also does not recognize the benefits of promoting employee unity and camaraderie. The OCA's proposal to disallow these expenses is contrary to Commission precedent and should be denied. The Employee Service and Safety Awards and Employee Event costs are an integral part of the Company's employee recognition and engagement program. Peoples St. No. 2-R, p. 30. In *UGI Electric, Inc. - Electric Division's ("UGI Electric") 2017 base rate proceeding*, the Commission allowed employee expenses that involved an element of employee recognition. *PA PUC v. UGI Electric*, Docket No. R-2017-2640058, Order entered October 25, 2018, pp. 70-71.

I. MATERIALS AND SUPPLIES

The Company made two separate adjustments to Materials and Supplies in this proceeding. First, the Company applied a five-year average increase adjustment which is addressed in Section VI (C) above. Second, the Company included a \$49,932 increase related to the expected increase in average cost per fault, higher number of faults expected and higher cost of anodes recently experienced. Peoples St. No. 2-R, p. 43.

I&E did not oppose the Company's increase for materials and supplies. OCA, however, argued that the \$49,932 adjustment was inflationary and should be denied. OCA St. No. 2-SR, p. 24.

The ALJ and the Commission should not accept OCA's disallowances. This adjustment was made to a limited category of materials and supplies to reflect specific cost increases. It did not involve the application of a general inflation factor and should be approved. OCA once again

attempts to limit this case to HTY actual costs wherever possible instead of allowing reasonable FTY and FPFTY adjustments. 66 Pa. C.S. § 315(e).

J. PENSION EXPENSE

In this proceeding, the Company proposed to use a two-year average of pension expense to determine its claim in this proceeding. The Company's pension expense claim is \$5,760,000. Peoples Volume 1, Exhibit No. 4, Schedule No. 1, p. 10. The Company utilized a two-year average of contributions to reflect recent history after the Company was acquired by Essential. Peoples St. No. 2-R, p. 47.

Both I&E and OCA proposed adjustments to the Company's pension expense. I&E proposed to use a three-year average which reduced the Company's claim by \$1,286,888. I&E St. No. 1, p. 2. The Company noted that I&E's proposed adjustment was not unreasonable since it reflected the first three calendar years after the acquisition. However, the recent two-year history is still a better indicator of future contributions. Peoples St. No. 2-R, pp. 47-48.

OCA proposed using a five-year average of contributions to determine the future expense level. OCA St. No. 2-SR, p. 27. The OCA's adjustment reduces the Company's pension expense by \$2,802,416. Exhibit DM-SR-10. OCA's adjustment is unreasonable and should be denied. Peoples witness Wachter explained that the pension funding approach has changed since Peoples was acquired by Essential. This is clearly supported by the increased funding levels after the acquisition. This increase should be encouraged as prudent for both employees and customers. OCA's proposal to include the two-years prior to the acquisition is unreasonable given the demonstrated changes in funding practice.

K. PBOP EXPENSE

The Company accounts for PBOP expense on an accrual basis. Peoples deposits its PBOP rate allowance into a trust and amortizes the difference between the historic rate allowance and

actual expenses in future base rate case proceedings. Peoples St. No. 2, pp. 14-15. The Company's claim for the FPFTY is \$2,890,493, which includes \$1,256,374 of FPFTY net expense and an annual amortization amount of \$1,634,119 based on a two-year amortization of the prior period under-collection. Please note that these amounts reflect the revised amounts as explained in Section VI. A. above.

Both I&E and OCA proposed adjustments to the Company's claim. I&E proposed to amortize the undercollection over 53 months as opposed to two years which results in an expense reduction of \$417,689. I&E St. No. 1, pp. 13-14. OCA recommends a five-year average of PBOP expenses, as well as an adjustment related to OCA's vacancy adjustment. OCA St. No. 2-SR, p. 20. The effect of OCA's adjustment is to increase PBOP expense by \$148,250 over the Company's original claim. Exhibit DM-SR-10. The OCA does not reflect the update made by the Company in rebuttal testimony, so the OCA's adjustment is actually a decrease of \$328,2902 from the Company's updated claim (\$2,890,493 - \$2,562,291).

The Company's amortization period is based upon the time period that is expected to occur between future rate cases, as explained in Section VI (L) below. If the Company's claim is reduced to reflect a longer amortization period, which the Company disagrees with, then the amount to be tracked for future adjustments should include unamortized amounts should also be adjusted. Peoples St. No. 2-R, pp. 48-49.

L. RATE CASE EXPENSE

Peoples proposed to normalize rate case expense over a two-year period based on the estimated filing time between this case and the next case. Peoples St. No. 2-R, p. 45. As noted by Peoples witness Wachter, the Company anticipates spending over \$475 million and \$550 million under its LTIIP alone in calendar years 2026 and 2027, respectively. Peoples St. No. 2-R, p. 45. Mr. Wachter also prepared Exhibit No. APW-R-10 which demonstrated that even if the Company

received its entire requested rate increase in this case, the DSIC would provide insufficient revenue to cover LTIP expenditures during 2026 and 2027. Peoples St. No. 2-R, p. 45; Exhibit No. APW-R-10.

OCA and I&E both proposed to increase the normalization period of rate case expense based on the Company's rate case filing history. OCA witness Mgrace proposed a three-year normalization period based on the last five cases. OCA St. No. 2, p. 53. This reduces the Company's annual claim of \$1,031,000 by \$343,667 to \$687,333. OCA St. No. 2, p. 53.

I&E proposed a 53-month normalization period based on the timing between the Company's last three rate cases. I&E St. No. 1, p. 30. I&E's proposed adjustment reduces the Company's claim by \$564,132 to \$466,868. I&E St. No. 1, p. 29.

Neither OCA's nor I&E's adjustments should be accepted. Peoples witness Wachter explained that the historical time period between cases was affected by stay-out periods due to an acquisition and the election of the repair allowances. Peoples St. No. 2-R, pp. 44-45. Moreover, the most important factor to consider is when the next case will be filed. Mr. Wachter explained that in order to meet its LTIP requirements, the Company must file within a two-year period or it will experience insufficient revenues to provide an adequate revenue requirement. Peoples St. No. 2-R, p. 45.

In recent cases, the Commission has held that rate case expenses, like other expenses, can be based on future projections. In *UGI Electric*, the Commission adopted UGI's rate case normalization period based on future projections stating as follows:

4. Disposition

Based upon our review of the record established in this proceeding, we shall decline to adopt the ALJ's recommendation and shall grant UGI's Exception on this issue. This proceeding is premised on the FPPTY and the recognition that certain expenses may be based on

future expectations. Consistent with our determination in the *PPL 2012 Order*, the normalization period for rate case expense is one of those expenses. We agree with UGI that the ALJs did not properly consider the Company's planned acceleration of its capital expenditures in determining the appropriate normalization period.

The Company has shown that its Long-Term Infrastructure Improvement Plan (LTIIP) plan has significantly increased capital spending in order to repair, replace or improve qualifying distribution asset categories such as poles, underground and overhead conductor and transformers. Pursuant to its LTIIP, the Company will be spending over \$8 million per year on these capital projects in each of the years following the FPFTY, which over a three-year period would amount to \$24 million in capital expenditures. UGI has established that this \$24 million expenditure would approximate a \$3 million revenue requirement shortfall and would require the Company to seek relief pursuant to a base rate case. UGI St. 2-RJ at 4-5.

The record evidence supports a finding that a long period between rate base proceedings is highly unlikely and that the Company's proposed use of a three-year normalization period for rate case expense is appropriate. Accordingly, we shall adopt the proposed rate case expenses in the amount of \$676,000 and permit amortization of this expense over a three-year period, resulting in a normalized claim of \$225,000 per year.

UGI Electric at 59-60.

The Commission held the same in *PA PUC v. Citizens' Electric Company of Lewisburg*, PA, Docket No. R-2019-3008212, Order entered April 27, 2020 ("*Citizens' Electric*"), stating as follows:

We note further that this proceeding is premised on the use of a FPFTY and the recognition that certain expenses may be based on future expectations. Consistent with our determination in the *UGI Order*, the normalization period for rate case expense is one of those expenses. Thus, we may depart from the common practice of setting a normalization period based on historic filing frequency where substantial evidence exists to support a different normalization period. Such is the case here, where Citizens' has enumerated convincingly the reasons that support a shortened filing frequency cycle.

Citizens' Electric at 80.

In this case, Peoples has unequivocally demonstrated that using a two-year normalization period of rate case expenses is justified based on its LTIP expenditures alone. OCA and I&E have not provided substantial evidence to rebut the Company's claims regarding the expected filing date of its next base rate proceeding.

M. TRAVEL, MEALS AND ENTERTAINMENT EXPENSE

The Company proposed to recover \$1,014,712 of travel and entertainment expenses in this proceeding. The OCA proposed to disallow the five-year average increase amounts related to this claim totaling \$83,695. *See* OCA Exhibit DM-22 (\$40,947 + \$42,748). The five-year average increases are discussed in Section VI. C. above. The OCA also proposed to disallow an additional \$829,093 of the claim arguing that these programs do not benefit customers. OCA St. No. 2-SR, p. 21.

Mr. Wachter provided a detailed explanation of the expenses and why they are appropriate in a table on pp. 31-32 of Statement No. 2-R. This table is set forth below:

Description	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

Description	Amount	Reason for Inclusion
		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	

As demonstrated on the table, these are regular business expenses for travel, employee recognition and employee meals. These are normal, reasonable costs of doing business, and OCA’s proposed adjustments should be denied. *See UGI Electric at 70-71* allowing employee recognition costs; *see also PA PUC v. PECO Energy Company – Gas Division*, Docket No. R-2020-3018929, Order entered June 22, 2021, p. 101 allowing Travel, Meals and Entertainment Costs.

The Company’s claim for Travel, Meals and Entertainment expenses should be approved.

N. ADVERTISING EXPENSE

The Company’s claim for advertising expense in this proceeding is \$1,423,934. Peoples Volume 1, Exhibit No. 4, Schedule 1, p. 2, line 16. I&E proposes to reduce the Company’s advertising claim by \$1,370,197 to allow the Company to only recover advertising expenses of \$53,737. I&E St. No. 1, p. 23. I&E’s adjustment relates to removing sponsorships and sport advertising costs. I&E St. No. 1, p. 25. I&E argues that this type of advertising is representative of goodwill or promotional advertising that does not benefit customers. I&E St. No. 1, p. 26. I&E also argues that advertising at sporting events is not directly targeted to customers. I&E St. No. 1, pp. 25-26.³

³ OCA also proposes to disallow five-year average increases for advertising costs, which is addressed in Section C above.

The Public Utility Code expressly authorizes the recovery of advertising expenses which meet any of the following criteria:

- (1) Is required by law or regulation.
- (2) Is in support of the issuance, marketing or acquisition of securities or other forms of financing.
- (3) Encourages energy independence by promoting the wise development and use of domestic sources of coal, oil or natural gas and does not promote one method of generating electricity as preferable to other methods of generating electricity.
- (4) Provides important information to the public regarding safety, rate changes, means of reducing usage or bills, load management or energy conservation.
- (5) Provides a direct benefit to ratepayers.
- (6) Is for the promotion of community service or economic development.

66 Pa. C.S. § 1316(a).

All of the advertising expenses proposed to be disallowed by I&E meet at least one of the statutory criteria. Mr. Wachter provided the following table in his Rebuttal testimony:

Listing	Cost	Explanation
Project Hyde Park Safety Improvement	\$5,000	Peoples contributed to the Hyde Park Volunteer Fire Department located in Hyde Park, Pa. The donation was used to facilitate the improvement of the dock facility that Hyde Park VFD and other emergency service providers use to deploy personnel and equipment for river rescue efforts.
Marcellus Shale Coalition	\$15,000	Peoples collaborated with other Marcellus Shale Coalition members on the development of the web site Natural Gas for the Next Generation (www.natgasnextgen.com).
Mark-IM.com	\$318	Mark-IM is the vendor that operates our online company store for employees to purchase clothing with the Peoples logo.
Pennsylvania One Call System Inc	\$3,000	As a longtime partner with the Pennsylvania One Call System, Peoples was a sponsor of a local Safety Days event held for contractors in Western Pennsylvania, as well as the organization's annual golf outing. This support helps PA One Call in their mission to protect Pennsylvania residents from the dangers stemming from damage to underground utility lines, both in loss of utility service as well as risk of harm to persons or property.

Listing	Cost	Explanation
Pittsburgh Downtown Partnership	\$125,000	Peoples serves as the presenting sponsor of the annual Holiday Market organized by the Pittsburgh Downtown Partnership. This widely acclaimed community event is a major economic driver during the holiday season, supporting businesses of all sizes. Peoples utilizes the advertising elements that come with the sponsorship to drive awareness toward its Gift of Warmth program to help customers who are struggling to pay their bills, as well as other Customer Assistance Programs. The sponsorship also serves for general branding and awareness, conferring a level of credibility for the organization and generate more trust among our customer base that we are committed to support causes the improve quality of life for people in the region.
Tall Timber Group	\$2,490	Advertising in regional business trade publication BreakingGround
Allegheny Conference on Community	\$2,000	Sponsorship of Conference's Clean Energy Action Forum.
Carnegie Mellon University	\$1,500	Sponsorship of CMU Energy Week held by Wilton E. Scott Institute for Energy Innovation at Carnegie Mellon University
Lozinak Professional Baseball LLC	\$205,521	Peoples is the naming rights sponsor of the Altoona Curve minor league baseball team. This includes numerous avenues for advertising, including through the team's website, printed programs, and various signage and awareness opportunities at the ballpark. Peoples utilized this for important safety messages including Damage Prevention (Call 811 Before You Dig) and How to Detect a Natural Gas Leak. Peoples also leveraged the sponsorship for customer appreciation actions including tickets to a Curve game for Blair County residents, promoting the benefits of natural gas service to prospective new customers, and general awareness.
Pittsburgh Penguins LP	\$69,979	During the 2022 and 2023 National Hockey League Seasons, Peoples was an in-game sponsor of the Pittsburgh Penguins. Through this partnership, Peoples communicated important natural gas safety messages to attendees of Penguins games, primarily around Carbon Monoxide safety and awareness. The sponsorship also served for general awareness, as being associated with a major professional sports team confers a level of credibility for the organization and generate more trust among our customer base.

Listing	Cost	Explanation
Pittsburgh Pirates	\$37,370	During the 2022 Major League Baseball Season, Peoples was an in-game sponsor of the Pittsburgh Pirates. Through this partnership, Peoples communicated important natural gas safety messages to attendees of Pirates games, primarily around Damage Prevention (Call 811 Before You Dig), as that is a prominent safety campaign during the baseball season. The sponsorship also served for general awareness, as being associated with a major professional sports team confers a level of credibility for the organization and generate more trust among our customer base.
Pittsburgh Steelers LLC	\$852,193	During the 2022 and 2023 National Football League Seasons, Peoples was an in-game sponsor of the Pittsburgh Steelers. Through this partnership, Peoples communicated important natural gas safety messages to attendees of Steelers games, primarily around overall Natural Gas Safety (How to Detect a Natural Gas Leak through Sight, Smell and Sound). The sponsorship also served for general awareness, as being associated with a major professional sports team confers a level of credibility for the organization and generate more trust among our customer base.
Brand Makers LLC	\$14,020	Promotional products used as giveaways at a variety of public, industry and internal events to increase engagement.
Capital Analytics Associates	\$5,500	Sponsorship of Invest Pittsburgh 2023 Conference
First Choice Telephone Answering Service	\$225	First Choice is the operator of our media hotline, answering calls 24/7/365 that may come in from members of the media and contacting the company's on-call Media Relations representative, who then gathers information and responds to the media inquiry.
J Mac Cycling LLC	\$500	Peoples employee is part of a small cycling team, J Mac Cycling. We sponsored his team and in exchange, the Peoples logo is placed on the cycling team's uniforms.
Lakemont Park	\$1,000	Peoples served as a sponsor for Lakemont's Holiday Lights on the Lake event in both 2022 and 2023. Our logo was included in promotional materials for the event both online and on-site.
Local Government Academy	\$1,200	Peoples sponsored The Annual Promoting Excellence in Local Government Golf Outing, held by Local Government Academy. The organization provides municipal governments with education resources, and the outing specifically supports the Michael Lynch Scholarship Foundation.
Mark-IM.com	\$24,838	For the purchase of clothing with the company logo on it, worn by staff while working in the field as well as during company volunteer events. Branded clothing, when paired with ID badges, helps ensure customers that our employees are who they claim to be, providing important peace of mind. Having employees wear apparel with the Peoples logo also brings visibility to the company, which is valuable whether in community service or professional functions.

Listing	Cost	Explanation
PA Mobile AG Lab	\$2,000	Peoples sponsored the Pennsylvania Mobile Agriculture Lab at the Butler County Farm Show. Peoples logo featured on Lab signage and transportation at the show.
Rapps Packaging	\$1,543	Labels for Peoples' Eat Drink Help (EDH) community program. Through EDH, Peoples partners with a small business and a local charity. Peoples provides 1,000 labels to create awareness for all 3 entities, which are placed on the business' products. Once the supply of labels is exhausted, Peoples makes a \$1,000 donation to the charity on behalf of the company and participating small business. In 2024, EDH will reach and exceed the milestone of \$200,000 donated to local community causes since the program's start in 2016.
Total	\$1,370,197	

The sports sponsorship expenses, which are the largest of the expenses, all provide for advertising for safety messaging, e-billing, low-income customer programs and community development which meet subsections (4) and (6) of 66 Pa. C.S. § 1316(a). *See* Peoples St. No. 2-R, pp. 38-43. The Company’s advertising expenses meet the statutory criteria and should be approved.

O. COMPANY MEMBERSHIPS

The Company is a member of certain organizations which assist it in operating efficiently and maintaining awareness of regulatory trends and issues. These organizations include the Energy Association of Pennsylvania, Curate Solutions, Pittsburgh Area Chamber of Commerce, Chamber of Commerce of Greater Philadelphia, and Women’s National Business Enterprise Council. Peoples St. No. 2-R, pp. 33-34.

I&E did not oppose recovery of these costs. The OCA proposes to disallow the Company’s expenses for all of these memberships, totaling \$212,202. The largest of these expenses is for the Energy Association of PA at \$168,522.

The OCA’s proposed disallowance of Company memberships, especially the Energy Association, is completely unreasonable. Almost all utilities in Pennsylvania are part of the Energy Association. It collaborates on issues before the Commission, providing a common

response on policy issues such as new regulations. Peoples St. No. 2-R, p. 33. This creates considerable efficiencies for all utilities, by avoiding multiple individual filings for many issues.

Curate Solutions helps companies keep track of legislative changes within cities, counties and school districts, which is a necessary service. The Chambers of Commerce foster economic development for the Company's customers. Likewise, the Women's Business Enterprise Council supports the Company's and supply chains' diversity efforts. Peoples St. NO. 2-R, pp. 33-34. Those memberships benefit customers and the Company's membership costs should be approved.

P. OUTSIDE SERVICES

The Company has three categories of outside services costs: Outside Services – Contracted, Outside Services – IT, and Outside Services – AG. In their Direct testimonies, I&E and OCA proposed to remove certain Outside Services costs. In Surrebuttal, I&E withdrew all of its adjustments and accepted the Company's claims. Also in Surrebuttal, OCA withdrew all of its adjustments except for the ones related to the five-year average annual increased which are discussed in Section C above. *See* Peoples St. No. 2-RJ, pp. 17-18.

Q. OTHER O&M EXPENSE

In Direct testimony, OCA made an adjustment to other O&M proposing to disallow incentive compensation costs that are allocated from Essential to Peoples in the amount of \$885,507. OCA St. No. 2, p. 49. Mr. Mugrace states that these costs relate to the financial performance metrics of the incentive compensation plan and that they should be denied for the same reasons he states for denying the STIP financial metric-related costs.

OCA's proposed adjustment to other O&M related to the allocation of incentive compensation costs to Peoples should be denied for the same reasons as OCA's proposed STIP disallowance explained in Section VII G above.

R. PAYMENT PROCESSING

In this proceeding, Peoples proposed to recover payment processing costs for PGD customers in base rates instead of charging customers directly, Peoples already does this for PNGD customers. In order to recover costs for extending this service to PGD customers, the Company proposed three adjustments:

\$124,419 to extend the service to PGD;

\$256,185 to adjust for the historic percentage increase for additional adoption of the service;

\$183,256 increase in service costs for a new contract beginning February 2023.

Peoples St. No. 2-R, pp. 53-54.

OCA proposes to reduce the \$256,185 and the \$183,256 increases by 50%. OCA St. No. 2, p. 52. OCA provides no basis to support the 50% adjustment except for the unsupported statement that the Company's costs are speculative. OCA St. No. 2, p. 52. OCA also now states, when its convenient, in contrast to their position on rate case expense, that the Company will be on a 2-year rate case cycle, and, therefore, the Company will have a better sense of its costs in the next rate case. OCA St. No. 2, p. 56.

There are many problems with OCA's arguments. First, the OCA provided no support for its 50% adjustment—the number is simply made up. On the other hand, the Company provided a reasonable basis for its projected costs based on the historical increase in adoption rates at PNGD. Peoples St. No. 2-R, p. 55. The Company also provided support for its 10% estimated increase in contract costs. Peoples St. No. 2-R, p. 55.

In addition, OCA's statement that the Company will be on a two-year rate case cycle, while is correct, provides no support for its adjustment. When the Company files its next case, it will not be able to retroactively recover lost costs due to OCA's adjustment.

In addition, OCA's acceptance of the Company's two-year rate case cycle provides additional support for the Company's two-year normalization of rate case expenses.

S. UNCOLLECTIBLE ACCOUNTS EXPENSE

Both OCA and I&E adjust uncollectible accounts expense based on the other adjustments. As noted here, the Company does not agree with these adjustments. However, the Company does agree that the final level of uncollectible accounts expense should be calculated based on the rate increase that is ultimately approved in this proceeding. Peoples St. No. 2-R, p. 56.

VII. TAXES

A. INCOME TAXES

There are no disputed issues as to income taxes. All adjustments to claimed income taxes are the result of proposed adjustments to other components of the revenue requirement. However, there are several important elements of the revenue requirement that are affected by income taxes. This concerns the effects of the Tax Cuts and Jobs Act ("TCJA"), the Company's election to deduct certain repairs to facilities as expenses on federal tax returns ("Repairs Deductions"), and annual reductions to state corporate net income tax rates. Peoples witness Wachter provides an explanation of these matters in his direct testimony. Peoples St. No. 2, pp. 28-37.

With regard to the effects of the TCJA, Mr. Wachter explains that the PNG Division has provided customers with all of the benefits back to the effective date of the TCJA, as directed by the Commission, and that the ongoing benefits are reflected in the revenue requirement in this proceeding. As to the PG Division, the benefits are currently reflected in a temporary credit under the TCJA Temporary Surcharge Rider including the benefits from the effective date of the TCJA (Jan. 1, 2018) to the implementation of the surcharge (June 30, 2018). Mr. Wachter also explains that ongoing benefits of the TCJA for the PG Division are reflected in the tax calculation in this

proceeding in Exhibit. No. 7, which is sponsored by Ms. Saball. The TCJA will remain in effect for 12 months solely to address over or under collections and will apply only to PG Division customers. Any further adjustments resulting from a remaining balance will be addressed in the Company's next Section 1307(f) proceeding. Peoples St. No. 2, p. 30.

With regard to the Repairs Deductions, there are two primary components. One is the catch-up deduction that is provided for years prior to the election. As to this component, the PNG Division has previously agreed to provide these benefits to customers through a five-year Tax Repair Surcredit. The Company made various tax accounting method changes subsequent to this agreement, including the repairs election for the PG Division before it was merged with PNG, mandatory relocations, and currently, the adoption of the natural gas safe harbor. The Company has proposed in this case that the 481(a) adjustments associated with these tax accounting method changes be combined with the PNG Division catch up and provided to all customers over 10 years. In addition, the amount to be provided is adjusted for overstatements of state tax benefits that did not materialize due to reduced state tax rates. Peoples St. No. 2, pp. 31 to 36. No Party has opposed this proposal.

The second component of the Repairs Deductions is the prospective effect of significant additional income tax reductions on an ongoing basis that are provided through the revenue requirement and reduce federal and state income tax claims. As requested by Parties in previous proceedings, the Company has proposed a collar around the projected deductions and proposed to record a regulatory liability or asset for amounts outside that collar to be returned or recovered from customers in a future proceeding. Peoples St. No. 2, pp. 36-37; Peoples St. No. 6, pp. 13-18. No Party has opposed the estimated Repairs Deductions or the proposed collar.

B. TAXES OTHER THAN INCOME TAXES

I&E and OCA proposed adjustments to Taxes Other Than Income Taxes to reflect their other adjustments. The Company disagrees with their adjustments but agrees that Taxes Other Than Income Taxes should be adjusted to reflect the final rate allowance.

OCA witness Mugrace also made an error with respect to calculating property tax because the plant in service he proposed to disallow is not subject to property tax in Pennsylvania. *See* Peoples St. No. 10-R, p. 4. Mr. Mugrace's erroneous calculation should not be accepted.

VIII. RATE OF RETURN

A. INTRODUCTION

Peoples' witness Moul explained the standards of establishing a fair rate of return:

“The Commission’s rate of return allowance must be set to cover the Company’s interest and dividend payments, provides a reasonable level of earnings retention, produce an adequate level of internally generate funds to meet capital requirements, be commensurate with the risk to which to the Company’s capital is exposed, assure confidence in the financial integrity of the Company, support reasonable credit quality, and allow the Company to raise capital on reasonable terms. The return that I propose fulfills these established standards of a fair rate of return set forth by the landmark Bluefield and Hope cases.⁴ That is to say, my proposed rate of return is commensurate with returns available on investments having corresponding risks.”

As explained earlier in this brief, Peoples is replacing very large amounts of its aging pipeline and related facilities. As noted by Mr. Moul, the Company plans to make capital investments in excess of \$3 billion over the period 2024 through 2028. These expenditures will be 108% of the Company’s net utility plant at December 31, 2022. Peoples St. No. 13, p. 13. Peoples

⁴ *Bluefield Water Works & Improvement Co. v. P.S.C. of West Virginia*, 262 U.S. 679 (1923) and *F.P.C. v. Hope Natural Gas Co.*, 320 U.S. 591 (1944).

must be permitted an opportunity to earn a rate of return that will allow it to raise this capital at reasonable costs in all market circumstances to continue to fund these investments.

The record in this case clearly establishes that the cost of capital, both debt and equity, has increased due to recent and continuing inflation and significantly higher interest rates. These increased costs should be reflected in establishing the rate of return in this proceeding.

The circumstances of elevated inflation and higher interest rates make it important that the DCF method of determining the cost of equity not be used exclusively. Other methods that are based on projected interest rates, such as the CAPM and the Risk Premium method, directly reflect these effects. Peoples St. No. 13-R, p. 8-9. In this regard, the Commission has recently considered both the DCF and CAPM results in arriving at the cost of equity. *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.* – Docket Nos. R-2020-3018835, *et al.* (Opinion and Order entered Feb. 19, 2021); *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket Nos. R-2017-2640058, *et al.* (Order entered Oct. 2, 2018). Peoples supports this approach. In this regard, an average of I&E witness Spadaccio’s DCF result (9.96%) and CAPM result (10.91%) would yield a minimum ROE of 10.44%. I&E St No. 2, pp. 28, 32. Peoples witness Moul’s simple DCF results of 10.47% confirms this result. Peoples St. No. 13, p. 32⁵

B. CAPITAL STRUCTURE

Peoples witness Moul explained the Peoples capital structure should reflect the projected amounts of debt (45.33%) and equity (54.67%) at September 30, 2025, the end of the FPFTY in this case. Peoples St. No. 13, p 22.

⁵ These cost rates are above the current 10.15% maximum actual earnings rate to charge the DSIC. An actual earned rate provided by the DSIC should not be considered a cap on the ROE allowed in a rate case in determining base rates, because the Company only is given an opportunity to earn that ROE.

“These capital structure ratios are the best approximation of the mix of capital the Company will employ to finance its rate base during the period new rates are in effect.”

I&E witness Spadaccio supports Mr. Moul’s recommendation, agreeing with Mr. Moul that these are the capital ratios that Peoples will employ. I&E Statement No. 2, p. 11.

In contrast, OCA Witness Rothschild proposes a hypothetical capital structure of 50% debt and 50% equity based upon an average of the capital structure ratios of his limited barometer group of gas companies. OCA St. No. 3, p. 78.

As both Mr. Moul and Mr. Spadaccio have explained, Mr. Rothschild has not demonstrated that Peoples capital structure ratio is outside the range of capital structures employed by barometer group companies. As a result, Mr. Rothschild did not establish that Peoples’ actual capital structure is abnormal. Mr. Spadaccio and Mr. Moul also note the Commission’s practice and decisions that reject the use of a hypothetical capital structure in these circumstances. I&E St. No. 2-SR pp. 5-7; Peoples St. No. 13-R, p. 11. *See also Pa PUC v. Columbia Water*, Docket No R- 2023-3040258, p. 83 (January 18, 2024) approving a 63.34% equity ratio; *Pa PUC v. UGI*, Docket No. R-2017-2460058 (October 25, 2018) approving a 54.02% equity ratio.

Peoples’ use of an equity ratio that is within the barometer group average is also justified by its higher level of risk, as compared to the barometer group, created by potential bypass of its customers by other gas suppliers and multiple interstate pipelines in western Pennsylvania and the use of other alternative fuels. Peoples St. No. 13, p. 20-21.

Adoption of OCA’s a hypothetical capital structure would be contrary to the Commission’s consistent decisions and would prevent the Company from earning a return on the actual capital that will bill be employed. OCA’s proposal should be rejected.

C. DEBT COST RATE

The determination of the embedded cost of date of 4.37%, reflecting the estimated of an additional \$378 million of debt in the FTY and FPFTY, is explained by Peoples witness Moul. Peoples St. No. 13, pp. 22-23.

There is no dispute with regard to the cost of debt.

D. RETURN ON COMMON EQUITY

1. Barometer Group

Peoples' barometer group contains seven gas companies. I&E's barometer group removes Southwest Gas on the basis that 50% of Southwest Gas' revenues are not derived from utility operations. Peoples witness Moul has demonstrated that 99% of the income of Southwest Gas is from regulated operations and 67% of the assets are utility assets. Peoples St 13-R, pp. 12-13. In addition, the Commission uses the same Barometer Group employed by Peoples witness Moul in determining the DSIC earnings cap. Quarterly Earnings Report (Docket No. R-2023-3044811 for year ended September 30, 2023; public meeting January 18, 2024.) Peoples St. No. 13-R, p. 13

Clearly, the exclusion of Southwest Gas is unjustified and, as explained in the DCF section of this main brief, results in an understatement of I&E's DCF growth rate.

2. DCF

The DCF method of determining the cost of equity is used widely by the Commission and other regulatory bodies. Peoples witness Moul and I&E both used the standard formula of the model which combines an observed dividend yield and a projected growth rate in earnings based on analysts' projections, as shown below:

	ROE	=	Dividend Yield	+	Growth Rate
Peoples DCF ⁶	10.47%	=	3.72%	+	6.75%
I&E DCF ⁷	9.96%	=	4.05%	+	5.91%

The primary difference between these applications of the standard DCF model is I&E witness's lower projected growth rate. I&E inappropriately excluded Southwest Gas from the Barometer Group, even though Southwest Gas is used by the Commission in its DSIC return calculation. Reference to Peoples Witness Moul's Ex. No. PRM-1, Sched. 9 shows that the projected growth rate for Southwest Gas is 6.33%, well above I&E's projected growth rate of 5.91%. I&E witness Spadaccio's growth rate is understated. Accordingly, the standard DCF cost rate of 10.47% provided by Mr. Moul should be considered the low end of the range of equity cost rates in this proceeding.⁸⁹

OCA Witness Rothschild also calculated equity cost rates using a DCF model, which results in a cost rate range of 8.06% to 8.09%. Mr. Rothschild uses a retention growth model, which he admits the Commission has never used. In addition, he rejects the Commission's use of analysts' projections to determine the DCF growth rate. OCA St. No. 3-SR, p. 12-13. Mr. Rothschild's proposed shift in the Commission's practice of calculating the ROE using the DCF model and the dramatic reductions in the equity cost rate of 200 plus basis points that he presents are unreasonable. Further, these changes are proposed in a period of higher inflation and higher interest rates when capital costs have risen. These changes, if adopted, would shock capital

⁶ Peoples St. No. 13, p 32

⁷ I&E St. No. 2, p 28

⁸ Mr. Moul also calculated a DCF result of 11.88%, which included a 1.41% increase in the rate for a "Leverage adjustment, explained in his direct testimony." Peoples St. No. 13, pp. 33-38

⁹ Average of Value Line (10%), IBES (4.0%) and Zacks (5.0%) projected earnings growth rates.

markets at a time when Peoples is continuing major pipeline infrastructure investments, and would impair the Company's ability to raise capital at reasonable costs.

Mr. Moul explained in his rebuttal testimony the many errors of Mr. Rothschild's analysis. In particular, Mr. Rothschild admits he adjusted his calculated retention growth rates downward based on his belief that stock prices above book value indicate returns in excess of the cost of equity. OCA St. No. 3-R, p. 16-18. As explained by Mr. Moul, these propositions are erroneous. Peoples St. No. 13-R, pp. 24-25.¹⁰ As Mr. Moul explained, nearly all stocks sell at market prices above book value, Mr. Rothschild's premise would mean that nearly all companies earn more than the cost of capital. And, even if that were true, Peoples would still have to compete in the market for capital. The Commission has rejected the contention that ROEs should be reduced to lower utility stock prices. *Pa. PUC v. York Water Company*, 1986 Pa. PUC LEXIS 22, 103 n. 24. Docket No. R-850268, 79 PUR 4th 332 (Opinion and Order Nov. 25, 1986) (rejecting the proposition that it is the Commission's responsibility to reduce ROEs to converge market prices of utility stocks to book value); *see also Pa. PUC v. Phila. Suburban Water Co.*, Docket Nos. R-911892, *et al.* 1991 Pa. PUC LEXIS 206 ** 135-136 (Opinion and Order entered Oct. 18, 1991).

Finally, Mr. Rothschild provides no credible evidence that investors use his method for determining the DCF cost rate.

3. CAPM

As noted in Section VII A *supra*, the Commission has appropriately used the CAPM method as an input to ROE determinations. As quoted by Mr. Moul in his rebuttal testimony:

“Again, the Commission recognized the need for additional methods in its decision *Columbia Water*. In *Aqua 2022*, the Commission determined the ROE by using informed judgment based on I&E's DCF and CAPM methodologies. We concluded that methodologies other than the DCF can be used as a check upon the reasonableness

¹⁰ Average Value Line (10%), IBES (4.0%) and Zacks (5.0%) projected growth rates.

of the DCF derived ROE calculation. We historically have primarily relied and utilized the results of the CAPM, as a check upon the reasonableness of the DCF derived equity return. As such, where evidence based on other methods suggests that the DCF-only results may understate the utility's ROE, we will consider those other methods, to some degree, in determining the appropriate range of reasonableness for our ROE determination."¹¹

The use of CAPM is important because it reflects the recent and continuing increased inflation and higher interest rates that are not directly reflected in the DCF.

Mr. Moul provided a CAPM analysis under the standard CAPM approach, which indicates a CAPM result of 12.07%. Peoples St. No. 13, p, 47¹²

Mr. Moul identified certain flaws in Mr. Spadaccio's CAPM. In particular, in deriving the projected risk-free rate Mr. Spadaccio gave the same weight for one quarter of 2024 as he does for 5 years of projected data. Adjustment of this error would increase the risk-free rate by 20 basis points and increase his CAPM result from 10.91% to 11.11%. Peoples St No. 13-R, pp 37 – 38.¹³ Clearly, the CAPM results indicate that the DCF results do not fully reflect the equity cost rate under current and projected circumstances. A reasonable cost of equity range is therefore 10.47% to 11.11%, using Mr. Moul's standard DCF and Mr. Spadaccio's CAPM result as adjusted for a more reasonable risk- free rate.

4. Risk Premium

Peoples witness Moul also provided an estimate of the cost of equity using the Risk Premium method. This method is based on the principle that the cost of equity is higher than the cost of debt because equity holders do not receive any return until all interest on debt is paid. Accordingly, equity holders assume higher risk and require a higher return. Mr. Moul's Risk

¹¹ *PA PUC v. Columbia Water*, R-2023-3040258, (Order entered Jan. 18, 2024) at p. 108.

¹² I&E witness Spadaccio calculated a standard CAPM result of 10.91%

¹³ Mr. Moul also identified other adjustments including use of 30-year treasures instead of 10- years and addition of a size adjustment. St No. 13-R

Premium analysis indicates a cost of equity of 11.5% based on prospective utility. A rated bond yields of 5.00% and a market Risk Premium of 6.50%. Peoples St. No. 13, pp. 38-42.

No other party presented a Risk Premium analysis. While the Commission has not used this analysis recently, it is useful because it directly reflects a prospective bond yields in market with higher interest rates and the expected market equity premium. At a minimum, the Risk Premium method demonstrates that the equity cost rates have increased with higher inflation and increased bond yields.

5. Comparable Earnings

Peoples witness Moul also provided a comparable earnings analysis of similar risk non-utility entities, excluding entities with higher earning rates. This method is used to consider the standard in Bluefield that utilities should be permitted an opportunity to earn returns comparable to non-utility companies, which have similar risks. Mr. Moul's comparable earnings analysis produces a cost of equity of 12.07%. Peoples St. No. 13, pp. 47-50. No other witness prepared a comparable earnings analysis.

6. Management Performance

Peoples requested in its testimony that the Commission provide a management performance increment of up to 0.25% in deciding the equity cost rate to be used in setting rates in this proceeding. To be clear, any management performance would be within the range of equity cost rates determined by the ALJ and the Commission.

OCA witness Alexander argues that utilities should not receive a management performance adjustment for providing reasonable service. OCA St. No. 5, p. 32. However, neither the Public Utility Code nor the Commission's decisions support this contention.

Section 523 a. of the Public Utility Code provides, in part as follows:

“a. Considerations- The commission should consider, in addition to all other relevant evidence of record, the efficiency, effectiveness and adequacy of service of each utility when determining just and reasonable rates under this title.”

66 Pa.C.S. Section 523a.

This statutory provision clearly focuses on the Company’s service, the costs of which are to be included in base rates set under Section 1308 of the Public Utility Code in this proceeding. Accordingly, the analysis of the permissible management performance allowance is clearly focused on services provided to customers. In addition, Section 523 b. provides that:

“...the commission shall set forth criteria by which it will evaluate future fixed utility performance of a fixed utility in assessing the performance of a fixed utility in accordance with subsection (a).”

66 Pa. C.S. Section 523b.

The primary criteria for which the Commission requires reports concern customer service metrics and safety measures. The record in this proceeding demonstrates that Peoples has provided exemplary performance in these categories as compared to other Pennsylvania gas distribution utilities.

Peoples witness Huwar explains the many ways that the Company has improved the safety and reliability of its pipeline systems. In this regard, the Company has significantly reduced leaks in its pipelines. Peoples St. No. 1, p. 19. Mr. Huwar also explained how management has consolidated the operations of the Peoples Natural, Equitable, and Peoples Gas systems, which has produced efficiencies that reduce costs. Peoples St. No. 1, pp. 8-14. The ability of the Company to avoid increasing base rates to customers for approximately five years from its last base rate case during a period of extensive investment demonstrates these efficiencies. Peoples St. No. 1, p. 3.

The Company also has demonstrated that its customer service statistics are at or near the top of the range for Pennsylvania gas distribution companies. Peoples St. No. 1, pp. 16-19.

Clearly, continuing increases in safe and reliable services, efficiencies, and customer service at the high end of the range justifies some recognition of the Company.

E. CONCLUSION AS RATE OF RETURN

The rate of return is derived by applying the actual capital structure rates to the debt and equity cost rates to determine the weighted costs of debt and equity, which are added to produce the rate of return. The evidence in this proceeding fully supports the Company's capital structure at 45.33% debt and 54.67% equity, a debt cost rate of 4.37% and an equity cost rate between 10.47% and 11.11%, after consideration of an increment for high levels of management performance.

IX. REVENUE ALLOCATION AND RATE DESIGN

A. INTRODUCTION

As is often stated, cost allocation studies require a considerable amount of judgment and are often described as more of an accounting/engineering art rather than science. *Application of Metropolitan Edison Co.*, R-00974008 (Order dated June 30, 1998); *Pa. P.U.C. v. Pennsylvania Power & Light Co.*, 55 PUR 4th 185 (Order dated Aug. 19, 1983). In this proceeding, Peoples presented two costs of service studies ("COSS"), a Peak and Average ("P&A) COSS and a Minimum System/Design Day COSS; I&E and OCA support a P&A COSS that does not allocate any cost of mains on a customer basis; OSBA supports a modified Customer/Demand COSS with a zero intercept method to determine the customer component of mains and PII supports the Company's proposed Minimum System/Design Day COSS. These studies are designed to identify class costs to assist in developing revenue requirement allocations to the customer classes. As explained in more detail below: the primary difference between these methodologies is how to allocate distribution mains costs.

The revenue requirement allocation under the Non-Unanimous Settlement reflects a balance of the litigation positions of all of the parties' revenue allocation proposals and should be approved. The revenue allocation first averages the surrebuttal positions of OCA/I&E, OSBA, and the Company. Then the allocation shifts approximately \$1.4 million from SGS to MGS in order to mitigate system average increases for SGS customers. Finally, the allocation reduces the LGS class allocation by the revenue changes in the Present Revenue Stipulation to account for the LGS revenues that were inadvertently excluded from the filing. Settlement ¶ 62.

The revenue allocation under the Non-Unanimous Settlement reflects a compromise of all parties' positions, including OCA's proposed revenue allocation. The revenue allocation carefully considers the impacts to all of the classes and in also considers the impacts of combining rates for Peoples customers of the two separate divisions which was extremely complicated. If the ALJ or the Commission do not approve the revenue increase under the Non-Unanimous Settlement, the Company requests that the revenue allocation in the Settlement be proportionally scaled back to minimize potential disparate impacts between the two divisions.

B. COST OF SERVICE

1. Overview of the Law

Cost of service is the "polestar" of utility rates. *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006) *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007) ("*Lloyd*"). While other factors, such as gradualism, may be considered, these factors are not permitted to trump cost of service as the primary basis for allocating the revenue increase. *Id.* at 1020-21. Consistent with the Commonwealth Court's directive in *Lloyd*, a proposed revenue allocation will only be found to be reasonable where it moves distribution rates for each class closer to the full cost of providing service. *Pa. Publ. Util. Cmm'n, et al. v. PPL Electric Utilities Corporation*, Docket Nos. R-00049255, et al., 2007 Pa. PUC LEXIS 55 (Order on Remand entered July 25, 2007).

Even prior to *Lloyd*, Pennsylvania appellate courts recognized the importance of properly allocating a proposed revenue increase among a utility's rate classes. In *Philadelphia Suburban Water Company v. Pa. Pub. Util. Comm'n.*, the court stated that:

In order for a rate differential to survive a challenge brought under Section 1304 of the Public Utility Code [bar against rate discrimination], the utility must show that the differential [different rates among the classes] can be justified by the difference in costs required to deliver service to each class. The rate cannot be illegally high for one class and illegally low for another.

808 A.2d 1044, 1060 (Pa. Cmwlth. 2002). Indeed, any significant departure from the results of a cost of service study requires the proponent to fully justify the deviation.

Although cost of service studies may appear to have great precision, the Commission has repeatedly recognized that the cost of service study is a guide to designing rates and is only one factor, albeit an important one, to be considered in the rate setting process. *See, e.g., Aqua 2008*, 2008 Pa. PUC LEXIS 50; *Pa. P.U.C. v. West Penn Power Co.*, Docket Nos. R-901609, et al., 1990 Pa. PUC LEXIS 142, 73 Pa. PUC 454, 119 P.U.R. 4th 110 (Order dated Dec. 13, 1990); *Pa. P.U.C. v. Pennsylvania Power & Light Co.*, 55 PUR 4th 185, 249 (Order dated Aug. 19, 1983).

2. The Parties Presented Multiple COSS In This Case.

As noted above, the Company provided two COSS in this case – a P&A and a Minimum System/Design Day COSS. OCA presented a P&A methodology with no customer component of mains; OSBA supported a modified customer/demand study which relies on a zero-intercept method to determine the customer component of costs; PII supports the Company's methodology with a different revenue allocation. I&E St. No. 3, pp. 21-29; OCA St. No. 4, pp. 19-22; OSBA St. No. 1, pp. 33-34. PII St. No. 1, pp. 8-10.

Many of the costs in these different COSS were allocated in the same way by the parties. The primary difference is if and/or how the parties allocated the distribution mains costs and should

a portion of those costs be allocated on a per customer basis. The Company, OSBA, and PII all believe that it is necessary to allocate a portion of distribution mains costs on a per customer basis. OCA and I&E do not agree with this position.

The Company strongly believes that in order to reflect cost causation a COSS must include a customer component of distribution mains and that the remaining costs should be allocated based on peak demand. This is completely consistent with how the distribution system is designed—to hook up customers and to meet peak demand. Company witness Zarumba stated as follows:

The minimum system approach is widely adopted in the industry and referenced in cost allocation manuals published by NARUC. The minimum system concept recognizes that a large portion of a gas utility's total cost of distribution mains must be borne regardless of customer's peak day or annual use. To illustrate this point, it is useful to summarize a gas utility's process for physically connecting new customers. To extend gas service to a typical residential subdivision, the utility must first design the gas system. Based on this design, the utility determines the length and size of pipe needed to serve the area and procures the necessary material. A field crew is then dispatched to the site, together with the facilities and equipment required to install the natural gas facilities. The activities necessary to install gas mains include digging a trench, installing the main into the trench, and backfilling the trench. Pipeline boring (i.e., a trenchless installation method) may be necessary to install some main segments if the utility is unable to open a trench for a portion of the line due to existing surface conditions along the route of the main. After the main is installed, it will be pressure tested, tied into the existing gas system, and purged and filled with natural gas. The main is then ready to provide utility service to the new customers. These steps are necessary regardless of how much gas the new customers are projected to use during the year or during a peak day. The design work must still be completed, the crews, materials, and equipment dispatched to the site, the trench dug, the main installed in the trench, the trench backfilled, testing performed, and the other activities performed.

Peoples St. No. 15-R, p. 28, line 13 – p. 29, line 8.

PII supports the Company's allocation of mains costs on a customer basis, stating:

In a similar manner to peak winter demand, if the number of customers increases, the Company may need to expand its distribution system investment. Thus, the number of customers connected to the distribution system is another important causative factor in distribution main investment.

This point can be illustrated with a simple example. Assume that there is a single industrial customer on People's system with a peak demand of 300 dekatherms ("Dt"). Further assume that elsewhere on the system, there is a neighborhood of 750 residential customers with a peak demand of 300 Dth. It is obvious that in order to connect all of those residential customers to its system, the Company will have to invest in far more footage of smaller distribution mains to serve 750 customers than it would have to invest to serve the one industrial customer. That extra investment in distribution mains is due solely to the number of customers on the system and is unrelated to the peak demands or volume usage of those customers.

To conclude this discussion, fixed costs that do not vary with consumption should not be classified as variable, or commodity-related, costs. This points to the fatal flaw in the peak-and-average approach to demand allocation.

PII St. No. 1, p. 8, line 22-p. 9, line 14.

OSBA also calculates a customer component of distribution mains, using a zero-intercept study. The Company agreed that a zero-intercept method is a recognized method for determining the customers component of distribution mains costs. Peoples St. No. 15-R, p. 30, lines 1-4.

After the customer component of distribution mains is determined for each COSS for the Company, PII and OSBA, the remaining costs are allocated based on peak demand. All parties in this case support allocating a portion of costs based upon peak demand.

OCA and I&E support the Peak & Average methodology, which allocates mains costs 50% to Peak Demand and 50% to Average Demand. OCA St. No. 4, p. 19. The problem with the P&A methodology is that none of the distribution system is designed to meet average demand.

Mr. Zarumba stated as follows with respect to whether "average demand" has any bearing on cost causation:

Q. WHY DOESN'T AVERAGE DEMAND (I.E., ANNUAL GAS THROUGHPUT VOLUMES DIVIDED BY 365) INFLUENCE THE OCCURRENCE OF DEMAND-RELATED COSTS?

- A. By sizing plant investment for peak period demands, the gas utility can satisfy its service obligation throughout the year. If a gas utility's system was sized and installed to accommodate average gas demands, it would be unable to accommodate system peak demands. From a gas engineering perspective, a peak demand design criterion is always utilized when designing a gas distribution system to accommodate the gas demand requirements of the customers served by that system. As such, cost causation with respect to demand related costs is unrelated to average demand characteristics.

Peoples St. No. 15, p. 18, line 7-line 16.

Mr. Zarumba is not alone in his position. Mr. Knecht states:

Perhaps the only conclusion that can be stated with absolute confidence is that gas distribution utilities cannot and do not size mains to meet average demand, because if they did so, their customers would freeze in the dark.

OSBA St. No. 1-S, p. 8, lines 2-4.

In recent cases, The Commission has not dictated a specific methodology for all NGDCs to use for COSS. In *PECO Gas*, the Commission stated:

In other words, the best-suited ACCOSS may depend on the circumstances of the situation on a case-by-case basis.

PECO Gas at 230-231.

C. REVENUE ALLOCATION

As explained above, the revenue allocation proposed with the Settlement averages the OCA/I&E position, the OSBA's position and the Company's position with certain adjustments to minimize disparate rate imports. Settlement ¶¶ 62-65. The average of those three methodologies provides considerable weight to the P&A methodology. The OCA/I&E allocation methodology is based entirely on P&A. The Company's methodology is 50% demand customers and 50% P&A.

In addition, the OSBAs methodology is 50% OSBA and 50% Company which translates to 25% demand customers and 25% P&A.

See the table below for an illustration:

OCA	100% P&A
Company	50% CD / 50% P&A
OSBA	50% OSBA / 25% CD / 25% P&A

The revenue allocation under the settlement is a reasonable compromise of all parties' positions and it mitigates potential disparate impacts associated with merging the rates. The Settlement revenues allocation should be approved.

D. RATE DESIGN

The Settlement Parties have developed rate design which is set forth in Appendix C to the Non-Unanimous Settlement. The rate design carefully considers impacts to each class for both the PNG and PG divisions in order to minimize disparate impacts.

The rate design also includes a compromise on the residential customer charges.

E. BILL IMPACTS

The bill impacts under the Settlement revenue increase are set forth as Appendix D to the Settlement.

F. SUMMARY AND ALTERNATIVES

The proposed revenue allocation and rate design under the Settlement are a reasonable compromise of all parties' positions, including OCA's position, and it should be approved. The rate design carefully considers the impacts on all classes when combining rates and ensures appropriate transitions in usage between classes.

X. WNA

A. SUMMARY OF THE WNA

Under the Non-Unanimous Settlement, I&E, OSBA, PIOGA, CAUSE-PA, and Task Force have all accepted or agreed not to oppose People's WNA, with modifications, as set forth below:

1. The Company will present the WNA charges or credit as a separate line item on customers' bills;
2. The WNA will include a 3% deadband;
3. The WNA will be performed on a bills rendered basis.
4. The WNA adjustment for bills rendered in May will not exceed 100% percent of the billed distribution amount (delivery charge amount plus customer charge amount) for that same period.
5. The Company will file an annual report with the Commission on or before September 1st for the 12-month period ending June of the same year. The filing will contain the following information on the WNA mechanism: a) monthly WNA billed revenue; b) monthly actual and normal HDD data; and c) number of customers and bill impacts by class (total amount of WNA adjustment as compared to total distribution amount) in billing periods where the NHDD/AHDD ratio exceeded 1.50.

See Non-Unanimous Settlement ¶¶ 69-74.

The Company's WNA, like other Commission-approved WNAs in Pennsylvania, adjusts customers' bills in heating months, October-May, to reflect the normalized weather HDD that are used to set revenues in this rate case. If the weather is more than 3% colder than normal, customers receive a reduction in their bills to better reflect the normalized HDD that were used to set rates in this base rate proceeding. If weather is more than 3% warmer than normal, customers receive an increase in their bill to better reflect the normalized HDD that were used to set rates in this base rate proceeding. Peoples St. No. 3, p. 15. The purpose of the WNA is to levelize revenues for customers and the Company to better reflect the level of revenues that are set in this proceeding.

Peoples witness Scanlon explains the formula for how the WNA is calculated in her testimony and the formula is set forth in the Company's proposed tariff. Peoples St. No. 3, p. 16; Settlement Appendix A. The Company's WNA formula is a very similar mechanism used by National Fuel Gas Distribution Corporation, Columbia Gas of Pennsylvania, Inc., UGI Utilities, Inc. – Gas Division, and Philadelphia Gas Works. *See Tr.*, 329-330.

B. THE WNA IS PERMITTED BY STATUTE

The WNA is a form of alternative ratemaking that is expressly authorized by statute in Pennsylvania. Section 1330(b) of the Public Utility Code, 66 Pa. C.S. § 1330(b), allows the Commission to approve alternative ratemaking mechanisms, including decoupling mechanisms. 66 Pa. C.S. § 1330(b)(1)(i). The statute defines a decoupling mechanism, in part, as:

(1) A rate mechanism that reconciles authorized distribution rates or revenues for difference between the projected sales used to set rates and actual sales, which may include, but not be limited to, adjustments resulting from fluctuations in the market of customers served and other adjustments deemed appropriate by the commission.

The Commission has classified a WNA as a limited decoupling mechanism. *See Alternative Ratemaking Methodologies*, Docket No. M.-2015-2518883, Tentative Order entered March 2, 2017, p. 7.

In addition, the Commission has issued a Policy Statement setting forth certain rate considerations that it evaluates when determining whether an alternative ratemaking mechanism is just and reasonable. 52 Pa. Code § 69.3307. Peoples has responded to these rate considerations in Peoples St. No. 3, pp. 19-22.

C. THE WNA IS IN THE PUBLIC INTEREST AND SHOULD BE APPROVED.

Given the historical, significant warming trend, a WNA is necessary for an NGDC in order to have a reasonable chance to recover its revenues as set in a base rate proceeding. As noted in

this proceeding, last year alone, the Company lost over \$40 million due to warmer than normal weather, and is not able to recoup those losses because it does not have a WNA like other NGDCs in Pennsylvania, including Columbia Gas, UGI, National Fuel Gas and PGW. *See Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-2012-2321748, *et al.* (Opinion and Order entered May 23, 2013); *Pa. PUC v. UGI Utils., Inc. – Gas Div.*, Docket Nos. R-2021-3030218, *et al.* (Opinion and Order entered Sept. 15, 2022); *Pa. PUC v. National Fuel Gas Distribution Company*, Docket No. R-2022-3035730, *et al.* (Order Entered June 15, 2023); *Pa. PUC v. Phila. Gas Works*, Docket No. R-00017034 (Order entered Aug. 8, 2002).

However, the WNA does not just benefit the Company. The WNA also levelizes costs for customers and decreases their bills in colder than normal months. Peoples St. No. 3, pp. 15, 17-18. When weather is significantly colder than normal, customers' bills also can be significantly higher than normal due to substantially increased usage. The WNA will reduce these higher-than-normal bills for customers when they need it the most.

The WNA has become a standard ratemaking mechanism in order to allow NGDCs to mitigate ever-increasing weather-related risk due to global warming. As explained by Mr. Moul, all of the NGDCs in his proxy group have WNA mechanisms in order to mitigate weather-related impacts on revenue. Peoples St. No. 13, p. 10.

D. THE OCA'S OBJECTIONS TO THE WNA SHOULD BE DENIED.

1. The OCA's Assertions That The WNA Is Unlawful Are Clearly Erroneous.

OCA witness Evrard alleges that the WNA is not a "just and reasonable" rate. OCA St. No. 1-SR, p. 11. This allegation is clearly erroneous. The Company's WNA under the settlement with the 3% deadband is the same as the WNAs of the other investor-owned NGDCs in

Pennsylvania, including Columbia Gas, UGI and NFG.¹⁴ These WNAs must be “just and reasonable” or the Commission could not have approved them.¹⁵ 66 Pa. C.S. § 1301. OCA has not provided any basis for why Columbia Gas’s, UGI’s, and National Fuel Gas’s WNAs are “just and reasonable” and Peoples’ WNA is not.

OCA witness Johnson also argues that a WNA should not be approved unless a utility demonstrates that it is necessary to avoid significant financial damage to the utility or that there is a threat to the utility’s financial stability. OCA St. No. 4, p. 41, lines 9-10. There is no basis in Pennsylvania law, regulation or Commission Order to support this statement, and it should not be accepted. Act 58 of 2018, which authorizes alternative ratemaking mechanisms, contains no such provision.

Likewise, OCA suggests that the WNA should be denied because it is “single issue ratemaking” which unreasonably allows the Company to adjust one component of rates outside of a base rate case. OCA St. No. 4R, p. 27. Again, Act 58 expressly allows alternative ratemaking mechanisms such as the WNA. In addition, it is reasonable for the Company to adjust weather-related revenues to better align with the revenues that were approved in a base rate case. Moreover, it is not a one-way adjustment, the WNA also refunds revenues to customers when weather is colder than normal.

2. Customers Will Not Be Harmed By The WNA.

OCA argues that the WNA shifts weather-related risk to customers and that the WNA is likely to produce more increases in bills than credits. OCA St. No. 4R, pp. 25-27; OCA St. No. 1,

¹⁴ See *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-2012-2321748, *et al.* (Opinion and Order entered May 23, 2013); *Pa. PUC v. UGI Utils., Inc. – Gas Div.*, Docket Nos. R-2021-3030218, *et al.* (Opinion and Order entered Sept. 15, 2022); *Pa. PUC v. National Fuel Gas Distribution Company*, Docket No. R-2022-3035730, *et al.* (Order Entered June 15, 2023).

¹⁵ These WNAs were approved as part of settlements of base rate proceedings. However, even though approved under settlements, the WNAs must be just and reasonable.

pp. 26-28. OCA's allegations that customers will be harmed should not be accepted. The OCA also states that the Company has not proposed guardrails that have been adjusted by other NGDCs.

Under the WNA, weather-related risk is shared symmetrically between the Company and customers. Peoples St. No. 3, pp. 19-22. As noted above, the WNA is designed to levelize revenues to bring them closer to the revenues that are approved in this case.

OCA witness Evrard also stated that the Company has not proposed guardrails that have been proposed by other NGDCs in Pennsylvania. OCA St. No. 1, p. 23, line 3. When asked at the hearing, Mr. Evrard indicated that other utilities have adopted a 3% deadband and somehow dropped the month of May. Tr. 392. Mr. Evrard also noted that the Company had subsequently agreed to include a 3% deadband. Tr. 294. The Company notes that not all utilities have dropped the month of May. *See* National Fuel Gas Distribution Corporation Supplement No. 271 to Gas Pa. P.U.C. No. 9, Eight Revised page No. 158, Rider C. In addition, while the Company is asking to include the month of May in its WNA, the Company has indicated a willingness to exclude the month of May from the WNA if the Commission decides that is in the public interest. Therefore, the Company has addressed the guardrails requested by the OCA.

In addition, the Settlement also provides additional protections for customers with respect to the month of May. The Settlement Parties have agreed to a provision that caps the WNA adjustment in May to no more than 100% of the billed distribution amount. Settlement ¶ 73. The anomalous bills have occurred in May when HDD are extremely low. Peoples St. No. 15-R, pp. 20-21. Capping the WNA adjustment at 100% will avoid extreme bills in May because the base distribution charges should be low to start with. The Company has also agreed to a reporting requirement where the NHDD/AHDD ratio exceeds 1.50. This will provide the Commission and

parties additional information regarding how the WNA is impacting customer bills under these circumstances.

The Company has performed an extensive analysis of the impacts of including the month of May in the WNA. The Company analyzed over 40 million bills, 25 million of which occurred in the WNA months, over a seven-year period. The WNA mechanism worked as intended 99.93% of the time. However, 0.07% of the time, the results of the WNA mechanism resulted in unusual occurrences. Peoples St. No. 15-R, pp. 20-21. Seventy percent of the very small percentage of unusual bills occurred in May 2018 when HDD were below normal and a small subset of customers increased their usage. Peoples St. No. 2-R, p. 20. Peoples does not believe that it is necessary to exclude the month of May from the WNA as a result of these infrequent anomalies, but is agreeable if the Commission decides that it is in the public interest. Peoples St. No. 3-RJ, p. 3.

OCA also argues that due to warming trends, customers will be more likely to experience increases in their bills rather than decreases. OCA St. No. 4-SR, pp. 23-24. If this statement is correct, then without a WNA, the odds will always be against the Company's ability to recover the revenues that are set in a base rate proceeding. *See* Tr. 416-417.

3. The Company Will Educate Customers About the WNA.

OCA argues that the WNA should not be approved because it is difficult to understand. *See* OCA Exhibit No. DE-1, p. 7. This is not a basis for denying the WNA.

Utility rates in general are not easy to understand without education. The Company has agreed to make customers aware of the WNA and to educate them about the mechanism. The Company also will train customer service representatives about the WNA so that they can help customers with questions.

Under the Settlement, Peoples has agreed to set forth the WNA credit or change as a separate line item on the bill. Non-Unanimous Settlement ¶ 70. In addition, Peoples will include

a simple explanation of the WNA on the bill, consistent with other NGDCs in Pennsylvania. *See* Peoples St. No. 3-RJ, p. 4; Exhibit CAS-1-RJ.

4. The Company's Incentive to Control Costs is Completely Unrelated to the WNA.

OCA witnesses Evrard and Johnson both argue that the WNA should be denied because doing so will better incent the Company to manage its normal business risk and control costs. OCA St. No. 1, pp. 18-19; OCA St. No. 4, p. 41. Mr. Evrard further states that lack of guaranteed recovery protects consumers from paying for a utility management's underperformance. OCA St. No. 1, p. 19, lines 9-11; *see also* OCA St. No. 4, p. 41, lines 15-16. OCA's arguments are unrelated to weather-type risk and should not be considered.

Utilities cannot manage the weather and cannot effectively manage weather-related revenue loss without a WNA. At the hearing, both Mr. Evrard and Mr. Johnson admitted that the risks that they were referring to were independent of and unrelated to the WNA. Tr. 390, lines 12-17; Tr. 411, lines 19-412, line 15.

A utility cannot control the weather, and the only way to effectively control weather-related risk is through a WNA. Many of the NGDCs in Pennsylvania and in the country have WNA mechanisms that allow them to mitigate weather-related revenue risks. Peoples is simply requesting to be put on the same footing as these other NGDCs.

5. Budget Billing Does Not Accomplish The WNA Goals.

OCA witnesses Alexander and Colton argue that the Company should simply enroll more customers on budget billing as opposed to adopting a WNA. OCA St. No. 5, p. 27; OCA St. No. 6, p. 64. This recommendation should be summarily dismissed.

Budget billing is not the same and does not accomplish the same goals as a WNA. The WNA mechanism stabilizes the effects of weather impacts on revenue. Budget billing spreads a

customer's annual bill over a 12-month period. Peoples St. No. 3-R, p. 18. Budget billing does not recover revenues that are lost due to warmer than normal weather and do not credit customers for higher bills resulting from colder than normal weather.

The purposes of the WNA and budget billing are not the same. OCA's suggestion that the Company should encourage budget billing as opposed to adopting the WNA is not reasonable or relevant.

6. The WNA Will Not Discourage Energy Efficiency.

OCA argues, without any study or actual evidence, that the WNA will discourage energy efficiency. OCA St. No. 4, pp. 45-46. This unsupported allegation should not be accepted.

Peoples witness Scanlon testified that the WNA only applies to distribution changes, which make up approximately 50% of a customer's bill. Peoples St. No. 3-R, p. 15. During warmer than normal months, customers will still experience gas cost savings if they reduce usage through conservation. In addition, customers adoptions of energy efficient appliances will still result in lower distribution usage and lower bills. Peoples St. No. 3-R, p. 15, lines 9-12.

7. The WNA is a Cost of Service Ratemaking Mechanism.

In testimony, OCA argues that the WNA should not be adopted because it provides revenue "that is not at all tied to the cost of service..." OCA St. No. 1-SR, p. 10. This argument is incorrect, and it should not be adopted.

The WNA is directly correlated to the cost of service. It is specifically designed to reflect normalized weather HDD which are used to set revenue in this rate case. As noted by Ms. Scanlon, distribution costs are largely fixed and do not fluctuate based on usage. Peoples St. No. 3-R, p. 24, lines 11-17. The WNA allows the Company to recover its costs, as set in this base rate proceeding, when warmer than normal weather reduces revenues.

At the hearing, OCA witness Evrard admitted that the WNA was designed to recover the Company's cost to provide services:

Q. Do you agree with me that the WNA is designed to recover the costs that are set in this base rate proceeding?

A. Yes, I do.

Q. And the costs that are set in this base rate proceeding are the cost to provide service. Correct?

A. Yes.

Tr. 396, lines 11-18.

OCA's argument in testimony that the WNA charges do not reflect cost of service are incorrect and should be denied.

8. Conclusion As To WNA.

The WNA as set forth in the settlement should be approved. The WNA is necessary for the Company to mitigate revenue variation and revenue losses that are occurring due to global warming trends. Peoples has addressed customer concerns under the settlement by adopting a 3% deadband and setting forth the WNA credit or charge as a separate line item on the bill. The Commission should approve Peoples WNA which is consistent with the WNAs of the other investor-owned NGDCs in Pennsylvania.

XI. LOW-INCOME CUSTOMER ISSUES

Peoples is committed to assisting its low-income customers. Other parties to this proceeding have recommended various changes, additions, analyses, and procedures related to Peoples' current suite of low-income customer programs and policies. Peoples has been able to resolve all low-income customer issues with PWPTF and CAUSE-PA, which are subject to a Stipulation being filed concurrently with this Main Brief. Peoples is litigating certain issues related to low-income customer issues with the OCA, which are addressed in **Section XI(B)**, *supra*.

Peoples addresses the Stipulation filed concurrent with this Main Brief as between Peoples, CAUSE-PA, and PWPTF in **Section XI(A)** of this Main Brief, *supra*.

As a general matter, Peoples submits that this base rate proceeding is not the proper vehicle to address low-income customer and universal service issues. Indeed, there is a well-established periodic process for the review, approval, and implementation of the Company's Universal Service and Energy Conservation Plan ("USECP"). The Commission has recognized that issues related to universal service are "better review in a universal service stakeholder process."¹⁶ In *Aqua 2022*, the Commission declined to consider modifications to universal service programs and explained that its decision was "consistent with prior decisions in which we have determined that it was not appropriate to consider proposals relating to a public utility's energy burdens, CAP and other universal service program issues within the context of a base rate proceeding."¹⁷

With that in mind, Peoples respectfully submits that issues related to its USECP, including its Customer Assistance Program ("CAP"), its Low-Income Usage Reduction and Usage Reduction Program ("LIURP"), and its hardship fund – as raised by the OCA – are inappropriate for consideration in this proceeding, and are better suited to be addressed in the context of the Company's USECP proceeding in the future. However, to the extent that the Commission finds that Peoples' suite of USECP programs and procedures are properly addressed in this proceeding, Peoples addresses the same in **Section XI(B)** below in response to certain of the OCA's litigated issues.

¹⁶ *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-2021-3027385, *et al.* (Order entered May 16, 2022), at 331 ("*Aqua 2022*").

¹⁷ *Id.* at 332-333; *See also Pa. PUC v. PECO Energy Co. – Gas Division*, Docket No. R-2022-3018929 (Order entered June 22, 2021), at 195; *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket No. R-2020-3018835 (Order entered February 19, 2021), at 160.

A. STIPULATION BETWEEN PEOPLES, CAUSE-PA, AND PWPTF

As noted previously, Peoples, CAUSE-PA, and PWPTF (hereinafter, the “Stipulating Parties”) have resolved the issues raised by CAUSE-PA and PWPTF in this proceeding. The terms of the agreement reached between the Stipulating Parties through the Stipulation are addressed in kind below.

1. Definition of Low-Income Customer.

The Stipulating Parties have agreed that Peoples will modify its definition of and reporting for “confirmed low income customer” data to include self-attestation for all purposes, including but not limited to the annual Universal Service Report, consistent with the Commission’s definition in 52 Pa. Code § 62.2. Peoples will utilize this definition for reporting on 2024 data and will maintain this method of reporting for all future years.

CAUSE-PA witness Harry Geller provided Direct Testimony related to the Company’s definition that it uses for the reporting on confirmed low-income customers. Specifically, Mr. Geller argued that Peoples’ definition is inconsistent and “detrimentally impacts the ability of customers to access certain protections...”¹⁸ In response, Peoples witness Rita Black explained that “while there has been disagreement about the definition under which the Company has reported its confirmed low income customer counts, there is no variance between the parties and the Company with regards to access to protections and programs intended to support low income customers.”¹⁹

Under the Stipulation, the Stipulating Parties agree that Peoples will modify its definition of “Confirmed Low-Income Customer” consistent with Mr. Geller’s recommendations. The updated definition of the same is consistent with the Commission’s regulations, and is also

¹⁸ CAUSE-PA St. No. 1, p. 7.

¹⁹ Peoples St. No. 9-R, p. 5.

responsive to concerns that OCA witness Mr. Colton raised throughout testimony. It reflects the position of both CAUSE-PA and OCA on this issue, is reasonable, and should be approved.

2. Business Relationships with Community Based Organizations (“CBO”).

Through the Stipulation, the Company commits to maintaining its existing business relationship with CBOs subject to each individual CBO’s continued performance in conformance with the Company’s USECP rules and their contract with the Company. No party raised issues related to the same throughout this case, and this provision of the Stipulation is reasonable insofar as it merely formalizes Peoples commitment to working with CBOs, subject to performance requirements of the individual CBOs under the Company’s USECP. As such, Peoples submits that this provision of the Stipulation should be approved.

3. Refund of Security Deposits.

The Stipulating Parties have agreed that, within 30-days of the entry of the Stipulation, Peoples will refund all currently held security deposits collected from confirmed low income customers, utilizing the Commission’s definition of confirmed low income customer in 52 Pa. Code § 62.2. Furthermore, under the Stipulation, Peoples has agreed to initiate a monthly review of security deposits and refund all security deposits being held from accounts designated as confirmed low income to the customer within 30 days. Lastly, Peoples has committed to report on its monthly results of its low income security deposit refunds at each Universal Service Advisory Group (“USAG”) meeting.

CAUSE-PA witness Mr. Geller raised several issues related to Peoples security deposit practices with respect to its low-income customers. Specifically, Mr. Geller recommended that Peoples “apply the security deposit exemption in all circumstances where a customer has indicted

[sic] low income status.”²⁰ Mr. Geller also raised concerns that Peoples was not complying with the terms a security deposit related settlement commitment from the Company’s most recent base rate case.²¹

Under the terms of the Stipulation, the Stipulating Parties have fully resolved CAUSE-PA’s security deposit related concerns. Indeed, the Stipulation requires Peoples to refund all currently held security deposits from Confirmed Low-Income Customers, perform a monthly review of security deposits and refund all security deposits to account designated as low-income, and for Peoples to report on the results of that review at each USAG meeting. As such, Peoples submits that the Stipulation reflects a carefully crafted resolution to the security deposit-related issues raised by CAUSE-PA, and it should be approved.

4. USECP Modification.

Under the Stipulation, Peoples has committed to filing a Petition at its current Universal Service and Energy Conservation Plan (“USECP”) Docket Nos. M-2018-3003177 and M-2020-3021343 within 90-days of a final order in this case seeking authorization to amend its USECP to allow the Company to initiate auto-enrollment of Low Income Home Energy Assistance Program (“LIHEAP”) recipients with significant balances into CAP, to permit auto-recertification, and to waive income documentation requirements for CAP applicants that have received LIHEAP in the last two years.

CAUSE-PA witness Mr. Geller submitted Direct Testimony related to potential changes to the Company’s USECP. Namely, Mr. Geller opposed the Company’s proposal to remove LIHEAP

²⁰ CAUSE-PA St. No. 1, p. 19.

²¹ CAUSE-PA St. No. 1, p. 17.

auto-enrollment, suggested simplification of auto-enrollment in this same, and suggested Peoples file a petition to make certain changes to its USECP.²²

The Stipulation between the Stipulating Parties reflects a compromise reached between CAUSE-PA and Peoples on issues related to the Company's USECP. Indeed, the Stipulating Parties have agreed to much of the issues identified by CAUSE-PA throughout this proceeding. Moreover, as identified by Mr. Geller, Peoples' commitment to file a petition to amend its USECP consistent with the Stipulation addresses CAUSE-PA's concerns regarding a significant lag time between Peoples current USECP and its next USECP filing date.²³ As such, Peoples submits that these stipulated provisions are reasonable and should be approved by the Commission.

5. Non-Emergency Call Scenarios.

In Direct Testimony, CAUSE-PA witness Geller identified opportunities for Peoples to better encourage CAP enrollment. Specifically, Mr. Geller recommended that Peoples "routinely screen for income on any non-emergency calls, and/or should inquire whether there has been any update to [the customer's] income information already noted in [the customer's] account."²⁴

In Rebuttal Testimony, Company witness Rita Black explained the lengths and procedures that Peoples has in place to encourage CAP enrollment.²⁵ That being said, under the Stipulation, Peoples is agreeable to the substance of Mr. Geller's recommendation(s) on this point. Specifically, in response to Mr. Geller's identified concerns, the Stipulation requires Peoples to work with the USAG to develop a list of non-emergency call scenarios that Peoples can use for agent training to screen for income level and CARES/CAP referrals. As such, this largely reflects CAUSE-PA's position on this issue, and it situates Peoples such that it can continue to encourage

²² CAUSE-PA St. No. 1, p. 27.

²³ Peoples next USECP is not due to be filed until April 2028. *See* CAUSE-PA St. No. 1-SR, p. 13.

²⁴ CAUSE-PA St. No. 1, p. 28.

²⁵ Peoples St. No. 9-R, p. 9.

enrollment in CAP for its low-income customers. As such, Peoples submits that this provision of the Stipulation should be approved.

6. (6) LIURP Minimum Usage Threshold.

As part of Direct Testimony, Peoples proposed to apply the currently effective 120 Mcf for its PGD Company-wide as part of the consolidation of tariffs between PNGD and PGD in order to qualify for LIURP assistance.²⁶ In response to this proposal, CAUSE-PA witness Mr. Geller signified his approval, explaining “I recommend the Commission approve this proposal to adopt the 120 Mcf minimum usage threshold as it will make the program more accessible, which as I will explain further, is important to help the affordability challenges facing low income households.” As there was no disagreement as to Peoples’ proposal to apply a 120 Mcf minimum use threshold for LIURP assistance, the Stipulation’s provision on this point merely memorializes Peoples’ proposal, which CAUSE-PA was supportive of. As such, it should be approved under the Stipulation.

7. LIURP Budget.

Under the Stipulation, Peoples committed to increase its annual LIURP budget to a total of \$3,500,000 per year. Coming into this proceeding, Peoples’ LIURP budget was \$3,030,000. In response, CAUSE-PA Witness Mr. Geller recommended that the Company increase its LIURP budget to “address current and anticipated need for comprehensive usage reduction service. First, Peoples should increase their annual LIURP Budget equal to the actual 2023 spend for each division (*e.g.*, \$3,459,513 for [PNGD] and \$301,075 for [PGD]), in addition to the rollover from the prior year). In addition, to the extent the Commission approves any increase in residential rates, Peoples should further increase its annual LIURP budget for each division by a percentage

²⁶ Peoples St. No. 9, p. 5.

equal to the approved residential rate increase.”²⁷ Similarly, PWPTF witness Jennifer Warabak recommended that the Company increase its annual LIURP funding by \$400,000.²⁸

In Rebuttal Testimony, Peoples witness Ms. Black disagreed with both Mr. Geller and Ms. Warabak, explaining that “to increase budgets at this time, without having fully spent program budgets for the past few years, is inconsiderate of the cost to residential ratepayers who fund [LIURP].”²⁹

Under the stipulation, the Stipulating Parties agree that Peoples shall increase its LIURP budget to \$3,500,000 annually. This agreed-upon increase reflects a compromise between the Stipulating Parties respective stances on this issue and, ultimately, results in a LIURP budget increase of \$470,000 to better assist Peoples’ customers participating in the LIURP program. As such, Peoples submits that this Stipulation provision is reasonable and should be approved in this proceeding.

8. Hardship Fund.

Under the Stipulation, Peoples has agreed that Essential’s shareholders will contribute an additional \$150,000 each year to the Peoples Hardship Fund until Peoples files its next USECP, over and above the funding levels that are currently in place as per the Company’s current USECP, and retains the increased contribution established in the Aqua-Peoples Acquisition proceeding at Docket Nos. A-2018-3006061 and A-2018-3006063, *et al.*

PWPTF witness Ms. Warabak offered testimony recommending that the Company’s contribution to its Hardship Fund be increased commensurate with the percentage increase in residential rates that are ultimately approved in this proceeding.³⁰ Similarly, Mr. Geller, on behalf

²⁷ CAUSE-PA St. No. 1, p. 33.

²⁸ PWPTF St. No. 1, p. 8.

²⁹ Peoples St. No. 9-R, p. 18.

³⁰ PWPTF St. No. 1, p. 8.

of CAUSE-PA, recommended that Peoples “increase its maximum grant amount [under the Hardship Fund] to \$600.00.”³¹ Furthermore, Mr. Geller recommended that, at a minimum, Peoples also increase funding to its “Hardship Fund by a percentage equal to any residential rate increase approved in this proceeding.”³²

Under the Stipulation, the Stipulating Parties agree that Peoples will increase its Hardship Fund budget by \$150,000 each year until Peoples files its next USECP. This additional contribution reflects a carefully crafted compromise between Peoples, PWPTF, and CAUSE-PA’s respective litigation positions in this proceeding. As such, Peoples respectfully submits that this Stipulation provision is reasonable and should be approved.

9. Standalone CAP Notices Included in Peoples’ Cold Weather Survey Packets.

Under the Stipulation, the Stipulating parties agree that the Company will seek guidance from the USAG at its April/July 2024 meetings to gain input into the development of a standalone CAP notice to be included in the cold weather survey packets beginning in September of 2024. This provision of the Stipulation reflects Peoples’ agreement with the OCA witness Mr. Colton regarding the same.³³ Indeed, as explained by Peoples witness Ms. Black:

I do, however, see value in incorporating a plain language CAP notice into the cold weather survey packet and will include this topic in the April USAG in order to ensure that any changes necessary to the cold weather survey packet, prior to the 2024 fall heating season, can be completed in a timely manner.³⁴

As such, this Stipulation provision reflects the OCA’s position on this issue, as adopted by the Stipulating Parties. Peoples address this in further detail in **Section XI(B)(4)**, *supra*. Peoples

³¹ CAUSE-PA St. No. 1, p. 35.

³² CAUSE-PA St. No. 1, p. 36.

³³ OCA St. No. 6, p. 36.

³⁴ Peoples St. No. 9-R, p. 12

submits that this Stipulation provision is reasonable and should be approved as part of the Stipulation with the Stipulating parties.

10. Tariff Changes

The Stipulation memorializes Peoples agreement to make certain adjustments and additions to its current Commission-approved tariff in response to certain arguments advanced by the OCA, CAUSE-PA, and PWPTF. This is addressed in further length in **Section XI(B)(6)** below, and will not be restated in full here. That said, Peoples submits that its agreed-upon tariff changes, as delineated in the Stipulation and the Company’s testimony, are reasonable and should be approved by the Commission.

B. LITIGATED LOW-INCOME CUSTOMER ISSUES WITH THE OCA

OCA witness Roger Colton recommended a number of items throughout his Direct, Rebuttal, and Surrebuttal Testimony in this proceeding related to low-income customers and universal service that Peoples will address in-kind here.³⁵ Specifically, Mr. Colton recommended that:

- (1) Peoples conduct a root cause analysis to determine the allegedly disproportionate level of utility disconnections within the 40 zip codes with the highest penetration of Black households in Peoples’ service territory.³⁶
- (2) Peoples modify its policies and procedures regarding the identification of “confirmed low-income” customers and include these modified policies and procedures in its residential tariff.³⁷
- (3) Peoples adopt a procedure, developed in collaboration with its Universal Service Advisory Group (“USAG”), under which it will seek to make personal contact with the customer subject to disconnection.³⁸
- (4) Peoples provide a stand-alone Plain-English notice of a customer’s right to enter into the Company’s Customer Assistance Program (“CAP”) and an explanation of the

³⁵ Mr. Colton also made a series of recommendations related to non-low-income issues, which are addressed at other points in this Main Brief.

³⁶ OCA St. No. 6, p. 22.

³⁷ OCA St. No. 6, p. 26.

³⁸ OCA St. No. 6, p. 30.

- benefits of the Company's CAP arrearage forgiveness prior to entering into a Deferred Payment Agreement ("DPA") with a customer.³⁹
- (5) Peoples adopt a procedure under which it will provide a stand-alone Plain English notice to customers found to be without heating service at the time of the Company's cold weather survey of the customer's right to enter into CAP and an explanation of the CAP's arrearage forgiveness benefits.⁴⁰
 - (6) When confirmed low-income customers accrue an unpaid balance of \$300.00, Peoples provide a stand-alone written Plain English notice information those customers of their right to enroll in the Company's CAP, along with an explanation of the advantages of CAP's arrearage forgiveness provisions.⁴¹
 - (7) In instances in which Peoples would request a cash security deposit pursuant to its tariff, as an alternative, Peoples provide stand-alone written Plain English notice information those customers of their right to enroll in the Company's CAP, along with an explanation of the advantages of CAP's arrearage forgiveness provisions.⁴²
 - (8) Peoples be directed to extend the use of its Vivent Speech Analytics software to assist with the Quality Monitoring of phone calls involving or potentially involving universal service programs, with submission of six-month reports on the results of the Speech Analytics reviews to USAG.⁴³
 - (9) Peoples add a subsection in its tariff to read:

Provide income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirement that are consistent with those of the public utility's Customer Assistance Program.⁴⁴
 - (10) Peoples modify Rule 3.D of its tariff, after 3.D(2), to read:

Notwithstanding subsection (D), the Company may not require a cash deposit from a customer who is, based upon household income, confirmed to be eligible for a customer assistance program. A customer is confirmed to be eligible for a customer assistance program by the public utility if the customer provides income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirement

³⁹ OCA St. No. 6, p. 31.

⁴⁰ OCA St. No. 6, p. 36.

⁴¹ OCA St. No. 6, p. 41.

⁴² For ease of reference, Peoples is addressing Mr. Colton's recommendations (4)-(7) in Section XI(4) of this Main Brief. Similarly, Peoples is addressing Mr. Colton's recommendations (9)-(11) in section XI(6) of this Main Brief.

⁴³ OCA St. No. 6, p. 48.

⁴⁴ OCA St. No. 6, p. 78.

that are consistent with those of the public utility's Customer Assistance Program.⁴⁵

- (11) Peoples modify Rule 3.E(2) to add the following language:

that fall within the scope of general industry practice, provided that the methodology does not directly, or have the effect of, discriminating based on a protected class as set forth in the federal Equal Credit Opportunity Act." (new language emphasized).⁴⁶

- (12) Peoples be directed to use a CAP base participation of 30,800.⁴⁷

To the extent that Peoples has not agreed to certain of Mr. Colton's recommendations in testimony, none of Mr. Colton's recommendations should be adopted in this proceeding, as explained at further length below. Further, as noted previously, Peoples submits that this base rate proceeding is not the proper forum to decide issues related to universal service, as the Commission has recognized that issues related to universal service are "better reviewed in a universal service stakeholder process."⁴⁸ To the extent that the Commission does address universal service and low-income issues in this base rate proceeding, Peoples addresses and refutes the OCA's litigated issues below.

1. Root Cause Analysis.

As noted previously, Mr. Colton recommended that Peoples conduct a root cause analysis in an effort to determine the cause of black households having their gas service disconnected. Specifically, Mr. Colton recommended that:

Peoples conduct a root cause analysis to determine what is driving this disproportionate level of utility disconnections within the 40 zip codes with the highest penetration of Black households. Once this root cause analysis is conducted, Peoples should commit to taking steps to address the cause with the commitment of reducing disproportionate disconnections within these zip codes. This root cause analysis is intended to be consistent with the definition of and

⁴⁵ OCA St. No. 6, p. 78.

⁴⁶ OCA St. No. 6, p. 80.

⁴⁷ OCA St. No. 6, p. 82.

⁴⁸ See n. 16, *infra*.

standard for the root cause analysis that OCA witness Alexander outlines in OCA Statement 5. The extent to which Peoples mitigates the disproportionate disconnection of service for nonpayment in zip codes with high penetrations of Black households should be reviewed in Peoples next base rate case.⁴⁹

In Rebuttal, Peoples responded to Mr. Colton's root cause analysis recommendation and why it is unnecessary. Company witness Heather Doyle-Conley explained that:

Collections activities, including termination, are strictly arrears based. Mr. Colton noted he did not see any intention that the Company initiates termination of service in a discriminatory manner and Mr. Colton is indeed correct. The Company does not disconnect service based on demographics and does not discriminate.⁵⁰

Despite the record being clear that Peoples does not discriminate, and racial demographics are not considered when pursuing termination or collections related activity, Mr. Colton continued to recommend a root cause analysis of "the racially disparate impact of Peoples nonpayment service disconnections" in his Surrebuttal Testimony.⁵¹ In response, Company witness Ms. Doyle-Conley again explained why that recommendation was unnecessary, stating that:

The collections process is automated. It first identifies accounts with arrears that have reached a threshold for potential disconnection of service. Any account that exceeds the threshold would first receive a notice of disconnection that provides not only the amount of arrears, but also offers information to the customer about contacting the Company to discuss payment arrangements, provide a medical certificate and to contact the Pennsylvania Public Utility Commission. The notice also includes information on available cash assistance, such as the Company's hardship fund and the Low Income Home Energy Program ("LIHEAP"). If customers do not respond to the notice, the account moves into the next step which is personal contact. Personal contact attempts can be made via telephone or field visit, depending on the availability of a working phone number for the household. If the account arrears have not yet been addressed, the account will finally move to the creation of a service order for field service teams to disconnect the gas service. This is a color-blind process that does not consider any

⁴⁹ OCA St. No. 6, pp. 82-83.

⁵⁰ Peoples St. No. 16-R, p. 9.

⁵¹ See OCA St. No. 6SR, p. 10.

demographical information about the customer or the area in which the customer resides.⁵²

Thus, Mr. Colton's recommendations regarding a root cause analysis of service terminations for black households is wholly unnecessary; Peoples does not discriminate, the collections process is automated, and Mr. Colton does not contend otherwise. As such, the OCA's recommendation that the Company perform a root cause analysis in this context should be rejected by the Commission as unsupported and unnecessary.

2. Counting of Low-Income Customers.

On this topic, Mr. Colton argued that Peoples is not complying with the definition of "Confirmed Low-Income" as defined in the Commission's regulations and, therefore, Peoples' definition of the same should be adjusted consistent with the regulations.⁵³ In response to Mr. Colton's contentions, Company witness Rita Black explained that the limited use of Peoples' Confirmed Low-Income definition for reporting purposes "has not been the standard by which consumers are able to access protections and benefits."⁵⁴ However, to address Mr. Colton's concerns, Ms. Black agreed that the Company would "modify [its] reporting for confirmed low income for 2024 activity to include self-attestation data in the Universal Service Report."⁵⁵

In Surrebuttal, Ms. Black further addressed this issue, explaining that:

[W]e identified that while the majority of the report uses the low income indicator as [Confirmed Low-Income], we likely missed customers who have received a LIHEAP grant, but have not had contact with the Company to provide verbal indication of their low income status. Therefore, we will ensure those customers are also included in the [Confirmed Low-Income] reporting.⁵⁶

⁵² Peoples St. No. 16-RJ, p. 3.

⁵³ OCA St. No. 6SR, p. 82; OCA St. No. 6SR, p. 17.

⁵⁴ Peoples St. No. 9-R, p. 4.

⁵⁵ Peoples St. No. 9-R, p. 6.

⁵⁶ Peoples St. No. 9-RJ, pp. 3-4.

As Ms. Black agreed to provide a revised report to its 2023 Universal Service Report (“USR”) to the Commission’s Bureau of Consumer Services (“BCS”), Peoples is now using the broader definition of “Confirmed Low-Income” for purposes of reporting the same to the Commission’s BCS in the Company’s USR. Moreover, Mr. Colton is incorrect insofar as he argues that Peoples’ existing definition of “Confirmed Low-Income is at odds with the Commission’s regulations. Indeed, the Commission’s regulations define “Confirmed Low-Income” as:

Accounts where the NGDC has obtained information that would reasonably place the customer in a low-income designation. This information may include receipt of LIHEAP funds (Low-Income Home Energy Assistance Program), self-certification by the customer, income source or information obtained in § 56.97(b) (relating to procedures upon rate-payer or occupant contact prior to termination).⁵⁷

Mr. Colton incorrectly reads this regulation to bar Peoples’ current practices with respect to confirmation of low-income status.⁵⁸ This is a misreading of the regulation. “May” is a permissive article, meaning that it lacks a mandate for the proceeding noun, *i.e.*, “need.” The hard-and-fast mandate within the Commission’s regulations – as Mr. Colton correctly acknowledges – is for the NGDC to obtain “information that would reasonably place the customer in a low-income designation.” Despite Mr. Colton’s arguments otherwise, self-attestation and verbal attestation of household size and income is wholly compliant with the Commission’s regulations. Tellingly, Mr. Colton never contends that such attestation would not constitute “information that would reasonably place the customer in a low-income designation.” The reason for this is simple: this is information that reasonably places customers in a particular income designation.

As such, Mr. Colton’s contentions on this issue have been addressed by the Company, as memorialized in the Stipulation, and his recommendations for changes to Peoples’ internal

⁵⁷ 52 Pa. Code § 62.2.

⁵⁸ OCA St. No. 6SR, p. 19.

definition of “Confirmed Low-Income” are unnecessary and should be rejected by the Commission.

3. Personal Contact Prior to Disconnection.

Through Direct Testimony, Mr. Colton argued that Peoples should seek to make personal contact with a customer prior to service disconnection and, as part of that personal contact, the “Company shall offer the Confirmed Low-Income customer the opportunity to apply for the Company’s CAP and arrearage forgiveness program.”⁵⁹

In response to Mr. Colton’s recommendation on this point, Ms. Black fully explained that Peoples already provides personal contact prior to termination, and that Peoples provides stand-alone CAP notices to those customers.⁶⁰ Further, Ms. Black explained that:

All of us operating in the utility space, from utility employees to regulators to low income advocates and social service agencies understand that while CAP and LIHEAP are incredible resources for household stabilization and affordability, far too many eligible customers do not participate. There are many reasons why eligible households do not take advantage of resources that would be beneficial, and this challenge is not limited to utility assistance programs broadly, or Peoples in particular. It is my belief that the Commission initiated the CEOP requirement in order to take steps to address this long-standing problem across all utility CAPs.⁶¹

Furthermore, in direct response to Mr. Colton’s arguments to the contrary, Ms. Black explained that “at any point in the collections process the customer shows interest in applying for CAP and begins the application, a hold is placed on termination to allow time for the customer to complete the enrollment process.”⁶² As such, Mr. Colton’s recommendations on this point are redundant. The record is clear that Peoples both pursues personal contact with its customers prior

⁵⁹ OCA St. No. 6, p. 30.

⁶⁰ Peoples St. No. 9-R, p. 11

⁶¹ Peoples St. No. 9-R, pp. 10-11

⁶² Peoples St. No. 9-R, p. 11.

to service disconnection, provides ample opportunity and notice of the customer's ability to apply for CAP assistance, and stays disconnection activities when the customer shows interest in enrolling in CAP and begins the application. As such, Mr. Colton's contentions on this point should be rejected, as Peoples' procedures and practices are already responsive to his concerns.

4. Stand-Alone CAP Notices.

In Direct Testimony, Mr. Colton argued that the Company should provide stand-alone written Plain English notice to enroll in the Company's CAP, along with an explanation of the advantages of CAP's arrearage forgiveness provision(s), prior to entering into a Deferred Payment Agreement ("DPA") with the customer.⁶³ In response, Company witness Ms. Black fully explained the Company's processes and procedures related to the same. Specifically, Ms. Black stated that:

All customers presenting with income at or below 150% FPL are offered CAP when payment arrangements are discussed. Peoples' call center staff are well versed in the benefits of CAP and encourage customers to enroll in CAP rather than establishing a deferred payment plan. For some customers facing arrearages, the prospect of making a verbal payment arrangement in a few moments to stop termination is seen as easier than applying for CAP as CAP requires proof of income. I do not share Mr. Colton's opinion that another notice, mailed to the customer following the creation of their deferred payment arrangement, will increase motivation to apply for CAP. I do, however, see value in incorporating a plain language CAP notice into the cold weather survey packet and will include this topic in the April USAG in order to ensure that any changes necessary to the cold weather survey packet, prior to the 2024 fall heating season, can be completed in a timely manner.⁶⁴

As such, Peoples submits that it has fully rebutted Mr. Colton's arguments on this point. Indeed, the record is clear that Peoples already offers its customer's CAP when payment agreements – like DPAs – are discussed. With that in mind, Mr. Colton's recommendation on this point is redundant. Peoples cannot force its Confirmed Low-Income customers to enroll in CAP,

⁶³ OCA St. No. 6, p. 31.

⁶⁴ Peoples St. No. 9-R, p. 12

however, it already has a firm process by which that option is relayed to those customers. Moreover, in response to Mr. Colton's recommendation to provide an additional CAP notice into the cold weather survey packet, Ms. Black agreed that Peoples will do the same. As such, to the extent that Mr. Colton's recommendations were not addressed through Peoples' commitments in Ms. Black's Rebuttal Testimony (*i.e.*, an additional CAP notice being provided in the cold weather survey packet) and in the Stipulation being filed concurrently with this Main Brief, the Commission should reject Mr. Colton's recommendation to provide *another* CAP notice to the customer seeking to enter – or already entered – into a DPA.

Similarly, Mr. Colton recommended that Peoples provide a stand-alone Plain English notice to Confirmed Low-Income customers of their right to enroll in CAP when the customer accrues an unpaid balance of \$300.00.⁶⁵ In response, Ms. Black explained that:

I believe this would be redundant. A customer with arrears of \$300, the threshold of which Mr. Colton recommends should be eligible for such a notice, would be eligible for a disconnection notice and therefore would first receive the current stand-alone notice to enroll in CAP to prevent termination. A second stand-alone notice, as recommended by Mr. Colton, would not be of value as the Company already sends a stand-alone notice.⁶⁶

Consistent with Ms. Black's testimony on this issue, Peoples submits that Mr. Colton's recommendation to provide an additional stand-alone CAP notice to customers with \$300.00 in arrears is unnecessary, as this level of arrearage would make the customer eligible for a disconnection notice which, in turn, would prompt a stand-alone CAP notice being sent to the customer. An additional CAP notice, as recommended by Mr. Colton, would be entirely redundant and, therefore, this recommendation should be rejected by the Commission.

⁶⁵ OCA St. No. 6, p. 41.

⁶⁶ Peoples St. No. 9-R, p. 12.

Further, Mr. Colton’s recommendation that the Company provide a stand-alone written notice to a Confirmed Low-Income customer advising of their ability to enroll in CAP when a security deposit would otherwise be requested pursuant to Peoples’ tariff should be rejected.⁶⁷ Indeed, as fulsomely explained by Peoples’ witness Ms. Black, “[a] notice is not required since the Company already does not charge a deposit when [a] customer reports low income and customers are educated about CAP upon reporting low-income.”⁶⁸ Requiring the provision of another written CAP notice to those same customers would be unnecessary and redundant.

5. Speech Analytics.

To further aid in Peoples’ identification of low-income and CAP eligible customers within its service territory, OCA witness Mr. Colton suggests that Peoples expand the use of its Verint Automated Call Monitoring and Speech Analytics (“Verint”) as a software package through which it engages in speech pattern analytics of linguistic analytics, used to review call center conversations.⁶⁹ Specifically, Mr. Colton recommended that Peoples be “directed to extend the use of its Vivent [sic] Speech analytics software to assist with the Quality Monitoring of phone calls involving, or potentially involving, universal service programs and other low-income customers.”⁷⁰ Furthermore, Mr. Colton suggested that Peoples be required to involve its USAG “in the identification and selection of Low-Income and Universal Service Terms to be detected by the system in order to confirm that phone calls are properly being identified and handled.”⁷¹

⁶⁷ OCA St. No. 6, pp. 42-43.

⁶⁸ Peoples St. No. 16-R, p. 5.

⁶⁹ OCA St. No. 6, p. 45; OCA Exhibit RDC-5.

⁷⁰ OCA St. No. 6, p. 48.

⁷¹ *Id.*

In Rebuttal, Peoples witness Rita Black effusively detailed the Company's practices and procedures for encouraging CAP enrollment – *i.e.*, the driver behind Mr. Colton's Verint related recommendation. Ms. Black explained that:

Outreach and education are critical activities to drive low income customers to participate in programs that can improve their affordability. We have strong educational pieces in place at critical points in the collection process, for example. We provide a plain language CAP notice to customers who have indicated their low income status historically, but are not enrolled in CAP, prior to the issuance of a termination notice. This notice is provided at Exhibit RFB-R3. This document was developed with input from the USAG.

Additionally, all termination notices include information on currently available energy assistance programs, such as LIHEAP and the Company's hardship fund. Above all, we encourage customers to call Peoples and talk to our call center team. Our call center does an exceptional job of identifying CAP eligible customers and explaining the program.

We also use broad promotional methods to increase awareness of our programs. Such broad methods include providing program information in our bill inserts, regular email campaigns, transit advertising, social media advertising and participation in local community events. Local community events serve a dual purpose for Peoples. We seek events that are in the neighborhoods that are most vulnerable to limited income to connect with individual customers. These events also allow our programs to become more visible to the larger audience, which typically includes community members that may not be individually eligible, but may have a family member, friend, coworker or other social connection that could benefit. The community events are always evolving. For example, in the month of March, we began setting up a table to meet with our customers who are utilizing the Giant Eagle Mobile Market in Homewood, a disadvantaged community in Pittsburgh. The Mobile Market brings a scheduled grocery store opportunity to neighborhoods that are food deserts and we expect this touchpoint to be a helpful gateway to CAP enrollment.⁷²

Directly responsive to Mr. Colton's Verint recommendation, Peoples witness Heather Doyle-Conley explained that:

⁷² Peoples St. No. 9-R, pp. 9-10.

The Company stresses the importance of obtaining up-to-date income information to all employees from the time of new-hire training through refresher training that occurs on a regular basis. Peoples Customer Service Representatives are trained and skilled in identifying low income customers and as normal course of business refer customer to CAP. People does not agree that speech analytics is needed to identify potential CAP enrollees.⁷³

Beyond Peoples existing – and unrebutted – methods of outreach to its customers regarding CAP, Peoples already employs Verint speech technology for a number of other functions.⁷⁴ This, however, does not mean that Peoples can simply “turn on” the functionality that Mr. Colton recommends. Indeed, Ms. Doyle-Conly explained that “it would take considerable dedicated time, effort and expense to begin using the software for this purpose.”⁷⁵ Moreover, Ms. Doyle-Conley explained that the Company uses a dedicated phone queue for customers that are calling to inquire about universal service programs, such that the answering agent is aware that the caller is seeking assistance or may be income eligible for low-income programs.⁷⁶ In contrast, Mr. Colton provided no meaningful testimony as to how the expanded use of Verint would increase CAP enrollment and participation, nor did Mr. Colton address the functionality of Peoples’ existing Verint use, the costs associated with extending it, or whether such functionality is being used by other utilities successfully. As such, Peoples submits that the Commission should reject Mr. Colton’s recommendations regarding the Company’s use of Verint, and extension thereof.

6. Tariff Changes.

In his Direct Testimony, Mr. Colton recommended that Peoples make certain additions and modifications to its tariff. Specifically, Mr. Colton recommended that Peoples add a subsection in its tariff Rule 3.C (Gas-PA PUC No. 48, Original Page 19) to read:

⁷³ Peoples St. No. 16-R, p. 11.

⁷⁴ See OCA Exhibit No. RDC-6.

⁷⁵ Peoples St. No. 16-RJ, p. 4.

⁷⁶ Peoples St. No. 16-RJ, pp. 4-5.

Provide income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirement that are consistent with those of the public utility's Customer Assistance Program.⁷⁷

Similarly, Mr. Colton recommended that Peoples modify Rule 3.D of its tariff, Rule 3.D (Gas-PA PUC No. 48, Original Page 20), to read:

Notwithstanding subsection (D), the Company may not require a cash deposit from a customer who is, based upon household income, confirmed to be eligible for a customer assistance program. A customer is confirmed to be eligible for a customer assistance program by the public utility if the customer provides income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirement that are consistent with those of the public utility's Customer Assistance Program.⁷⁸

Lastly, Mr. Colton recommended that Peoples modify Rule 3.E(2) of its tariff, Rule 3.E (2), (Gas-PA PUC No. 48, Original Page No. 19), to add the following language:

that fall within the scope of general industry practice, provided that the methodology does not directly, or have the effect of, discriminating based on a protected class as set forth in the federal Equal Credit Opportunity Act.” (new language emphasized).⁷⁹

In Rebuttal Testimony, Company witness Dawn M. Folks noted that the Company accepted all three of Mr. Colton's recommended tariff language additions.⁸⁰ A redlined tariff incorporating Mr. Colton's recommended changes was included as Peoples Exhibit No. DMF-1R. Thus, due to Peoples acceptance of Mr. Colton's recommended tariff changes, these issues have been resolved throughout the course of this proceeding. Moreover, the same is resolved through the Stipulation, addressed in detail in **Section XI(A), *infra***.

⁷⁷ OCA St. No. 6, p. 78.

⁷⁸ *Id.*

⁷⁹ OCA St. No. 6, p. 80.

⁸⁰ Peoples St. No. 11-R, p. 5.

7. CAP Base Participation.

Through its direct testimony, Peoples proposed to maintain its base CAP participation at 33,800 over which it would apply the proposed bad debt offset. In doing to, Peoples' proffered base CAP participation numbers combined a base CAP enrollment of 32,300 for PNGD, and a base CAP enrollment of 2,500 for PGD.⁸¹

OCA witness Colton rejected Peoples' base CAP numbers and, instead, recommended that Peoples use a CAP base participation of 30,800, which was reflective of the combined projected CAP participation for the year beginning in October 2024, rounded to the nearest 100.⁸²

Ultimately, Peoples accepted Mr. Colton's recommendation for a combined based CAP participation rate of 30,800, thus resolving this issue.⁸³ Peoples witness Carol A. Scanlon also reaffirmed that "pending the approval of the tariffs and rates in this proceeding, the Company will no longer track the PNGD and PGD separately, so the universal service recovery mechanism will only recognize a combined base participation."⁸⁴

XII. CUSTOMER/QUALITY OF SERVICE ISSUES

OCA offers a number of recommendations requesting the Commission (1) to make improvements to the Company's customer service procedures or (2) to evaluate certain Company procedures for its customer service operations in this proceeding. OCA St. No. 5, pp. 6-7, OCA St. No. 4, p. 4, OCA St. No. 1, pp. 9-10. The Company's customer service standards and procedures are in compliance with applicable Commission regulations and the Company's tariff. The Company's customer service performance metrics are consistently above average when ranked amongst its peers and the Company strives to provide top tier quality customer service to

⁸¹ Peoples St. No. 3, p. 29.

⁸² OCA St. No. 6, p. 82.

⁸³ Peoples St. No. 3-R, p. 38.

⁸⁴ *Id.*

its customers and the communities it serves. Peoples St. No. 1, pp. 2, 16-18. For the reasons set forth below, the Company disagrees with OCA as most of its proposals and recommendations are unnecessary as the Company is already employing OCA's recommendations. Therefore, the OCA's recommendations should be denied.

A. NON-BASIC SERVICES

OCA witness Alexander recommends that with respect to the Company's billing for non-basic charges, the Commission undertake an investigation of the Company's program to evaluate whether regulated ratepayers are subsidizing the marketing, billing and collection of unregulated non-basic services provided by Peoples' unregulated affiliates. OCA St. No. 5, p. 8, OCA St. No. 5SR, p. 5. For the reasons outlined below, Peoples submits that the Company's non-basic billing services and its relationship with its affiliate(s) are being handled appropriately. Peoples St. No. 2-R, p. 56. OCA has failed to conjure up any support for its recommendation that the Commission undertake an unnecessary evaluation.

OCA suggests, but does not offer any support for its inference, that the Company's ratepayers may be subsidizing the marketing, billing and collection of unregulated non-basic services. OCA states that it did seek additional information to confirm whether ratepayers were subsidizing non-basic services. OCA St. No. 5, p. 29-30. After receiving the additional information by way of the Company's interrogatory responses, OCA's surrebuttal testimony still failed to offer support for its misguided assumption that the Company does not bring in enough revenue to cover the cost to bill for non-basic charges. Instead, OCA claims that "the actual revenues that Peoples has included in this rate case appear very small in comparison to the billing and marketing services provided by Peoples." OCA St. No. 5, p. 15. OCA's assumptions are careless and unproven.

As the Company states in its rebuttal testimony, if the PUC deems it necessary to undertake an evaluation of certain Company billing and affiliate matters, the Company will fully cooperate. Peoples St. No. 2-R, p. 58. However, the Company is confident that the Commission continues to adequately assess this matter in the context of its most recently concluded and currently pending management audit(s)⁸⁵. In the Company's most recent management audit, there was a comprehensive review of affiliate transactions and there were no findings related to non-basic chargers. Peoples St. No. 2-R, p. 58. Since OCA did not provide support for its assumptions and since the Commission has already reviewed this matter in the context of the Company's latest management audit, OCA's recommendations should be rejected.

B. OPERATIONAL ISSUES / QUALITY OF SERVICE CONCERNS

OCA's witness summarized the various testimonies provided at those public input hearings in their direct testimony and by exhibit. OCA St. No. 1, pp. 8-10, Exhibit DE-2. OCA specifically identified customers that "had quality of service concerns with the Company's practices." While OCA brought up these concerns, they did not make any recommendations or request that the Company make any changes to its practices. Rather, OCA inferred that there are issues with how the Company chooses meter locations or that the call center hours are insufficient. The Company maintains that it is in compliance with applicable Commission regulations and that there are no quality of service concerns with respect to meter locations or its call center. For the reasons outlined below, the OCA's quality of service inferences should be disregarded.

OCA's testimony repeats a customer's allegation that the Company's meter installed in front of a window at the customer's premises is "a violation of the Commission's regulations that

⁸⁵ The most recently concluded management efficiency audit was in April 2021 at Docket Nos. D-2020-3018771, D-2020-3018773, D-2020-3018774. Currently there is a pending management efficiency investigation at Docket Nos. D-2024-3046564 & D-2024-3046565.

poses a safety concern.” OCA St. No. 1, p. 9. The Company strongly disagrees that there is a violation of Commission regulations and further disagrees that the meter location poses a safety concern. Peoples St. No. 5R, p. 4. The customer and OCA failed to read the entire applicable Commission regulation regarding meter placement, 52 Pa. Code §59.18. This regulation permits the location of a meter below a window if the meter does not directly obstruct an emergency fire exit. Peoples St. No. 5R, p. 5. The meter at issue does not block an emergency fire exit and therefore, it does not pose a safety concern nor does the placement violate Commission regulations. *Id.* As a result, OCA’s accusations of a false safety concern should be disregarded.

OCA’s testimony also repeats a customer’s account of a new service application at the customer’s property. OCA St. No. 1, p. 9. The particular customer alleges that he was waiting for the Company to test his meter, that he was having issues with the Company keeping its appointments, and that he had trouble getting ahold of Company representatives outside of normal business hours. Public Input Hearing Transcript, p. 226. The Company disagrees with the OCA and the customer’s allegations. The Company reviewed this particular customer account and situation and does not have a record of any missed appointments. Peoples St. No. 5-R, p. 6. Further, the Company records show that the Company had several telephone conversations with the customer in 2024 about this premises and that the Company was waiting for required documentation from the customer in order to restore gas service to the premises. *Id.* Since the public input hearings, the Company has taken time to re-explain the process to the customer and is waiting for the customer to return the required paperwork in order to restore service at the premises. *Id.* As the Company has explained, there are no service concerns with this particular customer. Specific recommendations pertaining to the Company’s call center hours are discussed below in Section C.

C. CALL CENTER HOURS

OCA recommends that the Company evaluate whether its call center hours should be expanded beyond normal business hours if it can be done at a reasonable cost. OCA St. No. 5SR, p. 3. OCA did not provide any basis for its recommendation, nor did OCA provide any evidence whatsoever as justification for why the Company would need to expand its call center hours. As noted above in Section B., the OCA notes a particular customer concern. The Company has explained that specific customer's situation and shows that the Company had many points of contact with the customer already. Peoples St. No. 5-R, p. 6. Therefore, OCA's recommendation regarding the expansion of call center hours is unnecessary and without merit.

D. COMPLAINT ANALYSIS

OCA recommends that the Company conduct a "regular and proper" root cause analysis with respect to its complaints. OCA St. No. 5SR, p. 3. For the reasons outlined below, the OCA's recommendation should be rejected as the Company has a well-established process for analyzing its complaints, tracking various metrics and implementing the necessary improvements.

OCA claims that the Company does not undertake root cause analyses with respect to its internal disputes or informal complaints received from the Commission's Bureau of Consumer Services ("BCS"). OCA St. No. 5SR, p. 8. OCA's assertions are patently unfounded and untrue. In both testimony and in interrogatories, Company witness Black provided several concrete examples of the Company's root cause analysis process with respect to its disputes and complaints. Peoples St. No. 9R, pp. 24-26. Specifically, the Company noted that it evaluates every dispute/complaint, documents how it was handled, and tracks various metrics to identify trends to prevent recurrence and promote training opportunities. Peoples St. No. 9R, p. 25. Moreover, the Company's justified complaint rate is below the average of its utility peers in Pennsylvania which show that its processes and procedures are working. Peoples St. No. 9R, p. 23. Peoples has shown

that it has embedded root cause analyses into its daily handling of customer complaints. Peoples St. No 9-R, p. 26. Therefore, the OCA's recommendation should be denied as Peoples' current processes and procedures for complaints already include root cause analyses.

E. TERMINATION PROCEDURES

OCA recommends that the Company should be required to develop and implement a detailed training program to ensure that it attempts to make personal contact "immediately prior to terminating service, in accordance with Commission regulations. OCA St. No. 5, p. 6. The Company did explain that it is in compliance with Commission regulations governing personal contact with respect to termination of service. Peoples St. No. 4R, p. 12. However, the Company accepts the OCA's recommendation to add explicit language to its training materials to specifically note the requirement to attempt personal contact immediately prior to actual termination of service. The Company agrees to add express language to its training documentation concerning personal contact attempts within 90 days of a final Commission Order in this proceeding.

F. LANDLORD TENANT PREMISES

OCA recommends changes to the Company's policies and disclosures regarding tenants' rights. OCA St. No. 5, p. 7. The Company is aligned with OCA on some of its recommendations as the Company already has procedures in place that address the OCA's recommendations regarding landlord retaliation concerns, customer privacy concerns, medical certificates and terminations for households during the months of December through March. Peoples St. No. 16-R, pp. 7-8. However, the OCA's recommendations regarding protection from abuse orders ("PFAs") should be rejected as the Company cannot and does not treat medical certificates the same as PFAs.

First, as the Company explains in testimony and as shown in its exhibits, the Company's Tenant Notice addresses the OCA's concerns regarding privacy and landlord retaliation. Peoples

St. No. 16-R, pp.7-8 and Exhibit HDC-R5. Further, the Company's customer service representatives are trained not to share any personal information and to protect customer privacy. Peoples Exhibit Nos. HDC-R5 and HDC-R4. The Company's tenant notice advises tenants of their right to pay current charges and their right to deduct said charges from their rent. Peoples St. No. 16-R, p. 7. Lastly, the Company does accept medical certificates from tenant customers. Peoples St. No. 16-R, p. 7.

Despite the Company and OCA's alignment on most of the landlord – tenant recommendations, the Company disagrees with OCA's recommendation regarding PFAs. OCA recommends that Peoples accept PFAs from tenants. OCA St. No. 5, p. 25. The Company accepts PFAs from victims of domestic abuse who have bills accrued in the name of their abuser, but submits that it should not provide PFA protection to landlords in the event their tenant has a PFA. Peoples St. No. 16-R, p. 12. Peoples maintains that medical certificates are functionally different from PFAs. Peoples St. No. 16-RJ, p. 2. Since a tenant is not obligated to pay a utility bill in the name of their landlord, PFA protections are not necessary in the same way that medical certificates are necessary. Peoples St. No. 16-RJ, p. 2. For these reasons, the OCA's recommendation for the Company to accept tenant PFAs in the same way it does tenant medical certificates should be rejected.

G. SUPPLIER CHARGES IN EXCESS OF DEFAULT SERVICE

OCA recommends that the Company educate shopping customers who may be purchasing their commodity from a third party that they are paying higher than the default service. OCA St. No. 5, pp. 8-9. Further, OCA recommends that the Company add clear language to its bill when third party supplier charges are higher than default service. *Id.* For the reasons outlined below, OCA's recommendations should be denied as unnecessary as the Company does educate

customers with respect to shopping options and prices and already explicitly states the price to compare on customer bills. Peoples St. No. 4R, p. 15.

OCA offers no evidence to suggest that the Company is out of compliance with the Commission's regulations on shopping. Further, OCA offers no evidence to suggest that the Company has any control over any particular customer's ability to shop. Rather, the Company is in full compliance with its obligations to provide current prices to compare to its customers. OCA's requests may be best suited for the actual suppliers providing the commodity and pricing or the Commission's Office of Competitive Market Oversight who closely monitors and manages the retail natural gas market in Pennsylvania. Further, it may be beneficial for OCA to review the current Commission-monitored website which offers natural gas price comparison information, rates and more at <https://www.pagasswitch.com/>. Therefore, because the Company already meets its obligations with respect to shopping customer education and pricing information, the OCA's recommendations are unnecessary.

XIII. ALLEGHENY VALLEY CONNECTOR (AVC)

OSBA raised several issues regarding combining AVC charges for both the PNGD and PGD. OSBA St. No. 1, pp. 12-13. These issues have been resolved by the Settlement. Non-Unanimous Settlement ¶ 76.

XIV. DISCOUNT RATES

A. ELECTRICITY AS A COMPETITIVE OPTION

The Company's proposed Tariff (Exhibit 14) Rule 20 seeks to revise the currently restricted language to allow the Company to use electricity as an energy source eligible for a flexible rate. Peoples St. No. 7, p. 5. The OCA rejects the Company's request, stating that the Company's tariff revisions "may be both inequitable and discriminatory." OCA St. 4SR, p. 30. As explained below, the Company has proffered evidence that its proposal is neither inequitable nor discriminatory and

as such, the Company's proposal to regard electricity as an energy source eligible for flexible rate consideration should be accepted.

The Company's proposal to add electricity as an alternative fuel eligible for flexible rate consideration is equitable and non-discriminatory. First, the Company's proposal is intended to provide consumers with energy choice, as many consumers compare natural gas and electric with respect to the equipment they use. Peoples St. No. 7R, p. 7. The Company's intention is to provide current or future customers with an equal opportunity to maintain energy choice in a time where the current political and environmental landscapes are pushing consumers into electrification. Peoples St. No. 7R, p. 8. The Company maintains that by allowing electricity to be considered an alternative fuel option, consumers can weigh their energy choice options in a fair and equitable manner. *Id.* For these reasons, the Company's proposal is equitable and should be accepted.

Second, the Company's proposal is not discriminatory. Currently the Company's tariff rule 20 applies only to a small number of eligible customers⁸⁶ who but for a discount, would not choose to receive natural gas service from Peoples. The cost to serve these customers is less than the discounted revenue generated from these customers and so this particular subset of customers contributes millions of dollars of annual revenue to the Company, ultimately contributing to the Company's total fixed costs and resulting in lower rates for the rest of the ratepaying customers. Peoples St. No. 7, pp. 2-3. The Company would employ the same justification analysis and assessment for any potential discount based on electricity. Peoples St. No. 7, p. 5. Therefore, the Company's proposal would continue to add benefit to ratepayers as a whole as it would generate additional revenues that would not be available but for a competitive discount. For these reasons, the Company's proposal should be accepted.

⁸⁶ As explained by the Company, there are currently 17 negotiated customer contracts for both divisions and in its last rate proceeding, there were 42 on PNGD alone. Peoples Statement No. 7, p. 6.

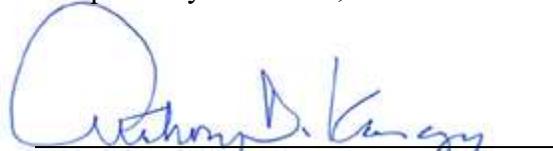
XV. MISCELLANEOUS/OTHER ISSUES

None at this time.

XVI. CONCLUSION

The Non-Unanimous Settlement and Stipulations are the result of a detailed examination of Peoples' and the other parties' proposals, multiple rounds of discovery, direct, rebuttal, surrebuttal, and rejoinder testimony on a wide variety of issues, and compromise by the Settlement Parties to the Non-Unanimous Settlement, as well as the signatories to the Stipulations. Peoples believes that fair and reasonable compromises have been achieved on the issues agreed to in the Non-Unanimous Settlement and Stipulations. Peoples further submits that the ALJ and Commission reject the OCA's positions on the various litigated issues, as delineated in detail in this Main Brief. Peoples fully supports the Non-Unanimous Settlement and Stipulations and respectfully requests that the ALJ and the Commission review and approve the Non-Unanimous Settlement and Stipulations in their entirety without modification.

Respectfully submitted,



Meagan Moore (ID # 317975)
Senior Attorney
PNG Companies LLC
375 North Shore Drive
Pittsburgh, PA 15212
Phone: 412-208-6527
E-mail: Meagan.moore@peoples-gas.com

Michael W. Gang (ID # 25670)
Anthony D. Kanagy (ID # 85522)
Nicholas A. Stobbe (ID # 329583)
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mgang@postschell.com
akanagy@postschell.com
nstobbe@postschell.com

Date: May 30, 2024

Counsel for Peoples Natural Gas Company LLC

APPENDIX A

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

	Pro Forma						
	Pro Forma Present Rates (1) \$	Company Adjustments (1) \$	Present Rates (Revised) (1) \$	ALJ Adjustments \$	ALJ Pro Forma Present Rates \$	ALJ Revenue Increase \$	Total Allowable Revenues \$
Operating Revenue	833,215,508	2,361,164	835,576,672	0	835,576,672	154,280,575	989,857,247
Expenses:							
O & M Expense	541,287,319	996,345	542,283,664	0	542,283,664	3,394,173	545,677,837
Depreciation	134,219,598	0	134,219,598	0	134,219,598	0	134,219,598
Taxes, Other	15,353,167	0	15,353,167	0	15,353,167	0	15,353,167
Income Taxes:							
State	0	0	0	0	0	0	0
Federal	(91,344,434)	0	(91,344,434)	0	(91,344,434)	31,686,144	(59,658,290)
Total Expenses	599,515,649	996,345	600,511,994	0	600,511,994	35,080,317	635,592,311
Net Inc. Available for Return	233,699,859	1,364,819	235,064,678	0	235,064,678	119,200,258	354,264,935
Rate Base	4,215,125,164	0	4,215,125,164	0	4,215,125,164		4,215,125,164
Rate of Return	5.54%		5.58%				8.40%

(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			1.98094085% (A)		
Long-term Debt	45.33%	4.37%	1.98094085% (A)		1.98%
Short-term Debt	0.00%	0.00%	0.00000000%		
Preferred Stock	0.00%	0.00%	0.00000000%	0.790000	0.00%
Common Equity	<u>54.67%</u>	11.75%	<u>6.42367162% (A)</u>	0.790000	<u>8.13%</u>
	<u>100.00%</u>		<u>8.40461247%</u>		<u>10.11%</u>
Pre-Tax Interest Coverage	5.10				
After-Tax Interest Coverage	4.24				

(A) Rounding removed from these cells as the company's filing did not round them.

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	<u>0.00000000</u>
	0.97800000
State Income Tax Rate (*)	<u>0.00000000</u>
Effective State Income Tax Rate	<u>0.00000000</u>
Factor After Local and State Taxes	0.97800000
Federal Income Tax Rate (*)	<u>0.21000000</u>
Effective Federal Income Tax Rate	<u>0.20538000</u>
Revenue Factor (100% - Effective Tax Rates)	<u><u>0.77262000</u></u>

(*) Company Main Brief

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

	Amount \$
Company Rate Base Claim	4,215,125,164
ALJ Rate Base Adjustments	<u>0</u>
ALJ Rate Base	4,215,125,164
Weighted Cost of Debt	<u>1.98094085%</u>
ALJ Interest Expense	83,499,136
Company Claim (1)	<u>84,085,080</u>
Total ALJ Adjustment	585,944
Company Adjustment	<u>585,944</u>
Net ALJ Interest Adjustment	(0)
State Income Tax Rate	<u>0.00%</u>
State Income Tax Adjustment	<u>0</u>
Net ALJ Interest Adjustment	(0)
State Income Tax Adjustment	<u>0</u>
Net ALJ Adjustment for F.I.T.	(0)
Federal Income Tax Rate	<u>21.00%</u>
Federal Income Tax Adjustment	<u><u>0</u></u>

(1) Company Main Brief

(2) Represents a slight variation in the Company's calculation compared to this calculation.

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

Accrued Interest			Preferred Stock Dividends		
	Long-Term Debt	Short-Term Debt			
Company Rate Base Claim	\$4,215,125,164	\$4,215,125,164	Company Rate Base Claim	\$4,215,125,164	
ALJ Rate Base Adjustments	<u>\$0</u>	<u>\$0</u>	ALJ Rate Base Adjustments	<u>\$0</u>	
ALJ Rate Base	\$4,215,125,164	\$4,215,125,164	ALJ Rate Base	\$4,215,125,164	
Weighted Cost of Debt	<u>1.98094085%</u>	<u>0.00%</u>	Weighted Cost Pref. Stock	<u>0.00000000%</u>	
ALJ Annual Interest Exp. (2)	<u>\$84,085,080</u>	<u>\$0</u>	ALJ Preferred Dividends	<u>\$0</u>	
Average Revenue Lag Days	59.4	59.4	Average Revenue Lag Days	59.4	
Average Expense Lag Days	<u>67.3</u>	<u>0.0</u>	Average Expense Lag Days	<u>0.0</u>	
Net Lag Days	<u>-7.8</u>	<u>59.4</u>	Net Lag Days	<u>59.4</u>	
Working Capital Adjustment					
ALJ Daily Interest Exp.	\$230,370	\$0	ALJ Daily Dividends	\$0	
Net Lag Days	<u>-7.8</u>	<u>59.4</u>	Net Lag Days	<u>59.4</u>	
ALJ Working Capital	(\$1,802,139)	\$0		\$0	
Company Claim (1)	<u>(\$1,799,756)</u>	<u>\$0</u>	Company Claim (1)	<u>\$0</u>	
ALJ Adjustment	<u>(\$2,383)</u>	<u>\$0</u>		<u>\$0</u>	
Total Interest & Dividend Adj.	<u>(\$2,383)</u>				

(1) Company Main Brief.

(2) Updated to reflect Company interest adjustment described on Tab III.

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

Description	Company Proforma Tax Expense Present Rates	ALJ Adjustments	ALJ Pro forma Tax Expense Present Rates	ALJ Allowance	ALJ 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	7.58	\$71,359
Public Utility Realty	\$0	\$0	\$0		\$0	\$0.00	7.58	\$0
Capital Stock Tax	\$0	\$0	\$0		\$0	\$0.00	7.58	\$0
Property Tax	\$1,064,828	\$0	\$1,064,828		\$1,064,828	\$2,917.34	7.58	\$22,116
Payroll Tax	\$6,571,623	\$0	\$6,571,623		\$6,571,623	\$18,004.45	7.58	\$136,491
Other	\$4,281,001	\$0	\$4,281,001		\$4,281,001	\$11,728.77	7.58	\$88,915
	\$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	\$0.00	0.00	\$0
State Income Tax (2)	\$0	\$0	\$0	\$0	\$0	\$0.00	0.00	\$0
Federal Income Tax (2)	\$0	\$0	\$0	\$31,686,144	\$31,686,144	\$86,811.35	0.00	\$0
	<u>\$15,353,167</u>	<u>\$0</u>	<u>\$15,353,167</u>	<u>\$31,686,144</u>	<u>\$47,039,311</u>			
						ALJ Allowance		318,881
						Company Claim (1)		<u>318,881</u>
						ALJ Adjustment		<u>0</u>

(1) Company Main Brief

(2) No claim is being made for Cash Working Capital on income taxes

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

Description	Company Pro forma F.T.Y. Expense	ALJ	ALJ Pro forma Expenses	Lag Days	Lag Dollars
Service Company	\$0	\$0	\$0	0.00	\$0
Chemicals	\$0	\$0	\$0	0.00	\$0
Group Insurance	\$0	\$0	\$0	0.00	\$0
Insurance, Other	\$0	\$0	\$0	0.00	\$0
Labor	\$75,087,605	\$0	\$75,087,605	15.55	\$1,167,597,479
Leased Equip./Rent	\$0	\$0	\$0	0.00	\$0
Leased Vehicles	\$0	\$0	\$0	0.00	\$0
Miscellaneous	\$119,444,563	\$0	\$119,444,563	42.40	\$5,065,039,054
Natural Gas	\$317,688,615	\$0	\$317,688,615	35.49	\$11,275,592,861
Power	\$0	\$0	\$0	0.00	\$0
Purchased Water	\$0	\$0	\$0	0.00	\$0
Telephone	\$0	\$0	\$0	0.00	\$0
Waste Disposal	\$0	\$0	\$0	0.00	\$0
Post Retirement Benefits	\$0	\$0	\$0	0.00	\$0
Pensions	\$29,066,537	\$0	\$29,066,537	30.63	\$890,320,757
	<u>\$541,287,319</u>	<u>\$0</u>	<u>\$541,287,319</u>	<u>33.99</u>	<u>\$18,398,550,151</u>
				(2)	
ALJ Average Revenue Lag	59.4				
Less: ALJ Avg. Expense Lag	<u>34.0</u>	(2)			
Net Difference	25.4	Days			
ALJ Pro forma O & M Expense per Day	<u>\$1,482,979</u>				
ALJ CWC for O & M	\$37,737,793				
Less: Company Claim (1)	<u>\$37,737,792</u>				
ALJ Adjustment	<u>\$1</u>				

(1) Company Main Brief

(2) Rounding removed from this cell as the company's filing did not round them.

APPENDIX B

Proposed Findings of Fact in Support of Brief on Non-Unanimous Settlement

1. Peoples Natural Gas Company LLC (“Peoples” or the “Company”) filed for an approximately \$156 million total rate increase on December 29, 2024.

2. Peoples’ proposed total rate base for the Fully Projected Future Test Year (“FPFTY”) was \$4,215,125,164.

3. Office of Consumer Advocate (“OCA”) witness Dante Mugrace argued that \$27,819,503 of Peoples’ projected additions to gas plant in service (“GPIS”) be rejected as, according to Mr. Mugrace, such costs are unknown and uncertain. OCA St. No. 2, pp. 6-10.

4. Peoples’ witness Paul Becker explained that these costs were increasing approximately 4% per year between 2016 and 2019 and then grew to an average annual compound growth rate of approximately 17% during the period of 2021 to 2022. Peoples St., No. 5, p. 7.

5. There is no basis to conclude that these increases in costs will suddenly stop. Peoples St. No. 5-R, p. 8.

6. If the projected increases in pipeline and other plant replacement costs somehow did not materialize, which is highly unlikely, the Company would use such funds to replace additional facilities in the FPFTY to further achieve its long- term safety and reliability objectives. Peoples St. No. 5-RJ, p. 2.

7. OCA witness Mr. Mugrace also proposed to remove from GPIS the actual cost of replacing at-risk bare steel pipe in Robinson Township that has already been completed at the cost of \$1,462,407. OCA St. No. 2, pp. 8-9.

8. The overpressure issue in Robinson Township was resolved and that the Company paid the costs of damages to customers’ property and is not claiming these costs in this case.

Peoples replaced the at-risk bare steel pipe in the related system at the Bureau's direction, even though those facilities were not affected by the incident. Peoples St. No. 5-R, p. 9, lines 2-3.

9. Those facilities were on the list of pipelines that are most likely to have deterioration and leaks and that are among the highest risks to safety and reliability. Peoples St. No. 2-R, p. 9. Peoples St. No. 5RJ, pp. 3-4.

10. Act 40 is codified as Section 1301.1 of the Public Utility Code. Section 1301.1(a) of the Code eliminated the consolidated tax adjustment ("CTA"), which formerly used income tax deductions of affiliates of utilities to reduce income taxes charged to utility customers. Section 1301.1(b) requires the utility to account for the use of the funds received from the termination of the CTA, with 50% going to support plant additions/infrastructure and the second 50% to be used for general corporate purposes.

11. OCA witness Mugrace contended the \$27,500 should be deducted from rate base through a reduction to working capital, because utilities' general corporate purpose is to serve customers. OCA St. No. 2, pp. 62-65.

12. Peoples has explained that this amount is used to fund a small portion of its much larger operating expense of over \$200 million. Peoples St. No. 6-RJ, pp. 2-3.

13. As noted in the Present Revenue Stipulation, the Company discovered an error in its present revenues in the case. The error increases present revenue by \$2,361,164, which reduces the Company's as-filed revenue increase from \$156,026,122 to \$153,664,958. Present Revenue Stipulation ¶¶ 1-3.

14. The Company identified three adjustments to its claim in discovery. The Company identified these adjustments to parties in discovery responses and reflected the updates in its rebuttal testimony. Peoples St. No. 2-R, p. 5.

15. The impact of these adjustments would have increased the Company's claim by approximately \$996,345 excluding the Cash Working Capital ("CWC") amount. In rebuttal, the Company explained that it was not proposing to increase its claim for these adjustments over the as-filed amount of \$156 million. However, the Company explained that the Commission should reflect these updates to the extent that the Commission disallowed other expenses or reduced the Company's overall rates of return. Peoples St. No. 2-R, p. 5, lines 6-8.

16. The Company's claim includes adjustments to several expenses to reflect a five-year, year over year, average increase. These expenses include Outside Services, Corporate Insurance, Travel, Company Memberships, Licenses and Permits, Utilities and Fuel, Fleet, Materials and Supplies, and other O&M. The five-year, year over year, average increases are based on the historic average increase for each specific category of expense. The five-year, year over year, increases were applied to the FTY and FPFTY to determine the amount for each category of expense. Peoples St. No. 2-R, pp. 11-12.

17. The Company claimed limited general inflation adjustments with respect to the categories of expenses: Injuries and Damages (\$150,236 adjustment) and Advertising (\$86,937 adjustment). The Company utilized the CPI – Consumer Price Index for both of these categories of 3.20%. Peoples Volume 1, Exhibit No. 4, Schedule 1, p. 33.

18. In this proceeding, the Company proposed a vacancy adjustment of 8 open positions. In direct testimony, Company witness Wachter explained that the Company has experienced higher average vacancies since COVID but expects to be at COVID average vacancy levels by the end of the FPFTY. Peoples St. No. 2, p. 12.

19. Since the rate case was filed, the Company hired 52 new employees. Peoples St. No. 2-R, p. 17, lines 12-13.

20. National employee resignations have recently hit a three-year low. Peoples St. No. 2-R, p. 17, lines 7-12; Exhibit No. APW-R-2.

21. Incentive compensation is one form of compensation offered by the Company. Most utilities in Pennsylvania offer incentive compensation, and the Company must offer incentive compensation in order to attract and retain employees. Peoples St. No. 2-R, p. 20.

22. In order to ensure that all of its compensation paid to employees is reasonable, the Company conducts unbiased reviews and surveys to ensure that its compensation packages are in line with market conditions. The Company relies on Salary.com, Willis Towers Watson, and American Waterworks Association to ensure market competitiveness. In addition, the Company's Executive Compensation Committee employs an independent compensation consultant to benchmark executive compensation. Peoples St. No. 2-R, pp. 20-21.

23. Peoples' diversity goals were established to promote a workforce that matches the diversity of our customer base and to promote diversity in our procurement practices. By aligning its workforce to our customer base, it enables Peoples' employees to better respond to the needs of those communities. Peoples St. No. 2-RJ, p. 9, lines 12-15.

24. Peoples included \$221,500 of expense for Employee Service and Safety Awards and \$32,937 for Employee Events. The Company provides Service Awards that reward employees for their commitment to the Company. Peoples St. No. 2-R, p. 28.

25. These awards were reinstated to address employee dissatisfaction and are intended to encourage employees to continue their tenure at the Company. The Company also has a Safety Program and provides employees the opportunity to receive Safety Awards for not incurring OSHA injuries and not getting into motor vehicle accidents. Peoples St. No. 2-R, p. 29.

26. The Company also incurs costs for employee events including employee gatherings, the Special Olympics Polar Event and team lunches. Peoples St. No. 2-R, pp. 29-30.

27. These events promote employee camaraderie and engagement, which benefits customers through employee retention and reduced absenteeism, among other things. Peoples St. No. 2-R, p. 30.

28. The Company made two separate adjustments to Materials and Supplies in this proceeding. First, the Company applied a five-year average increase adjustment which is addressed in Section VI (C) above. Second, the Company included a \$49,932 increase related to the expected increase in average cost per fault, higher number of faults expected and higher cost of anodes recently experienced. Peoples St. No. 2-R, p. 43.

29. The Company proposed to use a two-year average of pension expense to determine its claim in this proceeding. The Company's pension expense claim is \$5,760,000. Peoples Volume 1, Exhibit No. 4, Schedule No. 1, p. 10. The Company utilized a two-year average of contributions to reflect recent history after the Company was acquired by Essential Utilities, Inc. ("Essential"). Peoples St. No. 2-R, p. 47.

30. The Company accounts for PBOP expense on an accrual basis. Peoples deposits its PBOP rate allowance into a trust and amortizes the difference between the historic rate allowance and actual expenses in future base rate case proceedings. Peoples St. No. 2, pp. 14-15.

31. Peoples proposed to normalize rate case expense over a two-year period based on the estimated filing time between this case and the next case. Peoples St. No. 2-R, p. 45.

32. The Company anticipates spending over \$475 million and \$550 million under its LTIP alone in calendar years 2026 and 2027, respectively. Peoples St. No. 2-R, p. 45.

33. Even if the Company received its entire requested rate increase in this case, the Distribution System Improvement Charge (“DSIC”) would provide insufficient revenue to cover Long Term Infrastructure Improvement Plan expenditures during 2026 and 2027. Peoples St. No. 2-R, p. 45; Exhibit No. APW-R-10.

34. In order to meet its LTIIIP requirements, the Company must file within a two-year period or it will experience insufficient revenues to provide an adequate revenue requirement. Peoples St. No. 2-R, p. 45.

35. The Company proposed to recover \$1,014,712 of travel and entertainment expenses in this proceeding. These are normal, reasonable costs of doing business. Peoples St. No. 2-R, pp. 31-32.

36. The Company’s claim for advertising expense in this proceeding is \$1,423,934. Peoples Volume 1, Exhibit No. 4, Schedule 1, p. 2, line 16.

37. All of the advertising expenses proposed to be disallowed by I&E meet at least one of the statutory criteria for recovery. Peoples St. No. 2-R, pp. 38-43.

38. The Company is a member of certain organizations which assist it in operating efficiently and maintaining awareness of regulatory trends and issues. These organizations include the Energy Association of Pennsylvania, Curate Solutions, Pittsburgh Area Chamber of Commerce, Chamber of Commerce of Greater Philadelphia, and Women’s National Business Enterprise Council. Peoples St. No. 2-R, pp. 33-34.

39. Almost all utilities in Pennsylvania are part of the Energy Association. It collaborates on issues before the Commission, providing a common response on policy issues such as new regulations. Peoples St. No. 2-R, p. 33.

40. In this proceeding, Peoples proposed to recover payment processing costs for PGD customers in base rates instead of charging customers directly, Peoples already does this for PNGD customers. In order to recover costs for extending this service to PGD customers, the Company proposed three adjustments. Peoples St. No. 2-R, pp. 53-54.

41. The Company provided a reasonable basis for its projected costs based on the historical increase in adoption rates at PNGD. Peoples St. No. 2-R, p. 55.

42. The Company plans to make capital investments in excess of \$3 billion over the period 2024 through 2028. These expenditures will be 108% of the Company's net utility plant at December 31, 2022. Peoples St. No. 13, p. 13.

43. The circumstances of elevated inflation and higher interest rates make it important that the DCF method of determining the cost of equity not be used exclusively. Other methods that are based on projected interest rates, such as the CAPM and the Risk Premium method, directly reflect these effects. Peoples St. No. 13-R, p. 8-9.

44. Peoples proposed capital structure reflected the projected amounts of debt (45.33%) and equity (54.67%) at September 30, 2025, the end of the FPFTY in this case. Peoples St. No. 13, p 22.

45. Peoples' use of an equity ratio that is within the barometer group average is justified by its higher level of risk, as compared to the barometer group, created by potential bypass of its customers by other gas suppliers and multiple interstate pipelines in western Pennsylvania and the use of other alternative fuels. Peoples St. No. 13, p. 20-21.

46. Peoples' barometer group contains seven gas companies. I&E's barometer group removes Southwest Gas on the basis that 50% of Southwest Gas' revenues are not derived from utility operations. Peoples witness Moul has demonstrated that 99% of the income of Southwest

Gas is from regulated operations and 67% of the assets are utility assets. Peoples St 13-R, pp. 12-13. In addition, the Commission uses the same Barometer Group employed by Peoples witness Moul in determining the DSIC earnings cap. Quarterly Earnings Report (Docket No. R-2023-3044811 for year ended September 30, 2023; public meeting January 18, 2024.) Peoples St. No. 13-R, p. 13.

47. The DCF method of determining the cost of equity is used widely by the Commission and other regulatory bodies. Peoples witness Moul and I&E both used the standard formula of the model which combines an observed dividend yield and a projected growth rate in earnings based on analysts' projections. Peoples St. No. 13, pp. 33-38.

48. Company witness Mr. Moul provided a CAPM analysis under the standard CAPM approach, which indicates a CAPM result of 12.07%. Peoples St. No. 13, p, 47.

49. Peoples witness Moul also provided an estimate of the cost of equity using the Risk Premium method. This method is based on the principle that the cost of equity is higher than the cost of debt because equity holders do not receive any return until all interest on debt is paid. Accordingly, equity holders assume higher risk and require a higher return. Mr. Moul's Risk Premium analysis indicates a cost of equity of 11.5% based on prospective utility. A rated bond yields of 5.00% and a market Risk Premium of 6.50%. Peoples St. No. 13, pp. 38-42.

50. No other party presented a Risk Premium analysis.

51. Peoples witness Moul also provided a comparable earnings analysis of similar risk non-utility entities, excluding entities with higher earning rates. This method is used to consider the standard in Bluefield that utilities should be permitted an opportunity to earn returns comparable to non-utility companies, which have similar risks. Mr. Moul's comparable earnings analysis produces a cost of equity of 12.07%. Peoples St. No. 13, pp. 47-50.

52. Peoples witness Huwar explained the many ways that the Company has improved the safety and reliability of its pipeline systems. In this regard, the Company has significantly reduced leaks in its pipelines. Peoples St. No. 1, p. 19.

53. Mr. Huwar also explained how management has consolidated the operations of the Peoples Natural, Equitable, and Peoples Gas systems, which has produced efficiencies that reduce costs. Peoples St. No. 1, pp. 8-14.

54. The ability of the Company to avoid increasing base rates to customers for approximately five years from its last base rate case during a period of extensive investment demonstrates these efficiencies. Peoples St. No. 1, p. 3.

55. The Company provided two Cost of Service Studies (“COSS”) in this case – a Peak & Average (“P&A”) and a Minimum System/Design Day COSS. OCA presented a P&A methodology with no customer component of mains; OSBA supported a modified customer/demand study which relies on a zero-intercept method to determine the customer component of costs; PII supports the Company’s methodology with a different revenue allocation. I&E St. No. 3, pp. 21-29; OCA St. No. 4, pp. 19-22; OSBA St. No. 1, pp. 33-34. PII St. No. 1, pp. 8-10.

56. The minimum system approach is widely adopted in the industry and referenced in cost allocation manuals published by NARUC. Peoples St. No. 15-R, p. 28

57. PII supports the Company’s allocation of mains costs on a customer basis. PII St. No. 1, p. 8.

58. The Company’s Weather-Normalization Adjustment (“WNA”) adjusts customers’ bills in heating months, October-May, to reflect the normalized weather HDD that are used to set revenues in this rate case. If the weather is more than 3% colder than normal, customers receive

a reduction in their bills to better reflect the normalized HDD that were used to set rates in this base rate proceeding. If weather is more than 3% warmer than normal, customers receive an increase in their bill to better reflect the normalized HDD that were used to set rates in this base rate proceeding. Peoples St. No. 3, p. 15.

59. Under the WNA, weather-related risk is shared symmetrically between the Company and customers. Peoples St. No. 3, pp. 19-22.

60. The Company has performed an extensive analysis of the impacts of including the month of May in the WNA. The Company analyzed over 40 million bills, 25 million of which occurred in the WNA months, over a seven-year period. The WNA mechanism worked as intended 99.93% of the time. However, 0.07% of the time, the results of the WNA mechanism resulted in unusual occurrences. Peoples St. No. 15-R, pp. 20-21.

61. Seventy percent of the very small percentage of unusual bills occurred in May 2018 when HDD were below normal and a small subset of customers increased their usage. Peoples St. No. 2-R, p. 20.

62. Under the Non-Unanimous Settlement, Peoples has agreed to set forth the WNA credit or change as a separate line item on the bill. Non-Unanimous Settlement ¶ 70. In addition, Peoples will include a simple explanation of the WNA on the bill, consistent with other NGDCs in Pennsylvania. See Peoples St. No. 3-RJ, p. 4; Exhibit CAS-1-RJ.

63. The WNA adjustment for bills rendered in May will not exceed 100% percent of the billed distribution amount (delivery charge amount plus customer charge amount) for that same period.

64. Budget billing is not the same and does not accomplish the same goals as a WNA. The WNA mechanism stabilizes the effects of weather impacts on revenue. Budget billing spreads a customer's annual bill over a 12-month period. Peoples St. No. 3-R, p. 18.

65. During warmer than normal months, customers will still experience gas cost savings if they reduce usage through conservation. In addition, customers adoptions of energy efficient appliances will still result in lower distribution usage and lower bills. Peoples St. No. 3-R, p. 15, lines 9-12.

66. Distribution costs are largely fixed and do not fluctuate based on usage. Peoples St. No. 3-R, p. 24.

67. OCA witness Roger Colton recommended a number of items throughout his Direct, Rebuttal, and Surrebuttal Testimony in this proceeding related to low-income customers and universal service. OCA St. No. 6, pp. 78-82.

68. Peoples' collections procedures are non-discriminatory. Peoples St. No. 16-RJ, p. 3.

69. Peoples both pursues personal contact with its customers prior to service disconnection, provides ample opportunity and notice of the customer's ability to apply for CAP assistance, and stays disconnection activities when the customer shows interest in enrolling in CAP and begins the application. Peoples St. No. 9-R, p. 11.

70. Outreach and education are critical activities to drive low income customers to participate in programs that can improve their affordability. Peoples St. No. 9-R, pp. 9-10.

71. The Company uses a dedicated phone queue for customers that are calling to inquire about universal service programs, such that the answering agent is aware that the caller is seeking assistance or may be income eligible for low-income programs. Peoples St. No. 16-RJ, p. 4.

72. If the Commission deems it necessary to undertake an evaluation of certain Company billing and affiliate matters, the Company will fully cooperate. Peoples St. No. 2-R, p. 58.

73. Peoples evaluates every dispute/complaint, documents how it was handled, and tracks various metrics to identify trends to prevent recurrence and promote training opportunities. Peoples St. No. 9R, p. 25.

74. The Company's justified complaint rate is below the average of its utility peers in Pennsylvania. Peoples St. No. 9R, p. 23.

75. The Company's Tenant Notice addresses the OCA's concerns regarding privacy and landlord retaliation. Peoples St. No. 16-R, pp.7-8 and Exhibit HDC-R5.

76. . The Company's tenant notice advises tenants of their right to pay current charges and their right to deduct said charges from their rent. Peoples St. No. 16-R, p. 7.

77. Lastly, the Company does accept medical certificates from tenant customers. Peoples St. No. 16-R, p. 7.

78. The Company accepts Protection From Abuse Orders ("PFA") from victims of domestic abuse who have bills accrued in the name of their abuser, but submits that it should not provide PFA protection to landlords in the event their tenant has a PFA. Peoples St. No. 16-R, p. 12.

79. The Company's proposed Tariff (Exhibit 14) Rule 20 seeks to revise the currently restricted language to allow the Company to use electricity as an energy source eligible for a flexible rate. Peoples St. No. 7, p. 5.

Proposed Conclusions of Law in Support of Brief on Non-Unanimous Settlement and Stipulations

Peoples Natural Gas Company LLC (“Peoples” or the “Company”) proposes the following conclusions of law.

1. Settlements must be in the public interest. *Pa. PUC v. Windstream Pennsylvania, LLC*, Docket No. M-2012-2227108, 2012 Pa. PUC LEXIS 1535 (Opinion and Order entered Sept. 27, 2012); *Pa. PUC v. C.S. Water and Sewer Assoc.*, Docket No. R-881147, 74 Pa. PUC 767 (Opinion entered Jul. 22, 1991).

2. The Commission’s policy permits parties to enter “partial” or “non-unanimous” settlements. *See* 52 Pa. Code § 69.401, § 69.406, § 5.232.

3. As with full settlements, the terms and conditions of non-unanimous settlements must be reasonable and in the public interest. *Pa. PUC v. City of Bethlehem – Water Department*, Docket No. R-2020-3020256, 2021 Pa. PUC LEXIS 116 (April 15, 2021) (“*City of Bethlehem Water*”).

4. The Commission has approved non-unanimous settlements as being just and reasonable and in the public interest and has not rejected or disfavored settlements because they are non-unanimous. *City of Bethlehem Water*; *Pa. PUC v. Pike County Light and Power Company – Electric*, Docket No. R-2020-3022135 (Recommended Decision May 5, 2021; Order entered June 23, 2021) (“*Pike County*”); *Pa. PUC v. Pennsylvania-American Water Company*, Docket No. R-2020-3019369 (Order entered February 25, 2021).

5. The standards for approving the terms of non-unanimous settlements are the same as those for deciding a fully contested case, *i.e.*, the parties to the non-unanimous settlement must demonstrate that the proposed settlement is supported by substantial evidence and that the rates

agreed to are just and reasonable and in conformity with the Commission's orders and regulations. 66 Pa C.S. § 1301; *Pike County*, Docket No. R-2020-3022135.

6. When evaluating a non-unanimous settlement, the Commission will also consider the due process afforded to non-settling parties, such as whether non-settling parties were provided an opportunity to object to the settlement and to present their positions on the issues, and the range of interests represented in the non-unanimous settlement. *Pa. PUC v. City of Bethlehem – Water Department*, 2021 Pa. PUC LEXIS 116.

7. The results achieved from a negotiated settlement or stipulation, or both, in which the interested parties have had an opportunity to participate are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code § 69.401. For this reason, the Commission established guidelines and procedures designed to encourage full and partial settlements as well as stipulations in major section 1308(d) general rate increase cases." *Id.*; *see also* 52 Pa. Code §§ 69.402 - 69.406.

8. Under Sections 315(a), 1301, and 1304 of the Public Utility Code, a public utility's rates must be just and reasonable and cannot result in undue rate discrimination. 66 Pa. C.S. §§ 315(a), 1301 and 1304.

9. Under Section 315(a) of the Public Utility Code, a public utility seeking a general rate increase has the burden of proof to establish the justness and reasonableness of every element of the rate increase request. 66 Pa. C.S. § 315(a).

10. "It is well-established that the evidence adduced by a utility to meet this [justness and reasonableness] burden must be substantial." *Lower Frederick Twp. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).

11. A public utility, in proving that its proposed rates are just and reasonable, does not have the burden to affirmatively defend claims made in its filing that no other party has questioned; “While it is axiomatic that a utility has the burden of proving the justness and reasonableness of its proposed rates, it cannot be called upon to account for every action absent prior notice that such action is to be challenged.” *Allegheny Center Assocs. v. Pa. PUC*, 570 A.2d 149, 153 (Pa. Cmwlth. 1990).

12. Although the ultimate burden of proof does not shift from the utility seeking a rate increase, a party proposing an adjustment to a ratemaking claim of a utility bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See, e.g., Pa. PUC v. PECO*, Docket No. R-891364, *et al.*, 1990 Pa. PUC LEXIS 155 (Order dated May 16, 1990); *Pa. PUC v. Breezewood Telephone Company*, Docket No. R-901666, 1991 Pa. PUC LEXIS 45 (Order dated Jan. 31, 1991).

13. Tariff provisions previously approved by the Commission are deemed just and reasonable and, therefore, a party challenging a previously-approved tariff provision bears the burden to demonstrate that the Commission’s prior approval is no longer justified. *See, e.g., Pa. PUC v. Philadelphia Gas Works*, Docket Nos. R-00061931, *et al.*, 2007 Pa. PUC LEXIS 45, at *165-68 (Order entered Sept. 28, 2007).

14. A party that raises an issue that is not included in a public utility’s general rate case filing bears the burden of proof. *See Pa. PUC v. Metropolitan Edison Co.*, *et al.*, Docket Nos. R-00061366, *et al.*, 2007 Pa. PUC LEXIS 5 (Order entered Jan. 11, 2007).

15. Public utilities are entitled to recover all reasonable expenses incurred to provide service to customers. The relevant question in a base rate proceeding is whether the expense is

reasonable and appropriate for the furnishing of service to customers. *Butler Township Water Co. v. Pa. PUC*, 473 A.2d 219, 221 (Pa. Cmwlth. 1984).

16. The Commission has consistently accepted general price adjustment factors applied to expenses not separately adjusted, where the utility has demonstrated the adjustments are adequately supported and relatively conservative. *See, e.g., Pa. PUC v. Philadelphia Suburban Water Company*, Docket Nos. R-00016750, 2002 Pa. PUC LEXIS 55, at *53-55 (Order entered July 8, 2002) (accepting Philadelphia Suburban’s proposed general inflation adjustment, as modified and revised, and explaining the Commission has “consistently accepted inflation adjustments where supported by historic data demonstrating that the utility has experienced cost increases that exceed the claimed inflation increases.”); *Pa. PUC v. United Water Pennsylvania, Inc.*, Docket Nos. R-00973947, et al., 1998 Pa. PUC LEXIS 6, at *29-32 (Order entered Jan. 30, 1998); *Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-891468, et al., 1990 Pa. PUC LEXIS 162, at *37-44 (Order dated Sept. 20, 1990); *Pa. PUC v. Pennsylvania-American Water Company*, Docket Nos. R-880916, et al., 1988 Pa. PUC LEXIS, at *53-56 (Order dated Oct. 21, 1998).

17. The Commission has reviewed and approved incentive compensation programs in numerous prior rate cases. *See e.g., Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-2012-2290597, 2012 Pa. PUC LEXIS 1757 (“*PPL Electric 2012*”); *Pa. PUC v. Aqua Pa., Inc.*, Docket No. R-00072711, 2008 Pa. PUC LEXIS 50 (Order dated July 17, 2008) (“*Aqua 2008*”); *Pa. PUC v. Duquesne Light Co.*, 63 Pa. PUC 337, 1987 Pa. PUC LEXIS 342 (Order dated March 10, 1987); *PUC v. PPL Gas Utilities Corporation*, R-00061398, at p. 40 (Order dated Feb. 9, 2007); *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-2008-2073938, 2008 Pa. PUC LEXIS 32 (Order dated

Dec. 19, 2008). This includes stock rewards. *Pa. PUC v. UGI Utilities, Inc. – Electric Division*, Docket No. R-2017-2640058 (Order entered October 25, 2018).

18. Although the normalization period for rate case expense recovery should take into consideration the history of prior filings, there are circumstances that require the consideration of future circumstances. *See Emporium Water Company*, Docket No. R-2014-2402324, at pp. 48-49 (Order Entered Jan. 18, 2015) (citing *Pa. Pub. Util. Comm’n, et al., v. PPL Elec. Utils. Corp.*, Docket Nos. R-2012-2290597, et al. (Order Entered Dec. 28, 2012)).

19. Peoples has met its burden of proof to demonstrate that its claimed expenses are reasonable and appropriate for the furnishing of gas to its customers.

20. The standards to be used by the Commission in determining what return rate is fair are well-established, having been set forth by the United States Supreme Court in *Bluefield Waterworks and Imp. Co. v. P.S.C. of West Virginia*, 262 U.S. 679, 690 (1923), almost 100 years ago: Rates which are not sufficient to yield a reasonable return on the value of the property at the time it is being used to render service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility of its property in violation of the Fourteenth Amendment.

21. The rate of 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 maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. *Bluefield Waterworks and Imp. Co. v. P.S.C. of West Virginia*, 262 U.S. 679, 693 (1923). These principles have been adopted and applied by the appellate courts of Pennsylvania in numerous cases. *See, e.g., Riverton Consolidated Water Co. v. Pa. PUC*, 140 A.2d 114 (Pa. Super. 1958); *City of Pittsburgh v. Pa. PUC*, 126 A.2d 777 (Pa. Super. 1956); *Lower Paxton Twp. v. Pa. PUC*, 317 A.2d 917 (Pa. Cmwlth. 1974).

22. “One of the elements always relevant to setting the rate under *Hope* is the return investors expect given the risk of the enterprise.” *Duquesne Light Co. v. Barasch*, 488 U.S. 299, 109 S. Ct. 609, 102 L. Ed. 2d 646, 661 (1989).

23. The determination of a fair rate of return requires the review of many factors, including: (1) the earnings that are necessary to assure confidence in the financial integrity of the company and to provide a reasonable credit profile to permit access to capital markets on reasonable terms, and (2) the amount of the investment, the size and nature of the utility and its business and financial risks, in comparison to other enterprises. *Pa. PUC v. Pennsylvania Gas and Water Co. - Water Division*, 233, 341 A.2d 239 (Pa. Cmwlt. 1975); *Lower Paxton Twp.*, *supra*.

24. The Commission’s findings regarding rate of return must be based upon substantial and competent evidence on the record before it, not upon speculation or hypothesis. *Ohio Bell Telephone Co. v. Pub. Util. Comm. of Ohio*, 301 U.S. 292 (1937); *United States Steel Corp. v. Pa. PUC*, 390 A.2d 849 (Pa. Cmwlt. 1978); *Octoraro Water Co. v. Pa. PUC*, 391 A.2d 1129 (Pa. Cmwlt. 1978).

25. The Commission has determined that a utility’s actual capital structure is to be used, absent circumstances where the actual capital structure is atypical for the type of utility service being offered. *See Pa. PUC v. City of Lancaster – Water*, Docket Nos. R-00984567, et al., 1999 Pa. PUC LEXIS 39 at *17 (Order dated Sept. 22, 1999); *Pa. PUC v. City of Bethlehem*, 84 Pa. P.U.C. 275, 304 (1995); *Carnegie National Gas Co. v. Pa. PUC*, 433 A.2d 938, 940 (Pa. Cmwlt. 1981).

26. In determining whether the claimed capital structure is atypical, the Commission has looked to see whether the capital structure used by the utility is outside the range of that

employed by the barometer group of companies considered in the rate of return analysis. If a utility's capital structure is within a reasonable range of similar risk barometer group companies, the utility's capital structure should be used and not a hypothetical capital structure.

27. Peoples' capital structure is within the range of capital structures of the barometer group and is not atypical. Therefore, Peoples' actual capital structure is reasonable and should be approved without modification.

28. The Commission has included a leverage adjustment in numerous prior rate cases. *See, e.g., Popowsky v. Pa. PUC*, 868 A.2d 606, 612-13 (Pa. Cmwlth. 2004); *Pa. PUC v. Pa. American Water Co.*, Docket No. R-0001639 (Order dated Jan. 10, 2012) (approving 60 basis point adjustment); *Pa. PUC v. PPL Gas Utilities Corp.*, Docket No. R-00061398 (Order dated Feb. 8, 2007) (approving 70 basis point adjustment); *Aqua 2004 Order*, at *85-87 (adopting 60 basis point adjustment); *Pa. PUC v. PPL Electric Utilities Corp.*, Docket No. R-00049255 (Order dated Dec. 6, 2004) (approving 45 basis point adjustment).

29. The Commonwealth Court has held that the decision of whether to adopt a leverage adjustment is within the Commission's discretion. *Popowsky v. Pa. PUC*, 868 A.2d 606, 612-13 (Pa. Cmwlth. 2004).

30. Peoples has met its burden of proof to demonstrate that its proposed leverage adjustment is reasonable.

31. The Commission has, where appropriate, included an incremental upward adjustment to the cost of common equity to reflect management effectiveness. *See, e.g., UGI Electric*, at p. 119; *PPL Electric 2012*, at pp. 98-99; *Aqua 2008*, at *63; *Pa. PUC v. West Penn Power Co.*, Docket Nos. R-00942986, et al., 1994 Pa. PUC LEXIS 144, *147 (Order dated Dec. 29, 1994).

32. Peoples has submitted substantial evidence of its management effectiveness and, therefore, should be awarded an incremental upward adjustment to the cost of common equity.

33. The Commission has recognized that a Weather-Normalization Adjustment is an appropriate ratemaking alternative mechanism under Section 1330 of the Public Utility Code and Commission policy. *See* 66 Pa. C.S. § 1330; 52 Pa. C.S. § 69.3302(a)).

34. The Commission has approved Weather-Normalization adjustments for other Natural Gas Distribution Companies in Pennsylvania. *See Pa. PUC v. Columbia Gas of Pennsylvania, Inc.*, Docket Nos. R-2012-2321748, *et al.* (Opinion and Order entered May 23, 2013); *Pa. PUC v. UGI Utils., Inc. – Gas Div.*, Docket Nos. R-2021-3030218, *et al.* (Opinion and Order entered Sept. 15, 2022); *Pa. PUC v. National Fuel Gas Distribution Company*, Docket No. R-2022-3035730, *et al.* (Order Entered June 15, 2023).

35. Peoples has carried its burden of proof that the Weather-Normalization Adjustment, as modified by the Non-Unanimous Settlement, is just and reasonable and should be approved.

36. The Commission has repeatedly recognized that cost of service studies is only a guide to designing rates and is only one factor, albeit an important one, to be considered in the rate setting process. *See, e.g., Pa. PUC v. Aqua Pa., Inc.*, Docket No. R-00072711, 2008 Pa. PUC LEXIS 50 (Order dated July 17, 2008); *Pa. PUC v. West Penn Power Co.*, Docket Nos. R-901609, *et al.*, 1990 Pa. PUC LEXIS 142, 73 Pa. PUC 454, 119 P.U.R.4th 110 (Order dated Dec. 13, 1990); *Pa. PUC v. Pennsylvania Power & Light Co.*, 55 PUR 4th 185, 249 (Order dated Aug. 19, 1983). Cost allocation studies require a considerable amount of judgment and are described as more of an accounting/engineering art rather than science. *Application of Metropolitan Edison Co.*, R-00974008 (Order dated June 30, 1998); *Pa. PUC v. Pennsylvania Power & Light Co.*, 55 PUR 4th 185 (Order dated Aug. 19, 1983).

37. Peoples' cost of service studies are based upon sound, industry-approved methodologies and reflect reasoned judgment. Therefore, the cost of service studies are reasonable and should be approved.

38. A proposed revenue allocation will be found to be reasonable where it moves distribution rates for each class closer to the full cost of providing service. *Pa. Publ. Util. Comm'n, et al. v. PPL Electric Utilities Corporation*, Docket Nos. R-00049255, et al., 2007 Pa. PUC LEXIS 55 (Order on Remand entered July 25, 2007).

39. It is well settled that the establishment of a rate structure is an administrative function peculiarly within the expertise of the Commission. *Pittsburgh v. Pa. PUC*, 78 A.2d 35 (Pa. Super. 1951).

40. Courts have continually recognized that the findings of the Commission, if supported by competent evidence, will not be disturbed. *United States Steel Corp. v. Pa. PUC*, 390 A.2d 865 (Pa. Cmwlth. 1978); *Philadelphia Suburban Transportation Co. v. Pa. PUC*, 281 A.2d 179, 185 (Pa. Cmwlth. 1971).

41. Peoples has carried its burden of proof to demonstrate that its proposed rate increase as memorialized in the Non-Unanimous Settlement and accompanying Stipulations should be approved without modification.

Proposed Ordering Paragraphs

1. The Joint Petition for Non-Unanimous Settlement filed on May 30, 2024, by Peoples Natural Gas Company LLC, the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission, the Office of Small Business Advocate, the Pennsylvania Industrial Intervenors, and the Pennsylvania Oil & Gas Association is approved in its entirety and without modification.

2. The Stipulation filed on May 30, 2024, signed by Peoples Natural Gas Company LLC, the Bureau of Investigation and Enforcement, the Office of Small Business Advocate, and the Peoples Industrial Intervenors is approved in its entirety and without modification.

3. The Stipulation filed on May 30, 2024, signed by Peoples Natural Gas Company LLC, the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania, and the Pennsylvania Weatherization Providers Task Force is approved in its entirety and without modification.

4. That the investigation into this matter be terminated and the matter marked closed.

5. That the Commission issue an Order terminating the proceeding, and authorizing Peoples to file pro forma tariff supplements attached to the Non-Unanimous Settlement as **Appendix A and B** to become effective for service on or after September 27, 2024.