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December 5, 2011

VIA HAND DELIVERY

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Natural Gas Pipeline Replacement and Performance Plans,
Docket No. M-2011-2271982

Dear Secretary Chiavetta:

Enclosed for filing are the original and ten (10) copies of the *Comments of Equitable Gas Company*. Copies of these Comments have been provided via e-mail as indicated below.

Very truly yours,



W. Edwin Ogden

For BUCHANAN INGERSOLL & ROONEY PC

WO/kra

Enclosures

cc: Paul Metro, Chief, Gas Safety Division (via email, pmetro@pa.gov)
Robert F. Young, Deputy Chief Counsel (via email, rfyoung@pa.gov)
David W. Gray, Esquire
Brian J. Knipe, Esquire

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Natural Gas Pipeline Replacement and Performance Plans : **Docket No. M-2011-2271982**
:

**COMMENTS
OF
EQUITABLE GAS COMPANY**

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Equitable Gas Company, LLC ("Equitable" or the "Company") respectfully files these Comments, in response to the Pennsylvania Public Utility Commission ("Commission") Secretarial Letter dated November 21, 2011, as ratified by the Commission on December 1, 2011 ("Ratified Letter"), which revised and clarified the Commission's Tentative Order entered in the above docket on November 10, 2011 ("Tentative Order").

The Tentative Order and Ratified Letter address: (1) frost related leak survey ("Frost Patrol") programs, (2) the submission of Distribution Integrity Management Program Plans and Integrity Management Program Plans ("DIMP/IMP Plans") and (3) natural gas Pipeline Replacement and Performance Plans ("PRP Plans"). The Ratified Letter requests comments by December 5, 2011, with respect to Frost Patrol protocols and the submission of DIMP/IMP Plans. These Comments are provided in compliance with that requirement.¹

A. Introduction

Equitable is a Pennsylvania natural gas distribution public utility company ("NGDC") that provides Commission jurisdictional service to approximately 260,000 residential,

¹ The Ratified Letter also extends the Tentative Order's comment period with respect to proposed PRP Plans from December 2, 2011 to January 13, 2012, which comments will be separately filed by Equitable in a timely manner.

commercial and industrial customers in portions of western Pennsylvania. It operates and maintains over 3300 miles of distribution main pipelines in Pennsylvania.

Equitable certainly recognizes and respects the Commission's interest in ensuring continued gas pipeline safety and reliability and appreciates the opportunity for industry input on these issues. Safety and reliability of its system are of paramount concern to Equitable as well. Not only has Equitable spent over \$180 million in the past ten years replacing aging pipelines in its system; the Company also has worked cooperatively and diligently with the Commission's Gas Safety Division to insure that its gas safety and reliability practices are appropriately tailored to the specific needs of its distribution system.²

Equitable understands the Commission's concerns over the potential impact of frost penetration on certain underground facilities. Equitable has an existing cold weather survey program that is based on extensive experience, backed by industry practice and supported by science that accounts for potential frost penetration impact on pipeline with certain metallurgical characteristics within its system. This program was appropriately modified and implemented before the 2010-2011 winter season, with guidance from the Commission's Gas Safety Division. Although Equitable believes that its program is best practice within the industry, it is willing to undertake the additional measures outlined herein, if the Commission concludes that such additional measures are needed.

Similarly, Equitable recognizes the right of the Commission's Gas Safety Division to access its DIMP/IMP Plans. It has been and will remain the practice of Equitable to cooperate with the Commission's efforts to perform the appropriate review of such information.

² Although beyond the scope of these Comments, which are limited to cold weather surveys and the filing of DIMP/IMP Plans, Equitable has various other practices, including other survey and leak repair programs, which are more fully detailed in its DIMP/IMP Plans and elsewhere. Those practices are appropriately tailored to insure the safety and reliability of Equitable's system, they have been the subject of regulatory review and they are compliant with all applicable regulations.

However, confidentiality protections must be in place for such information that address the need to keep such information, including critical infrastructure information, protected from general public disclosure in order to avoid, *inter alia*, inadvertently creating safety risks.

B. Frost Patrol Programs

The Ratified Letter requests comments on its Frost Patrols sections, including a specific discussion of certain enumerated topics. The Company's responses to enumerated items 2(a-d) of the Ratified Letter are set forth below.³

1. Request 2(a) - Description of the Company's prior Frost Patrol program

Prior to the 2010-2011 winter season, Equitable monitored the depth of frost penetration through its own excavation activities and began surveying its cast iron system once the depth reached 18 inches. This cast iron surveying ran continuously until the Company's excavation crews reported that the frost had dissipated from the ground.

2. Request 2(b) - Description of the Company's current Frost Patrol program

Equitable's current Cold Weather Survey Program ("CWS Program"), as covered in its DIMP/IMP Plans, is summarized below.

Equitable's CWS Program appropriately focuses on its cast iron pipe, due to cast iron's unique metallurgical characteristics that make it more susceptible to freeze/thaw cycles and associated ground movement. The scope and duration of surveys are determined by actual

³ Equitable must respectfully clarify that these Comments are limited to the substantive provisions that are outlined in the Ratified Letter, and that by submitting these substantive Comments, Equitable expressly reserves, and in no way waives, the right to assert any process related challenges, including but not limited to those that may be available under due process protections or governing rulemaking principles, pending the manner in which these issues are ultimately resolved by the Commission.

weather data (tracking frost degree days), as supplemented by field data. In 2010, Equitable modified its CWS Program, incorporating this frost degree count to determine when the survey begins and ends. Beginning in November, the average daily temperature is tracked and the difference of each degree below 27° F is added to the cumulative degree tracker. For instance, a date that has an average temperature of 23° adds a negative four degree days. Once the running total degrees reach -150 (typically in January), the survey of the Company's cast iron system begins. Equitable then surveys its entire cast iron inventory in a week and continues these weekly surveys of its entire cast iron system until it is no longer required to do so under its CWS Program. The frost degree days are tracked throughout the winter, with degrees above 27° adding to the total. The surveys end when the total degrees reach +200.

In summary, once the conditions for cold weather surveying have been met (based on measured frost degree days), Equitable performs weekly surveys on its entire cast iron pipelines (approximately 45 miles). This weekly inspection of the entire cast iron distribution pipeline system requires four surveyors, each working a 40 hour week. The surveys are completed with a combination of Optical Methane Detectors mounted to vehicles and DPIR4s for areas that cannot be adequately surveyed by driving. Both types of surveying units utilize the most current and sensitive technology available. Typically, these cold weather surveys are triggered in January and last for approximately six (6) weeks – the time period during which frost has the potential of impacting Equitable's cast iron pipelines.

3. Request 2(c) - Description of proposed program enhancements

Although Equitable believes that its current CWS Program is appropriate to address frost penetration concerns within its system, it is willing to expand that program on the

following terms, if the Commission concludes that such expansion is needed. Within each of the Company's business districts,⁴ Equitable is willing to perform, on a monthly basis, its current cold weather surveys on all of its non-cast iron mains and services, up to the building foundation. Compared to Equitable's current CWS Program, these business district surveys will add approximately 53 miles of main line that is predominantly unprotected steel. This enhancement is expected to result in an exponential increase in the Company's current business district surveys. Equitable will also continue its current CWS Program practice of completing weekly surveys of its entire cast iron system.

Although leak reporting and repair is otherwise fully addressed in the Company's DIMP/IMP Plans and elsewhere, as opposed to the Company's CWS Program, Equitable is also willing to report to the Commission's Gas Safety Division, on a monthly basis and in a reasonable format, any hazardous leaks (class 1) found during these cast iron or business district surveys.⁵ All leak repairs will continue to be handled in a manner that is consistent with established Gas Pipeline Technology Committee ("GPTC") guidelines.⁶ For instance, any non-hazardous leaks (class 2) are scheduled for repair within 12 months and reinvestigated within 6

⁴ Although the Tentative Order's Frost Patrol provisions have been effectively eliminated by the Ratified Letter, for future consideration by the Commission, Equitable notes that certain terms that were used in the Tentative Order needed more clarification in order to provide the appropriate guidance to the industry. For instance, the order identified "Classes" of locations of pipeline – a concept more readily used with transmission lines – as opposed to the "business districts" that are common terms for distribution operators and used in most leak survey procedures as well as governing code. Likewise, the Tentative Order did not adequately define "leak history," including the relevant covered sections of pipeline, which language was used as a trigger for certain mandated surveying. If the Commission concludes that Commission issued standards are needed, further clarification of these types of issues should be addressed in any further order pertaining to Frost Patrols.

⁵ The Tentative Order required Frost Patrol programs to include biweekly leak reporting from November 1 through April 30 of each year. To the extent the Commission is considering such reporting, Equitable notes that it would add unnecessary administrative costs (for Equitable, as well as the Commission), and also would result in unnecessary and duplicative reports, inasmuch as the same pipelines would be resurveyed on such a frequent basis. This requirement would be costly, and impractical, and it is not reasonably designed to relate to actual frost related conditions. To the extent any additional reporting is needed, the enhancement outlined above is more than adequate to address such reporting for Equitable's system.

⁶ These guidelines contain the U.S. DOT Pipeline Safety Code, plus guide material prepared by the GPTC accredited by the American National Standards Institute.

months. Any hazardous leaks (class 1) are worked continuously until repaired. No additional enhancements are needed on leak reporting or repairs.

4. Request 2(d) - Discussion of Commission issued Frost Patrol standards

The Ratified Letter (Item 2(d)) requests a discussion of "whether Commission issued standards for Frost Patrols should be considered going forward, and whether such standards should be determined on a utility by utility basis or on an industry wide basis."

Equitable's current CWS Program is appropriate and Commission issued standards are not needed. This program has been developed cooperatively with the Commission's Gas Safety Division and it is specifically tailored to the needs of Equitable's system in order to insure pipeline safety and reliability during cold weather months. In the event that any deficiencies are believed to exist within this program, Equitable will continue to work in a cooperative fashion with the Commission's Gas Safety Division in order to identify and implement any appropriate enhancements. Any such enhancements will continue to be subject to the Commission's Gas Safety Division's review and scrutiny. Accordingly, a Commission issued standard is unnecessary.

In the event that Commission issued standards are found to be appropriate, then any such standards must be determined on a utility by utility basis. The Commission recognized in its Tentative Order that "one size does not fit all" in the context of discussing PRP Plans. That same logic applies to Frost Patrols. Moreover, this is the same logic behind the DIMP/IMP protocols. Individual utilities should continue to have the ability to implement mitigation measures specific to those risks identified and prioritized within their individual DIMP/IMP Plans. In deciding Frost Patrols protocol, it is imperative to take into account the unique

characteristics of each system, including type of pipeline, topography, logistics of implementation and other factors, in order to develop an approach that is appropriate and cost effective for that system. Industry experience and practice have proven that this approach is the best approach. Moreover, the Commission's Gas Safety Division would retain the flexibility to appropriately tailor approaches for each company.⁷

C. Preserving Confidentiality of DIMP/IMP Plans

The Ratified Letter also requests comments on the submission of electronic copies of NGDCs' DIMP/IMP Plans. The Commission recognizes the confidential nature of these plans, in particular data and other information that may be exempt from public disclosure under provisions of the Right to Know Law⁸ and the Pennsylvania Public Utility Confidential Security Information Disclosure Protection Act.⁹

The Company is concerned that the DIMP and IMP provisions of the Tentative Order did not contain explicit safeguards to protect the confidentiality of the information provided in the plans. This information is both proprietary and highly sensitive, including for purposes of the security of the natural gas distribution system. Although Equitable is prepared to make the necessary filings of its plans, it has legitimate confidentiality concerns that must be addressed.

⁷ The Frost Patrol provisions of the Tentative Order illustrate the need for a utility by utility approach. Although those provisions have been effectively vacated, they would have unnecessarily required a massive hiring and training effort by the entire industry that could not have been implemented this heating season and would have added many millions of dollars of expense. For Equitable alone, a conservative analysis of its impact supported adding 880 miles of pipeline for Frost Patrols, hiring and training approximately 80 additional surveyors and purchasing additional equipment – all of which would have increased annual spend by millions. Without waiving any rights and in light of the Ratified Letter, Equitable will not address in detail in these Comments the practical impact of those requirements or the related substantive and process challenges. However, the potential impact of that Tentative Order highlights the need for individualized approaches to these issues.

⁸ Act of February 14, 2008, P.L. 6, 65 P.S. §§ 67.101-67.3104.

⁹ Act 2006-156 (H.B. 854), P.L. 1435, § 1, 35 P.S. §§ 2141.1-2141.6.

Of specific recent concern is a challenge that was made to the applicability of Right to Know Law exemptions pertaining to certain gas safety investigative materials and records of the Commission's Gas Safety Division. The Commission has filed an appeal to the Pennsylvania Commonwealth Court from a decision from the Office of Open Records mandating the release of such material, and that appeal is still pending.¹⁰

Given the uncertainty created by the pending appeal, the Company believes that, at a minimum, the Commission should specifically confirm in any further order in this proceeding that the explicit procedures¹¹ for maintaining confidentiality of proprietary/sensitive public utility information will be applied to filed DIMP/IMP Plans and that such plans will not be maintained in the public record folders of the Commission. Equitable will certainly comply with those procedures in the format of its filings and will formally request such protection upon any filing of its DIMP and IMP documents.

A further step that the Company would urge the Commission to take, at least until a decision is rendered in the foregoing appeal, would be to permit the Company to file a redacted version of the DIMP/IMP Plans that removes all information protected by the Pennsylvania Public Utility Confidential Security Information Disclosure Protection Act. The full unredacted documents would be made available to the Commission's Gas Safety Division for review.

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¹⁰ *Pennsylvania Public Utility Commission v. Daniel Gilbert and The Wall Street Journal*, No. 1381 CD 2011.

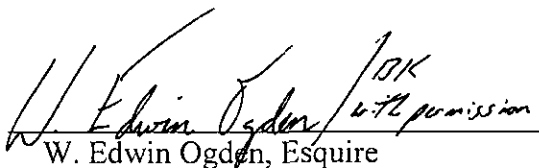
¹¹ 52 Pa. Code §§ 102.1-4; see 52 Pa. Code § 5.423.

D. Conclusion

The Ratified Letter also provides for individual comment review with the Commission's Gas Safety Division, prior to further Commission consideration of the issues addressed in these Comments. Equitable appreciates that opportunity and looks forward to discussing in greater detail these issues, and will work cooperatively to develop cost-effective enhancements to its CWS Program, if needed.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

By:  *W. Edwin Ogden* ^{JK} _{with permission}

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