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June 13, 2024

VIA ELECTRONIC FILING

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

RE: Pa. PUC v. Peoples Natural Gas Company LLC. Docket No. R-2023-3044549

Dear Secretary Chiavetta:

Attached please find for filing with the Pennsylvania Public Utility Commission the Reply Brief of Peoples Industrial Intervenors ("PII") in the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being duly served with a copy of this document.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adeolu A. Bakare'.

Adeolu A. Bakare
MCNEES WALLACE & NURICK LLC

c: Administrative Law Judge Mary D. Long
Certificate of Service

CERTIFICATE OF SERVICE

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

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Counsel to the Peoples Industrial Intervenors

Dated this 13th day of June, 2024, at Harrisburg, Pennsylvania

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | | |
|---|---|-------------|----------------|
| Pennsylvania Public Utility Commission | : | Docket Nos. | R-2023-3044549 |
| Bureau of Investigation and Enforcement | : | | C-2024-3045268 |
| Office of Small Business Advocate | : | | C-2024-3045385 |
| Pennsylvania Independent Oil and Gas | : | | C-2024-3045960 |
| Association | : | | C-2024-3046069 |
| | : | | C-2024-3046469 |
| v. | : | | C-2024-3046877 |
| | : | | C-2024-3046888 |
| Peoples Natural Gas Company LLC | : | | C-2024-3046915 |

**REPLY BRIEF OF THE
PEOPLES INDUSTRIAL INTERVENORS**

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Indiana Regional Medical Center
WHEMCO, Inc.

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Dated: June 13, 2024

I. INTRODUCTION

On December 29, 2023, the Peoples Natural Gas Company LLC ("Peoples" or "Company"), filed with the Pennsylvania Public Utility Commission ("PUC" or "Commission") Retail Tariff Gas – PA PUC No. 48 and Supplier Tariff Gas – PA PUC No. S-4 proposing an annual increase in distribution rates of approximately \$156.0 million. In addition, Peoples proposed to unify the distribution rates of its two divisions and consolidate each division's tariffs on file with the Commission.

On February 1, 2024, the Peoples Industrial Intervenors ("PII") filed a Complaint in this proceeding. PII is an *ad hoc* group of energy-intensive customers receiving natural gas transportation service from Peoples. PII members use substantial volumes of natural gas in their manufacturing and operational processes, and natural gas costs comprise a significant element of their respective costs of operation. Because any change in Peoples' rates would have a significant impact on the price PII members pay for service, PII is an active party to this proceeding. Current PII membership is listed on the cover page of this Reply Brief.

On February 2, 2024, Administrative Law Judge ("ALJ") Mary D. Long convened a Prehearing Conference in which the procedural schedule for this proceeding was developed. Pursuant to the procedural schedule, PII submitted the Direct Testimony of Richard A. Baudino on March 22, 2024. PII also received Direct Testimony on or around March 22, 2024, from the Office of Consumer Advocate ("OCA"); the Bureau of Investigation and Enforcement ("I&E"); the Office of Small Business Advocate ("OSBA"); Citizens' for Affordable Utility Services and Energy Efficiency in Pennsylvania ("CAUSE-PA"); the Pennsylvania Weatherization Providers Task Force ("PWPTF"); and the Pennsylvania Independent Oil and Gas Association ("PIOGA"). PII received revised Direct Testimony from OSBA on March 28, 2024. PII submitted the Rebuttal Testimony of Mr. Baudino on April 18, 2024, and received Rebuttal Testimony from

Peoples; OCA; I&E; and OSBA. On May 3, 2024, PII submitted the Surrebuttal Testimony of Mr. Baudino and received Surrebuttal Testimony from Peoples; OCA; I&E; CAUSE-PA; and PIOGA. PII received Rejoinder Testimony from Peoples on May 8, 2024.

An Evidentiary Hearing in this proceeding was held on May 9, 2024, during which PII stipulated the testimony of Richard A. Baudino into the record.

On May 30, 2024, Peoples, I&E, OSBA, PII, and PIOGA ("Settlement Parties") filed a Joint Petition for Approval of Non-Unanimous Settlement ("Non- Unanimous Settlement").¹

On May 30, 2024, PII additionally received Main Briefs filed by Peoples, OCA, and CAUSE-PA.

Pursuant to the procedural schedule and 52 Pa. Code Section 5.502, PII now files this Reply Brief addressing limited arguments from OCA's Main Brief. Specifically, PII responds to OCA's arguments in support of its Class Cost-of-Service Study ("CCOSS") and revenue allocation. For the reasons set forth below, the Commission should approve the Non-Unanimous Settlement without modification and reject OCA's alternative CCOSS and revenue allocation.

II. ARGUMENT

In its Main Brief, OCA requests that the Commission approve its proposed CCOSS, which relies on the Peak and Average method to allocate cost of distribution mains.² Conversely, PII supports the CCOSS and revenue allocation set forth in the Non-Unanimous Settlement for the reasons presented in Peoples. Main Brief.³ Moreover, PII believes these arguments sufficiently address the majority of the arguments set forth in OCA's Main Brief.

¹ PWPTF and CAUSE-PA were not signatories to the Non-Unanimous Settlement but indicated that they do not oppose the Non-Unanimous Settlement. OCA opposed the Non-Unanimous Settlement.

² OCA Main Brief at 93.

³ See Peoples Main Brief at 53-58.

However, PII files this Reply Brief to respond to several specific arguments submitted by the OCA that mischaracterize the record in this proceeding.

In advocating for its proposed CCOSS, OCA's Main Brief characterizes Peoples' CCOSS as overly subjective by incorporating a per-customer component for allocation of costs of distribution mains.⁴ In turn, OCA asserts that its Peak and Average method removes such subjectivity from the cost allocation process.⁵ Because the OCA's Peak and Average methodology also contains subjectivity, the Commission should give no weight to this allegation. Specifically, OCA Witness Johnson testified on the process of allocating joint and common costs for gas utilities and determined that "[n]o single objective economic basis supports the allocation of these costs; therefore, the allocation decisions are subjective or based on ratemaking conventions."⁶ As recognized by the OCA's witness, all cost-of-service methods apply subjective assumptions.⁷ OCA Witness Johnson further explains how the cost allocation method applied for distribution mains will necessarily dictate the allocation of other indirect O&M and administrative expense accounts.⁸ Thus, while OCA's Main Brief portrays only other parties' CCOSS as subjective, its own witness's testimony confirms that OCA's CCOSS also remains prone to subjectivity, as all CCOSSs represent subjective determinations to allocate joint and common costs.

Further, OCA's Main Brief mischaracterizes the record in repeatedly asserting that Peoples' CCOSS allocates large account executive costs to non-MGS, MLS, and LGS customer

⁴ OCA Main Brief at 89-90.

⁵ *Id.*

⁶ OCA Statement No. 4 at 6.

⁷ *Id.*

⁸ *Id.* at 8.

classes even though these costs are incurred only by MGS, MLS, and LGS customers.⁹ Despite making this allegation, OCA eventually acknowledges Peoples' recognition that these large account executive costs should be allocated to MGS, MLS, and LGS customers.¹⁰ Moreover, in arguing that the Commission should "give no weight" to the responses on this issue from other parties, OCA overlooks the fact that both PII and OSBA also accepted Peoples' adjustment to allocate these costs to MGS, MLS, and LGS customers.¹¹ While there were minor differences between the OCA and OSBA allocations of large account executive costs among the MGS, MLS, and LGS parties, no party proposed to allocate these costs outside of those classes.¹² As a result, OCA's repeated claims that the Peoples' CCOSS allocates costs incurred by MGS, MLS, and LGS customers to other customers classes should be disregarded.

Finally, OCA's Main Brief misrepresents the increase proposed by OCA for LGS customers. OCA proposes two revenue allocations, with the primary recommendation allocating an increase of \$3.9 million (i.e., an 8.1% increase) to Rate LGS customers.¹³ OCA's secondary revenue allocation includes a "gradualism adjustment" intended to benefit Rate MGS that would allocate an increase of \$8.2 million (i.e., a 17.2% increase) to Rate LGS customers.¹⁴ Unfortunately, both of these allocations severely understate the unjust and unreasonable rate impacts proposed by OCA for Rate LGS customers in this case.

⁹ OCA Main Brief at 90, 93.

¹⁰ *Id.* at 93.

¹¹ *See* PII Statement No. 1-S at 7; *see* OSBA Statement No. 1S at 9.

¹² *See id.*

¹³ OCA Main Brief at 96-97.

¹⁴ *Id.*

The total impact of OCA's proposed revenue allocation on Rate LGS customers includes both the rate increase proposed for Rate LGS and OCA's proposal for Peoples to recover the rate increase allocated to Rate MLS customers from Rate LGS customers. OCA paradoxically argues that the Commission should not consider gradualism when allocating costs to the special contract customers on Rate MLS, but also omits any proposal to modify such contracts such that the costs allocated to Rate MLS could actually be recovered from Rate MLS customers.¹⁵ Instead, OCA's revenue allocation proposes that Rate LGS absorb the entirety of the rate increase allocated to Rate MLS in addition to the rate increase directly allocated to Rate LGS.¹⁶ The suggestion that the Commission should abandon gradualism to allocate costs to Rate MLS customers on grounds they are a new customer class, only to assign those costs to Rate LGS customers that are not in a new customer class and are not similarly situated to Rate MLS customers, is completely contrary to cost of service principles and results in unjust and unreasonable rates for Rate LGS customers.¹⁷ For these reasons, the Commission should not entertain either of OCA's proposed allocations.

As noted in PII's Statement in Support, approval of OCA's proposed CCOSS and revenue allocation recommendations would require modifying the balanced Non-Unanimous Settlement. Because the Non-Unanimous Settlement would result in a just, reasonable, and appropriate rate increase for all customers while recognizing the various positions of the parties in this proceeding, the PUC should approve the Non-Unanimous Settlement without modification.

¹⁵ OCA Main Brief at 97-98 (stating "MLS customers are members of a new customer class, and, therefore, cannot be subject to rate shock due to paying their full cost of service.").

¹⁶ See OCA Statement No. 4R at 21.

¹⁷ See *Lloyd v. Pa. P.U.C.*, 904 A.2d 1010, 1020 (Pa. Cmwlth. 2006) *appeal denied*, 591 Pa. 676, 916 A.2d 1104 (2007); see also PII Statement No. 1-S at 6.

Accordingly, the Commission should reject OCA's CCOSS and revenue allocation recommendations.

III. CONCLUSION

WHEREFORE, the Peoples Industrial Intervenors respectfully request that Administrative Law Judge Mary D. Long and the Pennsylvania Public Utility Commission deny the Office of Consumer Advocate's Class Cost of Service Study and revenue allocation and approve the Non-Unanimous Joint Petition for Settlement without modification.

Respectfully submitted,

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By 

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