



COMMONWEALTH OF PENNSYLVANIA

July 30, 2024

**E-FILED**

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

**Re: Peoples Natural Gas Company LLC (Peoples Natural Gas Division and Peoples Gas Division) Base Rate Case Filing Original Tariff GAS – PA PUC No. 48 / Docket No. R-2023-3044549**

Dear Secretary Chiavetta:

Enclosed please find the Reply Exceptions, on behalf of the Office of Small Business Advocate (“OSBA”), in the above-captioned proceeding.

Copies will be served on all known parties in this proceeding, as indicated on the attached Certificate of Service.

If you have any questions, please do not hesitate to contact me.

Sincerely,

*/s/ Steven C. Gray*

Steven C. Gray  
Senior Attorney  
Assistant Small Business Advocate  
Attorney ID No. 77538

*Enclosures*

cc: Robert D. Knecht  
Mark Ewen  
Parties of Record

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Peoples Natural Gas Company LLC : Docket Nos. R-2023-3044549**  
**(Peoples Natural Gas Division and :**   
**Peoples Gas Division) Base Rate Case :**   
**Filing Original Tariff GAS – PA PUC No. :**   
**48 :**

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**REPLY EXCEPTIONS  
ON BEHALF OF THE  
OFFICE OF SMALL BUSINESS ADVOCATE**

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**Steven C. Gray  
Senior Attorney  
Assistant Small Business Advocate  
Attorney ID No. 77538**

**For:**

**NazAarah Sabree  
Small Business Advocate**

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**Date: July 30, 2024**

## TABLE OF CONTENTS

I.	Introduction.....	1
II.	Reply Exceptions .....	1-3
III.	Conclusion .....	4

## **I. Introduction**

On May 30, 2024, Peoples Natural Gas Company LLC (“Peoples or “the Company”), the Bureau of Investigation and Enforcement (“I&E”) of the Commission, the OSBA, Peoples Industrial Intervenors (“PII”), and the Pennsylvania Independent Oil and Gas Association (“PIOGA”), filed a Joint Petition for Approval of Non-Unanimous Settlement among the Settlement Parties (“*Non-Unanimous Settlement*”). The OSBA filed a Statement in Support of the *Non-Unanimous Settlement*.

On July 15, 2024, Administrative Law Judge (“ALJ”) Mary D. Long issued her Recommended Decision (“RD”).

On July 25, 2024, the Office of Consumer Advocate (“OCA”) filed its Exceptions to the RD.

The OSBA submits the following Reply Exception in response to an Exception filed by the OCA.

## **II. Reply Exceptions**

### **Reply to OCA Exception No. 9: The ALJ properly approved the *Non-Unanimous Settlement*’s revenue allocation. (OCA Exceptions, at 17-19)**

By way of review, the *Non-Unanimous Settlement* proposes to average the revenue allocation recommendations offered by witnesses representing the Company, the OCA, and the OSBA.<sup>1</sup> The OSBA submits that this is a just and reasonable result for this issue.

In their Exceptions, the OCA makes two arguments in opposition to the revenue allocation set forth in the *Non-Unanimous Settlement*.

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<sup>1</sup> OCA Exceptions, at 17.

First, the OCA argues that precedent requires that revenue allocation rely only on the use of the OCA's favorite mains cost allocation methodology, the Peak and Average method.<sup>2</sup> The OCA cites cases that it claims support this argument, but carefully avoids citing this recent decision by the Commission:

Contrary to the OSBA's contention, we need not strictly adhere in this case to the *Columbia February 2021 Order*, in which we determined that the P&A ACCOSS was the most appropriate allocation methodology to use in that proceeding. In that case, the appropriate revenue allocation and the ACCOSS methodology upon which it was based was heavily litigated, and the parties did not reach a settlement on that issue. Here, most of the Parties entered into a 'black box' settlement, and a specific ACCOSS methodology has not been identified. The Parties' actions in this case are consistent with Commission policy, which encourages settlements, including 'black box' settlements, and permits the Parties a greater amount of flexibility than they would have in litigated cases to resolve contested issues, such as revenue allocation methodologies.

*Columbia Gas*, Docket No. R-2022-3031211, *et al.* (Order entered December 8, 2022), at 106-107 (*citations omitted*). The Commission continued, as follows:

We note that even in cases in which the revenue allocation methodology is litigated, a determination regarding which ACCOSS should be used should be determined on a case-by-case basis. We have observed that 'the inherent distinctions between utilities and rate cases may result in different methodologies to be reasonable for different reasons. In other words, the best-suited ACCOSS may depend on the circumstances of the situation on a case-by-case basis.'

*Columbia Gas*, at 107, footnote 30 (*citation omitted*).

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<sup>2</sup> The OSBA uses the reference to the "Peak and Average" cost allocation methodology as shorthand. The OSBA is, of course, aware that natural gas distribution company cost allocation studies involve an extensive array of data, analysis, and methodological determinations for the allocating of all aspects of the utility's revenue requirement to the various rate classes. However, a methodology that is commonly debated is that of the classification of mains costs, notably the determination as to whether and how mains costs are causally related to peak demands, average annual demands, and number of customers. The Peak and Average approach to mains classification is one such approach and, in the opinion of OSBA, is inconsistent with cost causation principles. OSBA Statement No. 1, at 22-34.

Therefore, the Commission has ended the use of precedent when litigating the issue of cost-of-service methodologies. Specifically, as set forth by the Commission in *Columbia Gas*, there is no controlling precedent, nor is there a “preferred” methodology, when litigating the issue of cost-of-service methodologies or evaluating the terms of a non-unanimous settlement.

Consequently, the OCA’s precedent argument must be rejected.

Second, the true basis for OCA’s advocacy of the Peak and Average method is fully revealed in its Exception. The OCA only prefers the Peak and Average method because it provides preferential treatment for the residential class. Or, as the OCA dramatically states, “the harm that the Joint Petition’s revenue allocation proposal would needlessly inflict upon residential customers.”<sup>3</sup> The OCA complains that, unless the Commission does what it is told, the Company’s residential customers will bear an additional 2.7% of revenue allocation.<sup>4</sup>

Of course, the OCA’s sole focus is on the residential customers of the Company and has no regard for the Company’s small commercial and industrial customers, or any other customers, for that matter. The OSBA, on the other hand, fully recognizing the long-standing debate regarding cost-of-service methodology,<sup>5</sup> supported the solution set forth in the *Non-Unanimous Settlement*. By using an average of the methods proposed by the various parties, including the OCA, the revenue allocation proposed by the *Non-Unanimous Settlement* is a just and reasonable resolution of this issue.

Finally, the OCA falsely claims that the record does not support the solution proposed by the *Non-Unanimous Settlement*.<sup>6</sup> The record is replete with evidence proffered by the OSBA and other parties on the issue of cost-of-service methodology.

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<sup>3</sup> OCA Exceptions, at 18.

<sup>4</sup> *Id.*

<sup>5</sup> OSBA Statement No. 1, at 18-34.

<sup>6</sup> OCA Exceptions, at 19.

**III. Conclusion**

For the reasons set forth herein, the OSBA respectfully requests that the Commission deny OCA Exception No. 9 and adopt the revenue allocation set forth in the *Non-Unanimous Settlement*.

Respectfully submitted,

*/s/ Steven C. Gray* \_\_\_\_\_

Steven C. Gray

Senior Attorney

Assistant Small Business Advocate

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For:

NazAarah Sabree

Small Business Advocate

Date: July 30, 2024

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Peoples Natural Gas Company LLC** : **Docket Nos. R-2023-3044549**  
**(Peoples Natural Gas Division and** : **C-2024-3045385**  
**Peoples Gas Division) Base Rate Case** :  
**Filing Original Tariff GAS – PA PUC** :  
**No. 48** :

**CERTIFICATE OF SERVICE**

I hereby certify that true and correct copies of the foregoing have been served via email (*unless otherwise noted below*) upon the following persons, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

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