



GOVERNOR'S OFFICE OF GENERAL COUNSEL
DEPARTMENT OF ENVIRONMENTAL PROTECTION

October 14, 2026

via electronic filing

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

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

Dear Secretary Homsher:

Please find attached comments of Governor Josh Shapiro concerning the October 2, 2026 Recommended Decision of Administrative Law Judge Charece Z. Collins in the above-referenced matter. If you have any questions about these comments, please do not hesitate to contact me.

Sincerely,

/s/ Mark Szybist

Mark Szybist
Special Counsel for Energy Affordability

PA Attorney I.D. # 94112
(570) 447-4019

mszybist@pa.gov

Counsel for Governor Josh Shapiro

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**COMMENTS OF GOVERNOR JOSH SHAPIRO
ON RECOMMENDED DECISION OF ADMINISTRATIVE LAW JUDGE**

Governor Josh Shapiro (“Governor Shapiro” or “Administration”) submits these comments on two components of the Recommended Decision issued in the above-referenced matter by Administrative Law Judge Charece Z. Collins on October 2, 2026.

First, the Recommended Decision misrepresents the position on return on equity (“ROE”) that Governor Shapiro set forth in his April, 29, 2026 letter to utility leaders, which was entered into the record at a public hearing in this matter (“Governor’s letter”).¹

Second, the Recommended Decision erroneously concludes that if the Commission were to award a ROE based on the use of a formula described in the Governor’s letter, the Commission would depart from “established rate of return principles” and “risk conflict” with the U.S. Supreme Court’s decisions in *Bluefield Water Works and Improvement Co. v. Public Service Comm’n of West Virginia*, 262 U.S. 679 (1923) and *Federal Power Commission v. Hope Natural Gas*, 320 U.S. 591 (1944).

The Administration respectfully requests that the Commission decline to adopt these portions of Judge Collins’s Recommended Decisions.

¹ Governor Shapiro Hearing Exhibit No. 1

BACKGROUND

Peoples filed its base rate case on March 27, 2026 seeking an additional \$163.2 million annually in base rate revenues, an increase of 13.8 percent. Several statutory parties and intervenors took immediate action to oppose Peoples's proposed rate increase, including the OCA, the Office of Small Business Advocate ("OSBA"), and the Coalition for Affordable Utility Services and Energy Efficiency CAUSE-PA.

On April 29, 2026 Governor Shapiro sent an open letter to Pennsylvania utility leaders calling on them to put their customers first and change utility practices that are driving up rates. The Governor's letter set forth three principles for utilities to follow to ensure that rates are fair, including that utilities should determine their cost of equity by providing a benchmark that is transparently derived through a public, market-based process with competitive bidding by multiple participants.²

On June 11, 2026, Governor Josh Shapiro filed comments opposing Peoples's rate increase and counsel for Governor Shapiro presented those comments in testimony at a telephonic public input hearing. The Administration's comments observed that Peoples's rate application was inconsistent with three principles articulated in Governor Shapiro's April 29, 2026 letter. Specifically, the comments argued that Peoples had not proposed to raise capital in the most cost-effective form available; that Peoples had not adequately explained why its proposed capital investments were necessary and cost-effective; and that Peoples's proposed return on equity ("ROE") of 11.25 percent was exorbitant and unjustifiable.³

² See Governor Shapiro Hearing Exhibit No. 1 (June 11, 2026 Comments of Governor Josh Shapiro). The Governor's letter is attached to the hearing exhibit as Exhibit 1.

³ See *id.* at 2-3.

The Administration’s comments urged Peoples to modify its application to ensure it does not impose unjustified rate increases on its customers and urged the Commission to reject or modify Peoples’ proposal in the absence of such a modification.⁴

Several parties in addition to Peoples submitted expert testimony concerning the company’s cost of capital. In testimony on behalf of CAUSE-PA, Patrick Cicero testified that if, contrary to his recommendation, the Commission should award Peoples any rate increase, it should “choose the lowest authorized return on equity that is supported by the record evidence, including consideration not only of the financial models, but also as articulated in the principles set out by Governor Shapiro.”⁵ Specifically, Mr. Cicero recommended that the Commission “choose the lowest ROE suggested by the applicable financial models (*i.e.* the 8.5% ROE recommended by OCA witness Garrett) and then “consider whether it can reasonably be reduced further based on the objective criteria outlined by the Governor.”⁶

Following an evidentiary hearing on August 5, 2026,⁷ the parties submitted main and reply briefs. CAUSE-PA argued in support of the position advocated by Mr. Cicero in his testimony. Consistent with the testimony of its cost of capital witness, Jennifer Nelston, Peoples argued that using a formula such as the one described in Governor Shapiro’s letter would not produce returns that are comparable to investments of risks similar to those of utilities,⁸ because “every utility would receive the same ROE assuming the same risk-free rate and equity risk premium were used.”⁹

⁴ See *id.* at 4.

⁵ CAUSE-PA Main Brief at 14, citing CAUSE-PA St. 1 at 34-49.

⁶ *Id.* at 42, citing CAUSE-PA St. 1 at 49.

⁷ All parties waived cross-examination of other parties’ witnesses at the evidentiary hearing and Judge Collins had no questions for the witnesses. See Recommended Decision at 4.

⁸ See Peoples Main Brief at 85.

⁹ Peoples Main Brief at 86.

On October 2, 2026 Judge Collins issued a Recommended Decision in this matter. Among other things, the Recommended Decision recommends that the Commission award Peoples an ROE of 10.2. In a section titled “Alternative Cost of Capital Proposals” dedicated to discussing the Governor’s letter and the testimony and argument about it, the Recommended Decision rejected CAUSE-PA’s argument adjust Peoples’s ROE downward based on the Governor’s letter, stating:

To the extent parties reiterated their positions on rate of return, I have already recommended disposition of the various elements of calculating rate of return as discussed above. To the extent parties are advocating further reduction to the rate of return, primarily as outlined by Governor Shapiro’s letter, I decline to recommend further modifications to the Company’s rate of return. I recognize ongoing concerns regarding affordability. However, I do not find that the record contains sufficient evidence in this proceeding to justify departing from the established rate of return principles discussed above. As Peoples convincingly explains, to do so would risk conflict with the cornerstone comparable return standard articulated in *Hope* and *Bluefield*.¹⁰

COMMENTS

I. The Recommended Decision misrepresents Governor Shapiro’s position on how utility returns on equity should be determined.

The Recommended Decision misrepresents Governor Shapiro’s position on utility ROEs by restating Peoples’s inaccurate characterization of that position.

The Governor’s letter urges utilities to use transparent, competitive market processes to determine their cost of equity and to use the results of these equity auctions as the basis for the ROEs they request from the Commission. A utility’s proposed ROE should be presumptively treated as unjustifiably high if it fails to use a market-based process to determine its cost of equity. A utility should be able to overcome that presumption by proposing an ROE that does not

¹⁰ Recommended Decision at 195.

exceed the rate of the current 10-year U.S. Treasury yield plus the five-year median of the equity risk premium published in the Federal Reserve’s Financial Stability Reports.

The primary element of the Governor’s ROE proposal is that utilities should use transparent market processes, rather than opaque econometric models, to discover their cost of equity. The Administration has advanced a new “norm” for ROE based on the fact that an auction process will deliver actual market information on a utility’s cost of equity and will drive utilities to seek rate increases not to generate excessive profits, but only to have an opportunity to earn the fair rate of return to which they are entitled.

The current 10-year U.S. Treasury yield plus the five-year median of an equity risk premium published by the Federal Reserve (hereafter “Formula”) should be used to estimate a utility’s cost of equity only if the utility opts not to conduct an equity auction. The purpose of this formula—which would allow a utility to earn the same expected return as the stock market as a whole despite that utilities are low-risk businesses, facing no competition and enjoying relatively inelastic demand for their services—is to establish a bright line for when the Administration will oppose rate increase requests.

The Recommended Decision does not present an independent description or analysis of the ROE approach described in the Governor’s letter. Rather, it repeats verbatim Peoples’ characterization of that approach as an either-or proposition in which utilities should “provide ‘transparent, justifiable equity returns’ either through a public competitive process for a benchmark portion of incremental equity or by limiting the requested ROE to a formula based on the current 10-year Treasury yield plus the five-year median of the equity risk premium as published in the Federal Reserve’s Financial Stability Reports.”¹¹

¹¹ Recommended Decision at 190, citing Peoples Main Brief.

But as is clear from the discussion above, the ROE framework proposed by Governor Shapiro is not an equally weighted either-or proposition. The Governor's position is that *all utilities should use a transparent, market-based process to determine their cost of equity*. The Formula is not a substitute for that approach, but a mechanism to help the Administration evaluate ROE proposals when a utility fails to use a market-based process. In adopting Peoples's characterization of Governor Shapiro's approach to ROE, the Recommended Decision fails to account for this distinction.

II. The Recommended Decision wrongly finds that basing Peoples's ROE on the formula in the Governor's letter would depart from "established rate of return principles" and risk conflict with U.S. Supreme Court precedent.

The Recommended Decision errs by finding that the use of the Formula to set ROE in this matter would depart the rate of return principles established by the Commission and risk conflict with U.S. Supreme Court. Whether or not there is sufficient record evidence in this case to base Peoples's ROE on the Formula, there is no legal basis for concluding that ROE methodologies other than the Discounted Cash Flow model ("DCF") and Capital Asset Pricing Model ("CAPM") should be categorically disallowed. Nor is there any basis for concluding that use of the DCF and CAPM models is the only way to satisfy the requirements of *Bluefield* and *Hope*.

As a threshold matter, the question of whether it would be proper for Peoples's ROE to be based exclusively on the Formula is not ripe for decision because no party in this case has taken this position. As Peoples acknowledges, CAUSE-PA argued that the Commission should determine Peoples's ROE by starting with OCA's ROE recommendation, which was produced using the DCF and CAPM models, and then

should “consider whether an even lower equity return would be sufficient under the alternative framework set forth in Governor Shapiro’s letter.”¹² Thus, the issue of whether it may be appropriate to base a utility’s ROE determination on formula by itself is not properly before the Commission in this case.

However, if the Commission should choose to decide this issue, it should reject Judge Collins’s conclusion as legal error. In the Recommended Decision, Judge Collins implicitly finds that adjusting Peoples’s ROE downward based on the use of the Formula would constitute a departure from “established rate of return principles.”¹³ The quoted phrase appears to be a reference to the following statement in the Recommended Decision’s general discussion of return on common equity: “The Commission has consistently held that a return on equity should be determined by using an informed judgment based on both DCF and CAPM methodologies.”¹⁴

But the cases that the Recommended Decision cites in support of this conclusion do not, in fact, support it. In those cases, the Commission endorsed the use of the CAPM, in addition to the use of the DCF to inform the Commission’s ROE determinations. But at no point did the Commission foreclose the use of methods *other than the DCF and CAPM*. Indeed, in the *Columbia Gas* decision that the Recommended Decision cites, the Commission explicitly left open the possibility of supporting such a methodology, stating as follows:

We are also persuaded by the arguments of Columbia and the OCA that the Commission recognizes the importance of information provided by other ROE models. We conclude that methodologies other than the DCF can be used as a check upon the reasonableness of the DCF derived ROE calculation. As such, where evidence based on other methods suggests that the DCF-only results may produce an unreasonable ROE, we will consider

¹² Peoples Reply Brief at 47.

¹³ Recommended Decision at 195.

¹⁴ Recommended Decision at 188.

those other methods, to some degree, in determining the appropriate range of reasonableness for our determination as to the appropriate ROE to award Columbia.¹⁵

The Commission has recognized that prescribing *any* particular methodology as the exclusive authorized means to determine ROE would be unreasonable, as such an approach would foreclose both opportunities to incorporate advances in finance and scholarship into utility ratemaking and the ability to respond to situations where a particular methodology was shown to be clearly ineffective.

More importantly, methodologies are not the same as principles. The principles established by *Bluefield* and *Hope* are that a utility's awarded ROE should be based on its cost of equity¹⁶ and that its return should be commensurate with the returns that investors expect to earn on other investments of similar risk and sufficient to assure confidence in the company's financial integrity, maintain and support the company's credit, and attract capital.¹⁷ There is no basis to find, as Peoples has suggested,¹⁸ that financial models such as the DCF and CAPM models are the only defensible way to estimate a utility's cost of equity and satisfy the *Bluefield* and *Hope* principles. On the other hand, there is more than sufficient evidence in the record¹⁹ for the Commission to find that Peoples, as a monopoly utility that takes advantage of numerous legally authorized de-risking mechanisms, such as the use of a fully projected future test year, faces business risks low enough that basing its ROE on the Formula is entirely appropriate.²⁰

¹⁵ *Pa. PUC v. Columbia Gas of Pa., Inc.*, Docket No. R-2025-3053499 (Order entered Dec. 9, 2025) at 226,

¹⁶ See OCA Main Brief at 64;

¹⁷ Peoples Main Brief at 85.

¹⁸ According to Peoples, "[t]he only defensible, reliable way to estimate the cost of equity is through the rigorous application of financial models using market data considered together with the utility's risk profile." Peoples Main Brief at 71.

¹⁹ See, e.g., OCA Main Brief at 59-62, 95, 107-112; CAUSE-PA Main Brief at 33, 45-51, 61-68

²⁰ Again, the Formula would allow a utility to earn the same expected return as the stock market as a whole despite that utilities are low-risk businesses, facing no competition and enjoying relatively inelastic demand for their services

The Commission should reject the Recommended Decision's suggestion that established ratemaking principles preclude the use of approaches other than the DCF and CAPM models to determine ROE and that use of a formula methodology, such as that described in the Governor's letter, would conflict with *Bluefield* and *Hope*.

The Administration appreciates the Commission's attention to these important matters.

Respectfully submitted:

Jennifer C. Selber
General Counsel

/s/ Mark Szybist
Mark Szybist, Esq.

Special Counsel for Energy Affordability
PA Attorney I.D. # 94112
(570) 447-4019
mszybist@pa.gov
Counsel for Governor Josh Shapiro

BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

CERTIFICATE OF SERVICE

I hereby certify that I have this day served copies of the Comments of Governor Josh Shapiro upon the parties of record in the above captioned proceeding in accordance with the requirements of 52 Pa. Code § 1.54:

VIA EMAIL ONLY

Anthony D. Kanagy, Esq.
Lindsay A. Berkstresser, Esq.
Post & Schell, P.C.
17 North Second Street, 12th Floor
Harrisburg, PA 17101-1601
akanagy@postschell.com
mrulli@postschell.com
mgang@postschell.com

Meagan Moore, Esquire
PNG Companies LLC
375 North Shore Drive
Pittsburgh, PA 15212
meagan.moore@peoples-gas.com

Michael A. Podskoch, Jr., Esq.
Carrie Wright, Esq.
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street, 2nd Floor West
P.O. Box 3265
Harrisburg, PA 17105-3265
mpodskoch@pa.gov
carwright@pa.gov

Joel H. Cheskis, Esquire
Jacob Guthrie, Esquire
Ryan M. Morden, Esquire
Olivia M. Spergel, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923
JCheskis@paoca.org
HBreitman@paoca.org

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
jlvullo@bvrllaw.com

Levi A. Phillips, Esquire
Ria M. Pereira, Esquire
Elizabeth R. Marx, Esquire
John W. Sweet, Esquire

RMorden@paoca.org
JWilliams@paoca.org
OSpergel@paoca.org
CZook@paoca.org
OCANFGBRC26@paoca.org

Lauren N. Berman, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
pulp@pautilitylawproject.org

Todd M. Pappasergi, Esq.
Pennsylvania Independent Oil & Gas
Association 100 Allegheny Drive, Suite 104
Warrendale, PA 15086
todd@pioga.org

Steve Gray, Esq.
Senior Attorney
Assistant Small Business Advocate
Office of Small Business Advocate
Forum Place
555 Walnut Street, 1st Floor
Harrisburg, PA 17101
sgray@pa.gov

Todd S. Stewart, Esq.
HMS Legal LLP
501 Corporate Circle, Suite 302
Harrisburg, PA 17110
tsstewart@hmslegal.com

/s/ Mark C. Szybist
Mark C. Szybist
PA I.D. No. 94112
mszybist@pa.gov
Counsel for Governor Josh Shapiro

Date: October 14, 2026