Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Investigation into Competition in the Natural Gas Supply Market
Docket Number I-00040103

Reply Comments of Amerada Hess Corporation

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Amerada Hess Corporation ("Hess") submits these comments as a rebuttal to the Reply Comments filed by Equitable Gas Company, ("Equitable") on October 12, 2004. Hess is incredibly disturbed by the multiple and blatant misrepresentations and accusations contained within Equitable's Reply Comments, and therefore we feel compelled to respond. Equitable's unfounded suggestion that Hess has "intentionally misinformed the Commission," is completely untrue, and as addressed below, is either an example of their misunderstanding of the competitive marketplace and the purpose of this investigation or else it is an attempt to discredit Hess' valid concerns expressed both through our filed comments and our testimony on September 30, 2004.

First, in subparagraph 3(a), page 2 of its comments Equitable states that Hess expects changes to be made to certain aspects of its tariffs and the regulations applicable to its operations via "informal discussions" without the benefit of meaningful investigation and fact gathering. Hess in no way expects informal resolution to its issues with any LDC tariff. Instead, Hess fully expects that LDCs will work with marketers to ensure a balanced set of rules is in place. Certainly, this process for revision would involve the Pennsylvania Public Utility Commission ("Commission" or "PUC") staff and formal tariff filings. Moreover, Equitable's statements misconstrue the purpose of this investigation; the intent of this investigation is to gather as much information as possible for the PUC so that it may fully evaluate whether the policies, procedures, rules and regulations that were implemented at the beginning of deregulation of the gas market have in fact fostered competition as the Commission had originally intended. These

filings are not informal discussions, but rather the mechanisms by which the PUC is to gather this information.

Second, further in that same paragraph, Equitable states that its agency program is the result of two formal, on-the-record, fully litigated proceedings, further demonstrating that Equitable does not understand the intent of this investigation. The purpose of this investigation is to determine whether rules and programs such as the Agency Program have supported the development of competition, or if changes do in fact need to be made.

Moreover, Equitable's next statement that Hess' goal is to "improve [its] own bottom line, reduce competition and possibly move Equitable customers to another NGDC's system" <u>is simply false</u>. Hess's goal is the same as that of this investigation: to foster competition, for example by ensuring that a large competitor to marketers like Equitable, does not have an unfair advantage due to the design and implementation of its programs. The presence of Equitable's Agency Program significantly stifles competition and, as currently structured and effectuated, has the potential to increase costs to firm captive customers while increasing earnings to shareholders. This adverse impact upon competition is one that the Commission should investigate further so that it may be removed and replaced with a program and transparent rules that either provide a catalyst to competition, or at the very least do not deter it in the way it does now. In addition, as discussed below, Hess has absolutely <u>no incentive</u> to move a customer to another system.

In Subparagraph (b) on page 3, Equitable's response to Hess' concern of whether the agency program is a way for it to stream lower cost gas supply to elastic customers at the expense of pushing higher cost to inelastic customers misses the point. Whether Equitable purchases the gas for agency customers or arranges for its purchase is totally

irrelevant. The point is that Equitable, under the program as currently structured, is allowed to examine the myriad supplies available to it and choose the cheapest supplies as to be "arranged" for purchase by a customer of the agency program. The higher cost supplies can then be purchased by Equitable for its inelastic customers. The situation could be significantly worsened since Equitable could then use its upstream assets to deliver those supplies to the city gate at rates that are well below market. The firm customer may be better off if Equitable released that capacity to marketers and credited the revenue to its Purchased Gas Cost account rather than utilizing the capacity to serve Agency customers.

What's more, the fact that annual inquiries into Equitable's Purchased Gas Costs have not affirmatively demonstrated that higher gas costs are being pushed to its inelastic customers signifies nothing. The annual review may simply not be structured in such a way as to analyze the impacts of this practice or even to determine whether this practice is being implemented. When the program's rules, or lack thereof, do not prohibit such behavior, the Commission staff will not evaluate the program on that basis. The entire agency program is governed by one paragraph. That paragraph does not address any of the issues that Hess has raised, nor any other behavior or standards that should be followed when running a program that has such a direct effect on competition. Hess believes that the Agency Program must be reviewed to implement safeguards against unfair competitive practices through which it can increase its transportation revenue and shareholder earnings at the expense of firm inelastic customers.

Third, in Equitable's comments in Subparagraph (c) on page 4, Equitable maintains "there is an incentive to a natural gas supplier to encourage the construction of

competitive distribution facilities" reasoning that: 1) the ultimate market price a customer is willing to pay remains the same and 2) that a lower distribution charge to the customer means a higher margin to the marketer. Equitable then states that Hess' professed ignorance of this supposed "market reality" is disingenuous or an intentional attempt to misinform the Commission. This incredible statement of Equitable is a sad commentary on, and demonstration of, the utility's complete misunderstanding of the competitive marketplace. A customer's willingness to pay a price for gas from a marketer is not determined by what transportation charge that customer would have paid if he were being served by a different distribution company at a different distribution rate. Rather, it is determined by the price that another marketer is willing to charge that customer. That is the beauty of fair competition; marketers compete and the customer gets the lowest possible price. Equitable seems to think that the customer has a total price in mind and if someone lowers his distribution rate, he is then willing to pay more for his commodity. Nothing could be further from the truth. Customers want to pay the lowest price possible. If their distribution rate is lowered, they will still go out to bid and accept the best commodity price quoted. Hess would structure its bid at the lowest margin possible since it knows that the other marketers will be doing the same. Hess has no incentive to encourage customers to leave Equitable's system. Hess quotes prices at the citygate and its price quote will be the same regardless of what distribution rate the customer is paying.

Finally, in subparagraph (d) on page 4, Equitable states that a third-party marketer has recently taken a significant portion of Hess' load on the Equitable system and that the marketer did so without an unfair advantage. Hess is puzzled as to the relevance of this statement. Marketers compete every day. They gain customers and lose customers. That

type of competition is the very crux of our business, is one that Hess relishes, and seeks to employ more of in the Commonwealth's gas market via this investigation. We occasionally lose a customer but we gain more than we lose as we continue to grow. The issue that Hess is concerned with is not whether we lost a customer to another marketer or gained one from them, but simply that such competition needs to be fostered and increased in the Commonwealth. Hess believes that the Equitable Agency Program can be abused and does the opposite by having an adverse affect on competition. The review of Equitable's program is an appropriate outcome of this proceeding.

Again, Hess is disappointed by Equitable's unfounded attacks on Hess. Hess has repeatedly attempted to work with Equitable on proposed changes to its tariff but has been met with some resistance and an unwillingness to consider any changes at all to the Agency Program. We are further astounded that Equitable would attempt to place Hess in such an unfavorable light with the Commission by misrepresenting Hess' views and overtly stating that we have misled the Commission. We are hopeful that these Reply Comments have clarified our position and concerns so that the Commission understands their veracity as well as our interest in working constructively with the Commission and all market participants toward our mutual goal of a robust competitive market for the Commonwealth.

As Hess has stated before, Hess is encouraged by the Commission's progress toward this goal. However, there is still much work to be done in order to fully provide the benefits of competition to the natural gas customers of Pennsylvania. While these Reply Comments have focused on one particular issue and its impact upon effective competition, Hess would like to reiterate that the immediate goal of the Commission

should be further consideration and review of this and all the other issues raised by it, as well as the other participants, while keeping our eyes on the ultimate goal of fostering a competitive natural gas market in the Commonwealth.