COMMONWEALTH OF PENNSYLVANIA

September 4, 2026

E-FILED

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Pennsylvania Public Utility Commission v. Peoples Natural Gas Company, LLC / Docket No. R-2026-3060855

Dear Secretary Homsher:

Enclosed please find the Reply Brief, on behalf of the Office of Small Business Advocate ("OSBA"), in the above-referenced proceeding.

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

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

Sincerely,

/s/ Steven C. Gray

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

Enclosures
cc: Mark D. Ewen / Maksim Malukoff / Joseph Kubas
Parties of Record

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	**:**
	: Docket No. R-2026-3060855
v.	**:**
	:
Peoples Natural Gas Company, LLC	**:**

REPLY BRIEF ON BEHALF OF THE OFFICE OF SMALL BUSINESS ADVOCATE

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For:
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Date: September 4, 2026

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I. Introduction

A. Description of the Office of Small Business Advocate

The Office of Small Business Advocate ("OSBA") is authorized to represent the interests of small business customers of utility services before the Pennsylvania Public Utility Commission ("Commission") pursuant to the provisions of the Small Business Advocate Act, Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50.

B. Procedural History

On March 27, 2026, Peoples Natural Gas Company ("PNG" or the "Company") filed Original Tariff Gas – Pa. P.U.C. No. 49 and Original Tariff Gas – Pa. P.U.C. No. S-5 with the Commission. PNG proposed to increase the Company's annual distribution revenues by approximately $163.2 million.

On April 7, 2026, the OSBA filed a Complaint in response to PNG's filings.

On April 16, 2026, Administrative Law Judge ("ALJ") Charece Z. Collins issued her Prehearing Conference Order.

On April 28, 2026, a telephonic prehearing conference was held before ALJ Collins.

On June 18, 2026, the OSBA served the Direct Testimony of Joseph Kubas.

On June 18, 2026, the OSBA also served the Direct Testimony and Exhibit of Mark D. Ewen.

On July 16, 2026, the OSBA served the Rebuttal Testimony of Mark D. Ewen.

On July 30, 2026, ALJ Collins issued her Prehearing Order.

On July 31, 2026, the OSBA served the Surrebuttal Testimony of Joseph Kubas.

On August 5, 2026, an evidentiary hearing was held before ALJ Collins.

On August 26, 2026, the OSBA submitted its Main Brief.

The OSBA submits this Reply Brief in accordance with ALJ Collin's July 30th Prehearing Order.

C. Legal Standards

Section 1301 of the Public Utility Code[1] provides that "every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission."

The burden of proof to establish the justness and reasonableness of every element of the utility's rate increase rests solely upon the public utility.[2] "It is well-established that the evidence adduced by a utility to meet this burden must be substantial."[3]

Although the burden of proof remains with the public utility throughout the rate proceeding, when a party proposes an adjustment to a ratemaking claim of a utility, the proposing party bears the burden of presenting some evidence or analysis tending to demonstrate the reasonableness of the adjustment.[4] "Section 315(a) of the Code, 66 Pa. C.S. § 315(a), applies since this is a proceeding on Commission Motion. However, after the utility establishes a prima facie case, the burden of going forward or the burden of persuasion shifts to the other parties to rebut the prima facie case."[5]

Furthermore, Section 523 of the Public Utility Code[6] requires the Commission to "consider . . . the efficiency, effectiveness and adequacy of service of each utility when

[1] 66 Pa. C.S. § 1301.
[2] 66 Pa. C.S. § 315(a).
[3] *Lower Frederick Township. v. Pa. PUC*, 409 A.2d 505, 507 (Pa. Cmwlth. 1980).
[4] *Pa. PUC v. Aqua Pennsylvania, Inc.*, Docket No. R-00072711 (Order entered July 17, 2008).
[5] *Pa. PUC v. Philadelphia Gas Works*, Docket No. R-00061931 (Order entered September 28, 2007), at 12.
[6] 66 Pa. C.S. § 523.

determining just and reasonable rates." In exchange for customers paying rates for service, which include the cost of utility plant in service and a rate of return, a public utility is obligated to provide safe, adequate, and reasonable service. "[I]n exchange for the utility's provision of safe, adequate and reasonable service, the ratepayers are obligated to pay rates which cover the cost of service which includes reasonable operation and maintenance expenses, depreciation, taxes and a fair rate of return for the utility's investors . . . In return for providing safe and adequate service, the utility is entitled to recover, through rates, these enumerated costs."[7] As a result, the legislature has given the Commission discretionary authority to deny a proposed rate increase, in whole or in part, if the Commission finds "that the service rendered by the public utility is inadequate."[8]

II. Summary of Argument

The ALJ and Commission should reject PNG's proposal to eliminate the 20-year HDD normalization calculation in its Weather Normalization Adjustment ("WNA") calculation.

The Company does not adequately consider customers' interests in its return on equity ("ROE") determination, and a careful consideration of ratepayers' interests, affordability concerns, and the risk reduction benefits of a low-risk regulatory environment would yield a cost of capital much lower than that proposed by the Company.

The OSBA recommends PNG's WNA deadband be increased from 3% to 5%.

The OSBA does not prefer either PNG's Cost of Service Study ("COSS") or the Peak & Average ("P&A") COSS recommended by other parties.

[7] *Pa. PUC v. Pennsylvania Gas & Water Co.*, 61 Pa. PUC 409 (1986), at 415-16. *See also* 66 Pa. C.S. § 1501.
[8] 66 Pa. C.S. § 526(a).

If PNG's COSS is adopted, the OSBA recommends adoption of OSBA's revenue allocation.

If the P&A COSS is adopted, the revenue allocation proposed by the Office of Consumer Advocate is acceptable to the OSBA.

The SGS customer charge should remain at $22.00 per month.

Universal Service Costs should not be charged to all rate classes.

In future cost of service studies, PNG should separate the negotiated customers and corresponding revenue into a separate "Negotiated" customer class.

The OSBA requests that PNG add a formal late payment plan to all small business customer tariffs.

III. Overall Position on Rate Case and Affordability of Rates

PNG provides numerous programs to assist the Company's residential customers. Those programs include the Company's Customer Assistance Program ("CAP"), the Low Income Usage Reduction Program ("LIURP"), the hardship fund (administered by Dollar Energy Fund), the Customer Assistance Referral and Evaluation Program ("CARES"), and the Emergency Furnace/Service Line Repair program.[9]

No such programs exist for PNG's small business customers.

As set forth below, the OSBA requests that PNG add a formal late payment program for its small business customers.

In addition, PNG does not adequately consider customer's interests in its ROE determination, and a careful consideration of ratepayers' interests, affordability concerns, and the

[9] OSBA Statement No. 2, at 2-3.

risk reduction benefits of a low-risk regulatory environment would yield a cost of capital much lower than that proposed by the Company.[10]

IV. Rate Base

The OSBA is not briefing this issue.

V. Revenues

A. Heating Degree Day Methodology

The OSBA addressed this issue in its Main Brief.

If PNG wishes to eliminate the 20-year HDD normalization from its methodology[11], the Company should provide a detailed study setting forth the impact such a change would have on its small business customers.

Regardless of PNG's counterarguments[12], the OSBA continues to recommend that the WNA dead band be increased from 3% to 5%. In addition to providing stability to small business rates, this change comports with recent Commission precedent.

VI. Expenses

The OSBA is not briefing this issue (including any of the numerous sub-headings).

VII. Depreciation

The OSBA is not briefing this issue.

VIII. Taxes

The OSBA is not briefing this issue.

IX. Rate of Return

The OSBA is not briefing this issue.

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[10] OSBA Statement No. 2, at 3-4.
[11] PNG Main Brief, at 112-114.
[12] PNG Main Brief, at 108-110.

X. <u>Revenue Allocation and Rate Design</u>

A. Introduction

This issue was addressed in the OSBA's Main Brief.

B. Cost of Service

As set forth in the OSBA's Main Brief, either cost of service methodology, that proposed by PNG, or that advocated by the OCA and I&E, is acceptable to the OSBA.

C. Revenue Allocation

This issue was addressed in the OSBA's Main Brief.

The only difference between PNG's revenue allocation and the OSBA's revenue allocation is that PNG limits rate increases to the Small General class to 1.50 times the system average increase[13] while the OSBA limits those rate increases to 1.25 times the system average increase.

As set forth in the OSBA's Main Brief, the OCA revenue allocation proposal is also acceptable to the OSBA.

D. Rate Design

This issue was addressed in the OSBA's Main Brief.

The OSBA recommends that the Small General Service ("SGS") customer charge remain at $22.00 per month.

In its Main Brief, PNG argues that OSBA witness Joseph Kubas did not identify any costs that were improper in the Company's cost of service study, nor did Mr. Kubas successfully dispute the issues of fixed-cost recovery or intra-class equity.[14]

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[13] PNG Main Brief, at 95.
[14] PNG Main Brief, at 102.

The OSBA will not repeat its extensive discussion on this issue, set forth in its Main Brief. In response to PNG, the OSBA respectfully replies that the Company has failed to respond to the detailed, multi-point analysis provided by Mr. Kubas[15]. Considering PNG's inadequate response, the ALJ and the Commission should keep the SGS customer charge at the current $22.00 per month.

E. Allocation of Universal Service Costs

This issue was addressed in the OSBA's Main Brief.

The OSBA respectfully submits that Universal Service Costs ("USCs") should not be recovered from all customer classes.

1. <u>The OCA and CAUSE-PA Main Briefs</u>

In its Main Brief, the OCA quotes Governor Shapiro's April 26, 2026, letter.[16] The OCA quoted Governor Shapiro, as follows: "Pennsylvania consumers should not be asked to pay a single dollar more than is needed to support a safe and reliable utility system." The OCA cited that as support for USCs being paid by all customer classes, which would "represent a major step towards addressing the general problem of affordability."[17]

This is a mischaracterization of the Governor's statement. The Governor referred to "consumers" of utility services, not low-income customers. Further, the Governor was clearly referring to rising utility bills and affordability constraints for *all* customers, including small businesses, that result from utilities' inflated costs of capital and imprudent spending. The Governor's statement has no bearing on whether small business customers should subsidize low-

[15] OSBA Main Brief, at 8 -11.
[16] OCA Main Brief, at 95-96.
[17] OCA Main Brief, at 96.

income programs in which they cannot participate. This OCA argument should be disregarded by the ALJ and Commission.

The OCA next cites to the Commission's *2019 Amendments to CAP Policy Statement* and the *Interconnection and Tariffs for Large Load Customers* ("*Large Load Final Order*").[18] Both documents, as the OCA points out, state that the Commission believes it has the authority to require non-residential classes to pay USCs.

However, nowhere in its 150-page Main Brief does the OCA specifically acknowledge that the Commission has already done so, nor does CAUSE-PA in its 110-page Main Brief.

In fact, in its *Large Load Final Order*, the Commission set forth the following tariff requirements for large load customers:

> (a) Universal Service Fund Contributions
>
> Large Load Customers are to make an annual contribution to the Company's universal service program based on the following peak demand schedule:
>
> (1) At least 25 megawatts but less than 75 megawatts: $250,000.
> (2) At least 75 megawatts but less than 100 megawatts: $400,000.
> (3) At least 100 megawatts but less than 500 megawatts: $500,000.
> (4) 500 megawatts or more: $1,000,000.[19]

Consequently, the Commission has, in fact, required non-residential utility customers to pay for USCs. That payment is made annually, and ranges from $250,000 to $1 million.

The Commission's initial Large Load tariff is aimed at electric utilities – but that misses a critical point: natural gas is the primary source of fuel for energy generation in Pennsylvania.

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[18] OCA Main Brief, at 96. The OCA mistakenly stated that the Order was entered on April 30, 2026. The Order was entered May 12, 2026.
[19] *Large Load Final Order*, Model Tariff, final page.

One current example of a large load customer is a data center. On August 18, 2026, Governor Shapiro issued Executive Order 2026-05. In that Executive Order, he provided the following numbers:

- "[T]here are reports of over 100 data center facilities having been proposed in Pennsylvania."
- "[T]he Department of Environmental Protection has received permit applications related to 20 proposed data center facilities.
- [T]here are 14 existing or in-development data center locations with an active certificate of exemption from the Department of Revenue.[20]

Providing electricity for those data centers will be necessary. In a recent report, the Commission observed, as follows:

> As of Dec. 31, 2024, PJM's 181,534 MW of eligible existing installed capacity reflects a fuel mix comprising **48.7% natural gas**, 20.9% coal and 17.9% nuclear, as shown in Figure 1 below. Hydro, wind, solar, oil, waste fuels, and other constitute the remaining approximate 12.5%[21]

Thus, natural gas will play a critical role in providing electric supply for the developing data centers. Ultimately, the OSBA believes that the Commission will be required to create a model tariff for natural gas companies, similar to its electric companies' model tariff.

In addition to failing to mention the model tariff in the Large Loads Final Order, the OCA also failed to observe that the *only* non-residential class required to pay for USCs in that Order is the Large Loads class. The Commission did not require small businesses to pay for USCs, a fact significant in the determination of this issue in this proceeding.

[20] Executive Order 2026-05 – Protecting Pennsylvania Consumers from Data Center Impacts, at 1.
[21] PAPUC, Electric Power Outlook for Pennsylvania 2024-2029, at 18-19 (emphasis added).

While the future USC revenue looks significant, today's concerns must be addressed. OCA admits that the most recent data demonstrates that only 22.9% of "Confirmed Low-Income Customers" participate in PNG's CAP programs. In two previous years, that percentage was 24.1% and 27.5%.[22] The OCA offers arguments about how PNG is to blame for this supposed lack of participation, but as a decades-long advocate for low-income customers, the OCA doesn't assign any of the blame to itself.[23]

CAUSE-PA accurately states that the Natural Gas Choice and Competition Act[24] requires universal service to be adequately funded.[25] Simply put, the 22.9% figure demonstrates that PNG's CAP programs are fully funded, only partially used, and are not in need of expansion or additional funding.

The OCA returns to an argument that it lost in Commonwealth Court – the meaning of the word "nonbypassable."[26] The OCA crafts that word into a solution for "poverty, inadequate wages, poor housing stock, and inflation."[27] First, the Legislature has given the Commission no authority whatsoever to address those issues. Second, as addressed in the OSBA's Main Brief, the Commonwealth Court invalidated this argument by ruling that the term "nonbypassable" "reasonably means that residential customers cannot by-pass their prior funding of universal service costs by choice, or non-choice, of an electric generation supplier."[28]

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[22] OCA Main Brief, at 121.
[23] OCA Main Brief, at 121-125.
[24] 66 Pa. C.S. Section 2201, *et seq*.
[25] CAUSE-PA Main Brief, at 10.
[26] OCA Main Brief, at 97. *See also*, CAUSE-PA Main Brief, at 52.
[27] OCA Main Brief, at 98.
[28] *Met-Ed Indus. Users Group v. Pa. PUC*, 960 A.2d 189 (Pa. Cmwlth Ct.), at 202.

The OCA states, in its main brief, "that the need for universal service programs is the failure of small businesses to pay a livable wage."[29] Neither OCA counsel, nor OCA's expert witness, provide any evidence for this claim. As the burden of proof for this claim is upon the OCA, the ALJ and Commission should reject this statement in its entirety.

The OCA cites to a CAUSE-PA argument that USCs should be recovered from all customer classes because "[t]he 'cause' of the need for this program [Universal Services Programs] is poverty – a societal problem."[30]

In addition, CAUSE-PA cites to studies which claim that recovering USCs from all customer classes will help solve health, food insecurity, and housing issues, as well as helping families with children.[31]

Once again, the fatal flaw in both the OCA and CAUSE-PA arguments is that neither provides a citation to a statute or caselaw that enables the Public Utility Commission to solve societal problems. Nor is it by any means clear that allocating USCs to small businesses would result in *any* progress toward addressing structural issues such as poverty, inadequate wages, food insecurity, poor housing stock, or inflation. Small businesses already face unaffordable utility bills.

There is no need for USCs to be recovered from all customer classes. If the Commission believes it should pursue this issue, it should follow PNG's suggestion: address this issue on a state-wide basis, rather than a utility-specific basis.[32] This has three benefits. First, it will allow multiple parties affected by this proposal a chance to comment. Second, it will require OCA and

[29] OCA Main Brief, at 100.
[30]OCA Main Brief, at 102.
[31] CAUSE-PA Statement No. 1, at 78-79.
[32] PNG Main Brief, at 103-104.

CAUSE-PA to provide actual evidence for their claims, rather than repeating the same unsubstantiated claims in each rate case. Third, it will prevent the Commission from contradicting Governor Shapiro's current re-election campaign where he promotes his overwhelming support for Pennsylvania small businesses.

2. Impact upon PNG's Small Business

Neither the OCA nor CAUSE-PA provided any analysis of the impact of charging PNG's small business customers the residential-only USCs.

Although OCA and CAUSE-PA can provide revenue allocations to PNG's small business customers, neither examines the impact of those allocations.[33]

F. Competitive Rate Customers

For future cost of service studies performed by PNG, the OSBA recommended that the Company separate the negotiated customers and corresponding revenue into a separate "Negotiated" customer class. In rebuttal testimony PNG did not object to this recommendation but stated that the OSBA proposal was one approach to be considered.[34]

In its Main Brief, PNG recommended that the OSBA's proposal be rejected because the Company believes that OSBA has not demonstrated that the Company's current treatment of negotiated-rate customers results in unreasonable cost allocations, unreasonable revenue apportionment, or unreasonable rates in this proceeding."[35] The OSBA maintains that separating negotiated customers into one or more classes in future cost of service studies is important for

[33] CAUSE-PA Main Brief, at 60-61; OCA Main Brief, at 103-104.
[34] PNG Statement 17-R, at 19-20.
[35] PNG Main Brief, at 105.

intervening parties to understand the true cost of service for negotiated customers and the degree of cross-class subsidization that results from negotiated rates.[36]

XI. Weather Normalization Adjustment ("WNA")

The OSBA addressed this issue in its Main Brief.

XII. Effective Date of Rates

The OSBA is not briefing this issue.

XIII. Universal Service Program Rider

The OSBA is not briefing this issue.

XIV. Low-Income Customer Issues

The OSBA is not briefing this issue.

XV. Customer Service Issues

The OSBA is not briefing this issue.

XVI. Proposed Tariff Changes

The OSBA is not briefing this issue.

XVII. Hot Water Tank Rebate Pilot Program

The OSBA is not briefing this issue.

XVIII. Safety

The OSBA is not briefing this issue.

XIX. Purchase of Receivables Program

The OSBA is not briefing this issue.

XX. Local Production – Gathering and Cost Recovery Issues

The OSBA is not briefing this issue.

[36] OSBA Statement No. 1, at 10.

XXI. Competitive Rate Discounts

The OSBA is not briefing this issue.

XXII. Miscellaneous/Other Issues

As set forth in the OSBA's Main Brief, the OSBA requests that the Company add a formal late payment plan to the SGS and MGS tariffs.

As set forth in the OSBA's Main Brief, the OSBA requests that PNG should continue to track interactions in which small business customers report financial difficulties (*e.g.*, trouble paying heating bills on time), including both participation in the new formal payment plan and more informal complaints or inquiries.

As set forth in the OSBA's Main Brief, the OSBA also requests that PNG provide the OSBA's contact information and a description of the services the OSBA offers on the Company's website.

XXIII. Conclusion

The OSBA respectfully requests that the ALJ and the Commission:

Reject PNG's proposal to eliminate the 20-year HDD normalization calculation in its Weather Normalization Adjustment calculation;

Increase PNG's WNA deadband from 3% to 5%;

If PNG's COSS is adopted, adopt the OSBA revenue allocation, which includes a 1.25 times cap on the maximum increase for any class;

If the P&A COSS is adopted, adopt the revenue allocation proposed by the Office of Consumer Advocate;

The SGS customer charge should remain at $22.00 per month;

In future cost of service studies, PNG should separate the negotiated customers and corresponding revenue into a separate “Negotiated” customer class;

Reject the proposal that Universal Service Costs be charged to all rate classes; and

Require PNG to add a formal late payment plan to all small business customer tariffs.

Respectfully submitted,

<u>/s/ Steven C. Gray</u>
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Dated: September 4, 2026

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission	:	
	:	**Docket Nos. R-2026-3060855**
v.	:	**C-2026-3061593**
	:	
Peoples Natural Gas Company, LLC	:	

CERTIFICATE OF SERVICE

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

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