

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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IRWINA. POPOWSKY
Consumer Advocate

February 16, 2012

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

RE: Pennsylvania Public utility Commission,
Law Bureau Prosecutory Staff
v.
Equitable Gas Company, LLC
Docket No. M-2011-2185982

Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Comments in the above referenced proceeding.

Copies have been served as indicated on the enclosed Certificate of Service.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Darryl A. Lawrence".

Darryl A. Lawrence
Assistant Consumer Advocate
PA Attorney I.D. # 93682

Enclosures

cc: Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission,	:	
Law Bureau Prosecutory Staff	:	Docket No. M-2011-2185982
	:	
v.	:	
	:	
Equitable Gas Company, LLC	:	

COMMENTS OF THE OFFICE
OF CONSUMER ADVOCATE

On January 27, 2012, the Pennsylvania Public Utility Commission (Commission) issued an Opinion and Order (Commission Order) as to a proposed Settlement Agreement (Settlement) filed on December 2, 2011, by the Commission's Law Bureau Prosecutory Staff (Prosecutory Staff) and Equitable Gas Company, LLC (Equitable) (collectively, the Parties). The Parties are proposing this Settlement as a final resolution with respect to an informal investigation conducted by the Prosecutory Staff. The investigation involved the transfer of certain intellectual property by Equitable to an affiliate, EQT IP Ventures, LLC (EQT IP Ventures) and the subsequent affiliated interest transactions with EQT IP Ventures.

In brief, EQT IP Ventures was formed in 2001. Subsequently, Equitable Resources, Inc. (ERI) and its operating subsidiaries, which at that time included Equitable, transferred certain intangible/intellectual property including the trade names and trademarks

relating to Equitable to EQT IP Ventures in a tax free transaction. Thereafter, EQT IP Ventures received royalty payments from Equitable in exchange for the services it provided in connection with the intangible/intellectual property and the right to use that property retained by ERI and its operating subsidiaries. During the period December 2007 through November 2008, such royalty payments totaled approximately \$60 million.

The Settlement provides that, had this matter gone to litigation, Prosecutory Staff would have alleged that Equitable failed to file an affiliated interest agreement or otherwise seek Commission authorization for these transactions with EQT IP Ventures, in violation of the Public Utility Code. The Settlement provides that Equitable disagrees with these conclusions. Equitable claims the intellectual property transferred was not used or useful as defined by the Public Utility Code. Equitable alleges that the property in question had no book value, was never carried on the books of Equitable and was never claimed for ratemaking purposes. Had this matter gone to litigation, Equitable would have alleged the preceding facts and that no affiliated interest agreement or Commission authorization was necessary. In order to resolve this matter, the Parties have proposed a Settlement whereby Equitable will pay a civil penalty of \$40,000 and will make an \$85,000 contribution to its Hardship Repair Fund.

The Commission Order provides an opportunity for interested parties to comment on the Settlement. In addition to the Commission Order, Commissioners Gardner and Cawley issued a Joint Statement as to this matter (Joint Statement). In the Joint Statement, Commissioners Gardner and Cawley specifically requested interested parties to comment on the

effect these royalty payments may have had on rates that were established as a result of Equitable's 2008 base rate case.

The Office of Consumer Advocate (OCA) was a party to the 2008 base rate case. The OCA thanks the Commission for the opportunity to comment on this matter. The OCA has no objection to the Settlement. The OCA submits the following comments in order to respond to the questions posed in the Joint Statement of Commissioners Gardner and Cawley regarding the possible impact of these transactions on the rates established in the 2008 base rate case.

The OCA was an active participant in Equitable's 2008 base rate case. From the information provided in the Settlement, the source of the royalty payments were shareholder funds and were never claimed for ratemaking purposes. The information reviewed by the OCA in conjunction with the 2008 base rate case provides no basis to contest these claims. The payments made from Equitable to EQT IP Ventures were "below the line." These royalty payments were not a part of the ratemaking expenses claimed in the 2008 base rate case and had no impact on the revenue requirement awarded in that case. Accordingly, the OCA submits that ratepayers were not adversely affected by the royalty payments in question.

The OCA would respectfully request, however, that any final order issued in this matter make clear Equitable's stated disposition of this property and royalty payments in question. Specifically, that these expenditures are not claimed in rate proceedings and will not impact rates in any manner in any future rate proceeding.

The OCA thanks the Commission for this opportunity to comment on this matter,
and respectfully requests the Commission to consider its comments herein.

Respectfully Submitted,



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CERTIFICATE OF SERVICE

RE: Pennsylvania Public Utility Commission, Law Bureau Prosecutory Staff v. Equitable Gas Company, LLC
Docket No. M-2011-2185982

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 16th day of February 2012.

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