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July 2, 2010

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

In re: Docket No. R-2010-2155613, et al.  
Pennsylvania Public Utility Commission, et al. v. Equitable Gas Company, LLC

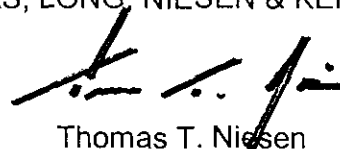
Dear Secretary Chiavetta:

Enclosed for filing in the above matter are an original and three (3) copies of the Joint Settlement Agreement of Equitable Gas Company, LLC ("Equitable"), the Office of Trial Staff ("OTS"), the Office of Consumer Advocate ("OCA") and the Pennsylvania Independent Oil and Gas Association ("PIOGA"). Appended to the Joint Settlement Agreement are Statements by Equitable, OTS, OCA and PIOGA in support of the settlement. Copies of the Joint Settlement Agreement are being served upon Judge Corbett and Judge Long and upon the persons and in the manner set forth on the certificate of service attached to it. If adopted, the settlement would resolve all contested issues in Equitable's 2010 1307(f) proceeding.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By



Thomas T. Niesen

Encl.

cc: Certificate of Service (w/encl.)  
Daniel L. Frutchey, Esq. (w/encl.)  
John M. Quinn (w/encl.)

100702 Chiavetta (Settlement).wpd

Before The  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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Administrative Law Judges  
John H. Corbett, Jr., Presiding  
Mary D. Long, Presiding

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In The Matter Of

R-2010-2155613  
C-2010-2166598  
C-2010-2167630

- Pennsylvania Public Utility Commission  
- Irwin A. Popowsky, Consumer Advocate  
- William R. Lloyd, Jr., Small Business Advocate  
Pennsylvania Independent Oil and Gas  
Association, Intervenor

v.

**Equitable Gas Company, LLC**

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**JOINT SETTLEMENT AGREEMENT**

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The Office of Trial Staff ("OTS") of the Pennsylvania Public Utility Commission ("Commission"), the Office of Consumer Advocate ("OCA"), the Pennsylvania Independent Oil and Gas Association ("PIOGA") and Equitable Gas Company, LLC ("Equitable," "EGC" or "Company"), active parties to the above-captioned Section 1307(f) proceeding (hereinafter sometimes referred to collectively as "Settling Parties"), respectfully present this Joint Settlement Agreement for consideration and approval by Administrative Law Judges John H. Corbett, Jr., and Mary D. Long and, upon their recommendation, by the Commission.

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## **I. The Company**

Equitable is engaged in the purchase, distribution, sale and transportation of natural gas and serves over 259,000 residential, commercial and industrial customers in the City of Pittsburgh and adjacent territories in Allegheny, Armstrong, Butler, Clarion, Fayette, Greene, Indiana, Jefferson, Washington and Westmoreland Counties in Southwestern Pennsylvania.

## **II. The 1307(f) Filing at R-2010-2155613**

On April 1, 2010, Equitable filed its Computation of Annual Purchased Gas Cost ("Section 1307(f) Filing") with the Commission, pursuant to Section 1307(f) of the Pennsylvania Public Utility Code, 66 Pa. C.S. §1307(f), and the Commission's Regulations at Section 53.61, *et seq.*, of Title 52 of the Pennsylvania Code. In support of the filing, Equitable also submitted the prepared direct testimony and accompanying exhibits of two witnesses. Equitable's Section 1307(f) Filing proposed a Purchased Gas Cost ("PGC") Rate of \$7.89 per Mcf.

## **III. The 1307(f) Proceeding at R-2010-2155613**

An investigation was instituted to determine the lawfulness, justness and reasonableness of the rates proposed in the Section 1307(f) Filing and to satisfy the requirements of Sections 1307, 1317 and 1318 of the Public Utility Code, 66 Pa. C.S. §§1307, 1317 and 1318. In addition to the Commission's Investigation docketed at R-2010-2155613, the OCA and the Office of Small Business Advocate ("OSBA") filed Complaints which were docketed by the Commission at C-2010-2166598 and C-2010-2167630, respectively. The OTS filed a Notice of Appearance pursuant to the provisions of 52 Pa. Code § 5.71(a)(1). A Petition to Intervene was filed by PIOGA.<sup>1</sup>

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<sup>1</sup> Dominion Retail, Inc. also filed a Petition to Intervene but subsequently withdrew from the proceeding. See Third Interim Order Granting the Petition to Withdraw of Dominion Retail, Inc., dated June 4, 2010.

A prehearing conference was held on April 8, 2010, at which a schedule of various hearing, testimony submission, briefing and other dates was agreed to by the parties. In accordance with the procedural schedule, OTS, OCA and OSBA served direct testimony on May 12, 2009. The OTS and OCA, in addition, propounded a substantial number of interrogatories, which were answered by Equitable. Equitable served rebuttal testimony on May 26, 2010. Following the circulation of the direct and rebuttal testimony and the completion of discovery, the Settling Parties were able to achieve a proposed resolution of their issues. No surrebuttal testimony was served.

#### **IV. The Proposed Settlement Stipulation**

##### **A. Overview**

In accordance with the Commission's Rules of Practice, OTS, OCA, PLOGA and Equitable have engaged in extensive discussions in an effort to resolve the contested issues in this 1307(f) proceeding. The terms and conditions set forth in the following section of this Joint Settlement Agreement present a comprehensive resolution of their contested issues.<sup>2</sup>

##### **B. Settlement Terms and Conditions**

###### **1. EGC Capacity Issues**

- a. The Settling Parties agree that EGC should thoroughly revisit its capacity needs prior to the next 1307(f) proceeding and hold a meeting with the Parties sometime in September, 2010, to advise them of the level of entitlements to be retained from Equitrans and/or Dominion Transmission, Inc. ("DTI") prior to contracting for such levels.
- b. EGC will file a design day study with its 2011 1307(f) filing.
- c. Should EGC negotiate entitlement reductions with Equitrans or terminate any storage agreement with DTI, the cost reductions will be reflected in EGC's April 1, 2011 quarterly PGC filing.

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<sup>2</sup> Although not a signatory to the Joint Settlement Agreement, the OSBA has authorized the Settling Parties to state that it does not oppose approval of the Joint Settlement Agreement.

Equitable's actual capacity costs will be fully reconcilable and recoverable in its 2011 1307(f) proceeding provided the Company's capacity contracts are found reasonable by the Commission.

2. Credits for Balancing and Standby Service

EGC will present a crediting mechanism which includes variable and fuel charges at the time the September, 2010 meeting with the Parties is held to discuss future capacity entitlements. If the Parties do not reach agreement on a crediting mechanism, the issue will be decided in the Company's 2011 1307 (f) proceeding and the agreed upon or approved approach will be deemed effective October 1, 2011.

3. Historic Period Transportation Migration Rider Discount

In consideration for the resolution of the capacity issues as contained herein, and without setting any precedent related to future transportation migration rider discounts, the Parties agree that Equitable will not recover the discount.

4. Off-System Sales Procedures

Equitable agrees that beginning October 1, 2010 it will provide a mechanism for matching off-system sales and purchases on a daily basis.

5. Unaccounted for Gas (UFG)

EGC's level of UFG is reasonable and no recommendations for improvement are necessary at this time.

6. Procurement of Marcellus Shale Gas Supplies

EGC agrees, to the best of its ability, to provide a report in its 2011 1307(f) filing as to the availability of Marcellus Shale supply, the purchase opportunities available directly from Marcellus Shale producers, and the possibility of delivering Marcellus Shale supply into Equitable's firm pipeline capacity and on its system.

7. Monitoring the West Virginia Civil Action

EGC will continue to monitor the progress of the pending Civil Action in West Virginia which was originally filed in the Circuit Court of Kanawha County, West Virginia, and in 2005 was removed to the United States District Court for the Southern District of West Virginia (Charleston) at Civil Docket #: 2:05-CV-00548. If class action status is granted, Equitable will seek to intervene in the proceeding.

**C. Settlement Stipulation Re Requirements of Section 1318 of the Public Utility Code, 66 Pa. C.S. §1318**

In recognition and application of the foregoing settlement terms and conditions and conditioned upon Equitable's fulfillment of the Settlement Terms, the Settling Parties further stipulate Equitable's compliance with the requirements of Section 1318 of the Public Utility Code, 66 Pa. C.S. §1318, as follows:

Equitable is pursuing a least cost fuel procurement policy consistent with its obligation to provide safe, adequate and reliable service to its customers. Equitable Exhibit I, Items 53.64(c)(1) and 53.64(c)(6).

Equitable has fully and vigorously represented the interests of its ratepayers in proceedings before the FERC. Equitable Exhibit I, Item 53.64(c)(4).

Equitable has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve it from terms in existing contracts with its gas suppliers which are or may be adverse to the interests of its ratepayers. Equitable Exhibit I, Items 53.64(c)(1) and 53.64(c)(6).

Equitable has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies. Equitable Exhibit I, Items 53.64(c)(3) and 53.64(c)(8).

Equitable has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy. Equitable Exhibit I, Item 53.65(5).

Equitable has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests. Equitable Exhibit I, Item 53.65(3).

Equitable's contracts with affiliates for the purchase of gas are consistent with a least cost fuel procurement policy. Equitable Exhibit I, Items 53.65(1) and 53.65(4).

Neither Equitable nor its affiliates have withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy. Equitable Exhibit I, Item 53.65(5).

**D. Discounting or Waiving of Tariff Rates**

The discounting or waiving of tariff rates was fully litigated in the Company's 2005 1307(f) proceeding. As a result, the Commission issued an Order in Docket No. R-00050272 providing guidance on the treatment of discounts and waivers in future 1307(f) proceedings. The Commission's Order required that if Equitable exercised its discretion to discount or waive tariff rates in the future, the Company must provide a demonstration of the positive benefits to customers as a result of the discounts or waivers. Equitable addressed the discounting or waiving of rates in the testimony of its witness Quinn. With the exception of the issues addressed in Settlement Terms and Conditions No. 3 *supra*, no party proposed any PGC disallowance as a result of the discounting or waiving of tariff rates.

**E. Settlement Tariff Supplement**

Totaling \$9,506, the adjustment related to the Historic Period waiver of the Transportation Migration Rider does not materially impact the proposed PGC rate of \$7.89 per Mcf. The remaining Settlement Terms and Conditions do not require adjustment to the form of tariff supplement included with the April 1 Filing. The PGC rate to be placed into effect as of October 1, 2010, will need to correspond to the October 1, 2010 quarterly filing pursuant to 52 Pa. Code Section 53.64(i)(5).

**F. Evidentiary Basis**

The Settling Parties believe that the testimony and exhibits sponsored by the Company, OTS and OCA, as further supported by the attached Statements in Support, fully support the fairness and reasonableness of the proposed settlement and demonstrate that it is in the public interest. At the hearings held on June 8, 2010, the Settling Parties offered into the record their respective statements and associated exhibits. With the approval of Administrative Law Judges Corbett and Long, the

statements of testimony and associated exhibits of Equitable, OTS and OCA were admitted into the record by stipulation without the necessity of calling their witnesses to the stand for the purpose of authenticating their respective statements and exhibits and being available for cross examination made unnecessary by virtue of the settlement. If for some reason the Commission should act to reject all or any part of this settlement, a hearing will be held on the subject issues prior to Commission disposition upon the request of any one of the Settling Parties:

**Testimony and Exhibits of the Settling Parties Admitted  
into the Evidentiary Record**

| <u>Party</u> | <u>Witness</u>    | <u>Statements</u>                                | <u>Attachments/Exhibits/<br/>Schedules</u>                                |
|--------------|-------------------|--|---|
| Equitable    |                   |  | Equitable Exhibit I - 2010<br>1307(f) Filing                              |
| Equitable    | John M. Quinn     | Equitable St. No. 1<br><br>Equitable St. No. 1-R | Equitable Exhibits JMQ-1<br>and JMQ-2                                     |
| Equitable    | Thomas P. Wiggers | Equitable St. No. 2<br><br>Equitable St. No. 2-R | Equitable Exhibits TPW-1<br>through TPW-8<br><br>Equitable Exhibit TPW-1R |
| OTS          | Michael J. Gruber | OTS St. No. 1                                    |   |
| OCA          | Jerome D. Mierzwa | OCA St. No. 1                                    | Schedules JDM-1 through<br>JDM-5  |

The Settling Parties request that this Settlement Agreement be designated ALJ Exhibit 1 and admitted into the record as a late-filed exhibit.

**G. Settlement Perspective**

The Settling Parties agree that, based upon the evidence of record in this proceeding, the resolution of the issues herein proposed is in the public interest and consistent with the requirements of Section 1318 of the Public Utility Code. Although the Settling Parties may not be in total agreement with respect to the issues resolved by this Joint Settlement Agreement, they believe the proposed Settlement provides an appropriate basis for settlement of their differences as to all issues. Statements in support of this Joint Settlement Agreement on behalf of Equitable, OTS, OCA and PIOGA are attached hereto.

Except where expressly noted to the contrary, this Joint Settlement Agreement is being presented only in the context of Equitable's 2010 Section 1307(f) proceeding in an effort to resolve outstanding issues in a manner which is fair and reasonable and in the public interest. This Joint Settlement Agreement reflects compromises on all sides and is presented without prejudice to any position any of the Settling Parties may have advanced or may advance in the future, and without prejudice to the positions initially advanced by the Settling Parties on the merits of the issues. Those positions are preserved should the Commission reject this settlement in whole or in part. In such event, all parties retain the right to litigate their respective issues and may withdraw from the settlement, or a portion of the settlement, within 5 days of a Commission order rejecting the settlement in whole or in part. Regardless of whether this Joint Settlement Agreement is approved or not, no adverse inference shall be drawn, nor shall prejudice result, to any party hereto in this or any future proceeding as a consequence of this Joint Settlement Agreement.

WHEREFORE, Equitable Gas Company, LLC, the Office of Trial Staff, the Office of Consumer Advocate and the Pennsylvania Independent Oil and Gas Association, by their respective attorneys, respectfully request that Administrative Law Judges John H. Corbett, Jr. and Mary D. Long and the Pennsylvania Public Utility Commission approve the settlement proposed in this Joint Settlement Agreement.

Respectfully submitted,

**OFFICE OF TRIAL STAFF**

By Allison Curtin Kaster  
Johnnie E. Simms, Chief Prosecutor  
Allison Curtin Kaster, Prosecutor

**OFFICE OF CONSUMER ADVOCATE**

By Darryl Lawrence  
Darryl Lawrence  
James A. Mullins  
Assistant Consumer Advocates

**EQUITABLE GAS COMPANY, LLC**

By Charles E. Thomas, Jr.  
Charles E. Thomas, Jr., Esquire  
Thomas T. Niesen, Esquire  
Daniel L. Frutchey, Esquire

**PENNSYLVANIA INDEPENDENT OIL  
AND GAS ASSOCIATION**

By Kevin J. Moody  
Kevin J. Moody, Esquire

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**ATTACHMENT A**

**EQUITABLE GAS COMPANY**  
**STATEMENT IN SUPPORT**

Before The  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Administrative Law Judges  
John H. Corbett, Jr., Presiding  
Mary D. Long, Presiding

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In The Matter Of

R-2010-2155613  
C-2010-2166598  
C-2010-2167630

- Pennsylvania Public Utility Commission  
- Irwin A. Popowsky, Consumer Advocate  
- William R. Lloyd, Jr., Small Business Advocate  
Pennsylvania Independent Oil and Gas  
Association, Intervenor

v.

Equitable Gas Company, LLC

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**EQUITABLE GAS COMPANY'S  
STATEMENT IN SUPPORT OF  
JOINT SETTLEMENT AGREEMENT**

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AND NOW, comes Equitable Gas Company, LLC ("Equitable," "EGC" or "Company"), by its attorneys, and submits the following statement in support of the Joint Settlement Agreement presented in the above captioned Section 1307(f) proceeding ("Joint Settlement Agreement").

**I. Background**

1. This proceeding concerns Equitable's 2010 Computation of Annual Purchased Gas Adjustment pursuant to Section 1307(f) of the Public Utility Code, 66 Pa. C.S. §1307(f). As filed with the Commission on April 1, 2010, Equitable's 2010 Section 1307(f) Filing proposed a Purchased Gas Cost ("PGC") Rate of \$7.89 per Mcf.

2. The Commission instituted an investigation at Docket No. R-2010-2155613 to determine the lawfulness, justness and reasonableness of the rates proposed in the April 1 Filing and to satisfy the requirements of Sections 1307, 1317 and 1318 of the Public Utility Code. The signatory parties to the Joint Settlement Agreement (the "Settling Parties") are Equitable, the Office of Consumer Advocate ("OCA"), the Office of Trial Staff ("OTS") and the Pennsylvania Independent Oil and Gas Association ("PIOGA").

3. The Settling Parties have agreed that this Section 1307(f) proceeding can be settled without further litigation under the terms set forth in the Joint Settlement Agreement. Although not a signatory to the Joint Settlement Agreement, the Office of Small Business Advocate ("OSBA") has authorized the Settling Parties to state that the OSBA does not oppose the approval of the agreement.

**II. The Joint Settlement Agreement Is Consistent with the Requirements of the Public Utility Code and in the Public Interest**

**Policy Considerations**

4. It is the policy of the Commission to encourage parties in contested proceedings to enter into settlements. 52 Pa. Code §5.231(a). A settlement mitigates the time and expense of litigating the matter to its ultimate conclusion. This directly benefits all parties concerned.

5. The Joint Settlement Agreement proposes a comprehensive resolution of all issues in Equitable's 2010 Section 1307(f) proceeding. Where the active parties in a proceeding have reached a settlement, the principal issue for Commission consideration is whether the agreement reached is in the public interest. Pa. P.U.C. v. CS Water and Sewer Associates, 74 Pa. P.U.C. 767, 771 (1991). The Settling Parties agree that, based upon the evidence of record, the resolution of the issues proposed in

the Joint Settlement Agreement is in the public interest and consistent with the requirements of Section 1318 of the Public Utility Code, 66 Pa. C.S. §1318.

### **Specific Settlement Terms and Conditions**

6. Several specific settlement terms and conditions are presented in the Joint Settlement Agreement. They are in the public interest as follows:

#### **EGC Capacity Issues**

*Equitable has firm storage and transportation contracts with Equitrans, L.P. ("Equitrans") and Dominion Transmission, Inc. ("DTI") that expire on March 31, 2011.<sup>1</sup> As part of the comprehensive settlement of this proceeding, Equitable has agreed to thoroughly revisit its capacity needs prior to its next 1307(f) proceeding and hold a meeting in September 2010 to advise the Settling Parties of the level of capacity entitlements to be retained from Equitrans and/or DTI prior to contracting for such levels. Equitable also has agreed as part of the comprehensive settlement to file a design day study with its 2011 Section 1307(f) filing. Any cost reductions ultimately realized through reduced capacity entitlements will be reflected in EGC's April 1, 2011 quarterly PGC filing and Equitable's actual capacity costs will be fully reconcilable and recoverable in its 2011 Section 1307(f) proceeding provided the Company's capacity contracts are found reasonable by the Public Utility Commission.*

The foregoing settlement terms concerning expiring Equitrans and DTI firm storage and transportation capacity contracts bring together Equitable and interested parties in a discussion of capacity needs prior to contracting for needed capacity while recognizing that Equitable's actual capacity costs will be fully reconcilable and recoverable in its 2011 Section 1307(f) proceeding

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<sup>1</sup> Equitable St. No. 2 at 8-13.

provided the Company's capacity contracts are found reasonable by the Public Utility Commission. Equitable believes that the process agreed to by the Settling Parties furthers the public interest and Equitable accepts it in resolution of this proceeding.

#### **Credits for Balancing and Standby Service**

As required by Commission Order at Docket No. R-00061295, Equitable credits the PGC for pipeline demand and pipeline capacity costs required to provide Standby and Balancing Services to transportation customers.<sup>2</sup> As part of the comprehensive resolution of this proceeding, Equitable has agreed to propose a credit mechanism that includes pipeline variable and pipeline fuel charges as well. Equitable will present a proposed credit mechanism as part of the September 2010 meeting mentioned above. If the Settling Parties do not reach agreement on a crediting mechanism, the issue will be decided in Equitable's 2011 Section 1307 (f) proceeding and the agreed upon or approved approach will be deemed effective October 1, 2011. As with the foregoing settlement terms concerning expiring Equitrans and DTI firm storage and transportation capacity, this proposal concerning balancing and standby service credits to the PGC brings together Equitable and interested parties in an attempt to resolve an issue outside of formal litigation. Equitable believes that this process furthers the public interest and Equitable accepts it in resolution of this proceeding.

#### **Historic Period Transportation Migration Rider Discount**

Sales customers that switch to transportation service either receive an E-factor credit or pay the E-factor for one year after a switch. The E-factor

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<sup>2</sup> Equitable St. No. 1 at 10-11.

applicable to a transportation customer for this one-year period is referred to as the Transportation Migration Rider. Equitable waived the Transportation Migration Rider for one customer during the historic period in order to retain the customer after the customer was approached for service by another Natural Gas Distribution Company.<sup>3</sup> The Company did not want to risk losing the customer and also wanted to avoid extended years of discounting the customer's Delivery Service rate in order to retain the customer. The Transportation Migration Rider Discount waived for the customer totaled \$9,506.

Equitable and its other customers benefitted by the retention of the customer on the Equitable system with its continued contribution to fixed costs. Nevertheless, in consideration for the resolution of the capacity issues discussed above and without setting any precedent related to future transportation migration rider discounts, Equitable has agreed as part of this comprehensive settlement to forego PGC recovery of the discount and adjust its PGC by \$9,506, the amount of the OCA's adjustment for the revenue impact of the waiver of the Rider. Equitable submits that the foregoing, achieved only after extended negotiation and as part of a comprehensive settlement, is reasonable and appropriate and consistent with the public interest.

#### **Off-System Sales Procedures**

OCA witness Mierzwa recommended modifications to the Company's off-system sales procedures that would entail purchasing and selling off-system equivalent quantities adjusted for retainage, on a daily basis.<sup>4</sup> Although the

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<sup>3</sup> Equitable St. No. 1-R at 1-4.

<sup>4</sup> OCA St. No. 1 at 13-14.

procedures presently in place have not changed,<sup>5</sup> Equitable has agreed, as part of the comprehensive settlement, that, beginning October 1, 2010, it will provide a mechanism for matching off-system sales and purchases on a daily basis.

**Unaccounted For Gas (“UFG”)**

Equitable has a comprehensive UFG reduction plan in place to reduce and minimize UFG. A detailed discussion of the UFG reduction measures that are ongoing is contained in Equitable Exhibit TPW-3. The primary UFG reduction initiatives include: (1) segmentation of the gathering system; (2) line walking; (3) meter-size testing; and (4) a more stringent large meter calibration program. In addition, several terms of the settlement of Equitable’s base rate proceeding at Docket No. R-2008-2029325 pertain to reducing UFG levels on the gathering system.<sup>6</sup>

As it has in several recent prior Equitable 1307(f) proceedings, OTS reviewed the Company’s UFG levels. Noting that the Company’s three year average UFG levels have decreased from 8.0% in the 2009 Section 1307(f) proceeding to 7.0% in this proceeding,<sup>7</sup> OTS made no recommendations for improvements in UFG.<sup>8</sup> In settlement, it is agreed that EGC’s UFG is at a reasonable and appropriate level.

The settlement term is appropriately reflective of the Company’s testimony concerning its actual UFG level and the comprehensive UFG reduction

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<sup>5</sup> Equitable St. No. 2-R at 7-8.

<sup>6</sup> Equitable St. No. 2 at 19-20.

<sup>7</sup> OTS St. No. 1 at 2-4.

<sup>8</sup> As noted, the OTS UFG levels were determined based on three year averages. In actuality, Equitable’s UFG for 2009 was 4.76% while UFG plus compressor fuel was 5.47%. Equitable St. No. 2, Exhibit TPW-5.

plan implemented in 2008 along with its continued implementation of additional measures for the purpose of UFG reduction.

**Procurement of Marcellus Shale Gas Supplies**

When executing natural gas purchases and scheduling deliveries to its citygate, Equitable typically does not require the identification of the geographical source of the gas supply.<sup>9</sup> Nevertheless, in response to a recommendation of OTS witness Gruber Equitable has agreed that it would, to the best of its ability, provide a report in its 2011 Section 1307(f) filing as to the availability of Marcellus Shale supply, the purchase opportunities available directly from Marcellus Shale producers, and the possibility of delivering Marcellus Shale supply into Equitable's firm pipeline capacity and on its system. Having new, abundant Marcellus Shale gas in Pennsylvania is a natural gas purchasing opportunity that should be fully explored.<sup>10</sup>

**Monitoring of West Virginia Civil Action No. 05-C-351**

The matter of the Dominion reporting error was addressed by the OSBA in Equitable's 2005, 2006, 2007, 2008 and 2009 Section 1307(f) proceedings. In this proceeding, Equitable has agreed to continue to monitor the status of the West Virginia Civil Action captioned *Betsy J. Jacquet, Patricia E. Kuzara, and others similarly situated v. Dominion Transmission, Inc., Dominion Resources, Inc., Dominion Virginia Power, Dominion North Carolina Power*, Civil Action No. 05-C-351. If class action status is granted, Equitable will seek to intervene in the proceeding or join the class. Equitable accepts the foregoing in settlement of this proceeding.

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<sup>9</sup> Equitable St. No. 1-R at 5-7.

<sup>10</sup> Equitable St. No. 2-R at 5-6.

### **An Additional Matter - Discounting or Waiving of Tariff Rates**

7. Equitable addressed the discounting or waiving of rates in the testimony of its witness John M. Quinn. Other than as addressed in Settlement Term and Condition No. 3, no party proposed any PGC disallowance as a result of the discounting or waiving of tariff rates.

### **Additional Statutory Findings**

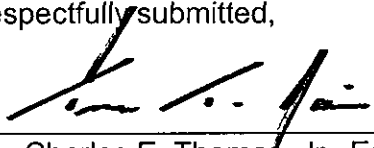
8. In consideration of the settlement and the evidence of record, the Commission should make the following findings required by Section 1318:

- (1) Equitable is pursuing a least cost fuel procurement policy, consistent with its obligation to provide safe, adequate and reliable service to its customers.
- (2) Equitable has fully and vigorously represented the interests of its ratepayers in proceedings before the FERC.
- (3) Equitable has taken all prudent steps necessary to negotiate favorable gas supply contracts and to relieve it from terms in existing contracts with its gas suppliers which are or may be adverse to the interests of its ratepayers.
- (4) Equitable has taken all prudent steps necessary to obtain lower cost gas supplies on both short-term and long-term bases both within and outside the Commonwealth, including the use of gas transportation arrangements with pipelines and other distribution companies.
- (5) Equitable has not withheld from the market or caused to be withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.
- (6) Equitable has fully and vigorously attempted to obtain less costly gas supplies on both short-term and long-term bases from nonaffiliated interests.
- (7) Each contract for the purchase of gas from its affiliated interest is consistent with a least cost fuel procurement policy.
- (8) Neither Equitable nor its affiliated interest has withheld from the market any gas supplies which should have been utilized as part of a least cost fuel procurement policy.

WHEREFORE, Equitable Gas Company, LLC respectfully requests that Administrative Law Judges John H. Corbett, Jr. and Mary D. Long recommend approval of and that the Pennsylvania Public Utility Commission approve the Joint Settlement Agreement.

Respectfully submitted,

By



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Charles E. Thomas, Jr., Esquire  
PA Attorney ID No. 07262  
Thomas T. Niesen, Esquire  
PA Attorney ID No. 31379  
THOMAS, LONG, NIESEN & KENNARD  
212 Locust Street, Suite 500  
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Daniel L. Frutchey, Esquire  
PA Attorney ID No. 69074  
Chief Regulatory Officer  
EQUITABLE DISTRIBUTION  
225 North Shore Drive  
Pittsburgh, PA 15212

Attorneys for  
Equitable Gas Company, LLC

**ATTACHMENT B**

**OFFICE OF TRIAL STAFF  
STATEMENT IN SUPPORT**



incumbent upon OTS to ensure that the public interest is served and to quantify to what extent amicable resolution of any such proceeding will benefit the public interest. Based upon OTS' analysis of the Company's 1307(f) filing, acceptance of this proposed Settlement is in the public interest and OTS recommends that Administrative Law Judges John H. Corbett, Jr. and Mary D. Long and the Commission approve the Settlement in its entirety.

2. On April 1, 2010, the Company filed its Annual Purchased Gas Cost Filing pursuant to Section 1307(f) of the Public Utility Code.

3. The Office of Small Business Advocate filed a Complaint and Public Statement on March 22, 2010. The Office of Consumer Advocate filed a Complaint and Public Statement on April 1, 2010. On April 6, 2010, the OTS entered its Notice of Appearance in this proceeding. Pennsylvania Independent Oil and Gas Association filed a Petition to Intervene on April 15, 2010. On April 16, 2010 a Petition to Intervene was filed on behalf of Dominion Retail, who subsequently filed a Petition to Withdraw on May 14, 2010.

4. A telephonic Prehearing Conference was held on April 8, 2010, which resulted in the establishment of a procedural schedule.

5. Discovery was undertaken by the parties during the proceeding.

6. In accordance with the Commission's policy favoring settlements over costly and time consuming litigation, 52 Pa. Code § 5.231, the Settling Parties were successful in achieving a full and complete settlement of all issues utilizing the discovery and settlement negotiation process.

7. The OTS submits that the proposed Settlement is in the public interest and should be approved by the ALJ and the Commission for the following reasons:

a. OTS represents that the natural gas costs that Equitable incurred during the historic period adhered to a least cost fuel procurement policy. Adhering to a least cost procurement policy benefits ratepayers because least cost gas directly impacts customer gas bills and obligates Equitable to provide safe, adequate and reliable service to its customers. After review of the filing and extensive discovery and settlement discussions, OTS maintains that the Company's gas purchasing practices have satisfied its least cost procurement obligation.

OTS analyzed the Company's E-factor and found that it was calculated in accordance with established Commission practices. This review is critical because the proper calculation of the E-factor ensures that rates are adjusted appropriately. OTS is satisfied that the Company's E-factor calculation is appropriate and accurate.

Additionally, OTS reviewed the Company's projected gas costs and determined that it appears those costs are consistent with a least cost fuel procurement policy. While those costs are subject to review in a future PGC proceeding, OTS maintains that ratepayers are protected in that Equitable gains no unwarranted financial advantages through its projected gas purchases and projected gas purchasing policies.

b. The Settlement provides that the Company's lost and unaccounted for gas is reasonable. OTS determined that the three year unaccounted for gas average was 6.31% and .69% of Company use, resulting in a total of 7.0% (OTS St. No. 1, p. 4). This represents a decrease from the three year average of 8.0% in Equitable's 2009 1307(f)

proceeding (OTS St. No. 1, p. 4). Because the Company's levels of unaccounted for gas have decreased from the prior proceeding, OTS did not make a recommendation concerning lost and unaccounted for gas in this proceeding.

c. The Settling Parties agree that Equitable will, to the best of its ability, provide a report in its 2011 1307(f) filing as to the availability of Marcellus Shale supply, the purchase opportunities available directly from Marcellus Shale producers, and the possibility of delivering Marcellus Shale supply into Equitable's firm pipeline capacity and on its system. Through discovery, Equitable indicated that it does not know if it purchased Marcellus Shale gas in 2008 or 2009 as it does not typically require the identification of the geographical source of the gas supply; however, Equitable indicated that it was working to encourage the production of Marcellus Shale gas and that it was considering partnering with producers to take advantage of this gas production (OTS St. No. 1, p. 5). In testimony, OTS recommended that the Company report in the next 1307(f) filing its efforts to maximize purchases of Marcellus Shale gas (OTS St. No. 1, p. 7). Equitable agreed that this new, abundant gas supply should be and will be fully explored in the coming years (Equitable St. 1-R, p. 6). Accordingly, this Settlement term is in the public interest to ensure that the Company's purchase or refusal of Marcellus gas production is consistent with its least cost fuel procurement obligation under the Public Utility Code.

8. Based upon OTS' analysis of the filing, acceptance of this proposed Settlement is in the public interest because resolution of this case by settlement rather than litigation will avoid the substantial time and effort involved in continuing to

formally pursue all issues in this proceeding at the risk of accumulating excessive expense.

9. OTS further submits that the acceptance of the foregoing settlement will negate the need for any direct and cross-examination of witnesses, the preparation of Main Briefs, Reply Briefs, Exceptions and Reply Exceptions, and the filing of possible appeals.

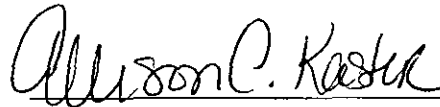
10. The Settlement is conditioned upon the Commission's approval of all terms and conditions contained therein and should the Commission fail to grant such approval or otherwise modify the terms and conditions of the Settlement, it may be withdrawn by the Company or OTS as provided therein.

11. OTS' agreement to settle this case is made without any admission or prejudice to any position that OTS might adopt during subsequent litigation in the event that the Settlement is rejected by the Commission or otherwise properly withdrawn by any of the Joint Petitioners.

12. If the ALJ recommends that the Commission adopt the Settlement as proposed, OTS has agreed to waive the filing of Exceptions. However, OTS has not waived its rights to file Reply Exceptions with respect to any modifications to the terms and conditions of the Settlement, or any additional matters, that may be proposed by the ALJ in the Recommended Decision. OTS has also reserved the right to file Reply Exceptions to any Exceptions that may be filed by the Company.

**WHEREFORE**, the Commission's Office of Trial Staff represents that it supports the Settlement as being in the public interest and respectfully requests that Administrative Law Judges John H. Corbett, Jr. and Mary D. Long recommend, and the Commission subsequently approve, the foregoing Joint Settlement Agreement, including all terms and conditions contained therein.

Respectfully submitted,

  
Allison C. Kaster  
Allison C. Kaster  
Prosecutor

Pennsylvania Public Utility Commission  
Office of Trial Staff  
Post Office Box 3265  
Harrisburg, Pennsylvania 17105-3265  
(717) 787-1976

Dated: July 1, 2010

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

|                             |   |                           |
|-----------------------------|---|---------------------------|
| PENNSYLVANIA PUBLIC UTILITY | : |                           |
| COMMISSION                  | : |                           |
|                             | : |                           |
| v.                          | : | Docket No. R-2010-2155613 |
|                             | : |                           |
| EQUITABLE GAS COMPANY, INC. | : |                           |

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STATEMENT OF THE OFFICE OF  
CONSUMER ADVOCATE IN SUPPORT  
OF THE JOINT SETTLEMENT AGREEMENT

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The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Settlement Agreement (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Administrative Law Judges and the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA’s conclusion that the proposed Settlement is in the public interest and is in the interest of the customers of Equitable Gas Company (Equitable or Company).

I. INTRODUCTION

On February 25, 2010 pursuant to Section 53.64(c) of the Commission’s Rules and Regulations, 52 Pa. Code § 53.64(c), Equitable Gas Company (Equitable or Company) submitted pre-filing information in support of its annual reconciliation of purchased gas cost (PGC) rates under Section 1307(f) of the Public Utility Code, 66 Pa. C.S. § 1307(f). On or

around April 1, 2010, pursuant to Sections 53.61 through 53.68 of the Commission's Rules and Regulations, 52 Pa. Code §§ 53.61-53.68, Equitable filed the definitive copies of its annual purchased gas cost filing for the period ending September 30, 2011.

In its filing, Equitable projected a decrease in its PGC rate of \$1.08 per Mcf, effective October 1, 2010. The average monthly bill of a residential customer using 90 Mcf per year was projected to decrease by approximately \$11.62 or 10.1%.

Equitable Gas Company is a wholly owned subsidiary of Equitable Resources, Inc. In Pennsylvania, Equitable provides service to approximately 241,496 residential, 17,387 commercial and 147 industrial customers in the City of Pittsburgh and adjacent territories in Allegheny, Armstrong, Butler, Clarion, Fayette, Greene, Indiana, Jefferson, Washington and Westmoreland Counties in Southwestern Pennsylvania. Approximately 93% of the Company's Pennsylvania customers belong to the residential class.

The Company's filing was assigned to the Office of Administrative Law Judge, and was further assigned to Administrative Law Judges John J. Corbett, Jr. and Mary D. Long, for investigation and scheduling of hearings to determine whether Equitable's gas costs comply with the standards set forth in the Public Utility Code.

On March 30, 2010, the Office of Small Business Advocate (OSBA) and the OCA each filed a Formal Complaint against Equitable's proposed PGC rate. On April 7, 2010, the Office of Trial Staff (OTS) filed a Notice of Appearance. On April 8, 2010, ALJs Corbett and Long held a prehearing conference. On April 15, 2010, the Pennsylvania Independent Oil and Gas Association (PIOGA) filed a Petition to Intervene, which was subsequently granted. On April 20, 2010, Dominion Retail, Inc. filed a Petition to Intervene, which was also granted.<sup>1</sup>

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<sup>1</sup> On or about May 17, 2010, Dominion Retail filed a Petition to Withdraw from this proceeding and took no further part in the resolution of this case.

As part of its investigation and analysis of this matter, the OCA reviewed the Company's purchasing policies and practices for natural gas supply for the 12-month historic period ending January 31, 2010 and the 12-month PGC period ending September 30, 2010. This analysis included an evaluation of numerous issues associated with the Company's historic and projected purchasing practices and policies, including, but not limited to:

- (1) Reasonableness and prudence of historic period purchased gas costs, and assessment of compliance with Commission Orders in previous 1307(f) cases;
- (2) Reasonableness and accuracy of estimating gas costs during the interim and prospective periods;
- (3) Reasonableness and prudence of the Company's gas supply mix, including purchases of local gas supplies;
- (4) Reasonableness and prudence of the Company's mix of demand entitlements, storage, and local production, including an assessment of the reasonableness of the Company's estimate of design day requirements;
- (5) Reasonableness and prudence of Equitable's treatment of interstate pipeline charges resulting from the restructuring of the gas industry;
- (6) Assessment of subsidies or unreasonable discrimination between purchased gas cost customers and transportation customers, and recovery of any purchased gas costs, including capacity costs, associated with the provision of storage, balancing, standby and other transportation-related services, the appropriate assignment of lost and unaccounted-for gas, and the crediting of penalty revenues received from transportation customers;
- (7) Reasonableness and prudence of the Company's use of capacity release, off-system sales, and interruptible sales and the crediting of such revenues to PGC ratepayers on an appropriate basis;
- (8) Reasonableness of sales volumes projections;
- (9) Reasonableness and prudence of the continuation of performance-based incentive mechanisms;
- (10) Technical issues pertaining to the gas cost recovery mechanism, including computation of quarterly adjustments to purchased gas costs, treatment

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## **ATTACHMENT C**

# **OFFICE OF CONSUMER ADVOCATE STATEMENT IN SUPPORT**

of supplier refunds, provision of carrying costs associated with gas in storage, interest on gas cost over-collections, and proper computation of the E-Factor.

Following several rounds of formal and informal discovery, the OCA submitted the written Direct Testimony of Jerome D. Mierzwa on May 12, 2010. In his Direct Testimony, Mr. Mierzwa testified that Equitable should reduce its overall capacity entitlements, and that its current storage agreements with Dominion Transmission, Inc. (DTI) should be terminated. OCA St. 1 at 2. Mr. Mierzwa testified that Equitable should create a mechanism to credit its PGC customers for certain charges collected from its transportation customers. OCA St. 1 at 3. In its filings, Equitable had claimed certain costs associated with transportation migration rider discounts that Mr. Mierzwa testified should not be collected from PGC customers. OCA St. 1 at 3. Mr. Mierzwa also questioned the Company's current procedures for off-system sales activities that could have an adverse impact on PGC customers. OCA St. 1 at 3.

As to the capacity issue, Mr. Mierzwa explained that the Company procures sufficient capacity in order to serve its PGC customers based on the Company's design day parameters.<sup>2</sup> OCA St. 1 at 4-8. This level of capacity is obtained through a series of contracts with Texas Eastern Pipeline, Equitrans and DTI. Texas Eastern delivers natural gas to Equitrans, which then stores the gas in DTI storage for potential delivery to Equitable's system. OCA St. 1 at 4-8. Based on the best information available at the time, Mr. Mierzwa conducted his own design day study and concluded that Equitable should take steps to reduce its capacity entitlements by approximately 91,000 Dths. OCA St. 1 at 8.

On the DTI storage agreements, Mr. Mierzwa testified that a continuation of these contracts may not be in the best interests of PGC customers. The potential benefit from the DTI storage arrangements would be to take advantage of lower-priced summer gas, purchased and put

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<sup>2</sup> The Company's filed materials in this case did not include a new design day study.

in storage for use during the winter season when gas prices are traditionally higher. OCA St. 1 at 9-10. As Mr. Mierzwa testified, however, the changing nature of the natural gas market has resulted in summer/winter price swings being much more modest than they once were. Accordingly, the DTI storage contracts no longer seem to be a wise investment for PGC customers. OCA St. 1 at 9-10.

In his Direct Testimony, Mr. Mierzwa explained that Equitable has had a credit mechanism in place whereby demand charges paid by transportation customers are reflected as a credit to PGC rates. In addition to demand charges, transportation customers also incur variable transportation and fuel retention charges. OCA St. 1 at 10-12. Mr. Mierzwa testified that the Company should create a mechanism for crediting these charges back to PGC customers. OCA St. 1 at 10-12.

As a result of analyzing the Company's filings, it was determined that Equitable had provided a transportation migration rider discount to one of its customers. Mr. Mierzwa recommended in his testimony that due to a lack of documentation as to the circumstances surrounding this discount, PGC customers should not be accountable for these costs. OCA St. 1 at 13.

Mr. Mierzwa also recommended a change to the way the Company accounts for and keeps records on its off-system sales activities. Mr. Mierzwa found that it was not reasonably possible, under the current record keeping system in place, to track the purchase of a particular quantity of gas through to its eventual use or off-system sale. OCA St. 1 at 13-14. Mr. Mierzwa testified that a better procedure should be implemented in order to ascertain the eventual disposition of natural gas that the Company has purchased. OCA St. 1 at 14.

During the course of this proceeding, the parties engaged in extensive negotiations. As a result of those discussions, the parties reached the Settlement which is set forth in its entirety in the attached Joint Settlement Agreement.

## II. TERMS AND CONDITIONS OF JOINT SETTLEMENT AGREEMENT

The following represents the terms of the Settlement that directly address all of the OCA's outstanding concerns in this case. The OCA expects that the other signatory parties will address those areas of the Settlement that apply to their issues.

As discussed above, OCA witness Mierzwa had concerns as to the level of capacity that Equitable maintains and also as to the determinations from its existing design day study. Mr. Mierzwa also testified that the continued use of DTI storage contracts may not be in the best interests of PGC customers. The parties agreed to address these issues, as follows:

### EGC Capacity Issues

- a. The Settling Parties agree that EGC should thoroughly revisit its capacity needs prior to the next 1307(f) proceeding and hold a meeting with the Parties sometime in September, 2010, to advise them of the level of entitlements to be retained from Equitrans and/or DTI prior to contracting for such levels.
- b. EGC will file a design day study with its 2011 1307(f) filing.
- c. Should EGC negotiate entitlement reductions with Equitrans or terminate any storage agreement with DTI, the cost reductions will be reflected in EGC's April 1, 2011 quarterly PGC filing. Equitable's actual capacity costs will be fully reconcilable and recoverable in its 2011 1307(f) proceeding provided the Company's capacity contracts are found reasonable by the Commission.

The OCA submits that collaborating with the Company and the other parties, at the appropriate time, in order to ascertain what level of capacity and storage contracts are needed to best serve the interests of PGC customers will result in a better outcome than could be

obtained through litigation of this issue. The Settlement terms as reflected here provide a reasonable resolution of the issues as raised in Mr. Mierzwa's Direct testimony.

In his Direct testimony, Mr. Mierzwa recommended that an additional crediting mechanism be established for the PGC, in order to reflect the entire range of costs being collected from transportation customers. The parties agreed to address this issue, as follows:

Credits for Balancing and Standby Service

EGC will present a crediting mechanism which includes variable and fuel charges at the time the September, 2010 meeting with the Parties is held to discuss future capacity entitlements. If the Parties do not reach agreement on a crediting mechanism, the issue will be decided in the Company's 2011 1307 (f) proceeding and the agreed upon or approved approach will be deemed effective April 1, 2011.

The OCA submits that through the proposed collaborative process, a reasonable credit mechanism can be designed and agreed to by the parties. The Settlement terms as reflected here provide a reasonable resolution of this issue.

Mr. Mierzwa recommended a disallowance of certain costs claimed by the Company as to a transportation migration rider discount. The parties agreed to address this issue, as follows:

Historic Period Transportation Migration Rider Discount

In consideration for the resolution of the capacity issues as contained herein, and without setting any precedent related to future transportation migration rider discounts, the Parties agree that Equitable will not recover the discount.

The OCA submits that this Settlement term reasonably resolves the issue as raised by the OCA in this proceeding.

Mr. Mierzwa recommended certain changes to how the Company accounts for its gas purchases and the relationships to off-system sales. The parties agreed to address this issue, as follows:

### Off-System Sales Procedures

Equitable agrees that beginning October 1, 2010 it will provide a mechanism for matching off-system sales and purchases on a daily basis.

The OCA submits that this Settlement term reasonably addresses the issue as raised by the OCA in this proceeding. Taken as a whole, the Settlement reaches a reasonable resolution on all of the issues that the OCA has raised in this proceeding.

This Settlement has no current impact on the proposed rates as filed by the Company.<sup>3</sup>

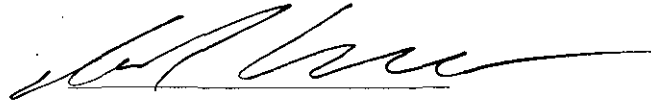
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<sup>3</sup> As explained in Section IV. E. of the Joint Settlement Agreement, the migration rider discount amount is too small to have any appreciable effect on the rates as filed.

### III. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement are in the public interest and therefore, should be approved.

Respectfully Submitted,



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Dated: July 2, 2010

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**ATTACHMENT D**

**PIOGA**

**STATEMENT IN SUPPORT**

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|   |   |                |
|---|---|----------------|
| Pennsylvania Public Utility Commission,         | : | R-2010-2155613 |
| Irwin A. Popowsky, Consumer Advocate,           | : | C-2010-2166598 |
| William R. Lloyd, Jr., Small Business Advocate, | : | C-2010-2167630 |
| Pennsylvania Independent Oil and Gas            | : |                |
| Association, Intervenor                         | : |                |
|   | : |                |
|   | : |                |
| v.  | : |                |
|   | : |                |
| Equitable Gas Company, LLC                      | : |                |

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**PENNSYLVANIA INDEPENDENT OIL AND GAS ASSOCIATION  
STATEMENT IN SUPPORT OF PROPOSED SETTLEMENT**

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The Pennsylvania Independent Oil and Gas Association (“PIOGA”) provides this statement in support of adoption of the proposed settlement in this matter. With respect to PIOGA’s concerns in this matter, the settlement proposes no change in Equitable Gas Company’s (“Equitable” or “Company”) retention allowances to be charged to transportation and PGC customers because the record shows that there is no cross-subsidization of recovery of this expense between these customer classes at the existing rate levels. The settlement thus continues the fair socialization of recovery of the cost of Equitable’s lost and unaccounted for gas (“UFG”) and company use gas among PGC customers, transportation customers and Pennsylvania natural gas producers. The settlement also requires a report from Equitable in its 2011 section 1307(f) filing concerning the opportunities for use of Marcellus Shale natural gas on Equitable’s system. This cautious approach is reasonable in view of the positive and negative aspects of the Marcellus Shale gas with respect to Equitable’s least cost gas procurement obligation. Accordingly, the proposed settlement is in the public interest from PIOGA’s perspective and should be approved.

## **Background**

PIOGA is the comprehensive trade association representing oil and natural gas interests throughout Pennsylvania. Effective April 1, 2010, the Pennsylvania Oil and Gas Association (POGAM) merged into the Independent Oil and Gas Association of Pennsylvania (IOGA of PA) and the name of the organization changed to Pennsylvania Independent Oil and Gas Association (PIOGA). PIOGA now has over 800 members, including oil and natural gas producers, Commission-licensed natural gas suppliers (NGSs) and marketers, drilling contractors and service companies, professional service firms and individuals, and royalty owners. PIOGA members produce, transport and market Pennsylvania natural gas production from conventional wells over intrastate and interstate pipeline systems to PUC-regulated natural gas distribution companies (“NGDCs”) for system supply and to retail customers. PIOGA members are also engaged in the exploration, development, production and sale of natural gas from the Marcellus Shale formation.

## **Lost and Unaccounted For Gas (UFG) and Retention Allowances**

PIOGA intervened because PIOGA member NGSs and their customers as well as PIOGA member producers and marketers could be affected by changes in the level of the retention allowances established in this proceeding be charged to transportation service customers and PGC customers. Equitable's total retention allowance is based upon the amount of shrinkage experienced on its system. Shrinkage is the total of UFG and Company use gas. UFG is the difference between the total volume of gas available from all sources and the total volume of gas sales, net of interchange and company use. Company use gas refers to gas used by Equitable for

compressors and dehydration units. The amount of UFG is the largest item that determines shrinkage, which in turn determines the retention allowance.<sup>1</sup>

In recent years the Commission has focused on examining NGDCs' levels of UFG and their efforts to reduce UFG.<sup>2</sup> The settlement provides that the Company's level of UFG is reasonable and that no recommendations for improvement are necessary at this time. This resolution is appropriate in view of the Company's testimony describing its measures to reduce UFG.<sup>3</sup> Equitable has significant gathering facilities to accommodate the delivery of Pennsylvania production from conventional wells. While the gathering facilities affect Equitable's levels of UFG, the continued socialization of Equitable's recovery of total system UFG is reasonable and appropriate in view of Equitable's testimony showing: (1) that there is no cross-subsidization of this cost recovery under the existing retention allowances charged to transportation and PGC customers;<sup>4</sup> and (2) the tremendous benefits of Pennsylvania conventional well production to Equitable and its customers.<sup>5</sup>

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<sup>1</sup> See, generally, Equitable Statement No. 2 (Wiggers) at 18-19, Equitable Exhibit TPW-5.

<sup>2</sup> See, e.g., *PA PUC v. PPL Gas Utilities Corporation*, Docket Nos. R-2008-2039634, *et al.*, Order entered November 14, 2008, at 10-11; Statement of Vice Chairman Cawley, *Re: The Pennsylvania Public Utility Commission, OCA, and OSBA v. Equitable Gas Company*, Docket Nos. R-00072111, R-00072111C0001-C0002, Public Meeting August 30, 2007; Statement of Chairman Cawley, *Re: Pennsylvania Public Utility Commission, et al. v. The Peoples Natural Gas Company d/b/a Dominion Peoples*, Docket No. R-2008-2022206, *et al.*, Public Meeting August 21, 2008; and *Re: The Pennsylvania Public Utility Commission, et al. v. Equitable Gas Company*, Docket No. R-2008-2021160, *et al.*, Public Meeting August 21, 2008; Statement of Chairman Cawley, *Pennsylvania Public Utility Commission, et al. v. T.W. Phillips Gas and Oil Co.*, Docket No. R-2009-2145441, Public Meeting June 16, 2010.

<sup>3</sup> Equitable St. No. 2 (Wiggers) at 19-23, Equitable Exh. TPW-6.

<sup>4</sup> Equitable St. No. 2 at 23-24, Equitable Exh. TPW-7 (5.54% weighted average retainage rate assessed compared to 5.47% total system retainage experienced).

<sup>5</sup> Equitable Exh. TPW-3, p. 15, Attachment C (approximately \$2.2 million savings per year).

## **Marcellus Shale Gas**

The Office of Trial Staff (OTS) recommends that the Company maximize its efforts to obtain Marcellus Shale natural gas, within the confines of its least cost gas procurement obligation. Equitable's testimony explained that its gas purchase agreements do not typically identify the geographical source of the gas supply (Southwest US, Pennsylvania or West Virginia). Equitable also explained that while Marcellus Shale gas presents opportunities, it also has some significant drawbacks – higher pressures and volumes than conventional wells, gas quality concerns – that could adversely affect the level of conventional well gas the Company has traditionally purchased,<sup>6</sup> much of it from PIOGA members. Accordingly, in its next section 1307(f) filing, Equitable has agreed to use best efforts to report the availability of Marcellus Shale supply, the purchase opportunities available directly from Marcellus Shale gas producers and the possibility of delivering Marcellus Shale supply into its firm pipeline capacity and on its system. As PIOGA members also include companies involved in the Marcellus Shale play, the report requested by OTS and required by the settlement strikes the appropriate balance between the interests of PIOGA's conventional and Marcellus Shale well producers and among the interests of Equitable, its customers and Pennsylvania natural gas producers.

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<sup>6</sup> Equitable St. No. 1-R (Quinn) at 5-6.

**Conclusion**

WHEREFORE, for the reasons set for above, the Pennsylvania Independent Oil and Gas Association respectfully requests that the Commission approve the proposed settlement.

Respectfully submitted,



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Dated: July 1, 2010

Counsel for the Pennsylvania Independent  
Oil and Gas Association

Before The  
**PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judges  
John H. Corbett, Jr., Presiding  
Mary D. Long, Presiding

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Pennsylvania Public Utility Commission :  
v. : Docket No. R-2010-2155613, et al.  
Equitable Gas Company, LLC :

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 2<sup>nd</sup> day of July 2010, served a true and correct copy of the foregoing Joint Settlement Agreement in the above matter, upon the persons and in the manner set forth below:

**BY EMAIL AND OVERNIGHT DELIVERY**

Honorable John H. Corbett, Jr.  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
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Pittsburgh, PA 15222

Honorable Mary D. Long  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
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**BY EMAIL AND HAND DELIVERY**

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