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July 30, 2024

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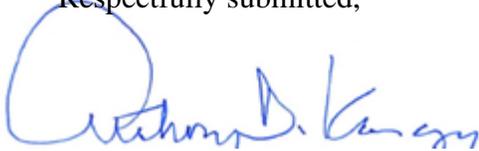
Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
P.O. Box 3265
Harrisburg, PA 17105-3265

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 Reply Exceptions on behalf of Peoples Natural Gas Company LLC (“Peoples”) in the above-referenced proceeding. Copies of this correspondence will be provided as indicated on the Certificate of Service.

Respectfully submitted,



Anthony D. Kanagy

ADK/kl

Attachment

cc: The Honorable Mary D. Long (*via email; w/attachment*)
Jordan Van Order (*via email; w/attachment*)
Marc Hoffer (*via email; w/attachment*)
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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).

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Date: July 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	:	

**REPLY EXCEPTIONS OF
PEOPLES NATURAL GAS COMPANY LLC
TO EXCEPTIONS OF THE
OFFICE OF CONSUMER ADVOCATE**

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I. INTRODUCTION AND OVERVIEW

All parties in this proceeding, except the Office of Consumer Advocate (“OCA”), resolved all issues by express agreement or agreement not to oppose a Non-Unanimous Settlement and a Low-Income Stipulation. The settling parties included Peoples Natural Gas Company LLC (“Peoples” or the “Company”), the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”), the Office of Small Business Advocate (“OSBA”), Coalition for Affordable Utility Service and Energy Efficiency in Pennsylvania (“CAUSE-PA”), Pennsylvania Independent Oil & Gas Association (“PIOGA”), Pennsylvania Weatherization Providers Task Force (“PWPTF”), and Peoples Industrial Intervenors (“PII”) (collectively, hereinafter the “Settlement Parties” or the “Joint Petitioners”). In her Recommended Decision (“RD”), Administrative Law Judge Mary D. Long (“ALJ”) approved the Settlement without modification based on an evaluation of substantial record evidence, including all parties’ positions and arguments.

OCA took extreme positions in the proceeding when only proposing a \$13 million increase, including proposing a Return on Equity (“ROE”) of 8.06%, which is over 200 basis points lower than the current Distribution System Improvement Charge (“DSIC”) ROE of 10.15% for gas companies¹; proposing a hypothetical 50/50 capital structure when Peoples’ capital structure is within the range of the barometer group; proposing to deny reasonable incentive compensation that is necessary for the Company to retain and attract employees including incentive compensation related to Diversity, Equity, and Inclusion (“DEI”); proposing to deny reasonable Future Test Year (“FTY”) and Fully Projected Future Test Year (“FPFTY”) adjustments; and

¹ The Commission has allowed ROEs in excess of the DSIC many times and, as explained *infra*, it should do so in this proceeding.

proposing to deny a reasonable Weather Normalization Adjustment (“WNA”) which would allow the Company to stabilize weather-related revenues in light of continued warmer than normal weather which has not allowed the Company to recover revenues as set in previous base rate proceedings.

OCA’s primary exceptions to the RD are that the \$93 million increase is not supported by substantial evidence. OCA Exc. at 2-5. OCA argues that the ALJ did not perform a line-by-line evaluation of all of OCA’s adjustments and, therefore, the Settlement Revenue Increase of \$93 million is not supported by substantial evidence. OCA Exc. at 8. For the reasons explained here and in the Company’s Briefs, Peoples disagrees with OCA’s assertion that the Settlement Revenue Increase of \$93 million is not supported by substantial evidence. However, to clear any doubt, Peoples supports the Commission evaluating each of OCA’s proposed adjustments and to evaluate the substantial evidence that demonstrates that the Settlement Revenue Increase of \$93 million is just and reasonable.

The Joint Petitioners have provided substantial evidence beyond any shadow of doubt that the Settlement Revenue Increase of \$93 million is reasonable. In both of its Briefs, the Company specifically addressed all of OCA’s proposed adjustments and provided substantial evidence why they should be denied. I&E also provided a Statement in Support explaining how the Settlement Revenue Increase was supported by substantial evidence by comparing it to I&E’s litigation position in this proceeding. The OCA’s extreme position is evident by the fact that the Company anticipates spending nearly \$2 billion on Long Term Infrastructure Improvement Plan (“LTIIP”)

investments alone since its last base rate case, and OCA believes that a \$13 million base rate increase is sufficient to support this investment. Peoples MB at 8.²

The terms of the Settlement, including the \$93 million increase, are supported by substantial evidence and should be approved.

II. LEGAL STANDARDS

A. REPLY EXCEPTION NO. 1: THE RD'S RECOMMENDATIONS ARE SUPPORTED BY FACT AND SUBSTANTIAL EVIDENCE

OCA argues that the RD should be reversed because the RD did not list specific findings of fact for each issue. OCA Exc. pp. 3-5.³ As noted above, the Company suggests that the Commission evaluate each of OCA's adjustments to determine the reasonableness of the Settlement provisions and adopt the Company's Proposed Findings of Fact as applicable. However, OCA's argument is flawed because the RD specifically evaluated each of the settlement provisions and determined that they were supported by substantial evidence.

For example, as to revenue requirement, the ALJ relied upon the litigation positions of the parties and the parties' Briefs to determine that the Settlement Revenue Increase was supported by substantial evidence. RD at 32. The RD specifically noted that I&E's final litigation position was approximately \$90 million and that the Settlement Revenue Increase was \$93 million. As noted in footnote 9 below, minor adjustments to I&E's litigation position result in a revenue increase that substantially exceeds \$93 million.

With respect to the WNA, the RD specifically evaluated all of the parties' positions, including the evidence that was submitted by all parties. RD at 42-46. Based upon the evidence

² OCA fails to recognize the substantial tax benefits to customers under the Settlement, including returning the tax repairs catch-up deduction to customers over a 10-year period and that customers are receiving a reduction to current state and federal taxes in the FPFTY of approximately \$113.5 million. See Settlement Paragraphs 50 and 52.

³ OCA recognized that the Company submitted 79 Proposed Findings of Fact for the ALJ to consider. OCA Exc. Fn. 2.

provided by the parties, their arguments, the fact that the WNA is authorized by statute, and Commission precedent, the ALJ recommended that the WNA be approved.

The ALJ followed this procedure for the settlement provisions and for OCA's other proposals. OCA's arguments that the Settlement is not supported by substantial evidence are not correct and should be denied.

B. REPLY EXCEPTION NO. 2: THE RD'S APPROVAL OF THE SETTLEMENT IS BASED UPON SUBSTANTIAL EVIDENCE

In this Exception, OCA recognizes that the RD correctly cites the substantial evidence standard but argues that the RD applied a "public interest standard" that absolved the Joint Petitioners from their burden of proof. OCA Exc. at 5.

To be clear, Peoples and the other settling parties provided substantial evidence that the Settlement was just and reasonable, in the public interest, and in conformity with the Commission's orders and regulations, and the Public Utility Code ("Code"). Peoples specifically addressed each of OCA's arguments in Briefs and demonstrated that OCA's extreme positions were contrary to law and Commission Orders. Peoples also provided 79 Findings of Fact demonstrating that the Settlement conditions were just and reasonable. I&E also provided a detailed Statement in Support explaining how the Settlement was supported by substantial evidence, along with its own Findings of Fact supporting the Settlement. *See* I&E Statement in Support of Settlement and related attachments.

The ALJ recognized and applied the correct legal standard in recommending approval of the Settlement. On page 11 of the RD, the ALJ stated:

The standards for approving the terms of non-unanimous settlements are the same as for those 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 *in the public interest*, and in conformity with the Commissions' orders and regulations.

RD at 11, citations omitted. (emphasis supplied).

OCA states that the ALJ solely relied on a “public interest” standard. OCA Exc. at 5. However, OCA’s argument fails because the correct standard includes the “public interest” standard. Based upon a review of the RD, the ALJ evaluated the evidence presented by the parties and determined that the evidence presented in support of the Settlement met the applicable standard, which includes the “public interest,” and there is no support for OCA’s claim that the ALJ’s RD was “solely” based upon the “public interest.”

OCA’s argument that the Settlement is not supported by substantial evidence is incorrect and should be denied.

C. REPLY EXCEPTION NO. 3: THE ALJ DID NOT GIVE UNDUE DEFERENCE TO THE SETTLEMENT.

OCA’s argument under Exception 3, at its core, is a continuation of its first 2 Exceptions that the Settlement is not supported by substantial evidence. As explained above, the Settlement is supported by substantial evidence presented by the settling parties.

The ALJ addressed the merits of all aspects of the Settlement and of OCA’s other issues. The RD examined the evidence presented by the parties, including their respective litigation positions, and approved the Settlement.

III. REVENUE REQUIREMENT IN A NON-UNANIMOUS SETTLEMENT

A. REPLY EXCEPTION NO. 4: THE SETTLEMENT REVENUE INCREASE OF \$93 MILLION IS SUPPORTED BY SUBSTANTIAL EVIDENCE, PROVIDES FOR JUST AND REASONABLE RATES, AND IS IN THE PUBLIC INTEREST.

In this Exception, OCA argues that the ALJ erred relying on the parties’ range of litigation positions in determining that the Settlement Revenue Increase of \$93 million should be approved. OCA Exc. at 8. OCA went as far to say “Unfortunately, the R.D. fails to identify any of the

evidence the Joint Petitioners provided to support a \$93 million revenue requirement, and the OCA is hard-pressed to find any in the record." OCA Exc. at 9. This statement demonstrates OCA's extreme positions in this case. The record includes substantial evidence from the Company and I&E demonstrating the reasonableness of the Settlement Revenue Increase. As will be discussed below, there are several reasonable ways to arrive at the \$93M revenue requirement in the Settlement. While the ALJ could have separately addressed each of OCA's adjustments to determine that the Settlement Revenue Increase is just and reasonable and in the public interest, it was clear to the ALJ, based upon the other parties' litigation positions and review of OCA's extreme adjustments that are contrary to Commission precedent, that the Settlement increase of \$93 million is supported by substantial evidence, produces just and reasonable rates, and is in the public interest.

One way to determine the reasonableness of the Settlement Revenue Increase is to evaluate it based upon the impacts of decreasing the Company's requested ROE, including all or some of OCA's expense adjustments, and comparing the final number to the \$93 million settlement increase. For example, the Company's final litigation position reflected an approximate increase of \$154 million at an 11.75% ROE. Based upon recent Commission precedent, a reasonable ROE would be 10.44%, which is the average of I&E's DCF and CAPM analyses.⁴ *See Peoples MB*, at 44; *Pa. PUC, Pennsylvania American Water Company*, Docket Nos. R-2023-3043189 et. al. Order entered July 22, 2024, p. 194. Adjusting the ROE to 10.44% would reduce it by 131 basis points. A reduction of 10 basis points at the Company's proposed capital structure⁵ equates to

⁴ It is also consistent with the base DCF of 10.47% calculated by Company witness Moul. *See Peoples MB* at 47.

⁵ As explained in the Company's Briefs, the Company's capital structure is within the range of the barometer group and should be accepted, and OCA's hypothetical capital structure should be rejected. *See Peoples MB*, at 45.

approximately \$2.96 million.⁶ Therefore, a 131 basis point reduction equates to approximately \$39 million – which would reduce the Company’s proposed revenue increase to \$115 million. ($\$154\text{M} - \$39\text{M} = \115M). The \$115 million is \$22 million higher than the Settlement revenue increase of \$93 million. Importantly, all of OCA’s expense adjustments equal \$17.5 million. See OCA MB at 32. This demonstrates that if the ROE was reduced to 10.44% and all of OCA’s expense adjustments were accepted, the revenue increase would still be \$97.7 million, which exceeds the Settlement revenue increase of \$93 million by \$4.7 million.⁷

As another example, if the Company’s proposed ROE was decreased to 10.25%, this would reduce the Company’s revenue requirement by approximately \$44.5 million down to \$109.5 million ($154.0\text{M} - \$44.5\text{M}$). If all of OCA’s expense adjustments, as set forth on page 32 of its Main Brief, were adopted, this would result in a revenue increase of \$92 million. However, it must be noted that certain of OCA’s expense adjustments are clearly unreasonable and would not be adopted under Commission precedent. One example is OCA’s incentive compensation adjustment of approximately \$3 million. OCA MB at 32. In many recent decisions, the Commission has denied OCA’s attempts to deny incentive compensation. *See Peoples MB*, at 24-25. This issue is addressed on pages 23-27 of the Company’s Main Brief and pages 17-18 of the Company’s Reply Brief.⁸ Adopting a 10.25% ROE and accepting all of OCA’s expense adjustments as set forth on page 32 of OCA’s Main Brief except incentive compensation would result in a revenue increase of \$95 million, which again exceeds the Settlement revenue increase of \$93 million. Notably, a

⁶ Calculated as follows: \$4,215.1M of Rate Base (Peoples Exhibit No. 2, Schedule No. 4 p. 2, Row 26) multiplied by the 54.67% equity layer (Peoples Exhibit PRM-1, p. 1 attached to Peoples Statement No. 13 - the Direct Testimony of Paul R. Moul) multiplied by 0.10% multiplied by the Revenue Conversion Factor of 1.28640527 (Peoples Exhibit No. 2, Schedule No. 4 p. 6, Row 19).

⁷ The analysis assumes that OCA’s unreasonable rate base adjustments are denied. *See Peoples MB* at 10-15.

⁸ The Company addressed all of OCA’s expense adjustments on pages 16-41 of the Company’s Main Brief and pages 13-23 of the Company’s Reply Brief.

10.25% ROE only exceeds the current gas DSIC ROE of 10.15% by 10 basis points. The Commission has frequently adopted ROEs in base rate proceedings that are higher than the DSIC ROE.⁹ See *Pa. PUC v. Aqua Pennsylvania, Inc. and Aqua Pennsylvania Wastewater, Inc.*, Docket Nos. R-2021-3027385 (Order entered May 16, 2022).

The analysis herein unequivocally demonstrates that the \$93 million Settlement Revenue Increase is fully supported by substantial record evidence, is reasonable, and should be approved.

In this Exception, OCA also argues that “Peoples was required to show that it [the Settlement Revenue Increase] was supported by substantial evidence.” OCA Exc. at 3-9. To be clear, Peoples met this requirement. In its Briefs, Peoples provided substantial evidence to support a revenue increase of well above \$93 million. Peoples agreed as a compromise with the settling parties to limit its requested increase to \$93 million. If the Commission separately evaluates each of OCA’s adjustments, which Peoples encourages, Peoples relies on the evidence cited in its Briefs and the arguments therein.

B. REPLY EXCEPTION NO. 5: THE \$93 MILLION SETTLEMENT REVENUE INCREASE WAS SUPPORTED BY SUBSTANTIAL RECORD EVIDENCE.

⁹ The ALJ determined the reasonableness of the Settlement revenue requirement is by examining I&E’s litigation position as compared to the Settlement revenue increase. The Commission frequently adopts I&E’s position with respect to expense adjustments. The ALJ recognized that the Settlement Revenue increase of \$93 million was approximately \$3 million higher than I&E’s final litigation position of approximately \$90 million.⁹ RD at 24. There are multiple reasonable ways to bridge the gap between I&E’s litigation position and the Settlement Revenue increase. First, I&E proposed an ROE of 9.96% in litigation. This is lower than the Commission likely would have awarded in litigation. For example, I&E’s ROE of 9.96% was based exclusively on the Discounted Cash Flow (“DCF”) methodology. I&E St. No. 7-SR, p. 13. I&E’s CAPM analysis produced an ROE of 10.91%. I&E Exh. No. 2, Schedule 12. As noted above, the average of I&E’s DCF and CAPM produces an ROE of 10.44%, which is 48 basis points above I&E’s litigation position. Adopting a 10.44% ROE would increase I&E’s revenue requirement by approximately \$14 million or to \$104 million while still factoring in all of I&E’s revenue and expense adjustments. Even adopting the DSIC ROE of 10.15% would increase I&E’s ROE by 19 basis points. This alone would increase I&E’s litigation position by approximately \$5.6 million, which would increase I&E’s litigation position to approximately \$95.6 million.

In this Exception, OCA argues that the ALJ's adoption of the Settlement Revenue Increase of \$93 million is \$80 million higher than what is supported by OCA's litigation position of \$13 million. OCA Exc. at 10.

OCA's litigation position of \$13 million was so extreme that there is little doubt why the ALJ did not determine that it was reasonable. OCA cites to its proposed ROE of 8.02% and hypothetical capital structure as support of its \$13 million litigation position. OCA's 8.02% ROE, which is over 200 basis points lower than the current gas DSIC ROE of 10.15% is well below the ROE DCF estimates of the Company (10.47%) and I&E (9.91%) and, is based on a methodology that the Commission has never approved and is clearly unreasonable. *See Peoples MB*, at 46. OCA also cites to its proposed 50/50 capital structure ratio despite the fact that the Commission has denied OCA's attempts to force utilities to adopt a 50/50 capital structure ratio for ratemaking purposes and has rejected this position many times. *See Peoples RB*, pp. 23-28. OCA does not even acknowledge that the Commission has repeatedly rejected its position. As even noted by OCA, adopting the Company's actual capital structure alone would increase OCA's litigation position by approximately \$18 million to \$31 million. OCA Exc. at 12.

Notably, OCA also presented extreme expense adjustments that are contrary to Commission precedent, including an approximate \$3 million reduction for incentive compensation, including incentive compensation related to DEI. *See OCA St. No. 2SR*, at 16; *OCA MB*, at 41-42. OCA also improperly attempts to limit any FTY and FPFTY expense adjustments. In particular, OCA proposes to reject increases in expense from the historic test year to the FTY and FPFTY based upon average increases in categories of expense over a period of years. These adjustments totaled approximately \$6.5 million. *Peoples MB* at 18. This is a procedure that has been adopted by the Commission in other rate cases. *See Aqua*, *Peoples MB* at

18-20. By disallowing these increases, OCA effectively limits cost to the historic test year and denies the use of a FTY and FPFTY. Peoples MB, pp. 28-29; Peoples RB, pp. 22. Also, OCA refused to consider reasonable updated claims that were presented in rebuttal that increased the Company's revenue request. OCA only considered updates that reduced the Company's claims. Peoples MB at 16. The rebuttal updates, including increases and decreases, totaled approximately \$1 million. This does not include the approximate \$2.3 million reduction in revenue requirement that the Company updated after the hearing.

The analysis provided in Reply Exception Number 4 above demonstrates that the settlement revenue increase of \$93 million is supported by substantial evidence, is just and reasonable, and in the public interest.

In this Reply Exception, OCA argues that its only recourse is to reassert the adjustments and revenue recommendations set forth in its Main Brief. OCA Exc. at 11. To the extent that the Commission evaluates all of OCA's specific adjustments, Peoples relies on the arguments set forth in the Company's Main and Reply Briefs.

In this Exception, OCA also states that it argued for the removal of approximately \$1.4 million in rate base related to an incident in Robinson Township. OCA Exc. at 11. OCA then makes a completely incorrect statement that no other party addressed this issue. OCA Exc. at 11. This statement should be disregarded. The Company specifically addressed this issue on pages 12-13 of its Main Brief and on pages 11-13 of its Reply Brief. As explained therein, the bare steel pipe that was replaced was not damaged by the pressurization incident and would have been replaced in the future, but for I&E's request to accelerate replacement. OCA ignored the evidence in this proceeding by incorrectly claiming that this pipe was replaced due to the Company's negligence. OCA Exc. at 11. This investment should be included in rate base.

As noted above, Peoples supports the Commissions' evaluation of all of OCA's proposed adjustments based upon the record evidence and the arguments set forth in the Company's Briefs. The analysis will demonstrate that the \$93 million increase under the Settlement is supported by substantial evidence, just and reasonable, and is in the public interest.

C. REPLY EXCEPTION NO. 6: THE SETTLEMENT REVENUE INCREASE IS SUPPORTED BY MORE THAN THE DSIC ROE.

In this Exception, OCA misstates the ALJ, and then admits it. In the Exception itself, OCA states that the ALJ erred by permitting Peoples to rely upon the DSIC ROE as a defining metric for litigation cases. OCA Exc. at 13. Then in the body of the Exception, OCA states, "It is not at all clear from the record whether the ALJ relied on this statement..." OCA's confused argument should not be accepted.

However, if considered, OCA's argument is incorrect on several counts. First, OCA cites to *Pa. PUC v. Aqua Pa., Inc.* Docket Nos. R-2021-3027385, et al. (Order entered May 12, 2022.) ("*Aqua*") for a Commission statement that the DSIC ROE is unlike an ROE set in a base rate proceeding because the DSIC ROE is not company-specific. OCA Exc. at 13. There are several important points to consider in response to OCA's argument. First, the DSIC ROE should be a floor to any ROE set in a litigated base rate proceeding because, as explained by Mr. Moul, the DSIC is a reconciled return as compared to the opportunity to earn the return used to set base rates. This has been verified by the Commission, which has frequently awarded ROEs in litigated proceedings that are higher than the then-applicable DSIC ROE. Peoples St. No. 13-RJ, p. 4. Second, OCA criticizes the use of the DSIC ROE based upon the Commissions' decision in *Aqua*, yet OCA fails to acknowledge that the Commission awarded ROE in *Aqua* was 20 basis points higher than the then-applicable DSIC. Peoples St. No. 13-RJ, p. 4.

In certain recent cases, the Commission has adopted the average of the DCF and CAPM methodologies to determine a litigated ROE. As noted above, the average of I&E's DCF and CAPM methodologies is 10.44%, which would be a reasonable ROE in this proceeding, particularly if the Commission considers the Company's management performance. See Peoples RB, pp. 32-33.

D. REPLY EXCEPTION NO. 7: THE ALJ DID NOT PLACE AN IMPROPER BURDEN ON OCA.

OCA argues that the RD places an improper burden on it to demonstrate that the \$93 million is unreasonable. OCA Exc. at 14. This Exception should be denied for several reasons. First, Peoples provided substantial evidence in the record, as explained in its Briefs, that supported a revenue increase that was significantly higher than the \$93 million. Second, many of OCA's proposed positions and adjustments are so extreme and contrary to Commission precedent that they should be summarily rejected, including OCA's proposed ROE of 8.06%, OCA's hypothetical 50/50 capital structure which has been repeatedly denied by the Commission, OCA's proposed elimination of reasonable incentive compensation, and OCA's one-sided and biased approach denying claims that increase in Rebuttal Testimony while accepting claims that decrease and OCA's rejection of projected increases in costs in the FTY and FPFTY.

IV. DSIC

A. REPLY EXCEPTION NO. 8: THE DSIC SETTLEMENT TERM IS REASONABLE AND SHOULD BE APPROVED.

OCA objects to a settlement term because it allows Peoples to begin charging its DSIC once total plant balances exceed the levels projected by the Company at the end of the FPFTY. OCA Exc. at 15. OCA argues that this may permit the Company to charge the DSIC before the end of the FPFTY and could discourage accurate plant projections. OCA argues that this would

allow a utility to assess customers move money sooner and would not result in just and reasonable rates. OCA Exc. at 16.

This argument is illogical. The only way that a utility could start charging its DSIC sooner than the end of the FPFTY is if the utility spent more capital than it projected in the rate case. Utilities have no incentive to under-project capital in the FPFTY in a rate case because under-projecting would result in a lower rate increase. This argument should be summarily rejected.

A utility's rates are set based upon the projected capital spend in the FPFTY. Once a utility exceeds that level of capital spend, it is permitted to impose a DSIC charge.¹⁰ Section 1358(b)(2) of the Public Utility Code provides that the DSIC can be charged when eligible plant levels exceed those in rate base. 66 Pa. C.S. § 1358(b)(2). It does not provide that this must only occur after the FPFTY.

V. REVENUE ALLOCATION AND RATE DESIGN

A. REPLY EXCEPTION NO. 9: THE REVENUE ALLOCATION UNDER THE SETTLEMENT IS JUST AND REASONABLE AND SHOULD BE APPROVED.

OCA opposes the Settlement Revenue allocation because it is not based solely on the Peak-and-Average ("P&A") methodology. OCA Exc. at 17-19. OCA's arguments should be denied. First, the revenue allocation under the Settlement is primarily based upon the P&A methodology. *See Peoples MB* at 38.

Second, the Commission has not required all Natural Gas Distribution Companies ("NGDCs") to solely rely on a P&A methodology cost allocation. In *Pa. P.U.C. v. PECO Energy Co. – Gas Division*, Docket No. R-2020-3018929, pp. 230-231, the Commission stated that "the best-suited ACOSS may depend on the circumstances of the situation on a case-by-case basis."

¹⁰ It is noted that the DSIC charges are lagged. If the investment level at the end of the FPFTY is higher than projected in the rate case, the DSIC does not go into effect until three months later.

The revenue allocation and rate design in this proceeding were complicated by the merger of rates of the Peoples Natural Gas Division (“PNGD”) and Peoples Gas Division (“PGD”). In order to merge the rates, some classes and rate schedules experienced decreases and other experienced increases. OCA’s proposed revenue allocation would cause severe impacts on the larger classes and disrupt the balance that was achieved through the Settlement. Peoples RB at 40. Substantial compromise was necessary under these circumstances to mitigate impacts to the classes due to combining rates. Given these factors, the settlement revenue allocation and rate design are the best-suited option.

Peoples explains the reasonableness of the Settlement Revenue allocation on pages 57-58 of its Main Brief and page 40 of its Reply Brief.

B. REPLY EXCEPTION NO. 10: THE RESIDENTIAL CUSTOMER CHARGE IS FULLY SUPPORTED BY THE RECORD.

OCA argues that its customer charge analysis supports a customer charge of \$9 but that it was willing to agree to the existing customer charge of \$14.50. As explained in this proceeding, OCA’s customer cost analysis was severely flawed because it omitted certain fixed costs that the Commission includes when determining customer charges. Peoples RB at 40-42. In testimony, I&E explained that the Commission has rejected OCA’s customer charge analysis. I&E St. No. 3-SR, p. 26; Peoples RB at 41.

I&E’s customer charge study produced a result of \$20 and the Company’s study produced a result of \$21.50. The customer charge under the Settlement is \$16.80 and is considerably lower than the customer charge of \$21.50 proposed by the Company and the \$20.00 proposed by I&E.

The residential customer charge under the Settlement reflects consideration of all parties’ positions and should be approved. Peoples RB at 40-42.

VI. WEATHER NORMALIZATION ADJUSTMENT

A. REPLY EXCEPTION NO. 11: THE WNA IS JUST AND REASONABLE AND SHOULD BE APPROVED.

Throughout this proceeding, OCA contends that the WNA is a flawed ratemaking mechanism that cannot be understood by customers and that results in extreme rate impacts. OCA completely ignores the fact that most NGDCs in Pennsylvania have WNAs that have been approved by the Commission as just and reasonable, that the WNA works both ways—to decrease bills for customers when weather is colder than normal and to allow the Company a better opportunity to recover its Commission-authorized revenues when weather is warmer than normal. Importantly, OCA also fails to adequately consider that the WNA, as a limited form of revenue decoupling, is expressly authorized by statute as an alternative ratemaking mechanism. 66Pa. C.S. § 1330(b).

OCA recognizes that weather is getting warmer over time yet wants to deny Peoples the opportunity to mitigate weather-related risk of revenue loss. OCA seeks to have the Company continue to undercover its costs due to weather variations and sees this as a benefit to customers. OCA even cites in its own testimony that Peoples under recovered costs by approximately \$40 million in the winter of 2023-2024. OCA St. No. 4, p. 40.

OCA takes an extreme position against the WNA, despite the fact that if weather continues to get warmer, Peoples will never be able to recover the weather-normalized revenues as set in a base rate proceeding. Full consideration of the factors contained in the Commission's policy statement demonstrates the reasonableness of the WNA proposed in the proceeding including that it is a bidirectional ratemaking mechanism that shares weather related risk between customers and the Company; it includes a 3% deadband to exclude smaller weather variations, it mitigates potential bill impacts in May, and it includes extensive reporting requirements. The Company

provided an analysis of all of the Commission's policy statement factors on pages 19-22 of Peoples St. No. 3.

1. Customers Will Be Able To Estimate Their Monthly Bills

In this section, OCA argues that decoupling cost of service from consumption will make it more challenging for customers to estimate their monthly bills and, therefore, the WNA should be denied. OCA under-estimates the ability of customers to understand their bills when educated and disregards the fact that the WNA will provide for more stable bills month to month and thus more predictable bills. The WNA can be explained in simple terms to customers—when winter weather is colder than normal, customers will see a decrease in their bills to reflect the normal weather and when winter weather is warmer than normal, customers will see an increase in their bills to reflect normal weather. Peoples provided examples of how other utilities present the WNA to customers on their bills. It is not a foreign concept in Pennsylvania. Peoples St. No. 3-RJ, Exhibit No. CAS-1-RJ. In addition, Peoples will provide customers with education about the WNA and will be available to answer customers' questions about the WNA. Peoples RB at 48-50.

OCA's cost-of-service argument is also severely flawed. OCA argues that the WNA is not supported by cost-of-service principles, despite the fact that the WNA is designed to mitigate weather-related revenue variations and either reduce or increase the Company's revenues to better reflect the revenues that are set in a base rate proceeding. OCA Exc. No. 24; Peoples MB at 59; RB at 44.

2. The WNA Will Not Discourage Conservation.

As explained in the Company's Reply Brief at pages 47-48, OCA has not presented any evidence that the WNA will discourage conservation. The WNA only affects the weather impacted variable distribution charges which are generally about 50% of the bill. Customers will still

experience savings because if they conserve, their bill will be lower. WNA does not penalize customers for using less gas.

3. Customers Were Properly Noticed.

Contrary to OCA's assertions, the Company has provided adequate notice to customers about the WNA. As explained in the Company's Reply Brief at 48-50, the Company complied with all statutory and regulatory notice requirements. The Company separately noticed the WNA as an alternative ratemaking mechanism. The purpose of the notice is to be general so that customers are able to seek additional information if they desire. All of the details of an alternative ratemaking mechanism cannot be provided in a rate case filing notice.

As noted above, Peoples will notify customers of the WNA just like other NGDCs in Pennsylvania. Peoples will also be available to answer customers' questions. *See* Peoples MB at 64.

4. The WNA Does Not Disproportionately Impact Low Income Customers.

OCA argues that the Company will double recover WNA charges because Customer Assistance Program ("CAP") customers will be charged the WNA but will only pay their percentage of income payments. OCA Exc. at 26. This argument demonstrates a misunderstanding of how the WNA will be calculated, the CAP charge, and how CAP costs are recovered from customers. Peoples RB at 50. To the extent that CAP customers' payments do not cover WNA charges, any excess will be recovered from other customers in the same manner as other costs that are avoided by CAP customers.

Peoples has addressed OCA's other arguments on this issue on pages 50-51 of its Reply Brief.

B. REPLY EXCEPTION NO. 12: THE RECORD INFORMATION REGARDING THE WNA IS NOT IN CONFLICT.

OCA cites to data from different time periods and argues that the data conflicts; it does not. If weather-related conditions are close to normal, the WNA has little impact on customers. However, if weather is significantly warmer than normal, the impact on the Company can be significant. Conversely, if weather is significantly colder than normal, the impact on customers can be significant.

The point that OCA ignores is that WNA is bidirectional and shares weather related risk between the Company and customers. OCA's primary opposition to the WNA appears to be based upon the proposition that the WNA will result in net charges to customers because of continued warmer weather. OCA Exc. at 23, 28. As recognized by the ALJ, if weather is continuing to warm, the odds are unfairly against the Company being able to recover its weather-normalized revenues. RD at 46. This is not just and reasonable.

OCA also cites to potential high bill impacts in the month of May. OCA Exc. at 29. The Joint Petitioners have addressed this issue in the Settlement by including a cap on May bills. *See* Settlement Para. 73; RD at 17. The Settlement presents a reasonable effort of the settling parties to address potential WNA issues. OCA's extreme position to deny the WNA, instead of offering solutions, should be denied.

C. REPLY EXCEPTION NO. 13: THE WNA IS AUTHORIZED BY STATUTE.

OCA argues that the ALJ improperly relied on the fact that other NGDCs in Pennsylvania have WNAs as a basis for approving Peoples' WNA. OCA Exc. 29. OCA ignores the fact that the Commission approved WNAs for other utilities because WNAs which are a limited form of decoupling, are expressly authorized by statute as an alternative ratemaking mechanism. 66 Pa. C.S. § 1330(b); *See* Peoples MB, p. 60.

It is reasonable to compare a WNA to other WNAs that have been approved in Pennsylvania. In addition, as explained herein and in the Company's Briefs, Peoples has demonstrated with substantial evidence that its WNA is just and reasonable. Further, OCA has not provided sufficient evidence to demonstrate that the WNA proposed by the Company is substantially different than those already approved by the Commission to now claim that a WNA is unjust and unreasonable.

D. REPLY EXCEPTION NO. 14: THE RECORD EVIDENCE SUPPORTS ADOPTION OF THE WNA.

OCA argues that the Company's initial opposition to a 3% deadband contradicts the Settlement, and therefore the WNA should not be approved. OCA Exc. at 31-32. This argument is unreasonable. Peoples agreed to adopt a 3% deadband to address parties' concerns in this proceeding, including OCA's and I&E's. *See* Peoples MB, pp. 61-63. It is reasonable to compromise with other parties in order to resolve issues, which is exactly what Peoples did with respect to the WNA, the revenue requirement, and many other conditions that are set forth in the Settlement. The Company's WNA arguments are provided in pages 59 – 67 of its Main Brief and pages 43- 55 of its Reply Brief.

VII. COMPETITIVE RATE DISCOUNTS

A. REPLY EXCEPTION NO. 15: THE RD'S APPROVAL OF COMPETITIVE RATE DISCOUNTS IS IN THE PUBLIC INTEREST.

The Company's proposal to include electricity as a competitive option is in the public interest and should be approved. The issue is addressed on pages 96-97 of the Company's Main Brief and pages 66-69 of the Company's Reply Brief. Those arguments are incorporated herein. Allowing competitive discounts encourages customers to remain on the system, and contribute to fixed costs, which otherwise reduces costs for other customers. Allowing discounted rates does not lead to cross-subsidization or price wars, and OCA's arguments should be rejected.

VIII. CUSTOMER SERVICE ISSUES

A. REPLY EXCEPTION NO. 16: THE COMPANY SHOULD NOT BE REQUIRED TO EXPAND ITS CALL CENTER HOURS.

OCA's request for the Company to expand its call center hours is unsupported, with no evaluation of the costs or benefits. OCA is improperly attempting to manage the Company's business, while at the same time opposing a reasonable rate increase. The Company has further addressed this issue on page 93 of its Main Brief and pages 63-54 of its Reply Brief.

IX. PROTECTIONS FOR VULNERABLE CUSTOMERS

A. REPLY EXCEPTION NO. 17: THE COMPANY SHOULD NOT BE REQUIRED TO CONDUCT A ROOT CAUSE ANALYSIS OF TERMINATIONS.

OCA argues that the Company should be required to conduct a root cause analysis of why there are higher service termination rates in zip codes that contain the greatest proportion of Black customers. OCA Exc. at 36-38. For the reasons explained in this proceeding, this request should be denied. The Company does not differentiate in the termination process, and the process is strictly arrears based. *See Peoples RB at 55-56.*

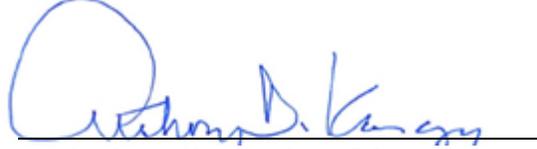
B. REPLY EXCEPTION NO. 18: THE COMPANY SHOULD NOT BE REQUIRED TO PROVIDE ADDITIONAL EDUCATION TO LOW-INCOME CUSTOMERS.

OCA's request for the Company to provide additional notices to low-income customers is unnecessary. The Company already provides substantial notice to low-income customers through various channels. *See Peoples MB at 82-87; RB at 57-62.*

X. CONCLUSION

For the reasons explained herein, in the Company's Main Brief and Reply Brief, and Statements in Support of the Settlement, the Recommended Decision should be approved.

Respectfully submitted,



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