PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Public Meeting held September 12, 2024

Commissioners Present:

Stephen M. DeFrank, Chairman, Statement
Kimberly Barrow, Vice Chair, Statement
Kathryn L. Zerfuss
John F. Coleman, Jr.
Ralph V. Yanora

Pennsylvania Public Utility Commission	R-2023-3044549
Office of Consumer Advocate	C-2024-3045268
Office of Small Business Advocate	C-2024-3045385
Peoples Industrial Intervenors	C-2024-3045960
Terri Grinner	C-2024-3046069
Larry Feder	C-2024-3046233
Mary Frey	C-2024-3046469
William Weis	C-2024-3046877
Daniel Killmeyer	C-2024-3046888
Rachel Havrilla	C-2024-3046915

v.

Peoples Natural Gas Company LLC

OPINION AND ORDER

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BY THE COMMISSION:

Before the Pennsylvania Public Utility Commission (Commission) for consideration and disposition are: the Exceptions of the Office of Consumer Advocate (OCA), filed on July 25, 2024, to the Recommended Decision (R.D.) of Administrative Law Judge (ALJ) Mary D. Long, issued on July 15, 2024, in the above-captioned proceeding; and (2) Replies to Exceptions filed on July 30, 2024, by Peoples Natural Gas Company, LLC (Peoples or the Company), the Commission's Bureau of Investigation and Enforcement (I&E), the Office of Small Business Advocate (OSBA), and People's Industrial Intervenors (PII). Also before the Commission is the Joint Petition for Non-Unanimous Settlement (Joint Petition), filed by Peoples, I&E, the OSBA, PII, and Pennsylvania Independent Oil & Gas Association (PIOGA) (collectively, the Joint Petitioners) on May 30, 2024.

For the reasons stated, *infra*, we shall (1) deny the Exceptions of the OCA; (2) adopt the Recommended Decision of the ALJ; and (3) grant the Joint Petition that approves the Non-Unanimous Settlement, without modification, consistent with this Opinion and Order.

As discussed below, Peoples originally proposed a base rate change that would have increased its annual natural gas operating revenues by $156 million, or 18.7% over revenues at present rates, based on a Fully Projected Future Test Year (FPFTY) ending September 30, 2025. In this Opinion and Order, we shall approve an annual increase of $93 million in natural gas operating revenues, representing an increase of 11.1% over revenues at present rates, based on the Joint Petition that we will also approve.

I. Introduction and Background

Peoples is a "public utility" and a "natural gas distribution company" (NGDC) as those terms are defined under the Public Utility Code (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). Peoples M.B. at 2.

The Commission recently approved the consolidation of the PNGD and PGD gas cost rates in the 2023 Purchased Gas Cost (PGC) proceeding in *PA PUC, et al. v Peoples Natural Gas Company LLC :1307(f) Proceeding*, Docket No. R-2023-3037928 (Final Order entered August 24, 2023). However, the PNGD and the PGD currently have separate tariffs. In this proceeding, Peoples proposed to merge the tariffs and base rates of the two divisions and requested approval to combine the accounting and record-keeping and to terminate the current requirement to maintain separate books and records. Peoples M.B. at 2.

II. History of Proceeding

On December 29, 2023, Peoples, which includes PNGD and PGD (collectively Peoples or the Company), filed original Tariff Gas Pa. P.U.C. No. 48 to become effective February 27, 2024, containing proposed changes in rates, rules, and regulations calculated to produce $156 million (18.7%) in additional annual revenues.

Proposed tariff changes in the filing included the merger of the rate districts for PNGD and PGD, the addition of a weather normalization adjustment (WNA), and changes to several existing tariff riders. If approved as proposed, a PNGD residential customer bill using 80 Mcf would increase from $73.16 to $88.79/month or 21.4% and a PGD residential customer bill using 80 Mcf would increase from $84.00 to $90.35/month or 7.6%.

On January 5, 2024, the OCA filed a Formal Complaint[1] and I&E entered an appearance. The OSBA filed a Formal Complaint[2] on January 11, 2024. Petitions to intervene were filed by PIOGA and the Pennsylvania Weatherization Providers Task Force (PWPTF) on January 9, 2024, and January 18, 2024, respectively.

By order entered on January 18, 2024, the Commission suspended the proposed tariff until September 27, 2024, and directed an investigation to determine the lawfulness, justness, and reasonableness of the rates, rules, and regulations contained in the rate filings.

A prehearing conference order was served on January 23, 2024.

On January 24, 2024, Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) filed a petition to intervene. PII filed a Formal Complaint[3] on February 1, 2024.

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[1] C-2024-3045268.

[2] C-2024-3045385.

[3] C-2024-3045960. PII is an ad hoc group of energy-intensive customers receiving natural gas transportation service from Peoples. In this proceeding, members of PII include Duquesne University, Indiana Regional Medical Center, and WHEMCO, Inc.

The Prehearing Conference convened as scheduled and the ALJ granted petitions to intervene by PIOGA, PWPTF, and CAUSE-PA. Peoples, I&E, the OCA the OSBA, PIOGA, PWPTF, CAUSE-PA, and PII (collectively, the Parties) also agreed to a schedule for the service of written testimony and exhibits, as well as the scheduling of evidentiary hearings.

Six individual consumers filed Formal Complaints in opposition to Peoples' proposed rate increase.[4] None of these individuals were active participants in the litigation.

On February 23, 2024, Peoples filed a motion for a Protective Order which was not opposed by any Party. This Motion was granted by order entered on February 27, 2024.

Public input hearings were held on March 5 and 6, 2024 at 1:00 p.m. and 6:00 p.m. at locations in Butler and Monroeville, PA. Public input hearings by telephone were conducted on March 7, 2024, at 1:00 p.m. and 6:00 p.m.

The evidentiary hearing was held, as scheduled, on May 9, 2024. The Parties offered their written testimony and exhibits for admission into the record. Additional testimony was provided by six witnesses. The Parties also informed the ALJ that all parties, except for the OCA, had either agreed to, or did not oppose, a settlement agreement on all issues.

On May 10, 2024, the ALJ issued a briefing order which required the filing of the Joint Petition, Statements in Support, and Main Briefs by May 30, 2024.

[4] Terri Grinner, C-2024-3046069; Larry Feder, C-2024-3046233; Mary Frey, C-2024-3046469; William Weis, C-2024-3046877; Daniel Killmeyer, C-2024-3046888; Rachel Havrilla, C-2024-3046915.

Objections to the Non-Unanimous Settlement and Reply Briefs were due on June 13, 2024.

On May 30, 2024, Peoples, I&E, OSBA, PII, and PIOGA filed the Joint Petition along with statements in support. CAUSE-PA and PWPTF indicated that they did not oppose the Non-Unanimous Settlement. In addition, Peoples, CAUSE-PA, and PWPTF filed a Low-Income Stipulation. Peoples filed a Present Revenue Stipulation which I&E, the OSBA, and PII joined. The OCA and Peoples also filed Main Briefs in support of their litigation positions.

On May 30, 2024, Peoples submitted a joint stipulation into the record and reflected that it had made an error when trying to appropriately reflect the volumes of a LGS (Large General Service) customer. The stipulation stated as follows:

> 1. Peoples Natural Gas Company LLC ("Peoples" or the "Company") has determined that it made an error when trying to appropriately reflect the volumes of an LGS customer in the initial filing.
>
> 2. The Company removed about 1 Bcf of gas from the LGS category and added it to the negotiated rate category. However, it was unnecessary to remove the volumes from the LGS category as this is a new customer. Thus, the volumes and revenue at present rates were both understated.
>
> 3. The adjustment to present rates to correct this error is $2,361,164. The parties agree that the present rates in this proceeding should be revised to $835,576,673.
>
> 4. The effect of this adjustment reduces the Company's requested increase in revenues from $156,026,122 to $153,664,958.

Present Revenue Stipulation at 1. Peoples, I&E, the OSBA, and PII agreed to the stipulation. The OCA did not join the stipulation.

On June 13, 2024, the OCA filed Comments in Opposition to the Settlement and a Reply Brief. Peoples, PII, and OSBA each filed a Reply to the OCA's Main Brief.

The record closed on June 14, 2024.

On July 15, 2024, the Commission issued the Recommended Decision of ALJ Long, wherein she recommended that the Commission grant the Joint Petition to approve the Non-Unanimous Settlement, without modification.

As previously noted, the OCA filed Exceptions on July 25, 2024. Peoples, I&E, the OSBA, and PII filed Replies to Exceptions on July 30, 2024.

III. Public Input Hearings

As noted in the History of Proceeding, *supra*, six (6) public input hearings were held in this matter, with a total of nine (9) individuals testifying. For a discussion and summary of the public input hearings, please refer to ALJ Long's Recommended Decision. R.D. at 4-7.

IV. Legal Standards

A. Justness and Reasonableness of Rates

In deciding this or any other general rate increase case brought under Section 1308(d) of the Code, 66 Pa.C.S. § 1308(d), certain general principles always apply. A public utility is entitled to an opportunity to earn a fair rate of return on the value of the property dedicated to public service. *Pa. PUC v. Pennsylvania Gas and Water Co.*, 341 A.2d 239, 251 (Pa. Cmwlth. 1975). In determining a fair rate of return,

the Commission is guided by the criteria provided by the United States Supreme Court in the landmark cases of *Bluefield Water Works and Improvement Co. v. Public Service Comm'n of West Virginia*, 262 U.S. 679 (1923) *(Bluefield)* and *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591 (1944) *(Hope Natural Gas)*. In *Bluefield*, the Court stated:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties. A rate of return may be too high or too low by changes affecting opportunities for investment, the money market and business conditions generally.

Bluefield, 262 U.S. at 692-93.

Section 1301(a) of the Code mandates that "[e]very rate made, demanded, or received by any public utility ... shall be just and reasonable, and in conformity with [the] regulations or orders of the [C]ommission." 66 Pa.C.S. § 1301(a). Pursuant to the just and reasonable standard, a utility may obtain "a rate that allows it to recover those expenses that are reasonably necessary to provide service to its customers [,] as well as a reasonable rate of return on its investment." *City of Lancaster Sewer Fund v. Pa. PUC*, 793 A.2d 978, 982 (Pa. Cmwlth. 2002) (*City of Lancaster*). There is no single way to arrive at just and reasonable rates, and "[t]he [Commission] has broad discretion in determining whether rates are reasonable" and "is vested with discretion to decide what

factors it will consider in setting or evaluating a utility's rates." *Popowsky v. Pa. PUC*, 683 A.2d 958, 961 (Pa. Cmwlth. 1996) (*Popowsky II*).

The burden of proof to establish the justness and reasonableness of every element of a public utility's rate increase request rests solely upon the public utility in all proceedings filed under Section 1308(d) of the Code. The standard to be met by the public utility is set forth in Section 315(a) of the Code, 66 Pa.C.S. § 315(a), as follows:

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

In reviewing Section 315(a) of the Code, the Pennsylvania Commonwealth Court interpreted a public utility's burden of proof in a rate proceeding as follows:

> Section 315(a) of the Public Utility Code, 66 Pa.C.S. § 315(a), places the burden of proving the justness and reasonableness of a proposed rate hike squarely on the public utility. *It is well-established that the evidence adduced by a utility to meet this burden must be substantial*.

Lower Frederick Twp. Water Co. v. Pa. PUC, 409 A.2d 505, 507 (Pa. Cmwlth. 1980) (emphasis added). *See also*, *Brockway Glass Co. v. Pa. PUC*, 437 A.2d 1067 (Pa. Cmwlth. 1981).

In general rate increase proceedings, it is well established that the burden of proof does not shift to parties challenging a requested rate increase. Rather, the utility's burden of establishing the justness and reasonableness of every component of its rate request is an affirmative one, and that burden remains with the public utility throughout the course of the rate proceeding. There is no similar burden placed on parties to justify a

proposed adjustment to the Company's filing. The Pennsylvania Supreme Court has held:

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

Berner v. Pa. PUC, 116 A.2d 738, 744 (Pa. 1955).

This does not mean, however, that in proving that its proposed rates are just and reasonable, a public utility must affirmatively defend every claim it has made in its filing, even those which no other party has questioned. As the Pennsylvania Commonwealth Court has held:

> 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) (citation omitted). *See also, Pa. PUC v. Equitable Gas Co.*, 73 Pa. P.U.C. 310, 359-360 (1990).

Additionally, Section 315(a) of the Code, 66 Pa.C.S. § 315(a), 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. Inasmuch as the Legislature is not presumed to intend an absurd result in interpretation of its enactments,[5] the burden of proof must be on the party who proposes a rate increase beyond that sought by the utility. The mere rejection of evidence contrary

[5] 1 Pa.C.S. § 1922(1), *PA Financial Responsibility Assigned Claims Plan v. English*, 541 Pa. 424, 430-431, 64 A.2d 84, 87 (1995).

to that adduced by the public utility is not an impermissible shifting of the evidentiary burden. *United States Steel Corp. v. Pa. PUC*, 456 A.2d 686 (Pa. Cmwlth. 1983).

In analyzing a proposed general rate increase, the Commission determines a rate of return to be applied to a rate base measured by the aggregate value of all the utility's property used and useful in the public service. The Commission determines a proper rate of return by calculating the utility's capital structure and the cost of the different types of capital during the period in issue. The Commission is granted wide discretion, because of its administrative expertise, in determining the cost of capital. *Equitable Gas Co. v. Pa. PUC*, 405 A.2d 1055, 1059 (Pa. Cmwlth. 1979) (determination of cost of capital is basically a matter of judgment which should be left to the regulatory agency and not disturbed absent an abuse of discretion).

B. Settlements Must Serve the Public Interest

The policy of the Commission is to encourage settlements, and the Commission has stated that settlement rates are often preferable to those achieved at the conclusion of a fully litigated proceeding. 52 Pa. Code §§ 5.231, 69.401. A full settlement of all the issues in a proceeding eliminates the time, effort, and expense that otherwise would have been used in litigating the proceeding, while a partial settlement may significantly reduce the time, effort, and expense of litigating a case. A settlement, whether whole or partial, benefits not only the named parties directly, but, indirectly, all customers of the public utility involved in the case.

The Non-Unanimous Settlement, in this case, is a "black box" settlement. This means that the Joint Petitioners were not able to agree on each and every element of the revenue requirement calculation. The Commission has recognized that "black box" settlements can serve an important purpose in reaching consensus in rate cases:

> We have historically permitted the use of "black box" settlements as a means of promoting settlement among the parties in contentious base rate proceedings. Settlement of rate cases saves a significant amount of time and expense for customers, companies, and the Commission and often results in alternatives that may not have been realized during the litigation process. Determining a company's revenue requirement is a calculation involving many complex and interrelated adjustments that affect expenses, depreciation, rate base, taxes and the company's cost of capital. Reaching an agreement between various parties on each component of a rate increase can be difficult and impractical in many cases.

Pa. PUC v. Peoples TWP LLC, Docket No. R-2013-2355886 (Order entered December 19, 2013) (*Peoples TWP*), at 28 (citations omitted).

Rate increase proceedings are expensive to litigate, and the reasonable cost of such litigation is an operating expense recovered in the rates approved by the Commission. Partial or full settlements allow the parties to avoid the substantial costs of preparing and serving testimony and the cross-examination of witnesses in lengthy hearings, the preparation and service of briefs, reply briefs, exceptions and replies to exceptions, together with the briefs and reply briefs necessitated by any appeal of the Commission's decision, yielding significant expense savings for the company's customers. For this and other sound reasons, settlements are encouraged by long-standing Commission policy.

Despite the policy favoring settlements, the Commission does not simply rubber stamp settlements without further inquiry. In order to accept a settlement such as those proposed here, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. PUC v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. PUC v. C. S. Water and Sewer Assoc.*, 74 Pa. P.U.C. 767 (1991) (*CS Water and Sewer*). The focus of the inquiry for determining whether a proposed settlement should be approved by the Commission is

whether the proposed terms and conditions foster, promote, and serve the public interest. *Pa. PUC, et al. v. City of Lancaster – Bureau of Water*, Docket Nos. R-2010-2179103, *et al*. (Order entered July 14, 2011), citing *Warner v. GTE North, Inc.*, Docket No. C-00902815 (Order entered April 1, 1996) and *CS Water and Sewer.* Because the Joint Petitioners request that the Commission enter an order in this proceeding approving the Settlement without modification, they share the burden of proof to show that the terms and conditions of the Settlement are in the public interest. *See* 66 Pa.C.S. § 332(a) ("Except as may be otherwise provided in section 315…or other provisions of this part . . . the proponent of a rule or order has the burden of proof.")

As a preliminary matter, we note that any issue or exception that we do not specifically delineate shall be deemed to have been duly considered and denied without further discussion. We are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC*, 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, generally, University of Pennsylvania v. Pa. PUC*, 485 A.2d 1217 (Pa. Cmwlth. 1984).

In her Recommended Decision, the ALJ reached nine (9) Conclusions of Law. R.D. at 85-86. The Conclusions of Law are incorporated herein by reference and are adopted without comment unless they are either expressly or by necessary implication rejected or modified by this Opinion and Order.

V. Joint Petition for Approval of Non-Unanimous Settlement

A Joint Petition for Approval of Non-Unanimous Settlement was filed on May 30, 2024, reflecting the agreement of Peoples, I&E, OSBA, PII, and PIOGA (Joint Petitioners or Settling Parties) as to matters litigated by the parties to this proceeding. The Joint Petitioners each filed Statements in Support of the Joint Petition. CAUSE-PA and PWPTF did not join the Joint Petition, as they resolved their issues in the separate

Low-Income Stipulation, discussed *infra*. The OCA objected to the Joint Petition and filed Comments in Opposition to the Joint Petition for Approval of Non-Unanimous Settlement on June 13, 2024.

As previously indicated, the Settlement is a "black box" agreement, which means that it does not reflect a specific resolution of every element of the revenue requirement, including rate of return, but rather represents the Settling Parties' agreed upon final revenue increase amount based on their respective individual analyses of the various revenue and expense items. The Settlement, if approved, will result in an additional $93,000,000 in annual operating revenues, in lieu of the originally proposed revenue increase of $156,000,000, which was later amended to approximately $154 million. Joint Petition at 6, ¶ 39.

A. Terms and Conditions of the Non-Unanimous Settlement

The terms and conditions of the Non-Unanimous Settlement are set forth below and are printed verbatim, and for ease of reference, maintain the paragraph numbers and formatting that appear in the Settlement.

> A. REVENUE REQUIREMENT
>
> 42. Peoples will be permitted to increase rates by amounts designed to produce increased operating revenues of $93.0 million annually based upon the level of operations for the twelve months ended October 31, 2025. This amount does not include the roll-in of existing surcharge revenues.
>
> 43. The Settlement Parties agree to use 5,341 Heating Degree Days ("HDD"). The Settlement Parties also agree that this 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.

44. The level of revenue requirement included in this Settlement reflects the resolution of the Settlement Parties' positions in the dispute regarding the application of 66 Pa.C.S. § 1301.1 in this case.

45. As of the effective date of rates in this proceeding, Peoples will be eligible to include plant additions in the Distribution System Improvement Charge ("DSIC") once the total projected plant in service balance exceeds the level projected by the Company in this proceeding at October 31, 2025. The foregoing provision is included solely for purposes of calculating the DSIC and is not determinative for future ratemaking purposes of the projected additions to be included in rate base in any Fully Projected Future Test Year ("FPFTY") filing.

46. For purposes of calculating its DSIC, Peoples shall use the equity return rate for gas utilities contained in the Commission's most recent Quarterly Report on the Earnings of Jurisdictional Utilities and shall update the equity return rate each quarter consistent with any changes to the equity return rate for gas utilities contained in the most recent Quarterly Earnings Report, consistent with 66 Pa. C.S. § 1357(b)(3), until such time as the DSIC is reset pursuant to the provisions of 66 Pa. C.S. § 1358(b)(1).

47. Peoples will file a Total Company Pennsylvania jurisdictional report showing capital expenditures, plant additions and retirements, by month, for the Future Test Year ("FTY") ending September 30, 2024, and the FPFTY ending October 31, 2025, by January 31 of each of the years following the test years. In Peoples' next base rate proceeding, the Company will prepare a comparison of its actual rate base additions for the twelve months ending October 31, 2025, to its projections in this case. However, it is recognized by Settlement Parties that this is a black box settlement that is a compromise of the Settlement Parties' positions on various issues.

B. TAX ISSUES

48. The Company's State Tax Adjustment Surcharge ("STAS") rate shall be reset to 0.00% upon the effective date of new rates.

49. Because the base rate increase under this Settlement includes no amount for state income tax expense, the Company will not reflect future reductions to the state income tax rate in the STAS during the period that these base rates remain in effect.

50. Within 90 days following the effective date of new rates in this proceeding, Peoples will file a revised Tax Repair Surcharge Rider ("TRSR") with the following adjustments:

A.) Adjustment to reflect the reduced tax benefits as a result of the reduction in the State Corporate Net Income ("CNI") rate. The state benefit will be returned to customers in the amount monetized;

B.) Adjustment to reflect the impacts of IRS Rev. Proc. 2023-15 ("Natural Gas Safe Harbor" or "NGSH") to the original 481(a) adjustment amount quantified in Docket No. P-2020-3021191 for the Peoples Natural Gas Division ("PNGD").

C.) Adjustment to reflect the impacts of the Natural Gas Safe Harbor 481(a) adjustment amount for the Peoples Gas Division ("PGD");

D.) Adjustment to reflect the impact of the 481(a) adjustment for Mandatory Relocations; and

E.) Extend the amortization period from the 5 years to 10 years including the amortized portion of the previous sur-credit authorized in Docket No. P-2020-3021191, including the aforementioned adjustments.

F.) Approval to defer in a regulatory liability all state tax benefits related to the aforementioned adjustments, including the full amount of state tax benefit addressed in

Docket No. P-2020-3021191, for return to customers subject to monetization of Pennsylvania state Net Operating Losses.

51. The TRSR will apply to all customers of the combined Company, except for customers with negotiated rates.

52. The Parties agree that the revenue requirement incorporates a reduction to current state and Federal income tax expense based on net repairs deductions in the FPFTY of $113,548,500.

53. Effective with Calendar Year 2025, the level of tax repair benefits claimed in the calculation of income tax expense shall have a collar of $10 million applied on the higher and lower end of the net repairs deductions incorporated into base rates. If the net repairs deductions for Peoples vary by more than $10 million above or below the $390,000,000 amount included in base distribution rates in this proceeding, Peoples will record a regulatory asset or liability for the related income tax expense impacts of the repairs deduction variations above $400,000,000 or below $380,000,000. The effective date of the collar will be January 1, 2025.

54. Peoples shall report on the regulatory asset or liability amounts of the net repairs deduction income tax impacts in its quarterly earnings reports after the conclusion of the FPFTY. Within 30 days of reporting a regulatory asset or liability with a net cumulative income tax impact amount of $25 million or larger, Peoples shall file with the Commission and shall copy the statutory parties, a plan for recovering or refunding the regulatory asset or liability amount to customers.

55. If there are remaining deferrals of the differences in income tax expense for Peoples' net repairs deductions, the balance shall be addressed in Peoples' next base rate case based on the recorded regulatory asset and liability amounts.

56. Whether similar recording of the impact on current income tax expense from net repairs deduction variations above or below a collar in a regulatory asset or liability account should continue shall also be re-evaluated in Peoples' next base rate case.

57. The prospective impact of the Tax Cuts and Jobs Act ("TCJA") is reflected in the Settlement rates in this proceeding. Upon the effective date of rates in this proceeding, the TCJA Rider will continue to only apply to the former PG Division customers and the rate will be changed to only reflect the over/under collection refund/recovery.

58. The TCJA rate will recover or recoup any over/under collection over a twelve-month period. Any over/under collection amount remaining after the twelve-month period will be refunded or recouped in the Company's next 1307(f) gas cost proceeding.

59. Changes resulting from the enactment of the TCJA created differences in the deferred tax rates that were used prior to January 1, 2018, creating excess accumulated deferred income taxes. Peoples will continue amortizing the total excess ADIT using the Average Rate Assumption Method ("ARAM") upon the effective date of new rates. The remaining unamortized excess ADIT balance will continue as a reduction to rate base in all future proceedings until the full amount is returned to ratepayers.

60. As explained in Peoples Statement No. 6, the Company's request to recover any amounts refunded to customers that are not realized due to state NOLC [net operating income loss carryforward] limitations is approved. To the extent that the benefit of the Company's state NOLC is affected by: (i) any disallowance due to the 40% taxable income limit and/or the 20 year carryforward limitation; (ii) any subsequent disallowance by a future IRS or Pennsylvania Department of Revenue audit; (iii) any changes in tax rate; or (iv) any change in rules or guidance that require a change to the originating amount of the NOL, the Company will be permitted to defer those impacts for future recovery from customers.

C. REVENUE ALLOCATION AND RATE DESIGN

61. The Settlement Parties agree to the revenue allocation set forth in Appendix C.

62. The revenue allocation represents an average of the OCA/I&E surrebuttal position, the OSBA surrebuttal position and Peoples surrebuttal position with the following adjustments:

1. Shifting approximately $1.4 million from SGS to MGS to mitigate system average increases for the SGS customers; and

2. Reducing the LGS class allocation by the revenue change in the Present Revenue Stipulation to account for the revised LGS revenues.

63. The proposed rate design is set forth in Appendix D [of the Joint Petition.]

64. The rate design includes a residential customer charge of $16.80 per month, which reflects the rounded result of the mid-point between $19.05 (the Company's position of $21.50 per month scaled back for the reduced rate increase) and the OCA's position of $14.50.

65. The methodology for determining the rate design was based upon scaling back the as filed Company rate increases for the reduction in the requested rate increase as compared to the settlement. Rates were then adjusted to ensure appropriate transitions in usage between the classes and other such adjustments.

D. MERGER OF PEOPLES NATURAL AND PEOPLES GAS DIVISIONS RATES AND TARIFFS

66. As proposed by the Company in its filing, the Settlement provides for merger of the separate current rates of the Company's PNG and PG Divisions into a single set of rate schedules and rates, except for certain of the LGS customer classifications, which are contained in a combined retail tariff, attached as Appendix A [of the Joint Petition]. The rates and provisions of the combined retail tariff are approved.

67. The Settlement also provides for a single supplier tariff, which is attached as Appendix B [of the Joint Petition].

68. With the combination and rates and tariffs of the Company's Divisions, the Settlement terminates the requirement of maintaining separate books and records for the Companies' PNG and PG Divisions as of the effective date of rates in this proceeding. Peoples' books and records for the 12 months ended December 31, 2024, and thereafter will be on a consolidated basis. Further, all reports and filings submitted to the Commission will no longer be provided by division and will only be reported on a consolidated basis as of the effective date of rates in this proceeding.

E. WEATHER NORMALIZATION ADJUSTMENT

69. The Company's proposed weather normalization adjustment ("WNA") is approved with the following modifications:

70. The Company will present the WNA charge or credit as a separate line item on customer bills.

71. The WNA will include a 3% deadband.

72. The WNA calculation will be performed on a bills rendered basis.

73. 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.

74. The Company will file a report annually 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.

F. POST EMPLOYMENT AND POST RETIREMENT BENEFITS

75. Peoples has been granted approval in Docket No. R-00943252 to continue to recover FAS 112 (Post-employment benefit costs) on a pay-go basis. Peoples will continue to recover these costs in rates consistent with that prior Commission order.

76. Peoples claim for Post-Retirement Benefits other than Pensions ("PBOPs") for the FPFTY of $1,256,374 for current expense. The Settlement revenue increase includes this amount and this amount will be paid to a dedicated trust account previously established by Peoples for this purpose. Peoples will continue to defer the difference between the annual PBOP expense calculated pursuant to FASB Accounting Standards Codification ("ASC") 715 and the annual PBOP pay-as-you-go expense included in rates of $1,256,374. Only the amounts attributable to operation and maintenance will be deferred and recognized as a regulatory asset or liability and will be expensed or credited in future rate proceedings over an amortization period to be determined in the next base rate proceeding.

G. AVC CHARGES

77. The Company's proposal to apply Allegheny Valley Connector ("AVC") charges in the Purchased Gas Adjustment Rider to customers of both the PNG and PG divisions is approved, effective October 1, 2024. The final rates will be established in the Company's 2024 PGC proceeding at Docket No. R-2024-3045945.

H. CREDIT CARD PAYMENTS BY CUSTOMERS

78. The Company's proposal to pay third party fees for customer payments by credit card, walk in payment, and

debit card payments for both PNG and PG division customers is approved.

I. PRICE TO COMPARE ("PTC") AND PURCHASE OF RECEIVABLES ("POR") PROGRAM

79. The PTC for Priority 1 customers consisting of natural gas supply charges (a Commodity Charge and a Gas Cost Adjustment Charge ("GCA")), a Merchant Function Charge ("MFC") and a Gas Procurement Charge ("GPC") (Rider G) are included in the settlement rates.

80. The Settlement Rates set forth the portion of the revenue requirement to be recovered via the MFC (2.200% of purchased gas costs for residential customers and 0.332% of purchased gas costs for small general service, medium general service and large general service) in Rider E and the GPC in Rider G. The GPC shall equal $0.0865 per Mcf.

81. Peoples' proposal to revise and update its POR discount rate and MFC to match the current write-off factor used to derive the Company's bad debt revenue requirement and to revise and update the administrative rider designed recover incremental POR implementation costs is implemented in the Settlement Rates.

82. Any shortfall in recovery of the uncollectible expenses and administrative costs of the POR program will not be recovered from sales customers.

J. LOW INCOME CUSTOMER ISSUES

83. As noted above, Peoples has agreed to a separate Low Income Stipulation with CAUSE-PA and PWPTF regarding their low income issues. The Settlement Parties agree to the following additional low income issues.

84. As explained in Peoples Statement No. 3 and further reflected in Peoples Exhibit CAS-3, Peoples will combine the Universal Service Riders ("USR") of PNGD and PGD in a manner that does not adversely affect either one of the divisions.

85. The annual reconciliation period for the combined USR will be October – September. The annual 1307(e) reconciliation statement will be filed by October 31 of the same year for the period end and the reconciliation adjustment will be included in the rate calculation effective January 1 of the following year.

86. To align the two divisions, the annual reconciliation statement that will be filed by October 31, 2024 will include both divisions. For the PNGD, it will include the months of January 2024 – September 2024 and for the PGD, it will include October 2023 – September 2024. The combined reconciliation adjustment amount will be included in the rate calculation effective January 1, 2025.

87. Peoples will revise its Universal Service cost recovery tariff to reflect a bad debt offset of 4.70% for all CAP participation exceeding 30,800.[6] Peoples will no longer track CAP participation separately for its two divisions.

K. COMPETITIVE RATE DISCOUNTS

88. On combination of the PNGD and the PGD as contemplated by this Non-Unanimous Settlement, the entire Company will be subject to the requirements of the Equitable Gas Company 2008 base rate settlement provision concerning justifying discounts in future base rate proceedings, which provides as follows:

B.3. Equitable will agree to maintain a highly confidential log of negotiated delivery service agreements available for review by the OTS, the OCA and the OSBA. The log will contain the following information related to negotiated agreements:
Customer number, effective date of the agreement, the reason(s) for offering a negotiated delivery agreement, supporting work papers relied upon to substantiate the negotiated agreement, and an analysis which evaluates the contribution to overall fixed costs provided by each customer.

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6 The value of this settlement term was corrected by the Settling Parties by letter dated July 10, 2024. See also Non-Unanimous Settlement Appendix A; Peoples St. 3-R at 38.

89. In implementing this provision in circumstances where a bypass of the Company's facilities is the customer's competitive option, the Company will work with the customer in future negotiations to develop an analysis of the likely construction cost of the bypass facilities and apply that estimate in determining, through negotiations, the discounted rate offered to the customer. This information will be included as a part of the confidential materials presented in the Company's initial filing in future base rate proceedings. The Company will also provide a confidential annual report to the Statutory Advocates listing all customers that currently are receiving a discounted rate due to any of the reasons contained herein. The confidential report will provide information regarding whether the customer is being offered the discounted rate due to gas-on-gas competition, potential bypass, economic reasons or alternative fuel reasons. The Company should include in its analysis the annual log information. In future base rate proceedings, the confidential materials presented as part of the Company's filing will include sworn affidavits from all discount customers as to the facts and reasons for the discounts as set forth in the Company supplied materials.

L. SAFETY

90. Barring any significant changes in policy, regulations or macroeconomics, the Company agrees to maintain its replacement rate efforts to ensure that it meets its commitments set forth in its Long-Term Infrastructure Improvement Plan ("LTIIP").

91. The Company agrees to monitor and capture data on leaks for first generation plastic in their risk reduction data collection and include the installation year, if available.

92. The Company agrees to further break down its cost per mile into categories expected to result in a more granular analysis of actual costs.

M. PIOGA SPECIFIC ISSUES

93. The gathering fee across the entire Peoples system, including PGD's facilities, will be $0.24 per Mcf (as compared to the as filed rate of $0.26 per Mcf).

94. Peoples shall use the existing moisture curve in the PNG Master Interconnect and Measurement Agreement ("MIMA") for production on all facilities (i. e. the legacy PNGD facilities, the legacy PGD facilities, and the legacy Equitable facilities.

95. Section 6.04 of the Company's MIMA will be amended to include the following sentence at the end: "As soon as possible after the threat to the integrity and safe operation of the system or the economic reasons no longer exist, Peoples will use best efforts to limit flows of transmission or pipeline supplemental volumes to give conventional production flow-preference."

96. Section 6.05(a) of the Company's MIMA will be amended to include the underline portion of the following: "If the shut-in or discontinuance is caused by an emergency or other unplanned event, ..."

97. Section 6.05(c) of the Company's MIMA will be amended to include the following sentence at the end: "only after Peoples has communicated cause and the producer given good-faith opportunity to propose a remedy and resolve the issue within a timeframe acceptable to the Company."

98. PIOGA's agreement to application of Rate AGS to producers that deliver gas to the PGD system is without prejudice to PIOGA challenging that application for prospective application in a future general rate proceeding filed by Peoples.

Joint Petition at 6-18.

In addition to the specific terms to which the Joint Petitioners have agreed, the Joint Petitioners noted that the OCA's issues are reserved for litigation and briefing.

The Joint Petitioners explained that Peoples would submit a Main Brief addressing these issues separately from this Joint Petition for Non-Unanimous Settlement. Additionally, the Non-Unanimous Settlement contains other general terms and conditions typically found in settlements submitted to the Commission. Specifically, the Joint Petitioners agreed that the Non-Unanimous Settlement is conditioned upon the Commission's approval of all the terms and conditions contained therein without modification. The Joint Petition establishes the procedure by which any of the Joint Petitioners may withdraw from the Non-Unanimous Settlement and proceed to litigate this case, if the Commission should act to modify or reject the Non-Unanimous Settlement. In addition, the Joint Petitioners asserted that although the Non-Unanimous Settlement is proffered to settle the instant case, it may not be cited as precedent in any future proceeding, except to the extent required to implement any term specifically agreed to by the Joint Petitioners. Further, the Joint Petitioners submitted that the Non-Unanimous Settlement is made without any admission against, or prejudice to, any position which any of the Joint Petitioners might adopt in future proceedings, except to the extent necessary to effectuate or enforce any term specifically agreed to in the Non-Unanimous Settlement before us. Joint Petition at 18-19.

B. Positions of the Parties

1. Statements in Support

a. Peoples

In its Statement in Support, Peoples outlined the three goals pursued in this proceeding: (1) a reasonable rate increase; (2) obtaining a WNA; and (3) merger of its two remaining divisions – PGND and PGD. Peoples Statement in Support at 2. Peoples suggested the first two goals "are critical in supporting the Company's aggressive and accelerating replacement of at-risk pipelines and aging infrastructure." Peoples M.B.

at 7. Peoples argued that, based on the Joint Petition, it had "effectively resolved all issues with all parties except for [the] OCA" and requested the Commission approve the Non-Unanimous Settlement and Low Income Stipulation without modifications. *Id*. at 10.

Peoples submitted that "a reasonable analysis of the revenue requirement record" established the revenue requirement and justifies the Joint Petition's $93,000,000 increase in base rates. Peoples M.B. at 9. The Company stated the revenue allocation and rate design in the Joint Petition "balances the positions of revenue allocation and rate design in the record" and "provides both reasonable allocation and also permits merger of the Peoples division rates." *Id*.

Specifically, in support of the $93,000,000 increase in revenues, the Company pointed to its initial request for roughly $154,000,000[7] and noted that the revenue increase contemplated in the Joint Petition is roughly 60% of the total proposed by the Company. Peoples compared the Joint Petition's revenue requirement to the litigation position of I&E and outlined that I&E's litigation position did not account for the black-box agreement regarding the number of Heating Degree Days (HDD), "which would result in an increase of about $93 million." Peoples also referred to I&E's litigation position adopting a return on equity (ROE) of 9.96%, providing that it was lower than the current 10.15% Distribution System Improvement Charge (DSIC) rate and suggesting that "the Commission often awards ROEs that are higher than the DSIC amount in litigated cases." Peoples Statement in Support at 5.

[7] In its Statement in Support, the Company states that it initially requested a revenue increase of $154,000,000. Peoples Statement in Support at 5. We note that Peoples initially requested approximately $156,000,000 but later amended the increase request to approximately $154,000,000.

The Company responded broadly to arguments made by the OCA, *infra*, by averring "OCA's proposed revenue increase in this proceeding is so far outside the range of reasonableness that it should not be given any significant consideration." Peoples Statement in Support at 5. Peoples asserted that the key issues raised by the OCA include: (1) the OCA utilizing a hypothetical capital structure instead of Peoples actual capital structure; (2) the OCA's proposed ROE being roughly 200 basis points below the current DSIC ROE; and (3) Peoples' position that the OCA "proposes to effectively only allow adjustments to historical test year (HTY) expenses if they are contractual." *Id*. at 5-6.

The Company further requested approval of the following items based upon the lack of objection from any party, including: (1) tax issues primarily relating to Peoples' repair deduction and Tax Cuts and Jobs Act (TCJA) Rider for the PGD; (2) updates to the costs and charges associated with the Company's price to compare and purchase of receivables program; and (3) low income issues addressed in the Low Income Stipulation entered into by Peoples, CAUSE-PA, and PWPTF.[8] Peoples Statement in Support at 6, 8, 10. Peoples also noted that it appears there is no dispute among the Parties as to application of Allegheny Valley Connector (AVC) interstate capacity charges to both PGD and PNGD customers. *Id*. at 9.

Turning to issues resolved among the Settling Parties but contested by the OCA, Peoples explained that the revenue allocation and rate design proposals made as part of the Joint Petition are "carefully designed" to reflect the positions of the parties to this matter, including the OCA. As such, Peoples argued that these should be approved, without modification. Peoples Statement in Support at 7. Peoples also stated the proposed merger of tariffs and consolidation of PGD and PNGD "will create efficiencies

[8] The Low Income Stipulation is discussed, in detail, in Section VI of this Opinion and Order, *infra*.

for the Company and the Parties" and asked for approval of this portion of the Joint Petition. *Id*. at 8.

Peoples outlined the WNA authorized by the Joint Petition and clarified the WNA will allow the Company "to adjust distribution bills for colder and warmer temperatures outside a 3% deadband." Peoples Statement in Support at 8.[9] In support, Peoples noted the WNA provides revenue stability, reduces variability in customer bills, and "places Peoples on the same footing" as similarly situated Pennsylvania NGDCs. *Id*.

Regarding post-employment and post-retirement benefits (PBOP), the Joint Petition adopted the Company's position, and Peoples asserted this position was in the public interest and consistent with Commission precedent adopting similar methodology in previous rate cases involving Peoples. Peoples Statement in Support at 9 (citing *Peoples Natural Gas,* Docket No. R-00943252 at 4 (Order entered August 17, 1995) (*Peoples 1995*)).[10]

Additionally, Peoples noted that the Joint Petition also adopted the Company's position regarding the Company's coverage of costs associated with customer use of credit cards to pay utility bills and approved expansion of this practice to PGD.[11] Peoples Statement in Support at 9-10. In support for approval of this portion of the Joint Petition, Peoples also noted the only dispute regarding this provision involved the OCA proposing a reduction to the Company's expense for the practice. *Id*. at 10.

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[9] A deadband is a threshold upon which, until met, the WNA mechanism would not apply. Thus, the deadband sets a boundary such that slight fluctuations in actual HDDs compared to normal HDDs are not adjusted for. Peoples St. 3-R at 5.

[10] In *Peoples 1995*, the Commission reviewed a rate case settlement and allowed Peoples to recover "on a cash or pay-as-you-go basis" costs incurred for PBOP. *Peoples 1995* at 4.

[11] Peoples already covered the costs associated with these transactions for PNGD customers.

Peoples advanced that provisions related to competitive rate discounts were substantially agreed to by the Parties to this proceeding, with only the OCA taking issue with the Company's proposal concerning discounts for competition with electricity. Peoples Statement in Support at 10-11.

The Company posited that Section L of the Non-Unanimous Settlement, related to safety, addresses safety concerns raised by I&E, *infra*, ensures the Company will be able to maintain its LTIIP replacement rate, and is the public interest. Peoples Statement in Support at 11.

Finally, Peoples addressed issues specific to PIOGA. Peoples asserted these proposals were in the public interest and resolved the following: (1) expansion of the PNGD gathering charge to Appalachian producers to the PGD system, resulting in additional cost recovery from gathering systems and reduced costs to customers; (2) standardization of Peoples limits to the amount of water vapor included in Appalachian supplies delivered across the merged system; and (3) changes in language of Peoples' master agreement with producers to address concerns about potential well shut-ins. Peoples Statement in Support at 11-12.

Overall, the Company offered its position that the Non-Unanimous Settlement provides adequate due process to non-settling parties, "represents a range of interests," and is "just, reasonable, in the public interest, and should be approved without modification." Peoples Statement in Support at 4.

b. I&E

In its Statement in Support, I&E proffered that the Joint Petition "balances the interests of the Company, its customers, and the Joint Petitioners in a fair and

equitable manner and presents a resolution for the Commission that best serves the public interest." I&E Statement in Support. at 8.

I&E referred to the litigation positions of the Parties as support for the negotiated and settled upon revenue increase of $93 million, noting Peoples originally filed for a revenue increase of $156 million and I&E proposed an annual increase of $89,866,000. I&E Statement in Support at 9. I&E believed the $93 million "is within a reasonable range" of these two litigated positions. *Id*. For additional support, I&E referred to its recommendations accepting Peoples' capital structure and claimed cost of long-term debt, mentioning that using I&E's ROE paired with these recommendations yields an overall rate-of-return of 7.43%. *Id*. at 11.

Turning to the various tax issues resolved in the Joint Petition, I&E elected to not submit any testimony or opposing recommendations and noted that it fully supports the terms included in the Joint Petition. I&E Statement in Support at 13.

I&E stated that the "revenue allocation represents the average of the OCA/I&E surrebuttal positions, the OSBA surrebuttal position and the Peoples' surrebuttal position…" with adjustments shifting funds from Small General Service (SGS) to Medium General Service (MGS) thereby mitigating average increases for SGS customers and reducing LGS class allocation by the revenue change in the Present Revenue Stipulation I&E also averred that the proposed rate design includes a residential customer charge representing "the rounded result of the mid-point between $19.05 (the Company's position of $21.50 per month scaled back for the reduced rate increase) and the OCA's position of $14.50." I&E Statement in Support at 14. I&E considered the settled upon rate design and customer charges to be very favorable in light of the Company's initial filing and fully supported the Joint Petition's terms regarding revenue allocation and rate design. *Id*. at 15-16.

I&E did not offer testimony or opposition to the proposed merger of PNGD and PGD, and instead offered full support for the terms included in the Joint Petition. I&E Statement in Support at 16-17.

I&E offered substantial testimony regarding the WNA proposed by the Company. I&E asserted that the WNA, as modified, is in line with Commission precedent and in the public interest. I&E Statement in Support at 19. Specifically, I&E offered its position that "the Commission has approved WNA's in the past and the majority of approved WNA's have a 3% 'deadband.'" *Id.* at 18. As the Joint Petition imposes a 3% deadband, presents the WNA as a separate line item on customer bills, calculates the WNA on a bills rendered basis, and requires the annual filing of a report showing monthly WNA billed revenue and normal HDD data, I&E supports the settled upon terms. *Id.* at 17, 19.

I&E offered no testimony or opposition to terms related to PBOP, AVC charges, payment of customer credit card fees for payment of bills, Peoples' price to compare or its purchase of receivables program. I&E Statement in Support at19-21.

While I&E offered limited testimony regarding low-income customer issues, I&E asserted that the compromise reached in the Joint Petition and Low-Income Stipulation serve as a "fair compromise" in the public interest and should be approved. I&E Statement in Support. at 22-23.

I&E made extensive recommendations regarding competitive rate discounts, including a competitive alternative analysis for customers who have not had their competitive alternatives verified for longer than ten (10) years, and separation of discount rate customers into their own separate customer class. I&E stated there was disagreement between I&E and Peoples as to how to resolve these terms. I&E referred to the "good faith settlement negotiations" leading to the Joint Petition and reflected that

"[t]he discount rate settlement terms represent a compromise by both parties and are in line with Commission precedent…", creating regulatory certainty and resolution in the public interest. I&E Statement in Support at 24-25.

I&E further asserted that the Joint Petition also resolves the distribution system and pipeline safety issues raised. I&E Statement in Support at 26. Specifically, I&E pointed to the Company's agreement to maintain its replacement rate efforts to ensure compliance with its LTIIP, to monitor and capture leak data for first generation plastic (including installation year, if available), and to provide more granular analysis of actual costs per mile as items exhibiting a "full and fair compromise" in the public interest. *Id*. at 25, 26.

I&E asked the Commission to approve the Joint Petition as it "exemplifies the benefits to be derived from a negotiated approach to resolving what can appear at first blush to be irreconcilable regulatory differences…" and that "[f]urther line-by-line identification of the ultimate resolution of the disputed issues beyond those presented in the Settlement is not necessary." I&E Statement in Support at 27-28.

c. OSBA

The OSBA utilized its Statement in Support to focus on areas of particular significance to small business customers of Peoples. These areas included support for the Joint Petition's position on the overall revenue increase, revenue allocation, rate harmonization, rate design, and WNA. OSBA Statement in Support at 2-5.

Regarding the Joint Petition's proposed revenue increase, the OSBA observed "that this result would closely follow the testimony offered by the [OCA] in this proceeding if the OCA were to grant a somewhat higher [ROE]." For this reason, the

OSBA concluded that the revenue increase is just and reasonable. OSBA Statement in Support at 2.

The OSBA noted its revenue allocation position that "[t]he Achilles heel of the [peak and average] methodology is that i[t] does not include a customer component and thus fails to recognize the economies of scale associated with extending the distribution system to attach customers of varying sizes." The OSBA asserted that the Joint Petition is a just and reasonable result of a "highly contentious and complex issue." Given the positions of the Parties, the OSBA offered that the Joint Petition's inclusion of mains into customer and peak demand components is just and reasonable. OSBA Statement in Support at 3.

The OSBA raised issues of rate harmonization, offering that rate harmonization "raises issues of the magnitude of the rate impacts, as well as the timing of [for] the harmonization of rates." OSBA Statement in Support at 3. While recognizing the "significant increase" for the small business class SGS, the OSBA supported the Joint Petition's rate harmonization as just and reasonable. *Id*. at 4.

The OSBA concluded that the proposed rate design for the SGS small business class is a just and reasonable result and should be approved. OSBA Statement in Support at 4.

Additionally, the OSBA explained that its concerns regarding the WNA "were substantially addressed in the Company's rebuttal testimony and in the *Joint Petition*." OSBA Statement in Support at 4 (emphasis in original). Specifically, the OSBA pointed to terms normalizing forecasting load for HDD and putting a cap on the WNA adjustment for bills rendered in May as proposals mitigating the OSBA's concerns. *Id*. at 4-5. Accordingly, the OSBA offered its support for the WNA provisions included in the Joint Settlement. *Id*. at 5.

The OSBA requested that the Commission approve the Joint Petition in its entirety. OSBA Statement in Support at 6.

d. PII

PII offered six (6) general reasons why it believes the Joint Petition is in the public interest and should be approved: (1) expense incurred by the Parties and the Commission will be less than if the proceeding had been fully litigated; (2) uncertainties surrounding expenses associated with appeals are avoided; (3) the Joint Petition allows a $93 million revenue increase rather than a $156 million increase; (4) the Joint Petition justly and reasonably allocates the resulting rate increase; (5) the Joint Petition reflects compromise on all sides without prejudice to positions the Parties may have advanced; (6) the Joint Petition does not prejudice any position that Parties may wish to advance in future proceedings with the Company. PII Statement in Support at 4.

PII also averred that the Joint Petition "specifically satisfies the concerns of PII by reasonably allocating the proposed increase among customer classes and implementing a movement of each rate class closer to the Company's actual cost to serve." PII Statement in Support at 4. PII further stated the resolution of contested COSS and revenue allocation proposals allowed for a majority of the parties to find common ground and the Present Revenue Stipulation reduces the rate increase on certain customers. *Id*. at 5-6.

PII submitted that the Joint Petition is in the public interest, adheres to Commission policies promoting settlement, and results in a just and reasonable resolution. PII asked for approval of the Joint Settlement without modification. PII Statement in Support at 6-7.

e. PIOGA

As an initial matter, PIOGA reflected that it did not take a position on, not did it oppose, settlement terms relating to the following: revenue requirement, tax issues, revenue allocation and rate design, the WNA, PBOP, AVC, credit card payments by customers, the Company's PTC and POR programs, low income customer issues, competitive rate discounts, and safety. PIOGA Statement in Support at 3-5.

PIOGA specifically referred to its concerns regarding unification of the PGD and PNGD tariffs. PIOGA Statement in Support at 4. These issues included Peoples' proposal to apply the PNGD Appalachian Gathering Service (AGS) rate to the PGD system, which had never had a gathering fee, and the lack of a system wide water vapor content moisture standard. *Id*. at 6. PIOGA averred the Joint Petition alleviated its concerns on these issues by: (1) reducing the Rate AGS fee from $0.26 to $0.24 per Mcf; (2) applying the reduced fee and the PNGD Rate AGS to the PGD system; and (3) using the moisture curve in the Peoples Master Interconnect and Measurement Agreement (MIMA) systemwide. *Id*. at 7. PIOGA offered that the Joint Petition also resolves some of the issues raised by PIOGA to Peoples' MIMA provisions. *Id*. PIOGA also suggested the Company "do what it can to increase conventional gas deliveries into its system…" *Id*. at 5.

PIOGA requested that the Joint Petition be approved, without modification ,and found to be in the public interest. PIOGA Statement in Support at 8.

2. Comments in Opposition

a. OCA

In its Comments in Opposition to the Joint Petition, the OCA argued that the Joint Petition was not in the public interest or supported by substantial evidence for several reasons. Namely, the OCA opined that the Joint Petition results in, *inter alia*, the following: (1) an "unnecessarily high" increase in revenue requirement; (2) the Company's Act 40 contributions; (3) early implementation of the Company's DSIC; (4) "unjust and unreasonable" revenue allocation and rate design; (5) the proposed WNA; (6) certain PBOP benefits in addition to pensions expense; (7) recovery of costs associated with offering fee-free payment to customers using credit cards; and (8) allowing customers to claim electricity as a competitive alternate fuel source. OCA Comments at 1, 4.

The OCA took the position that "Peoples could continue operations, recover all of its expenses, and have the opportunity to earn a reasonable profit with a revenue increase of no more than $13 million," adding that any additional amounts constitute a substantial harm to ratepayers. OCA Comments at 4-5. The OCA also posited that black box settlements, like the Joint Petition, do not "provide transparency or impose the kind of discipline" necessary to ensure a utility engages in prudent management. *Id*. at 5. The OCA also took issue with the Settling Parties' Statements in Support and specifically argued "[t]he Statements in Support of Peoples and I&E make much of the reduction to the overall revenue requirement from People's [*sic*] originally filed request. However, neither Peoples nor I&E point to substantial evidence, let alone any specific evidence supporting the position a $93 million revenue increase would be in the public interest or result in just and reasonable rates. " *Id*. at 6. Further, the OCA averred that the rates proposed by the Joint Settlement exacerbate the unaffordability of

rates for Peoples' customers and these rates are, therefore, not in the public interest and should be rejected. *Id*. at 13.

The OCA disputed the Joint Petition's negotiated ROE, suggesting that "[b]oth I&E's and Peoples' calculated costs of equity are far in excess the OCA's recommendation" based on those parties utilizing "highly subjective, non-market based inputs into their cost of equity calculations, needlessly increasing the calculated cost of equity." OCA Comments at 7. In counter to Peoples' argument tying ROE to the current DSIC rate of 10.15%, the OCA asked the Commission to "expressly dispel" the Settling Parties position that utilities are entitled to the DSIC ROE automatically and stated "public interest requires more than an unabashed entitlement…" *Id*. at 8.

The OCA also questioned whether the Company had provided appropriate proof its consolidated tax expense adjustment satisfied the requirements of Section 1301.1. Specifically, the OCA recommended a reduction in rate-payer working capital in the amount of $27,460 (the 50% of consolidated tax expense left unspecified by the Company) and noted "Peoples did not supply an explanation for how it intended to spend the $27,460 required to be dedicated to general corporate purposes; instead, the Company indicated that its long-term infrastructure improvement expenditures were sufficient to satisfy the requirements of Section 1301.1." OCA Comments at 14. The OCA believed this failure to provide an explanation meant the Company did not meet the requirements outlined in *McCloskey v. Pa. PUC*, 225 A.3d 192 (Pa. Cmwlth. 2020) and was not in the public interest. *Id*. at 15.

As to the Joint Petition's terms on the Company's DSIC, the OCA argued that permitting early DSIC recovery is not in the public interest. OCA Comments at 15. The OCA noted that "it is unclear whether the intention of this term is to permit DSIC recovery prior to October 31, 2025 so long as they [the Company] reach their projected plan[t] in service balance…" suggesting that if Peoples is allowed to recover DSIC

revenues prior to the October 31, 2025, the term would be counter to the public interest and just and reasonable rates based on the *Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 (Supp. Implementation Order entered September 21, 2016). *Id*. at 16.

According to the OCA, the Joint Petition's revenue allocation and rate design also fail to result in just and reasonable rates and are not in the public interest. OCA Comments at 17, 22. The OCA argued that : (1) the proposed revenue allocation incorporates a customer component into the allocation of the cost of mains in direct contradiction to Commission precedent[12]; (2) residential customers are allocated an additional 2.7% ($16.5 million) of total revenues, placing a burden of cross-subsidization of other customer classes; and (3) the Joint Petition's deviation from the peak and average method of allocating revenues unfairly and unreasonably assigns costs to residential customers in contradiction to Commission precedent and the public interest. *Id*. at 18-20. The OCA suggested that "the rate design proposed in the Non-Unanimous Settlement violates the Commission's guiding principles of incentivizing conservation and affordability." *Id*. at 22.

This, according to the OCA, is based on the "significant portion" (20.5%) of a customer's bill under the proposed rate design being made up of the customer charge. The OCA suggested that such a high proportion, "distorts price signals, reduces incentives for energy conservation, and has a disproportionate impact on low-income customers," counter to the purpose for such customer charges. OCA Comments at 22-23. The OCA believed this rate design exacerbates unaffordability and is neither in the public interest nor results in just and reasonable rates. *Id*. at 23-24.

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[12] Citing *Pa. PUC v. Columbia Gas of Pa, Inc.*, Docket No. R-2020-3018835 at 215-18 (Opinion and Order entered February 19, 2021) (*Columbia 2021*); *Pa. PUC v. Phila. Gas Works*, Docket No. R-2023-3037933 at 137 (Opinion and Order entered November 9, 2023) (*PGW 2023*); and *Pa. PUC v. Nat'l Fuel Gas Dist. Co.*, 83 Pa. P.U.C. 262, at 360 (1994).

After considering the WNA proposed in the Joint Petition, the OCA stated that "[t]he burden of proof that the Weather Normalization Adjustment (WNA) contained in the Non-Unanimous Settlement is in the public interest or would result in just and reasonable rates has not been satisfied." OCA Comments at 24. The OCA's arguments in opposition to the WNA can be condensed to four (4) broad issues: (1) the WNA provides the Company with greater revenues when customers use less or if weather is warmer, counter to cost of service considerations; (2) the proposed WNA disincentivizes conservation as it will collect portions of customer's savings from reduced usage during months the WNA is in operation; (3) the WNA is complex and difficult for customers to understand; and (4) the WNA decreases affordability "by, more likely than not, collecting more in charges than customers receive in credits and creating instability and unpredictability on a month-to-month basis," disproportionately impacting low-income customers. *Id*. at 28.

The OCA also objected to the Joint Petition's adoption of Peoples' updated post-employment and PBOP expense, noting that Peoples failed to provide any information in support of the updated number. Instead, the OCA requested the Commission approve a PBOP allowance of $928,172, "which is still an increase over Peoples' request at the time of filing." OCA Comments at 28-29.

The OCA agreed generally with the elimination of credit card payment fees for PGD customers. However, the OCA requested the recovery of associated costs "be limited to only those costs proven to be known and measurable." The OCA asked the Commission to remove $219,721 of this expense from recovery, arguing that it was speculative and may not materialize, resulting in unjust and unreasonable rates. OCA Comments at 29-30.

Finally, the OCA advanced its position that the Joint Petition "did not alleviate the OCA's concerns that, if Peoples is authorized to offer negotiated, discounted

(or 'flex') rates to customers claiming electricity as an alternative fuel source, Peoples' captive customers will be placed at-risk of bearing revenue shortfalls." The OCA maintained that this risk would be caused by a shifting of revenue risk to customers ineligible for such discounted rates. OCA Comments at 30.

3. Other Issues Litigated by the OCA

a. The OCA's Position

The OCA made a number of recommendations to Peoples' operations and customer service in its Main Briefs in this proceeding. The OCA enumerated "several areas where the Company could improve its protections for low-income customers and urge[d] the Commission to adopt these protections to remove service barriers for Peoples' most vulnerable customers." OCA M.B. at 127. Further, the OCA remarked that "management quality, efficiency and effectiveness, and customer service issues exist" and should be considered by the Commission in its analysis of rates in this matter. *Id*. at 136.

Low Income Customer Service Issues

The OCA observed that there are a disproportionate number of terminations for non-payment in the portions of the Company's service territory with the highest proportion of Black households. OCA M.B. at 128. The OCA insisted it "is not alleging that such terminations are targeted or that the discriminatory effects of the Company's actions are intentional…", but requested that the Commission order the company to conduct a root cause analysis to confirm and ensure that its termination procedures do not produce an incidental discriminatory impact. *Id*. at 129.

The OCA contended that Peoples' reporting on confirmed low-income customer counts is not regulatorily compliant. The OCA stated that "Peoples' criteria for identifying confirmed low-income customers omits a customer's self-certification of income, received certification from the customer's income source, or through a customer contact." OCA M.B. at 129-30.

The OCA also proposed that People's increase customer contacts to ensure that low-income customers are aware of the Customer Assistance Program (CAP) and its benefits. OCA M.B. at 130. In particular, the OCA suggested that the Commission order the Company to make "targeted education efforts" during the following contacts with payment challenged or low-income customers: (1) prior to termination; (2) during the cold weather survey[13]; and (3) when requesting a cash security deposit from a customer. The OCA mused that "the cost of providing additional notice to potentially CAP-eligible customers would not likely be significant… and would likely be offset by additional revenues under Peoples' CAP program." *Id*. at 131.

The OCA claimed that Peoples should also consider the affordability of payment arrangements prior to offering them to customers. OCA M.B. at 133. The OCA contended that "[a] utility's offering [of] a payment arrangement to a customer that customer cannot afford may alleviate an immediate problem … but the solution is illusory as it is an ineffective means to reduce accrual of an additional arrearage…because the unaffordable payment arrangement merely adds a monthly charge to a bill the customer already cannot afford." *Id*. at 134. As support for this position, the OCA cited to evidence that since 2021 36% to 55% of payment arrangements for customers at 150% of the federal poverty line (FPL) are unsuccessful. *Id*. The OCA also observed that since the Company is collecting relevant information, the customer should also consider utilizing the CAP program for these customers, recommending that Peoples

[13] This proposal was accepted by Peoples.

provide a notice to confirmed low-income customers during the payment arrangement process of their right to enroll in CAP. *Id*. at 134-35.

The OCA asserted that Peoples should use its existing speech analytics software to aid in identifying low-income customers. OCA M.B. at 135. The OCA insisted that "Peoples' assurances that its call center is adequately trained to identify low-income customers do not nullify [OCA's] recommendation, as additional methods of identifying low-income customers are unlikely to substantially burden the Company…" *Id*. at 136.

Finally, the OCA submitted that Peoples has already accepted several of the proposals the OCA made. The OCA asserted that these accepted proposals included notice regarding CAP enrollment at the time of the Company's cold weather survey, tariff recommendations, and a combined CAP base participation rate of 30,800. OCA M.B. at 136.

Customer/Quality of Service Issues

The OCA contended that Peoples' practice of billing for non-basic services offered by third-parties "are not consumer-friendly practices or adequate or reasonable utility service." Citing to the risk of customer confusion, compounded by the usage of the Company's logo on marketing materials, OCA contested Peoples' practice "crosses the threshold into unreasonable service in contravention of Section 1501 of the Code." OCA M.B. at 139. Notably, the OCA stressed that "while evidence has not come to light which indicates that Peoples terminates customers for non-payment of these non-basic charges, the Company <u>does include</u> these charges in its negotiated payment arrangements with customers." *Id*. at 138 (emphasis in original). The OCA requested the Commission order the Company to not include non-basic services in payment arrangements with customers, train call center staff to advise customers facing payment difficulties to cancel

all non-basic services they are enrolled in, and investigate Peoples' offering of such non-basic services to ensure no ratepayer revenues are subsidizing the activities of unregulated third-parties. *Id.* at 139.

The OCA next discussed its recommendation that the Company "conduct an evaluation of the potential to expand its call center hours." It was suggested by the OCA that the Company's current call center hours prevent "many customers who are working during that time from being able to contact the Company if they need assistance." OCA M.B. at 140. The OCA countered Peoples' suggestion that extending hours would result in higher costs and cost recovery by suggesting "it is too soon to know whether any cost may materialize that would not otherwise be subsumed with cost savings resulting from gained efficiencies." *Id*. at 141.

The OCA also insisted the Company improve its handling of customer complaints by regularly conducting a root cause analysis, with a commitment to reducing infraction numbers to at or below 2022 numbers. The OCA remarked that "Peoples does not indicate whether or how its management investigated the increase in infractions or sought to respond to the increase by conducting a complaint analysis…" OCA M.B. at 141, 143.

The OCA maintained that "Peoples does not adequately train its field personnel who are responsible for personal contact prior to termination." Specifically, the OCA noted that internal training materials did educate personnel regarding Chapter 14 personal contact requirements or show that personnel were otherwise trained on or aware of the requirements. OCA M.B. at 143. As a result, the OCA recommended the Company develop training protocols and conduct observation of implementation, with documentation to be filed within three (3) months of the issuance of a Commission order in this proceeding. *Id*. at 143-44.

The OCA asked the Commission to order Peoples to improve its communication and processes to tenants in terminated shared premises. OCA M.B. at 144. The OCA suggested such recommendations "will protect the right of tenants to continued utility service under the [Discontinuance of Services to Lease Premises Act] (DSLPA) without violating Commission policy protecting tenants from paying for utility usage for which they are not responsible." The OCA also offered that it was unaware of any basis for denying protection from abuse (PFA) rights to tenants. *Id*. at 145.

As discussed *supra*, the OCA supported the Company's proposal to eliminate bill payment fees for customers. OCA M.B. at 145. In the Recommended Decision the ALJ recommended that the Commission adopt this proposal while noting the OCA disputed the black box revenue requirement amount associated with the Company's expense claim for the FPTY. *See* R.D. at 48.

The OCA recommended that the Company expand customer education provided to customers regarding shopping for a Natural Gas Supplier (NGS). The OCA insisted that this education regarding the potential for increased bills or contract length "would not interfere with customer choice for a supplier but would mitigate the harm which inattention to the duration of a contract or a misunderstanding of the terms of a contract…" may cause. OCA M.B. at 146.

Finally, the OCA posited that "Peoples' proposal to expand its authority to offer negotiated contract rates to customers with the claimed potential to utilize electricity instead of natural gas services creates a substantial risk that competitive customers will receive unreasonable cross-subsidization from other rate classes." OCA M.B. at 147. The OCA suggested that allowing the Company's proposal would "shift the cost burden to its largely residential customer base" and that Peoples captive customers would bear a greater revenue shortfall than the one present at current rates. *Id*. at 150-51.

b. Peoples' Response

Peoples responded to the OCA and contended that "[t]o the extent that Peoples has not agreed to certain of [the OCA's] recommendations in testimony, none of [the OCA's] recommendations should be adopted in this proceeding…" Peoples also challenged the forum for these issues, submitting "that this base rate proceeding is not the proper forum to decide issues related to universal service…" Peoples M.B. at 78.

Low Income Customer Service Issues

Peoples countered the OCA's root cause analysis request by quoting testimony from the Company's witness, Ms. Heather Doyle-Conley, explaining 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.

Peoples M.B. at 79 (citing Peoples St. No. 16-R at 9). The Company also claimed that "the collections process is automated and a root cause analysis is wholly unnecessary…" Peoples M.B. at 79-80, Peoples St. No. 16-RJ at 3.

The Company next informed the Commission that it had modified its reporting for confirmed low-income to include self-attestation data in the Universal Service Report. Peoples M.B. at 80. The Company maintained that the OCA's contentions were addressed in the Low Income Stipulation, discussed *infra*, and that disputes regarding the definition of "Confirmed Low-Income" should be rejected.

In response to the OCA's recommendations regarding personal contact prior to service disconnection, the Company averred that it "already provides personal

contact prior to termination, and that Peoples provides stand-alone CAP notices to these customers." Peoples M.B. at 82. The Company also pointed out that it places a hold on termination when a customer indicates interest in applying for CAP, with such a hold available at any time during the termination process. *Id.* As such, the Company asserted that the OCA's recommendations are redundant and the record is clear that the Company provides personal contact prior to service disconnection. *Id.* at 82-83.

Peoples also explained that "the record is clear that Peoples already offers its customer's CAP when payment agreements – like [deferred payment agreements (DPAs)] – are discussed." Therefore, Peoples asserted that the OCA's suggestion the Company provide stand-alone notice of CAP prior to entering into DPAs with a customer is also redundant. Peoples M.B. at 83. The Company also proposed that it had agreed to provide an additional CAP notice in the cold weather survey packet and this, paired with the Low Income Stipulation, resolved many of the issues raised by the OCA. *Id.* at 84. The Company further submitted that additional stand-alone notice to a customer with a $300 or more arrearage would be redundant as this amount makes the customer eligible for termination, resulting in the sending of a notice regarding CAP. *Id.* Finally, the Company noted that a stand-alone CAP notice is not necessary when a security deposit is required as "the Company already does not charge a deposit when [a] customer reports low income" and these customers are informed regarding CAP upon being determined to be low-income. *Id.* at 85 (citing Peoples St. No. 16-R at 5).

Peoples declared that the OCA "provided no meaningful testimony as to how the expanded use of Verint would increase CAP enrollment and participation, nor did [the OCA] 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." Peoples M.B. at 87. The Company replied to the OCA's proposal by noting "it would take considerable dedicated time, effort and expense to begin using the

software for this purpose…" and asked that the Commission reject the proposal. *Id*. (citing Peoples St. No. 16-RJ at 4).

Peoples averred the Company had accepted the OCA's proposed tariff language additions in Rebuttal Testimony and in the Joint Petition filed with the Commission. Peoples M.B. at 88. The Company also accepted the OCA's proposal for a combined base CAP participation rate of 33,800. *Id*. at 89.

Customer/Quality of Service Issues

The Company submitted that its "non-basic billing services and its relationship with its affiliate(s) are being handled appropriately." Peoples M.B. at 90. Peoples contended that the OCA had not offered support for its proposals regarding non-basic services, including failing to show any risk of ratepayers subsidizing the marketing, billing, and collection of unregulated non-basic services. *Id*. Peoples declared that in its most recent management audit a comprehensive review of non-basic services was conducted "and there were no findings related to non-basic chargers [sic]." For these reasons, the Company requested that the Commission reject the OCA's proposal. *Id*. at 91.

Responding broadly to the OCA's assertions regarding operational issues and quality of service concerns, the Company commented 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." Peoples M.B. at 91.

The Company countered the OCA's proposal regarding expanded call center hours by explaining the OCA "did not provide any basis for its recommendation, nor did OCA provide any evidence whatsoever as justification…" with a single customer concern providing support for the OCA's position. Peoples M.B. at 93. Peoples argued

the OCA's recommendations were unnecessary and without merit, especially in light of communication the Company has had with the customer referred to by the OCA. *Id*.

While it contested the OCA's argument that it was not in compliance with Commission regulations, the Company conceded and accepted the OCA's recommendation to add language to its training materials specifying the requirements of attempted personal contact immediately prior to termination. The Company agreed to add such language within ninety (90) days of a final Commission Order in this proceeding. Peoples M.B. at 94.

Turning to landlord-tenant premises and the OCA's proposals thereto, the Company stated it "is aligned with [the] OCA on some of its recommendations as the Company already has procedures in place that address the OCA's recommendations." Peoples M.B. at 94. Peoples explained that its Tenant Notice sufficiently addresses the OCA's concerns regarding privacy and landlord retaliation and the ability of tenants to pay and deduct. *Id*. at 94-95. The Company challenged the OCA's proposal suggesting that PFAs be accepted from tenants, be denied, arguing that "[s]ince 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." *Id*. at 95.

The Company stated the OCA "offers no evidence to suggest that the Company is out of compliance with the Commission's regulations on shopping." As such, the Company asked the Commission to reject the OCA's proposals regarding education to customers. Peoples M.B. at 96.

Lastly, in response to the OCA's position regarding allowing electricity to be considered as a competitive alternative eligible for a flexible rate consideration, the Company averred its proposal means "consumers can weigh their energy choice options in a fair and equitable manner." Peoples M.B. at 97. The Company also argued the cost

to serve customers utilizing flexible rate agreements "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." *Id*. (citing Peoples St. No. 7, at 2-3).

C. Recommended Decision

ALJ Long recommended that the Commission approve the Joint Petition for Non-Unanimous Settlement, which allows Peoples to (1) increase its annual revenue by $93 million, (2) merge the PNGD and PGD rate districts, and (3) authorizes a WNA. R.D. at 1. The ALJ noted that based on the approval a PNGD residential customer bill using 80 Mcf will increase from $73.16 to $81.85/month and a PGD residential customer bill using 80 Mcf will decrease from $84.00 to $83.00/month. *Id*.

Overall, ALJ Long found that the revenue increase was reasonable and that "the Joint Petitioners have sustained their burden of proving that the compromise is in the public interest and should be approved." R.D. at 31. The ALJ referred to the Non-Unanimous Settlement as being within the range of outcomes proposed by the Parties, with each party providing expert testimony and exhibits in support. *Id*. at 32. ALJ Long also concluded that the OCA "has not demonstrated that the lack of transparency necessitated by a black box agreement will not permit the Commission to ensure that Peoples will engage in prudent management…" *Id*. at 32.

In recommending that the Commission approve the Joint Petition, ALJ Long stated that "[w]ithin the framework provided by that authority I find the Joint Petition along with the Low-Income Stipulation [represents] a reasonable balance of the competing needs of the stakeholders subject to the ratemaking process: residential consumers – both those who struggle to pay their bills and those who struggle less – and

small businesses, large industrial customers, gas suppliers and the utility investors." R.D. at 84. The ALJ also agreed with the Settling Parties that the Joint Petition "exemplifies the benefits to be derived from a negotiated approach" to the issues in this matter and the "carefully discussed and negotiated" Joint Petition addresses all issues raised in this proceeding, rendering any further detailed analysis and identification of issues beyond those included in the Joint Petition not necessary. *Id*. at 85.

Revenue Requirement

The Recommended Decision provided detailed analysis of specific expense, DSIC, and tax terms disputed among the Parties. R.D. at 25-29. Regarding funds received from the termination of the consolidated tax adjustment, the ALJ noted the proposal of the OCA that the Company be required to commit 50% of its consolidated tax expense adjustment, or approximately $27,500, to utility working capital. The ALJ further noted the OCA's associated objection to Paragraph 44 of the Non-Unanimous Settlement on the basis that this paragraph does not specify how the consolidated tax expense adjustment will be dedicated to general corporate purposes. *Id.* at 25-26 (citing OCA St. 2 at 62-65). On consideration, the ALJ found that Peoples "explained that [the consolidated tax expense adjustment] amount [agreed upon in the Joint Petition] is used to fund a small portion of its much larger operating expense of over $200 million." According to the ALJ, this explanation was appropriate in light of recent litigation.[14] Therefore, the ALJ recommended that the Commission reject the OCA's proposal to deduct $27,500 from rate base. *Id*. at 26.

ALJ Long also considered the OCA's objection to Paragraph 45 of the Joint Petition, regarding the DSIC. On review, the ALJ recommended that the Commission reject the OCA's argument, finding that the Commission's Supplemental Implementation

[14] *See*, *McCloskey v. Pa. PUC*, 225 A.3d 192, 210-211 (Pa. Cmwlth. 2020).

Order[15] does not support the OCA's position that the Joint Petition may disincentivize the use of accurate plant projections by permitting recovery of DSIC-eligible plant before October 31, 2025. R.D. at 26-27.

Reviewing the Joint Petition's conditions on PBOP, the ALJ pointed to approval granted in Docket No. R-00943252 for the position the Company recovers PBOP on a "pay-as-you-go" basis. R.D. at 27.

ALJ Long also pointed to various tax issues resolved between the Parties, including repairs deductions and TCJA impacts, noting that the OCA "did not raise an objection to these settlement terms." R.D. at 29.

Revenue Allocation and Rate Design

Next, the ALJ outlined the importance of class cost of service and provided that "there is no set formula for determining proper ratios among the rates of different customer classes. What is reasonable under the circumstances, the proper difference among rate classes, is an administrative question for the Commission to decide." *Peoples Nat. Gas Co. v. Pa. PUC*, 409 A.2d 446, 456 (Pa. Cmwlth. 1979) (citations omitted); R.D. at 33.

The Parties to this proceeding offered various cost of service studies (COSS). As mentioned *supra*, Peoples, the OSBA, and PII all advocated for a portion of distribution mains to be allocated on a per customer basis. The OCA and I&E objected to this allocation of distribution mains as part of cost of service. R.D. at 34. The ALJ pointed to the "certain level of subjectivity" inherent in the analysis of a COSS based

[15] *See, Implementation of Act 11 of 2012*, Docket No. M-2012-2293611 at 13-14 (Supp. Implementation Order entered September 21, 2016) (Supplemental Implementation Order).

upon interpretation of data and how such data is characterized and used. *Id*. at 39. In recommending the approval of the Joint Petition, ALJ Long stated that "[a]lthough the Commission may prefer the Peak and Average method, a blending of approaches in order to reach a reasonable result is not inappropriate." *Id*. at 40 (citing *Pa. PUC v. Columbia Gas*, Docket No. R-2022-3031211 at 107, n. 30 (Opinion and Order entered December 8, 2022) (*Columbia 2022*)). Additionally, the ALJ found that the inclusion of COSS results made by the OCA and I&E "diluted the emphasis of the allocation of mains." I.D. at 40. Further, the ALJ found that the rate design, including customer charges and scaleback, "represent an appropriate compromise of each party's litigation position and should be approved" as reasonable and in the public interest. *Id*. at 41.

Merger of PNGD and PGD Rates and Tariffs

ALJ Long also recommended that the Commission approve the Joint Petition's agreement that the Company may combine the tariffs of both the PNGD and PGD. Support cited by the ALJ included "that Peoples will no longer be required to maintain separate books and records, and that future reports and filings will be on a consolidated basis." Additionally, the ALJ noted that the merger will result in the merger of rates with the exception of larger LGS customers who will have transition rates to mitigate rate impacts. Moreover, the ALJ noted that the OCA did not object to this provision of the Joint Petition. R.D. at 42.

Weather Normalization Agreement

Next, the ALJ recommended that the Commission approve the WNA, as proposed in the Joint Petition, finding that "[t]he arguments made by [the] OCA in opposition to this settlement term are arguments that can be made in opposition to *any* WNA." R.D. at 46 (emphasis in original). Further, ALJ Long concluded that "there is no evidence to conclude that Peoples is significantly unique from other gas utilities in

neighboring regions…" and that the WNA "is consistent with WNAs that the Commission has approved for other gas utilities…" R.D. at 46

ALJ Long was also unmoved by the OCA's position that the conditions imposed on the WNA in the Joint Petition are insufficient. The ALJ noted that the OCA's primary argument against the WNA was that customers will be harmed because global weather continues to result in reduced usage. R.D. at 46 (citing OCA M.B. at 106). However, the ALJ found that the OCA's arguments do "not negate the need for the WNA [but rather,] it further supports the need because without the WNA, the odds are unfairly against the Company being able to recover its weather normalized revenues." R.D. at 46.

Allegheny Valley Connector Charges

Next, the ALJ recommended that the Commission approve the Joint Petition's allocation of AVC charges to both PNGD and PGD customers. ALJ Long noted that the "[p]arties are free to propose different allocation methodologies for recovering these costs from customers in the Company's future PGC proceedings…" and there was no objection to the terms within the Joint Petition. R.D. at 47.

Credit Card Payments by Customers

The ALJ also recommended that the Commission approve the Joint Petition's proposal for Peoples to expand payment of the costs of customers using credit cards to include both PGD and PNGD customers (noting that the Company currently only pays for PNGD customers). ALJ Long explained that the OCA's only issue was related to the black box revenue requirement component of this proposal, and therefore recommended approval, referring to the OCA's general agreement that costs related to transaction fees should be recovered in rates. R.D. at 48.

Competitive Rate Discounts

The Recommended Decision found that the OCA's "generalized concerns regarding the treatment of the availability of electricity as a competitive alternative are not sufficiently specific to recommend the Commission reject this settlement term." ALJ Long pointed to the Joint Petition and stated, "there is sufficient protection in place to protect the public at this time and ensure that competitive contracts do not become disruptive or disadvantageous to Peoples' ratepayers." R.D. at 51.

Safety

ALJ Long recommended approval of the Joint Petition's terms regarding safety "as a full and fair compromise that provides Peoples, the Joint Petitioners, the Commission, and the ratepayers with regulatory certainty and a resolution which is in the public interest." R.D. at 52. The ALJ added that OCA did object to these terms. *Id.*

PIOGA-Specific Issues

Noting that the Joint Petition includes an agreement between the Company and PIOGA regarding all issues between the parties, the Recommended Decision suggested that "[t]he Commission should approve the PIOGA-specific terms in the Joint Petition as reasonable and in the public interest." R.D. at 55.

Low Income Stipulation

The ALJ recommended that the Commission approve, without modification the Low Income Stipulation between the Company, CAUSE-PA, and PWPTF, on the

basis that the "stipulated terms are in the public interest and will assist in offsetting the impact of the increase in rates on Peoples' low income customers." R.D. at 66.[16]

Other Issues Raised by the OCA

The ALJ recommended that the Commission reject the OCA's proposals regarding Peoples' operations and customer service, discussed *supra*. Generally, the ALJ found that the OCA either has not shown sufficient need for the proposals to be accepted or that it failed to counter the evidence submitted by the Company and the Joint Petition. ALJ Long also noted the OCA "did not discuss the degree to which the Low-Income Stipulation may have addressed some of its recommendations regarding low income ratepayers." R.D. at 66, n.142.

As mentioned *supra*, the ALJ recommended approval of the Joint Petition and the Low Income Stipulation (discussed *infra*), without modification. R.D. at 55, 66.

D. Disposition

As set forth above, and discussed in more detail, *infra*, in our discussion of the Exceptions and Replies, having thoroughly reviewed Peoples' rate filing, the evidence in the record of this proceeding, and the rates and customer/quality of service agreements between the Settling Parties, we conclude that it is in the public interest to approve the Joint Petition. In so doing, we concur with the Joint Petitioners and ALJ Long that the Joint Petition "exemplifies the benefits to be derived from a negotiated approach to resolving what can appear at first blush to be irreconcilable regulatory differences." *See* R.D. at 85. Further, we echo ALJ Long in stating that "[t]he Joint Petition, along with the Low-Income Stipulation maintains the proper balance of the

[16] As previously noted, the Low-Income Stipulation is discussed, in detail, in Section VI, *infra.*

interests of all the diverse stakeholders in the ratemaking process…" and is reasonable. *Id*.

The Joint Petition includes the following provisions which help to inform our decision: (1) the reduced revenue increase of $93 million, a 40% reduction from Company's original request of approximately $154 million; (2) merger of the PNGD and PGD rate districts and tariffs; (3) increased safety monitoring and information regarding first generation plastic pipes and replacement costs; and (4) additional customer protections and support as outlined in the Low Income Stipulation. *See* R.D. at 24 (citing Peoples St. 6-RJ at 2-3), 42 (citing Peoples M.B. Section (I)(A)), 52 (citing I&E St. Supp. at 4), and 65.

Our disposition of this matter requires consideration and discussion regarding whether a non-unanimous settlement is just and reasonable, in the public interest, and afforded any level of deference by the Commission. The Commission has previously held that:

> …[T]he Commission's standards for reviewing a non-unanimous settlement, as proposed here, are the same as those for deciding a fully contested case. Accordingly, substantial evidence consistent with the statutory requirements must support the proposed settlement.

Joint Application of West Penn Power Company d/b/a Allegheny Power, Trans-Allegheny Interstate Line Company and FirstEnergy Corp., Docket Nos. A-2010-2176520 and A-2010-2176732 (Order entered March 8, 2011) (*West Penn*) at 17 (citations omitted). Additionally, the Commission has previously acknowledged that the standard for approval of settlement remains the same for a partial settlement, whether involving a partial settlement of issues, or a partial settlement of the parties involved (*i.e.*, nonunanimous). *Pa. PUC v. Pennsylvania-American Water Company,* Docket Nos. R-2020-3019369 and R-2020-3019371 (Order entered February 25, 2021) (*PAWC)* at 40,

see also, Pa. PUC v. City of Bethlehem – Water Department, Docket No. R-2020-3020256 at 31 (Opinion and Order entered April 15, 2021).

It is understood that, per *Popowsky II,* in rate proceedings, the Commission has broad discretion to determine what factors are relevant to consider and what weight is to be given to those factors, when determining whether the proposed rate increase should be approved. Therefore, while the standard for approval of a partial or nonunanimous settlement remains whether the settlement is reasonable and in the public interest *per Pa. PUC v. Philadelphia Electric Company,* 60 Pa. P.U.C. 1 (1985) and *CS Water and Sewer, supra,* the Commission's discretion continues to include consideration of whatever factors are deemed relevant in a given case per *Popowsky II*. Such factors may be weighed differently as the Commission deems appropriate in the given circumstances.

We underscore our discretion regarding what factors to consider and what weight they are to be afforded in all rate proceedings. As noted *supra*., the Commission has articulated its general policy favoring settlements. *See Peoples TWP*; 52 Pa. Code §§ 5.231, 69.401. While we do not find it necessary to disfavor or reject a settlement because it is nonunanimous, *per se*, we note there are sound policy reasons to ensure appropriate due process for non-settling parties that do not support the proposed settlement or wish to continue litigation.

In rate proceedings, the use of a nonunanimous settlement raises the obvious concern that the Commission continue to respect the non-settling parties' right to notice and the opportunity to be heard. Therefore, where a nonunanimous settlement is proposed to resolve litigation, the agency's review of the entire matter should ensure that evidence and argument presented by non-settling parties receives full and fair consideration.

Considerations which may ensure fairness to all the parties include, i*nter alia*, independent assessment by the Commission as to whether the nonunanimous settlement is reasonable and in the public interest; fact-finding hearings to determine whether the settlement is in the public interest and supported by substantial evidence; and the range of interests represented in the nonunanimous settlement. The Commission's procedures already provide for many of these safeguards including, *inter alia*: (1) the Commission's independent review and determination regarding whether the settlement is reasonable and in the public interest; (2) the non-settling party's opportunity to object to the settlement; (3) the non-settling party's opportunity to fully litigate contested issues; and (4) the non-settling party's opportunity for fact-finding hearings on the terms of settlement and contested issues.

For example, in *PAWC* the record reflected a fully contested, on the record proceeding, in which all the parties had fully litigated their positions and presented evidence at hearing. The nonunanimous settlement reached in *PAWC* was achieved at a point following the full litigation of the issues presented. In contrast, the procedural posture in the present case reflects that Peoples engaged in settlement negotiations with the Parties and arrived at the agreed upon settlement terms with the Joint Petitioners, after which the ALJ provided the OCA with the opportunity to fully litigate any contested issues. R.D. at 2-3.

We note that a proceeding's procedural history is significant since it reveals whether and how all the parties were afforded due process. In *PAWC*, where the settlement was achieved after a fully contested, fully litigated rate proceeding, and where the non-settling parties could object to the settlement, there was no question that all the parties had been afforded full and fair notice and opportunity to be heard. Similarly, in the present case, where the Settlement was achieved prior to a fully contested and litigated proceeding by all the Parties, ALJ Long ensured the OCA was afforded full and fair notice and opportunity to be heard, by both its opportunity to object to the Settlement

and by affording it the subsequent opportunity to fully litigate any issue which remained contested. R.D. at 3-4.

In reviewing the Joint Petition in this case, upon review, we shall approve the Non-Unanimous Settlement. As discussed *supra*, we find the Parties in this matter were afforded due process, and that the issues raised by the OCA do not present a basis for overturning our finding the Joint Petition is in the public interest. In this matter, as ALJ Long noted, the Joint Petition "maintains the proper balance of the interests of all the diverse stakeholders in the ratemaking process." R.D. at 85.

We acknowledge the rate increase amount was achieved under the terms of a "black box" settlement, which does not necessarily attribute specific factors relied upon in the specified rate increase. However, we expressly find that the substantial evidence of record supports the rate increase agreed to under the terms of the Settlement. The stipulated base rate increase of $93 million represents a reduction of approximately 40% from the Company's original request, for which the Company submitted supporting data and direct and rebuttal testimony to substantiate. We are further persuaded by I&E's endorsement of the Settlement rates, based upon I&E's thorough analysis of the Company's ratemaking claims in its base rate filing, and review of the evidence obtained through the discovery process to determine the amount of revenue the Company needs to provide safe, effective, and reliable service to its customers. *See* I&E Statement in Support at 9-12.

The OCA, as mentioned, has filed Comments objecting to the Joint Petition. These Comments raised several issues, including objections to the proposed revenue requirement, revenue allocation and rate design, DSIC recovery by the Company, the proposed WNA, and the recovery of certain costs included in the Joint Petition. The positions advanced by the OCA are outlined, in detail, *supra*.

Regarding the revenue requirement, we find the proposed $93 million revenue increase to be reasonable as it falls within the range of proposals from the Parties, as evidenced in Table 1, below:

Table 1: Litigation Positions of Peoples, OCA, and I&E

	Peoples	OCA	BIE
	$ (000s)	$ (000s)	$ (000s)
Operating Revenue	989,857	846,129	932,394
Expenses:			
O & M Expense	545,678	524,304	539,649
Depreciation	134,220	134,629	134,220
Taxes, Other	15,353	14,936	15,139
Income Taxes:			
State	0	(19)	0
Federal	(59,658)	(86,871)	21,560
Deferred Taxes			(91,345)
Total Expenses	635,592	586,979	619,223
Net Inc. Available for Return	354,265	259,211	313,172
Rate Base	4,215,125	4,184,194	4,214,959
Rate of Return	8.40%	6.20%	7.43%

See, R.D. at Appendix A. Each of Peoples, I&E, and the OCA submitted expert testimony, proposed findings, and arguments for the Commission to consider. The adjustments outlined by the Settling Parties in their Statements in Support sustain the burden of showing reasonable compromise regarding the revenue requirement. Further, the OCA has failed to sufficiently show that approval of this "black box" Joint Petition will prevent the commission from ensuring Peoples engages in prudent management of ratepayer funded resources. We also note input from the OSBA that approval of the Joint Petition would closely track the proposal of the OCA if the OCA were to propose a higher ROE. *See* OSBA Statement in Support at 2.

Viewed in its entirety, the Joint Petition fairly and equitably resolves the issues impacting residential consumers, business customers, and the public interest at large, and represents a fair balance of the interests of Peoples and its customers. We note that the Joint Petition was nonunanimous, and therefore its provisions remained subject to litigation of the Non-Settling Parties, *i.e.*, the OCA. However, in the same respect that a "partial settlement" of issues benefits all parties, here, the Joint Petition served to focus the proceedings, and narrow the matters in contention before the ALJ.

Additionally, we find that the Settlement will result in a savings of time and expenses for all Parties involved by reducing or avoiding the necessity of further administrative proceedings, as well as reducing or avoiding the need for possible appellate court proceedings, thereby conserving administrative resources. Further, the Settlement provides regulatory certainty with respect to the disposition of issues, which benefits all Parties. For the reasons stated herein and in the Joint Petitioners' Statements in Support, we concur with the ALJ's conclusion that the Settlement is supported by substantial evidence and is in the public interest. Accordingly, we shall adopt the ALJ's Recommended Decision that grants the Joint Petition and approves the Non-Unanimous Settlement.

VI. Issues Resolved Among the Parties

A. Low Income Stipulation

In addition to the Joint Petition entered into with I&E, OSBA, PIOGA, and PII, the Company has entered in an agreement with CAUSE-PA and PWPTF (Low-Income Parties) to address certain issues relating to low income customers. The OCA did not object to the Low Income Stipulation, instead raising its own operational and customer service issues (discussed *supra*). In addition to our adoption of the Joint Petition, we also adopt the terms of this Low Income Stipulation, as outlined below. This

agreement serves important benefits to the public interest and reflects agreement between the Company and the parties who were not part of the Joint Petition and the Company's voluntary efforts to enhance service and protections to its customers.

The terms are repeated verbatim and retain the paragraph numbers as they appear in the Low-Income Stipulation:

> A. Low-Income Customer Issues
>
> 1. The Company 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.
>
> 2. The Company commits to maintaining its existing business relationship with Community Based Organizations ("CBOs"), subject to each individual CBO's continued performance in conformance with the Company's Universal Service and Energy Conservation Plan ("USECP") rules and their contract with the Company.
>
> 3. Within 30 days of the entry of this 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.
>
> 4. Peoples will 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.
>
> 5. Peoples will report on its monthly results of its low income security deposit refunds at each USAG meeting.
>
> 6. Peoples will file a Petition at its current USECP docket 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 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. The settling parties are not bound to take a certain position regarding Peoples' Petition.

7. Peoples will 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.

8. Peoples will adopt its proposed 120 Mcf LIURP minimum usage threshold.

9. Peoples will increase its annual LIURP budget to a total of $3,500,000 per year.

10. Essential shareholders will contribute an additional $150,000 each year to the Peoples' Hardship Fund until Peoples files its next USECP. This increase will be 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 (Docket Numbers A-2018-3006061 – A-2018-3006063) beyond its original expiration. Nothing will preclude any party from requesting approval of a different budget amount in a subsequent proceeding.

11. 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.

B. Tariff Revisions

12. Add the following language to Rule 3.C (Gas-PA PUC No. 48, Original Page 19), "Provide income documents or other information attesting to his or her eligibility for state benefits based on household income eligibility requirements that are consistent with those of the public utility's Customer Assistance Program. This information may include, but is not

limited to any information listed in 52 Pa. Code 62.2 for the purposes of identifying 'confirmed low income customers'."

13. Add the following language to Rule 3.D (Gas-PA PUC No. 48, Original Page 20) that mirrors the language of 52 Pa. Code § 56.41(B)(4), "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. This information may include, but is not limited to any information listed in 52 Pa. Code 62.2 for the purposes of identifying 'confirmed low income customers'."

14. Add the following language to Rule 3.B(2), Gas PA PUC No. 48, Original Page No. 19 not Rule 3.E(2), Gas PA PUC No. 48, Original Page No. 19 "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."

15. The Company will retain Gas-PA PUC No. 48, Original Page 41 Paragraph 7 and will replace: "a. the customer has defaulted on a payment arrangement, and" with "a. the customer has a significant account balance, and".

C. Implementation, Timing, and Consideration

16. All terms in the stipulation are intended to take effect immediately upon entry of a final order in this proceeding without further conditions precedent, unless a different timeline or procedure is explicitly identified in the term.

17. This stipulation is intended to resolve the universal service program and low income customer service issues raised by the Coalition for Affordable Utility Services and Energy Efficiency in Pennsylvania (CAUSE-PA) and the Pennsylvania Weatherization Providers Task Force (PWPTF)

> in this proceeding. As consideration for the terms, CAUSE-PA and PWPTF agree to not oppose the Partial Non-unanimous Settlement between Peoples, the Commission's Bureau of Investigation and Enforcement (I&E), the Office of Small Business Advocate (OSBA), and the Pennsylvania Independent Oil and Gas Association (PIOGA).
>
> 18. Should the terms of this stipulation be amended, modified, or otherwise rejected by the Administrative Law Judge or Commission, in whole or in part, CAUSE-PA and PWPTF reserve the right to oppose the partial non-unanimous settlement - including but not limited to the right to file exceptions, a petition for reconsideration, and/or appeal to the Commonwealth Court.

Low Income Stipulation at 3-6.

Finding the ALJ's recommendation regarding the Low Income Stipulation to be reasonable, we adopt it without further comment or analysis.

VII. Exceptions and Replies

As an initial matter, in considering the Exceptions, we note that any issue not specifically addressed shall be deemed duly considered and denied without further discussion. It is well settled that we are not required to consider expressly or at length each contention or argument raised by the parties. *Consolidated Rail Corp. v. Pa. PUC,* 625 A.2d 741 (Pa. Cmwlth. 1993); *see also, University of Pennsylvania v. Pa. PUC,* 485 A.2d 1217 (Pa. Cmwlth. 1984).

As mentioned, *supra*, the OCA filed Exceptions to the Recommended Decision on July 25, 2024. More specifically, the OCA filed eighteen (18) Exceptions to the Recommended Decision. The Exceptions generally pertain to the following eight (8) broad sections: (1) incorrect application of relevant legal standards; (2) alleged errors in

adopting and considering the revenue requirement; (3) improperly allowing Peoples to recover its DSIC prior to the end of its FPFTY; (4) approving the revenue allocation and rate design without properly considering the record or Commission precedent; (5) wrongly approving Peoples' WNA; (6) incorrectly dismissing the OCA's opposition to competitive rate discount changes; (7) misconstruing the basis for the OCA's proposal that Peoples evaluate expanded call center hours; and (8) failing to approve protections for low-income customer proposed by the OCA. OCA Exc. at i-ii. Each of these issues is discussed in more detail, below.

The Joint Petitioners respond to the OCA by noting:

> 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.

Peoples R. Exc. at 2.

Although we have determined to adopt the Settlement in this case, we have nevertheless conducted a full review of the issues presented on Exception. Under typical circumstances where a settlement is unanimous, once we have determined that adoption of the settlement is warranted, we may determine that matters raised "in the alternative" are moot, and therefore do not warrant our express review.

However, as discussed, *supra*., where, as here, a "black box" settlement of a rate proceeding is achieved *via nonunanimous* settlement, it is necessary to review the contested matters, to ensure, not only that the parties, in this case the OCA, have had a full and fair opportunity to present their positions in opposition to the rate increase, but

also that the Exceptions raised do not assert any basis to undermine our ultimate finding that the Settlement was supported by substantial evidence, reasonable and in the public interest, and that no other important basis asserted might warrant rejection of the settlement. Upon review of the Exceptions raised and the record of this proceeding, and as discussed more fully below, we will deny the Exceptions filed by the OCA.

A. Approval of the Settlement

1. Positions of the Parties

As discussed *supra*, the Company argued that it has "effectively resolved all issues with all parties except for [the] OCA" and asserts that the Commission should approve the Joint Petition, without modification. Peoples M.B. at 7. The Company averred that the Joint Settlement provides adequate due process to non-settling parties, represents the range of party interests, and "is just, reasonable, in the public interest…" Peoples Statement in Support at 4. Peoples responded to the complaints raised by the OCA by countering that its "proposed revenue increase in this proceeding is so far outside the range of reasonableness it should not be given any significant consideration." *Id*. at 5. I&E offered its position that the Joint Petition balances the interests of the parties while reaching a resolution that is in the public interest. I&E Statement in Support at 8. I&E also extolled the benefits of the Joint Petition and suggested further line-by-line analysis of issues beyond the Joint Petition is not necessary. *Id*. at 27-28. The OSBA requested that the Commission approve the Joint Petition in its entirety. OSBA Statement in Support at 6. PII averred that the Joint Petition "specifically satisfies the concerns of PII…", is in the public interest, and results in a just and reasonable resolution. PII Statement in Support at 4, 6. PIOGA also requested the Joint Petition be approved without modification and be found to be in the public interest. PIOGA Statement in Support at 8.

The OCA argued that the Joint Petition is not in the public interest or supported by substantial evidence for several reasons: (1) an "unnecessarily high" increase in revenue requirement; (2) the Company's Act 40 contributions; (3) early implementation of the Company's DSIC; (4) "unjust and unreasonable" revenue allocation and rate design; (5) the proposed WNA; (6) certain PBOP benefits in addition to pensions expense; (7) recovery of costs associated with offering fee-free payment to customers using credit cards; and (8) allowing customers to claim electricity as a competitive alternate fuel source. OCA Comments at 1, 4.

2. Recommended Decision

ALJ Long found that the revenue increase was reasonable and that "the Joint Petitioners have sustained their burden of proving that the compromise is in the public interest and should be approved." R.D. at 31. The ALJ referred to the settlement being within the range of outcomes proposed by the Parties, with each party providing expert testimony and exhibits in support. *Id*. at 32. ALJ Long stated that the OCA "has not demonstrated that the lack of transparency necessitated by a black box agreement will not permit the Commission to ensure that Peoples will engage in prudent management…" *Id*. at 32.

In recommending that the Commission approve the Joint Petition, ALJ Long stated, as follows:

> [w]ithin the framework provided by that authority I find the Joint Petition along with the Low-Income Stipulation a reasonable balance of the competing needs of the stakeholders subject to the ratemaking process: residential consumers – both those who struggle to pay their bills and

> those who struggle less – and small businesses, large industrial customers, gas suppliers and the utility investors.

R.D. at 84. The ALJ also agreed with the Settling Parties that the Joint Petition "exemplifies the benefits to be derived from a negotiated approach" to the issues in this matter and the "carefully discussed and negotiated" Joint Petition addresses all issues raised in this proceeding, rendering any further detailed analysis and identification of issues beyond those included in the Joint Petition not necessary. *Id*. at 85.

3. OCA Exception No. 1 and Replies

In its Exception No. 1, the OCA contends that ALJ Long "committed a foundational error in not identifying the record evidence upon which she relied to make her recommendation." OCA Exc. at 4. The OCA argues the ALJ's lack of citations to record evidence in recommending approval of the Joint Petition "is a consequential one because the Commission must make all findings of fact necessary to determine whether the rates are just and reasonable." *Id*. at 3 (citing *Barasch v. Pa. PUC*, 491 A.2d 94 (1985)). The OCA emphasizes that "the Commission must point to record evidence and make specific findings based on the record to support its ultimate conclusion." In the alternative, the OCA asks the Commission to grant its Exception No. 1 and reject the Recommended Decision. OCA Exc. at 4.

In response, the Company states that the OCA's argument "is flawed because the Recommended Decision specifically evaluated each of the settlement positions and determined that they were supported by substantial evidence." Peoples R. Exc. at 3. The Company also notes that it submitted seventy-nine (79) Proposed Findings of Fact for ALJ Long to consider. *Id*., at n.2. The Company requests the Commission adopt the findings of the ALJ and reject Exception No. 1 filed by the OCA.

4. OCA Exception No. 2 and Replies

In its Exception No. 2, the OCA alleges that the ALJ erred by applying an improper standard – a "public interest standard" – that absolves the Joint Petitioners from their burden of showing by substantial evidence the Joint Petition is in the public interest. OCA Exc. at 5-6. Asserting that the ALJ has recommended approval of the Joint Petition because "the Joint Petitioners have sustained their burden that the compromise is in the public interest and should be approved…", the OCA states that "[t]he ALJ points to no facts that support this conclusion…" *Id*. at 6 (citing R.D. at 31). The OCA requests that the Commission reject the analysis in the Recommended Decision, find that ALJ Long applied an improper standard of proof to the Joint Petition, and grant the OCA's Exception No. 2. OCA Exc. at 6.

The Company responds that ALJ Long's Recommended Decision recognized and applied the correct legal standard in recommending approval of the Joint Petition in this matter. Peoples R. Exc. at 4. Peoples points to the aforementioned Proposed Findings of Fact and I&E's Statement in Support (with its own Proposed Findings of Fact) as proof the Joint Petition was supported by substantial evidence. *Id*. Countering the OCA's suggestion that the ALJ improperly applied a public interest standard, the Company suggests that the "OCA's argument fails because the correct standard includes the 'public interest' standard…" and there is no support for the OCA's claim that ALJ Long's decision was only based upon a consideration of the public interest. *Id*. at 5.

5. OCA Exception No. 3 and Replies

In its Exception No. 3, the OCA "avers that the Commission's policy of encouraging settlements, and the Commission's past practices for typically approving them, regardless of whether they are unanimous, are not appropriate legal standards in

this case." OCA Exc. at 7. The OCA adds that Conclusion of Law No. 6[17] in the Recommended Decision is without support, offering that "[t]his case is and was a fully-litigated proceeding…", negating the application of the standard applied to unanimous settlements. *Id*. a 7-8.

The Company suggests that the OCA's Exception No. 3 "is a continuation of [the OCA's] first 2 Exceptions" and avers that the Recommended Decision properly addressed "the merits of all aspects of the Settlement and of OCA's other issues." Peoples R. Exc. at 5.

I&E responds collectively to the OCA's Exceptions Nos. 1, 2, and 3. I&E states that "the OCA gets side tracked by the ALJ's inclusion of the statement that the joint petitions have the burden to prove the settlement is in the public interest…" and that no undue deference was given to the Joint Petition. I&E R. Exc. at 2. I&E offers its support to the legal standards in the Recommended Decision "as proper, comprehensive, and supported by the case law…" with ALJ Long's Recommended Decision "evidence of arriving at well-reasoned conclusions and recommendations." I&E asks the Commission to deny the OCA's Exceptions Nos. 1, 2, and 3. *Id*. at 2-3.

6. Disposition

We agree with the parties to the Joint Petition that substantial record evidence supports the ALJ's recommendation that the Commission adopt the Joint Petition, without modification. As such, we shall reject the OCA's Exceptions Nos. 1, 2, and 3.

[17] R.D. at 86.

The analysis and legal standards applied in the Recommended Decision properly note both the need for substantial evidence and for the settlement to be in the public interest. As noted, *supra*, we have expressly stated that disposition of a nonunanimous settlement requires the Commission to consider the reasonableness and substantial evidence supporting the settlement alongside a finding the settlement is in the public interest. *See*, *West Penn*. Further, we have broad discretion to consider and weigh whatever facts are deemed relevant pursuant to *Popowsky II*.

Here, we are satisfied that the Joint Petitioners each submitted extensive briefs, Statements in Support, and expert testimony in support of their positions. ALJ Long's Recommended Decision included ample citations to the record evidence, while also noting the reasonableness of the Joint Petition's revenue requirement when viewed alongside the litigation positions of Peoples, I&E, and the OCA. *See* Table 1, *supra*. The Joint Petition's proposed revenue increase is 40% lower than the Company's, as filed, base rate increase and is roughly in line with I&E's final litigation position of $89,866,000. This amount is also, as discussed, *infra*, similar to the litigation position of the OCA should it have provided for a higher ROE.

Therefore, we reject the OCA's Exceptions Nos. 1, 2, and 3 and adopt the reasoning and legal standards applied by ALJ Long in her Recommended Decision.

B. Revenue Requirement

1. Positions of the Parties

As previously noted, the Joint Petition adopts a $93 million increase in revenues for Peoples' combined PNGD and PGD rate divisions. The Company compared this amount to its proposed revenue increase of $154 million and I&E's proposed increase of $89,866,000. As discussed, *supra*, Peoples and I&E suggested the

negotiated revenue increase is both reasonable and within the range of possible outcomes of a fully litigated case. The OSBA and Peoples also pointed out the Joint Petition's proposed $93 million revenue requirement is similar to the litigation position of the OCA and I&E, therefore constituting a reasonable amount.

The OCA took the position that "Peoples could continue operations, recover all of its expenses, and have the opportunity to earn a reasonable profit with a revenue increase of no more than $13 million," adding that any additional amounts constitute a substantial harm to ratepayers. OCA Comments at 4-5. The OCA also posited that black box settlements, of which the Joint Petition is one, do not "provide transparency or impose the kind of discipline" necessary to ensure a utility engages in prudent management. *Id*. at 5. The OCA further took aim at the Settling Parties' Statements in Support and noted "[t]he Statements in Support of Peoples and I&E make much of the reduction to the overall revenue requirement from People's [*sic*] originally filed request. However, neither Peoples nor I&E point to substantial evidence, let alone any specific evidence" supporting the position a $93 million revenue increase would be in the public interest or result in just and reasonable rates. *Id*. at 6. Further, the OCA averred that the rates proposed by the Joint Settlement exacerbate the unaffordability of rates for Peoples' customers and these rates are, therefore, not in the public interest and should be rejected. *Id*. at 13.

2. Recommended Decision

Overall, ALJ Long found that the revenue increase was reasonable and that "the Joint Petitioners have sustained their burden of proving that the compromise is in the public interest and should be approved." R.D. at 31. The Recommended Decision referred to the settlement being within the range of outcomes proposed by the Parties, with each party providing expert testimony and exhibits in support. *Id*. at 32. ALJ Long stated that the OCA "has not demonstrated that the lack of transparency necessitated by a

black box agreement will not permit the Commission to ensure that Peoples will engage in prudent management…" *Id*. at 32.

3. OCA Exception No. 4 and Replies

In its Exception No. 4, the OCA claims that the ALJ erred in relying on the range of recommendations made by the Parties rather than requiring substantial evidence. OCA Exc. at 8. The argument mirrors parts of the arguments raised in Exceptions No. 1 and No. 2, *supra,* though the OCA's Exception No. 4 focuses solely on the ALJ's recommended approval of the $93 million revenue requirement. The OCA suggests that "[t]he R.D. makes no finding about how the $93 million was derived, makes no ruling on what expense levels, ratemaking base, or rate of return was authorized." *Id*. The OCA also asserts that the Recommended Decision takes a position of "close enough" without making specific findings required when deciding a contested case. *Id*. at 9. The OCA asks the Commission to grant its Exception No. 4, expressly reject the reasoning of the Recommended Decision as to the reasonableness standard applied, and apply a substantial evidence standard. *Id*. at 9-10.

The Company replies to the OCA's Exception No. 4 and argues the language of the Exception "demonstrates [the] OCA's extreme positions in this case." Peoples R. Exc. at 6. The Company also provides an analysis of the record evidence in support of the Joint Petition and conducts calculations to show the reasonableness of the Joint Petition. *Id*. 6-8. First, Peoples evaluates the revenue requirement increase based on the impacts of reducing its requested ROE, suggesting that reducing the ROE from 11.75% (the Company's final litigation position) to 10.44% (the average of I&E's discounted cash flow (DCF) and capital asset pricing model (CAPM) analyses) and accepting $17.5 million in expense adjustments suggested by the OCA results in a revenue increase of $97.7 million, which exceeds the $93 million revenue increase proposed by the Joint Petition. *Id.* at 6-7. As another example, the Company posits that a

reduction in ROE to 10.25% and acceptance of all of the OCA's expense adjustments would still result in a revenue increase of $92 million. The Company advocates that it has provided substantial evidence to support the Joint Petition and requests the OCA's Exception No. 4 be rejected. *Id*. at 7.

4. OCA Exception No. 5 and Replies

In its Exception No. 5, the OCA insists that the ALJ erred in recommending that the Commission adopt a $93 million revenue requirement because the record does not support such a substantial increase in revenues. OCA Exc. at 10. The OCA explains that "[t]hough the Non-Unanimous Settlement decreases the harm from Peoples as-filed amount, the additional $80 million offered by the Non-Unanimous Settlement in excess of that which was supported by the record is excessive and unnecessary…" *Id*. at 10-11. Expounding on this argument, the OCA argues that the Recommended Decision "bought into a false binary of either accepting the Non-Unanimous Settlement or accepting the OCA's litigated case" and recommended resolution of this dispute by accepting the Joint Petition without developing the requisite evidentiary record. *Id*. at 11. The OCA points to its Main Brief for specific claims, including the ROE, it alleges "fail to produce a quality of service, customer service or reliability benefit to ratepayers…" averring that the ALJ's recommended approval of the Joint Petition's revenue requirement must embed some of these claims into rates. *Id*. at 12. The OCA asks the Commission to grant its Exception No. 5 and reject the approval of the Joint Petition's revenue requirement. *Id*. at 13.

In its Replies, the Company counters that the "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." Peoples R. Exc. at 9. Peoples points to the OCA's litigated proposed ROE of 8.02% and proposed hypothetical capital structure ratio of 50% equity and 50% debt as positions that are unreasonable and unsupported. *Id*. The Company also notes

the OCA's testimony that adopting Peoples' proposed actual capital structure would increase the OCA's litigation position to $31 million. *Id*. Peoples also argues that the OCA "presented extreme expense adjustments that are contrary to Commission precedent…" and "proposes to reject increases in expense from the historic test year to the FTY and FPFTY…". *Id*. Referring to its Reply to the OCA's Exception No. 4, Peoples asserts that "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." *Id*. at 10.

5. OCA Exception No. 6 and Replies

In its Exception No. 6, the OCA advances its position that ALJ Long erred by recommending that Peoples be allowed to improperly "support the $93 million revenue increase by claiming that the increase is per se reasonable because it aligns closely with 'the current DSIC rate of 10.15%.'" OCA Exc. at 13. The OCA points out that the Commission has "recently disagreed" with attempts by utilities to use the DSIC ROE as a benchmark for establishing a ROE in a base rate case. *Id*. at 13 (citing *Pa. PUC v. Aqua Pa., Inc.*, Docket Nos. R-2021-3027385, R-2021-3027386 (Opinion and Order entered May 16, 2022) (*Aqua 2021*)). The OCA asks the Commission to expressly reject that Peoples is entitled to a DSIC ROE as "both improper and contrary to Commission precedent." *Id*. at 14.

In its Replies to Exceptions, Peoples suggests the OCA's argument erroneously suggests that ALJ Long erred in allowing the Company to rely upon the DSIC ROE as a metric. Peoples R. Exc. at 11. Peoples also points out that the OCA itself states "[i]t is not at all clear from the record whether the ALJ relied…" upon the Company's arguments regarding the DSIC ROE. *Id*. Peoples counters the OCA's reliance on *Aqua 2021*, by noting "the DSIC ROE should be a floor" to the ROE based on the DSIC being a reconciled return and the OCA fails to acknowledge the ROE awarded

in *Aqua 2021* was 20 basis points higher than the then-applicable DSIC. *Id*. (citing Peoples St. 13-RJ at 4). Peoples also refers to recent Commission cases for the Joint Petition's adoption of the average of the DCF and CAPM methodologies to determine a litigated ROE, believing the 10.44% ROE in the Joint Petition is reasonable. *Id*. at 12.

6. OCA Exception No. 7 and Replies

The OCA, in its Exception No. 7, suggests that the ALJ improperly shifted the burden to the OCA to show that a black box settlement will not ensure that Peoples will prudently manage rate payer resources. OCA Exc. at 14. The OCA asserts such burden shifting is "wholly inappropriate" and creates a burden that is "nearly impossible to meet in this case where the Joint Petition and its supporting statements lack supporting evidence to rebut…" *Id*. at 14. The OCA "submits that the proper legal standard requires Peoples – and all of the other Joint Petitioners – to demonstrate by substantial evidence that the Non-Unanimous Settlement rates are just and reasonable and in the public interest." The OCA requests the Commission grant its Exception No. 7 and reject the alleged burden shift requiring the OCA to rebut the black-box Non-Unanimous Settlement and that it reject the ALJ's recommended approval of the $93 million revenue requirement, as it is unsupported by the record. *Id*. at 15.

In its Replies, Peoples responds that the OCA's Exception No. 7 should be rejected for two key reasons: (1) Peoples has provided substantial record evidence that supported a revenue increase in excess of the settled upon $93 million; and (2) the OCA's proposals "are so extreme and contrary to Commission precedent that they should be summarily rejected…", specifically, the Company pointed to the OCA's proposed ROE, capital structure, elimination of incentive compensation, and denial of claims. Peoples R. Exc. at 12.

I&E offers a collective response to the OCA's Exceptions Nos. 4, 5, 6, and 7 and asks the Commission to reject the OCA's Exceptions. I&E states that the Recommended Decision "contains a comprehensive discussion of the revenue requirement agreed to in the Joint Petition." I&E R. Exc. at 4 (citing R.D. at 21-32). I&E also notes it submitted relevant supporting exhibits to its Statement in Support and that "[t]he record evidence clearly establishes support for the settled upon $93 million increase in revenue." *Id*. at 4.

7. Disposition

Upon consideration of the record evidence, the OCA's Exceptions Nos. 4, 5, 6, and 7, and the Reply Exceptions filed by Peoples and I&E, we shall reject the OCA's Exceptions on this issue and adopt the revenue requirement outlined in the Joint Petition. In so doing, we adopt the articulation of the issue and relevant supporting evidence utilized by ALJ Long in the Recommended Decision.

In rejecting the OCA's position, we note the Company's analysis showing the similarities between the Joint Petition's ROE and the OCA's litigation position. Peoples showed that reducing the ROE from 11.75% (the Company's final litigation position) to 10.44% (the average of I&E's DCF and CAPM analyses) and accepting $17.5 million in expense adjustments suggested by the OCA results in a revenue increase of $97.7 million, which exceeds the $93 million revenue increase proposed by the Joint Petition; and that a reduction in ROE to 10.25% and acceptance of all of the OCA's expense adjustments would still result in a revenue increase of $92 million. Peoples R. Exc. at 6-7. In our view, the calculations by the Company show the proposed revenue requirement of the Joint Petition is reasonable based on the range of potential outcomes and the incorporation of the other parties' positions, evidencing a substantial evidentiary base.

Further, we expressly note that we do not take a position on Peoples' position that the DSIC ROE should serve as a "floor" to any ROE in a litigated proceeding, instead reiterating that we find the ROE and revenue requirement in this case to be supported by substantial evidence and in the public interest.

Finally, we conclude that the OCA errs in arguing that the Recommended Decision and our approval of the Joint Petition results in unfair burden shifting. The Recommended Decision and this Opinion and Order find the OCA has not presented any evidence purporting to show that the black box nature of the Joint Petition will result in Peoples not prudently managing ratepayer funded resources. It has long been established that a party proposing an adjustment to a ratemaking claim bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment. *See*, *Pa. PUC v. PECO*, Docket No. R-891364, *et al.* (Order dated May 16, 1990); *Pa. PUC v. Breezewood Telephone Company*, Docket No. R-901666 (Order dated January 31, 1991).

C. DSIC

1. Positions of the Parties

The OCA argued that permitting early DSIC recovery is not in the public interest, suggesting that if Peoples is allowed to recover DSIC revenues prior to the October 31, 2025, the term would be counter to the public interest and just and reasonable rates based on the Supplemental Implementation Order. OCA Comments at 15, 16.

2. Recommended Decision

The ALJ recommended that the Commission reject the assertions made by the OCA, and, citing to the Supplemental Implementation Order, found Paragraph 45 of the Joint Petition to be reasonable and consistent with Commission precedent. R.D. at 27.

3. OCA Exception No. 8 and Replies

In contesting the DSIC settlement term approved as part of the Joint Petition, the OCA avers the ALJ erred by recommending that the Commission allow Peoples to improperly collect a DSIC prior to the end of its FPFTY. OCA Exc. at 15. The OCA asserts that approval of this term "would be disincentivizing the use of accurate projections for the plant the utility intends to place in service by the end of the FPFTY when setting rates." *Id*. (citing OCA Comments at 16-17). The OCA concedes that the Recommended Decision correctly noted the Commission's Supplemental Implementation Order does not contain a requirement for a specific date for triggering of DSIC-eligible recovery. *Id*. at 16. However, the OCA posits that the Recommended Decision's reliance on the Commission's Supplemental Implementation Order is not determinative as no Joint Petitioner has provided evidentiary support for the need to recover DSIC revenues prior to conclusion of the FPFTY. *Id.* Thus, the OCA, in its Exception No. 8, requests that the Commission expressly prohibit the Company from recovering DSIC-eligible plant prior to the end of its FPFTY. *Id.*

In its Replies, the Company argues that the OCA's argument is "illogical." Peoples bolsters this position by noting that "[t]he 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." The Company avers "[u]tilities have no incentive to

under-project capital in the FPFTY in a rate case because under-projecting would result in a lower rate increase." Peoples R. Exc. at 13.

In its Replies, I&E counters the OCA by stating that ALJ Long properly concluded that Paragraph 45 of the Joint Petition is consistent with the Supplemental Implementation Order and, based on a lack of support for the OCA's position, it should be denied. I&E R. Exc. at 5.

4. Disposition

Echoing our analysis of the OCA's Exception No. 4, *supra*, we find the OCA has failed to present any evidence that the Joint Petition's DSIC terms violate Commission precedent. The Company compellingly rebuts the OCA's position and we believe the ALJ properly analyzed the Supplemental Implementation Order's language in finding it does not require that a specific date be reached. R.D. at 27.

D. Revenue Allocation and Rate Design

1. Positions of the Parties

The Joint Petitioners represented that the settled upon rate design and customer charges are very favorable in light of the Company's initial filing and fully supported the Joint Petition's terms regarding revenue allocation and rate design. The Joint Petitioners also suggested that the averaging of the parties' COSS creates a just and reasonable solution in this proceeding. Additionally, the Joint Petitioners asserted that the averaging, when paired with the parties resolving to include a customer component in the allocation of the cost of mains resolves many of the issues raised by the Joint Petitioners and diluted the emphasis of the allocation of mains.

The OCA asserted that the use of a COSS other than the Peak and Average method is inappropriate as a matter of Commission precedent and that the Commission has expressly rejected the inclusion of a customer component in allocating the cost of mains. The OCA also objected to the rate design, in particular, the customer charge for residential customers.

2. Recommended Decision

ALJ Long admitted that the "OCA is not wrong that the method of cost allocation in the Joint Petition can be characterized as 'Frankenstein-like.'" According to the ALJ, although the Commission may prefer the Peak and Average method, a blending of approaches in order to reach a reasonable result is not inappropriate here. The ALJ added that the Commission has recognized that a novel approach to cost allocation may create an acceptable result. R.D. at 40.

The ALJ noted that 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 ALJ reasoned that the best-suited ACCOSS may depend on the circumstances of the situation on a case-by-case basis.

The ALJ also reasoned that the results of OCA's proposed allocation, along with I&E's, both based solely on Peak and Average, was included in the negotiated revenue allocation. Therefore, the ALJ found that the inclusion of OCA and I&E results diluted the emphasis of the allocation of mains advocated by Peoples, OSBA, and PII. Finally, the ALJ reasoned that the customer charges and scaleback included in the Joint Petition represent an appropriate compromise of each party's litigation position and should be approved. The ALJ noted that the result was generated with input from a variety of stakeholders. Therefore, the ALJ concluded that, coupled with other terms of

the Joint Petition and the Low-Income Stipulation, the results are reasonable and in the public interest. R.D. at 40-41.

3. OCA Exception No. 9 and Replies

In its Exception No. 9, the OCA raises an objection to the ALJ's recommended approval of the Joint Petition's revenue allocation, noting that the proposal is contrary to Commission precedent and inequitably allocates the cost of mains. The OCA argues that the Joint Petition "is built upon the averaging of the Peak and Average method advocated by I&E and OCA, as well as a Minimum System/Design Day methodology relied upon by Peoples, and the 'CD methodology' relied upon by OSBA." Despite the agreement of the Settling Parties, the OCA suggests "this does not convert the resulting revenue allocation into a just and reasonable allocation." OCA Exc. at 17.

The OCA also notes that the ALJ recommended that the Commission adopt the Joint Petition despite acknowledging only the Peak and Average method is preferred by the Commission. OCA Exc. at 17. The OCA also points out the revenue allocation "relies upon the incorporation of a customer component into the allocation of the cost of mains despite the fact that the Commission has rejected, time and time again, the notion that any customer component should be included in allocating the cost of mains." *Id.* (citing *Columbia Gas 2021* at 215-18; *PGW 2023* at 137; *Pa. PUC v. Nat'l Gas Dist. Co.*, 83 Pa. P.U.C. 262, 360 (1994); and OCA Comments at 17-18).

The OCA asserts that the ALJ failed to consider the needless harm the revenue allocation would impose on residential customers. OCA Exc. at 18. The OCA requests the Commission grant its Exception No. 9 and reject the ALJ's recommended approval of the Joint Petition's revenue allocation terms as unjust, unreasonable, and contrary to Commission precedent. *Id*. at 19.

In its Replies, the Company argues that the revenue allocation in the Joint Petition is "primarily based upon the [peak and average (P&A)] methodology." Peoples R. Exc. at 13 (citing Peoples M.B. at 38). Peoples also relies on the Commission's decision in *Pa. PUC v. PECO Energy Company – Gas Division*, Docket No. R-2020-3018929 (Opinion and Order entered June 22, 2021) (PECO 2021) for the assertion that the Commission has "not required all Natural Gas Distribution Companies [omitted] to solely rely on a P&A methodology cost allocation." Peoples Exc. at 13. Peoples also notes the OCA's proposed revenue allocation would create more severe rate impacts on larger customer classes and is counter to the negotiated "balance" and reasonableness achieved by the Joint Petition. *Id*. at 14 (citing Peoples M.B. at 57-58; Peoples R.B. at 40).

In its Replies, the OSBA counters the OCA's position and asks the Commission to reject the OCA's Exception No. 9 and adopt the Joint Petition's revenue allocation. OSBA R. Exc. at 4. The OSBA cites to *Columbia Gas 2022* for its argument that "the Commission has ended the use of precedent when litigation [sic] the issue of cost-of-service methodologies…" and that there is not a preferred method by the Commission when considering litigated cost-of-service methodologies. *Id*. at 3. The OSBA also asserts that the OCA fails to recognize the benefits to all customers in the revenue allocation proposed by the Joint Petition, noting that the Joint Petition's revenue allocation is a just and reasonable resolution of this issue that also considers Peoples small commercial and industrial customers. The OSBA also notes that "[t]he record is replete with evidence proffered by the OSBA and other parties on the issue of cost-of-service methodology." *Id*.

PII, in its Replies also offers a response to the OCA's Exception No. 9 and requests that it be rejected. PII avers that the OCA's Exception "both ignores the Commission's discretion to determine the appropriate [COSS] And [sic] revenue allocation for this proceeding and overlooks the substantial record evidence" supporting

the Joint Petition. PII R. Exc. at 2. PII also avers that that the ALJ's recommendation "thoroughly refutes OCA's arguments for limiting the range of reasonable [COSS] results…" *Id.* at 3. PII states "[t]he Settlement Parties in this case compiled a record of substantial evidence in this proceeding supporting the [COSS] and the revenue allocation reflected in the Settlement. PII concludes that the record reflects academic literature and expert witness testimony supporting the application of various [COSS] models." *Id*. at 4 (citing PII St. 1-R at 17).

4. OCA Exception No. 10 and Replies

The OCA, in its Exception No. 10, raises issues with the ALJ's recommended approval of a residential customer charge of $16.80, arguing that the record does no support this amount and asking the Commission to approve the OCA's suggested customer charge of $14.50. OCA Exc. at 19. The OCA states the residential customer charge in the Joint Petition "includes cost[s] which more appropriately vary with demand, including the cost of mains, than the number of customers." *Id*. at 20. The OCA suggests that the Joint Petition "provides no evidentiary or legal basis for its rate design" and indeed "included administrative and general expenses, which are inappropriate, as such costs are not chargeable directly to any particular customer class, but are indirectly incurred by *all* customer classes, not just residential customers." *Id.* (citing *Columbia 2021* at 264). The OCA argues the evidence in this matter does not support the $16.80 residential customer charge, with the Recommended Decision relying solely on it being a compromise, and requests the Commission grant its Exception No. 10 and reject the ALJ's recommended approval of it. OCA Exc. at 20-21.

In its Replies, Peoples argues the OCA's proposed customer charge analysis "was severely flawed because it omitted certain fixed costs that the Commission includes when determining customer charges." Peoples R. Exc. at 14 (citing Peoples M.B. at 40-42). Further, Peoples notes that I&E provided additional information showing

the Commission has previously rejected the OCA's customer charge analysis. Peoples R. Exc. at 14 (citing I&E St. No. 3-SR; Peoples R.B. at 41). Finally, Peoples avers that "I&E's customer charge study produced a result of $20 and the Company's study produced a result of $21.50…" with the Joint Petition adopting a "considerably lower" amount of $16.80. The Company request the Commission reject the OCA's Exception No. 10 and approve the Joint Petition's residential customer charge. Peoples R. Exc. at 14.

In its Replies, I&E argues that the OCA's Exception Nos. 9 and 10 should be rejected based upon the fact that ALJ Long conducted "a comprehensive review of the various positions" of the Parties. I&E notes that it submitted "extensive testimony and exhibits regarding revenue allocation and rate design…" along with supporting exhibits. I&E asks the Commission to reject the OCA's Exception Nos. 9 and 10 as ALJ Long's findings regarding the customer charges and scale backs in the Joint Petition are an appropriate compromise and based on the substantial record evidence. I&E R. Exc. at 5.

5. Disposition

Upon review of the record evidence in this proceeding, and the Exceptions and Replies, we shall reject the OCA's Exceptions Nos. 9 and 10. As ALJ Long noted, "any COSS includes a certain level of subjectivity because, as with any analysis, there are assumptions and decisions made regarding the interpretation of data and how that data is characterized and used in the analysis." R.D. at 39. We also cite to *Columbia Gas 2022* in finding:

> 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, n.30 (citation omitted).

We believe that the Joint Petitioners took a measured, careful, and collaborative approach to resolving these subjective issues in a way that incorporates the view of a variety of stakeholders, considers Commission precedent, and implements a movement of each class closer to the Company's actual cost of service and reduces the rate impact on some customers. *See*, PII Statement in Support at 4-6.

E. Weather Normalization Adjustment

1. Positions of the Parties

The Joint Petitioners stated that the WNA terms in the Joint Petition are consistent with Commission precedent, supported by substantial evidence, and in are the public interest. The Joint Petitioners also suggested that adjustments to the, as initially filed, WNA further protects the public interest by imposing a 3% deadband, a cap on the WNA adjustment for bills rendered in the month of May, and requiring reporting of bill impacts.

As previously noted, the OCA advocated four points against the WNA: (1) the WNA provides the Company with greater revenues when customers use less or if weather is warmer, counter to cost of service considerations; (2) the proposed WNA disincentivizes conservation as it will collect portions of customer's savings from reduced usage during months the WNA is in operation; (3) the WNA is complex and difficult for customers to understand; and (4) the WNA decreases affordability "by, more likely than not, collecting more in charges than customers receive in credits and creating

instability and unpredictability on a month-to-month basis," disproportionately impacting low-income customers. OCA Comments at 28.

2. Recommended Decision

ALJ Long considered the WNA and found "there is no evidence to conclude that Peoples is significantly unique from other gas utilities in neighboring regions. As the WNA in the Joint Petition is consistent with WNAs that the Commission has approved for other gas utilities, I recommend that the Commission approve the WNA in the Joint Petition." The ALJ also concluded that denial of the WNA would unfairly prevent the Company from recovering its weather normalized revenues. R.D. at 46.

3. OCA Exception No. 11 and Replies

The OCA, in its Exception No. 11, avers the ALJ erred in recommending that the Commission accept the WNA proposal in the Joint Petition. OCA Exc. at 21. Specifically, the OCA takes issue with the Recommended Decision's description of its argument, accusing ALJ Long of "misconstruing the OCA's primary argument against the WNA" and the OCA reiterates its position "that Peoples has failed to provide substantial evidence that the WNA is a just and reasonable rate, and the Non-Unanimous Settlement terms do not remedy the defects." *Id*. (citing OCA R.B. at 50-53; OCA Comments at 27-28).

The OCA's Exception No. 11 is broken into four sub-parts alleging particular deficiencies of the WNA proposal: (1) the method of decoupling cost of service from consumption will make estimation of monthly bills more difficult for customers; (2) the structure of the WNA disincentivizes conservation; (3) the WNA is not understandable to customers; and (4) the WNA disproportionately impacts low-income

customers in design and impact. The OCA asks the Commission to grant its Exception No. 11 and reject the WNA proposed by the Joint Petition OCA Exc. 23-28.

In its Replies, the Company suggests that a"[f]ull consideration of the factors contained in the Commission's policy statement [at Docket No. M-2015-2518883] demonstrates the reasonableness of the WNA proposed in the proceeding…" pointing to the bidirectional sharing of risk between customers and the Company, the 3% deadband, limited bill impacts for May bills, and extensive reporting requirements. Peoples R. Exc. at 15-16 (citing Peoples St. No. 3 at 19-22).

Countering the four specific deficiencies noted by the OCA, the Company responds that: (1) the WNA can be explained to customers and the Company will be available to address customer questions, and the WNA is supported by cost-of-service principles; (2) the OCA has not presented any evidence the WNA will reduce conservation and customers will still experience savings if they conserve; (3) the Company complied with statutory and regulatory requirements for notice of the WNA to customers; and (4) CAP customers will only pay their percentage of income payments, with any excess recovered from other customers in the same way as other costs avoided by CAP customers, meaning there is no disproportionate impact on low-income customers. Peoples R. Exc. at 16-17.

4. OCA Exception No. 12 and Replies

In its Exception No. 12, the OCA also suggests that ALJ Long erred in recommending that the Commission approve the WNA based on the "contradictions" included in Peoples' testimony regarding the impact on customers. The OCA claims that these contradictions "fly in the face of any determination that the WNA is a just and reasonable rate…" The OCA points to contradictory evidence presented by Peoples: (1) that over the past seven years, the WNA would have resulted in a net collection of an

additional $9.9 million in WNA charges; (2) that over an unspecified length of time the weather related cumulative impact of the WNA is expected to be at or near zero; and (3) that the Company lost over $40 million due to warmer weather that it was unable to recoup; for its position the WNA is not supported by substantial evidence. OCA Exc. at 28.

The OCA also argues that Peoples' assertion that only 0.07% of customers' bills would experience unusual results[18] is "contradictory in the sense that it requires the Commission to agree that any customer's bill increase at 99.9% or below is not an unusual result." The OCA, based on what it views as evidence that would "hardly support any finding that the WNA would be a just and reasonable rate, let alone substantial evidence…" asks the Commission to grant its Exception No. 12 and reject the WNA proposal. OCA Exc. at 29.

In Reply, the Company submits that in arguing that Peoples has provided contradictory evidence, the OCA misinterprets the data. Namely, the Company argues that the OCA has cited data from different time periods. Peoples notes that denial of the WNA would mean "the odds are unfairly against the Company being able to recover its weather-normalized revenues…" and states potential high bill impacts for May have been mitigated by the language of the Joint Petition. Peoples maintains that the Joint Petition "presents a reasonable effort of the settling parties to address potential WNA issues..." and insists that the OCA's Exception No. 12 should be denied. Peoples R. Exc. at 18.

5. OCA Exception No. 13 and Replies

In its Exception No. 13, the OCA also argues that the ALJ erroneously relies upon prior Commission approval of WNA mechanisms as support for approval of

[18] "Unusual Results" are defined by Peoples as a month where the WNA increased a customer's bill by above 100%. Tr. at 351.

Peoples' WNA. OCA Exc. at 29. According to the OCA, "reliance upon the other utilities to support Peoples' WNA is wholly inappropriate and fully inconsistent with holding the Joint Petitioners to their burden of proving, by substantial evidence, that [the] WNA proposed *in this case* is just and reasonable, in the public interest, and in conformity with the Commission's orders and regulations." *Id*. at 30 (emphasis in original). Coupled with the OCA's position that Peoples offered evidence that it does not have the same customer profile, weather, etc., as other NGDCs in Pennsylvania, the OCA requests that the Commission to grant its Exception No. 13 and reject the Recommended Decision's reliance on the WNAs of other utilities. OCA Exc. at 31.

In its Replies, the Company argues the WNA is authorized by statute and "[i]t is reasonable to compare a WNA to other WNAs that have been approved in Pennsylvania." Peoples asserts that it has provided substantial evidence the WNA is just and reasonable and the OCA has failed to show the proposed WNA differs substantially from those previously approved by the Commission. Peoples R. Exc. at 18-19.

6. OCA Exception No. 14 and Replies

In its Exception No. 14, the OCA requests that the Commission reject the WNA based on the fact Peoples' own evidence refutes the value of implementing the WNA. OCA Exc. at 31. Utilizing evidence submitted by Peoples, the OCA states that Peoples "vehemently opposed implementing the WNA with a deadband to limit customer bill impact for small changes in weather…" explaining "that a deadband would reduce the effectiveness of the WNA, and therefore, its value to both the Company and customers." *Id*. (citing Peoples St. 15 at 57). Based on this position, the OCA asserts that Peoples' statements regarding the benefits of the WNA proposed in the Joint Petition – which includes a 3% deadband – "completely conflict with the record" and that there is no evidence to support a determination approving the WNA. OCA Exc. at 31.

In its Replies, Peoples suggests that "[i]t is reasonable to compromise with other parties in order to resolve issues…" and the agreement set forth in the Joint Petition to adopt the 3% deadband helps to address concerns raised by other parties, including I&E and the OCA. Peoples R. Exc. at 19.

In its Replies, I&E disagrees with the assertions made by the OCA in its Exceptions Nos. 11, 12, 13, and 14 for four reasons: (1) ALJ Long conducted an extensive review of the evidence and party positions; (2) the Recommended Decision properly recognized the statute authorizing WNAs and other alternative rate making methodologies; (3) ALJ Long correctly noted the approval of several prior WNAs with 3% deadbands; and (4) the Recommended Decision properly relied on the record evidence submitted in support of the WNA. I&E R. Exc. at 6 (citing I&E Statement in Support at 17-19).

7. Disposition

Upon careful examination of the Joint Petition's WNA provisions and the positions of the parties to this proceeding, we shall reject the OCA's Exceptions Nos. 11, 12, 13, and 14 and adopt the recommendation of ALJ Long on this issue.

We echo ALJ Long in stating:

> Alternative rate mechanisms that are decoupled from revenue are a relatively recent development in Pennsylvania. While it seems like a WNA does nothing more than shift the risk of warmer weather from a utility to its customers, it is also true that gas utilities have certain fixed costs for providing service that may be impacted by the revenue lost due to lower consumption during warmer winter months. Accordingly, the Commission has approved WNA mechanisms for other gas utilities in the Commonwealth. The

> arguments made by OCA in opposition to this settlement term are arguments that can be made in opposition to *any* WNA.

R.D. at 46. The WNA proposed in the Joint Settlement is in line with Commission precedent based on provisions including the 3% deadband, presentation as a separate line item on customer bills, calculation of the WNA on a bills rendered basis, and the filing of a report showing monthly WNA billed revenue and normal HDD data. Further, the proposed WNA is supported by substantial evidence of levelizing costs for customers and allowing the company to recoup revenue lost during warmer winter months. *See*, Peoples M.B. at 61.

F. Competitive Rate Discounts

1. Positions of the Parties

The Joint Petitioners asserted that the discount rate terms in the Joint Petition are a compromise between I&E and the Company and consistent with Commission precedent. The Joint Petitioners asserted that the Joint Petition would allow the Company to offer below-tariff rates to large industrial and commercial customers claiming that electricity is a competitive alternative fuel source to natural gas, instead of limiting such discounted rates to situations where electricity is a competitive alternative and the customer's electricity distribution provider offers that customer discounted rates.

The OCA argued that the terms of the Joint Petition does not ease its concerns that "if Peoples is authorized to offer negotiated, discounted (or 'flex') rates to customers claiming electricity as an alternative fuel source, Peoples' captive customers will be placed at-risk of bearing revenue shortfalls." OCA Comments at 30. The OCA asserted that this risk would be caused by a shifting of revenue risk to customers ineligible for such discounted rates. *Id.*

2. Recommended Decision

ALJ Long concluded that the OCA's "generalized concerns regarding the treatment of the availability of electricity as a competitive alternative are not sufficiently specific to recommend that the Commission reject this settlement term." Additionally, the ALJ concluded that the terms of the Joint Petition provide sufficient safeguards to protect customers by adopting equitable base rate terms and requiring detailed reporting of discount customers to the statutory advocates. R.D. at 51.

3. OCA Exception No. 15 and Replies

In its Exception No. 15, the OCA asserts the ALJ has erred in her conclusion that the OCA's concerns "are not sufficiently specific to recommend that the Commission reject this settlement term." OCA Exc. at 33 (citing R.D. at 51). The OCA objects "both to the improper burden shift embedded in the ALJ's determination and to any implication that the competitive rate discounts would produce just and reasonable rates because there is no supporting evidence." OCA Exc. at 33. The OCA notes that Peoples already extends competitive rate options to customers using more than 50,000 MCF per year when the customer has access to an alternative fuel source. *Id* (citing Peoples Exh. 14, Appendix A at 29). Further, the OCA points out that Peoples classifies electricity as an alternative source for qualifying customer if an electric distribution company offers a flex rate to the customer. OCA Exc. at 33. In asking the Commission to reject the Company's proposal, the OCA reiterates its position that "[n]o substantial evidence supports approval of Peoples' proposal…" *Id*. at 34.

In its Replies, the Company incorporates its prior arguments in support of the approval of the proposed changes to competitive rate discounts, noting that allowing such discounts "encourages customers to remain on the system, and contribute to fixed costs, which otherwise reduces costs for other customers." Peoples R. Exc. at 19 (citing

Peoples M.B. at 96-97; Peoples R.B. at 66-69). Peoples also suggests that "[a]llowing discounted rates does not lead to cross-substantiation or price wars…" in contradiction of the OCA's arguments. Peoples R. Exc. at 19.

In its Replies, I&E avers that the ALJ "properly concluded that with 'the adoption of the Equitable base rate terms requiring detailed reporting and providing these reports to the statutory advocates, there is sufficient protection in place to protect the public at this time.'" I&E R. Exc. at 7 (citing R.D. at 67-68). Therefore, I&E asserts that the ALJ's recommended adoption of the Joint Petition's terms regarding competitive rate discounts is supported by the record evidence and should be affirmed. I&E R. Exc. at 7-8.

4. Disposition

Upon review, we shall reject the OCA's Exception No. 15 and adopt the ALJ's recommendation to approve the Joint Petition's terms on this matter. As noted by the Company, allowing such discounts will encourage customer retention, creating benefits and reducing costs for other customers. Peoples R. Exc. at 19 (citing Peoples M.B. at 96-97; Peoples R.B. at 66-69). Further, there are sufficient safeguards in place to ensure the protection of the public.

Finally, we again note that the OCA bears some burden of proving its assertions that approval of this term would result in cross-substantiation or in the other outcomes it asserts will occur. In the absence of such support, we are swayed by the ample testimony and arguments of the Joint Petitioners that adoption of these terms represents a resolution that is in the public interest.

G. Customer Service Issues

1. Positions of the Parties

The OCA argued that the Company's current call center hours prevent or limit the ability of customers to contact the Company. The OCA countered Peoples' suggestion that extending hours would result in higher costs and cost recovery by suggesting "it is too soon to know whether any cost may materialize that would not otherwise be subsumed with cost savings resulting from gained efficiencies…" and requested that the Commission order the Company to conduct an analysis of the potential for expanding call center hours. OCA M.B. at 141.

The Company responded that the OCA's proposal relies on a single customer's public input testimony and that the proposed analysis is unnecessary under the circumstances. Peoples M.B. at 93.

2. Recommended Decision

The ALJ agreed with the assertions of the Company, finding that the customer complaint relied upon by the OCA to support its proposal was resolved by the Company having multiple points of contact with the customer. ALJ Long also held that there was no evidence submitted that the Company was failing to meet its customer service obligations or that it was failing to provide adequate service in this regard. R.D. at 68.

3. OCA Exception No. 16 and Replies

In its Exception No. 16, the OCA takes issue with the ALJ's analysis of its proposal asking the Company to conduct an evaluation of the potential to expand its call

center hours. OCA Exc. at 34. Specifically, the OCA asserts that the ALJ erred in finding that the OCA's proposal was "based on the testimony of one witness during the public input hearings…" *Id*, (citing R.D. at 68). The OCA counters "that limiting call center assistance to traditional business hours prevents many customers from being able to contact Peoples." OCA Exc. at 34. The OCA argues the Commission should grant its Exception No. 16 and compel Peoples to conduct an evaluation of whether it is providing adequate service based on the fact its proposal "is narrowly-tailored to enabling Peoples to determine whether an expansion of call center hours would be justified and to ensure that, if so, it could be done efficiently and at a reasonable cost." *Id*. (citing OCA R.B. at 61; OCA St. 5 at 34).

In its Replies, the Company asserts that the OCA's proposal is not supported by evidence and fails to evaluate the costs or benefits of expanded call center hours. Peoples R. Exc. at 20 (citing Peoples M.B. at 93; Peoples R.B. at 63-64).

In its Replies, I&E disagrees with the OCA's arguments in its Exception No. 16 and posits that ALJ Long properly considered the record evidence, public input hearing testimony, and response of the Company. I&E R. Exc. at 7.

4. Disposition

Upon review, the OCA's Exception No. 16 is rejected, and we shall adopt the ALJ's recommendation on this issue. While sympathetic to the OCA's position that its proposal was based on more than the public input testimony of one individual, we find that the OCA has again failed to point to any facts necessitating the cost, time, and administrative work associated with its proposal. The record reflects that the Company has had multiple points of contact with the individual who complained during the Public Input Hearing and, as ALJ Long noted, there is "no evidence that the Company is failing

to meet its obligations to provide adequate service." R.D. at 68 (citing Peoples St. 5-R at 6). Accordingly, the OCA's Exception No. 16 is denied.

H. Protections for Vulnerable Customers

1. Positions of the Parties

Based upon its observation that there are a disproportionate number of terminations for non-payment in the portions of the Company's service territory with the highest proportion of Black households, the OCA requested a root cause analysis be conducted by the Company to determine the reason for this. OCA M.B. at 128-29.

The Company stated its collections and termination processes are solely based on arrearages and automated, suggesting that there is no proof the Company terminates customers based on demographics. Peoples M.B. at 79 (citing Peoples St. No. 16-R at 9).

2. Recommended Decision

The ALJ considered the OCA's proposal, noting that "[a]dressing the root cause of poverty in certain communities and demographics is important." However, the ALJ stated that "absent proof of explicit discrimination" the Commission should not impose the task of a root cause analysis upon a single utility. The ALJ recommended that the Commission reject the OCA's proposal that the Company be required to conduct a root cause analysis related to the proportionate number of terminations for nonpayment in the Company's service territory. R.D. at 76-77.

3. OCA Exception No. 17 and Replies

In its Exception No. 17, the OCA excepts to the ALJ's recommendation that the Commission reject its proposal that the Company be required to conduct a root cause analysis to determine "why there are a disproportionate number of terminations for non-payment in the portions of the Company's service territory with the highest proportions of Black households." OCA Exc. at 36 (citing R.D. at 76). The OCA suggests that the ALJ's recommendation would impose "a standard that does not exist under the law because the OCA did not prove that the disproportionate number of terminations for Black households was the result of explicit discrimination." OCA Exc. at 37. The OCA "submits that Peoples should conduct a root cause analysis to determine *why* there is a connection between higher levels of termination and a higher presence of Black householders to ensure that there is no portion of Peoples' termination process which may be compromised by unintended and implicit biases…" and requests the Commission grant its Exception No. 17 and order such a root cause analysis. *Id*. at 37-38 (citing OCA St. 6 at 22, OCA M.B. at 129).

The OCA also requested the Commission order the Company to complete additional customer contacts and provide supplemental notice to low-income customers to ensure they are aware of the CAP program and its benefits. OCA M.B. at 130.

In its Replies, the Company stresses that it "does not differentiate in the termination process, and the process is strictly arrears based." Peoples R. Exc. at 20 (citing Peoples R.B. at 55-56). Peoples asks the Commission to deny the OCA's proposal that the Company be required to conduct a root cause inquiry of why service

termination rates are higher in zip codes containing the highest proportion of Black customers. Peoples R. Exc. at 20.[19]

4. OCA Exception No. 18 and Replies

Finally, in its Exception No. 18, the OCA argues the ALJ erred by recommending that the Commission reject the OCA's proposal that the Company conduct educational efforts at "designated milestones of vulnerability." OCA Exc. at 38. Specifically, the OCA suggests the Company conduct educational efforts during the following contacts with payment challenged or low income customers to improve CAP enrollment: (1) prior to termination; (2) during the Company's cold weather survey; and (3) when requesting a cash security deposit." *Id*. (citing R.D. at 78; OCA M.B. at 130-34).

The OCA maintains that any "insignificant" cost associated with conducting this educational outreach would be offset by additional revenues under the Company's CAP program. OCA Exc. at 38-39 (citing OCA St. 6-SR at 3-4). The OCA avers the record reveals a "clear need for Peoples to increase CAP outreach" contrary to the Recommended Decision's finding that Peoples provides sufficient notice. OCA Exc. at 39 (citing R.D. at 79, OCA St. 6; OCA M.B. at 131). The OCA also points to recent Commission precedent for support, suggesting "the Commission has recently recognized the need for greater customer outreach" in *Pa. PUC v. Pennsylvania American Water Company*, Docket Nos. R-2023-3043189, *et al*, at 352-53 (Opinion and Order entered July 22, 2024). The OCA requests the Commission grant its Exception No. 18 and

[19] The Company also avers that it provides ample and sufficient notice of the CAP program to low-income customers, especially with the agreement to provide notice of CAP to customers during the Company's cold weather survey. *See* Peoples M.B. at 83-85.

require Peoples to provide the additional CAP outreach at the recommended times. *Id*. at 40.

In its Replies, the Company asserts that the OCA's recommendations are unnecessary and the Company "already provides substantial notice to low-income customers through various channels." Peoples R. Exc. at 20 (citing Peoples M.B. at 82-87; Peoples R.B. at 57-62).

In its Replies, I&E responds collectively to the OCA's Exception Nos. 17 and No. 18 and requests they be rejected. I&E states the ALJ "properly concluded that it is not the role of the Commission to impose a root cause analysis task upon a single public utility absent proof of explicit discrimination…" and any proposed changes to educational outreach are addressed in Peoples' existing procedures or the Low Income Stipulation. I&E R. Exc. at 8.

5. Disposition

We agree with Peoples and the reasoning of the ALJ. Accordingly, we shall reject Exception Nos. 17 and No. 18 filed by the OCA, consistent with the following discussion.

The record reflects that the Company provided substantial evidence that its termination procedures are automated based on the amount of the arrearage and do not account for demographics. Without any evidence that the Company's procedures are discriminatory – explicitly or implicitly – the OCA has failed to persuade us that a root cause analysis is justified. Simply put, we echo I&E in stating it is not our role to impose such an analysis upon a single utility, absent proof.

Additionally, we find that the Company proffered substantial evidence that it provides sufficient notice to customers of its CAP program. The Company has outreach and intake efforts in place to enroll income eligible low income customers, who are not already enrolled, into its CAP Program. Low income customers also have the option to enroll in budget billing to spread the seasonal bills into a more stable and constant monthly payment amount. Further, low income customers with arrears and income between 151 and 200% FPL can participate Peoples' pilot CAP expansion program, which provides protection against bill volatility for those who are payment troubled and are ineligible for Low-Income Home Energy Assistance Program (LIHEAP) grants. *See* Peoples St. 3-R at 27. Further, the Company informs its low income customers of the availability of energy assistance programs, including LIHEAP and its CAP program when it discusses payment arrangements and when it initiates termination of service. *See* Peoples St. 9-R at 9. In our view, these notices, when combined with the Company's agreement to provide notice during the cold weather survey, and the improvements outlined in the Low Income Stipulation, *supra*, render the proposals made by the OCA redundant and unnecessary.

VIII. Conclusion

For the reasons set forth above, we shall adopt the Joint Petition and approve the Non-Unanimous Settlement as in the public interest. Additionally, we shall: (1) deny the Exceptions of the OCA; and (2) adopt the Recommended Decision of ALJ Mary D. Long, consistent with this Opinion and Order; **THEREFORE,**

IT IS ORDERED:

1. That the Exceptions of the Office of Consumer Advocate, filed on July 25, 2024, to the Recommended Decision of Administrative Law Judge Mary D. Long, issued on July 15, 2024, are denied, consistent with this Opinion and Order.

2. That the Recommended Decision of Administrative Law Judge Mary D. Long, issued on July 15, 2024, is adopted, consistent with this Opinion and Order.

3. That the Joint Petition for Approval of Non-Unanimous Settlement filed at Docket No. R-2023-3044549, including all terms and conditions stated therein, is granted and the Joint Petition for Approval of Non-Unanimous Settlement is thereby approved, without modification, consistent with this Opinion and Order.

4. That Peoples Natural Gas Company LLC shall not place into effect the rates, rules, and regulations contained in original Tariff Gas Pa. P.U.C. No. 48, as filed on December 29, 2023, the same having been found to be unjust, unreasonable, and therefore, unlawful.

5. That Peoples Natural Gas Company LLC is authorized to file tariffs, tariff supplement or tariff revisions containing the rates, rules and regulations, consistent with the findings herein, and Appendix A attached to the Joint Petition for Approval of Non-Unanimous Settlement, consistent with this Opinion and Order, so as to produce annual revenues not in excess of $93,000,000 from its customers.

6. That Peoples Natural Gas Company LLC's tariffs, tariff supplement and/or tariff revisions as set forth in Ordering Paragraph No. 5, above, may be filed on at least one (1) days' notice after the entry date of this Opinion and Order, for service rendered on and after September 27, 2024.

7. That Peoples Natural Gas Company LLC shall comply with the terms of the Stipulations submitted in this proceeding as though each term therein were the subject of an individual ordering paragraph.

8. That the Formal Complaint filed by the Office of Consumer Advocate in this proceeding at Docket No. C-2024-3045268 be dismissed and marked closed.

9. That the Formal Complaint filed by the Office of Small Business Advocate at Docket No. C-2024-3045385 be dismissed and marked closed.

10. That the Formal Complaint filed by the Peoples Industrial Intervenors at Docket No. C-2024-3045960 be dismissed and marked closed.

11. That the Formal Complaint filed by Terri Grinner at Docket No. C-2024-3046069 be dismissed and marked closed.

12. That the Formal Complaint filed by Larry Feder at Docket No. C-2024-3046233 be dismissed and marked closed.

13. That the Formal Complaint filed by Mary Frey at Docket No. C-2024-3046469 be dismissed and marked closed.

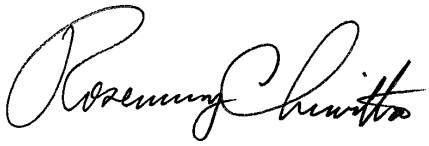
14. That the Formal Complaint filed by William Weis at Docket No. C-2024-3046877 be dismissed and marked closed.

15. That the Formal Complaint filed by Daniel Killmeyer at Docket No. C-2024-3046888 be dismissed and marked closed.

16. That the Formal Complaint filed by Rachel Havrilla at Docket No. C-2024-3046915 be dismissed and marked closed.

17. That upon acceptance and approval by the Commission of the appropriate compliance filings, tariffs, tariff supplements or tariff revisions filed by Peoples Natural Gas Company LLC consistent with this Opinion and Order, this proceeding at Docket No. R-2023-3044549 shall be marked closed.

BY THE COMMISSION,



Rosemary Chiavetta
Secretary

(SEAL)

ORDER ADOPTED: September 12, 2024

ORDER ENTERED: September 12, 2024