



CHARLES E. THOMAS, JR.  
Direct Dial: 717.255.7615  
cthomasjr@thomaslonglaw.com

February 16, 2012

RECEIVED  
2012 FEB 16 PM 4:00  
PA PUC  
SECRETARY'S BUREAU

**BY HAND DELIVERY**

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. M-2011-2185982  
Law Bureau Prosecutory Staff v. Equitable Gas Company, LLC

Dear Secretary Chiavetta:

We are counsel to Equitable Gas Company, LLC (Company) in the above matter and are enclosing for filing an original and ten (10) copies of the Company's Comments regarding the Opinion and Order of the Public Utility Commission entered in the matter on January 27, 2012 and the Joint Statement of Commissioners Gardner and Cawley accompanying that Opinion and Order. Copies of the Company's Comments are being served upon the persons and in the manner set forth on the certificate of service attached to the Comments.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

  
Charles E. Thomas, Jr.

Encl.

cc: Honorable Robert F. Powelson, Chairman (w/encl.)  
Honorable John F. Coleman, Jr., Vice Chairman (w/encl.)  
Honorable Wayne E. Gardner, Commissioner (w/encl.)  
Honorable James H. Cawley, Commissioner (w/encl.)  
Honorable Pamela A. Witmer, Commissioner (w/encl.)  
Jan Freeman, Executive Director (w/encl.)  
Karen O. Moury, Director of Regulatory Operations (w/encl.)  
David W. Gray, Esquire (w/encl.)  
Certificate of Service (w/encl.)

120216-Chiavetta (EGC Comments).wpd

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

<b>Law Bureau Prosecutory Staff of the</b>	:	
<b>Pennsylvania Public Utility Commission,</b>	:	
	:	
<b>Complainant</b>	:	
	:	
<b>v.</b>	:	<b>Docket No. M-2011-2185982</b>
	:	
<b>Equitable Gas Company, LLC,</b>	:	
	:	
<b>Respondent</b>	:	

---

**COMMENTS OF EQUITABLE GAS COMPANY, LLC REGARDING  
THE OPINION AND ORDER OF THE PUBLIC UTILITY COMMISSION  
ENTERED JANUARY 27, 2012**

---

**AND NOW** comes Equitable Gas Company, LLC (Equitable), by its attorneys, and submits these Comments in support of the Settlement Agreement between Equitable and the Commission's Law Bureau Prosecutory Staff (Prosecutory Staff) filed December 2, 2011 (Settlement Agreement). These comments are submitted pursuant to Ordering Paragraph 3 of the Opinion and Order of the Public Utility Commission (Commission), and the Joint Statement of Commissioners Gardner and Cawley accompanying that Opinion and Order, entered in the above matter on January 27, 2012.<sup>1</sup>

---

<sup>1</sup> A history of matters related to the Settlement Agreement and the parties bound by the Settlement Agreement are presented in the Opinion and Order entered January 27, 2012 and need not be repeated here. The Settlement Agreement, including the Joint Statement of Equitable and Prosecutory Staff in support of the settlement, is attached to the Opinion and Order entered January 27, 2012.

1. The Settlement Agreement occurred after a thorough investigation by Prosecutory Staff (as is more fully documented in the Response Comments now filed by Prosecutory Staff) and extensive negotiations between Prosecutory Staff and Equitable.<sup>2</sup> It addresses and meets the established settlement criteria, including both the *Rosi*<sup>3</sup> standards and the Commission's Policy Statement at 52 Pa. Code § 69.1201.<sup>4</sup> The Settlement Agreement, in furtherance of the public interest, avoids the time, expense and uncertain results of litigation, with Equitable in settlement paying a civil penalty of \$40,000 and making a contribution of \$85,000 to its Hardship Repair Fund.

2. In their Joint Statement accompanying the Opinion and Order entered January 27, 2012 (Joint Statement), Commissioners Gardner and Cawley invite interested parties, including Equitable and Prosecutory Staff, to comment on any effect the transfer to EQT IP Ventures might have had on rates related to the revenue requirement in Equitable's 2008 base rate proceeding, stating that there is nothing in this record relating to that base rate proceeding.<sup>5</sup>

3. The Settlement Agreement does address the effect of the transfer to EQT IP Ventures and subsequent royalty payments on the ratemaking revenue requirement,

---

<sup>2</sup> The Settlement Agreement acknowledges Equitable's cooperation in the investigation.

<sup>3</sup> *Joseph A. Rosi v. Bell Atlantic Pennsylvania, Inc. and Sprint Communications Co., L.P.* Docket No. C-00992409 (Order entered March 16, 2000).

<sup>4</sup> *Policy Statement for Litigated and Settled Proceedings Involving Violations of the Public Utility Code and Commission Regulations*, 52 Pa. Code § 69.1201.

<sup>5</sup> Although the Joint Statement comments on the lack of a record in this investigation proceeding relative to Equitable's base rate case at Docket No. R-2008-2029325, ratemaking considerations are addressed in the Settlement Agreement and are further considered herein. There, moreover, is no evidentiary record as this investigation proceeding is an informal matter and settlement was achieved short of formal litigation.

including Equitable's 2008 base rate proceeding, and explains that the royalty payments made by Equitable to EQT IP Ventures were *never* claimed by Equitable as an expense for ratemaking purposes.<sup>6</sup> The Settlement Agreement further explains that the intellectual property that was transferred to EQT IP Ventures was *never* included as part of Equitable's rate base for ratemaking purposes.<sup>7</sup> Thus, the transfer of intellectual property had no impact on ratepayers. However, this settlement will benefit those in need through Equitable's contribution to the Hardship Repair Fund.

5. By way of further background, Equitable's 2008 rate case was resolved through a "black box" settlement after full investigation and discovery.<sup>8</sup> Equitable sought, in the 2008 rate case, to increase its distribution base rates by \$52,000,000 on an annual basis. In settlement, Equitable agreed to reduce the increase by \$14,000,000 (approximately 27%) to \$38,000,000. The Commission approved the rate case settlement in an Order entered February 26, 2009 at R-2008-2029325. Significant ratemaking adjustments were reflected in the reduced revenue level that Equitable ultimately accepted and the Commission ultimately approved in resolution of the base rate filing.

---

<sup>6</sup> Settlement Agreement, Paragraphs 5 and 16.c.

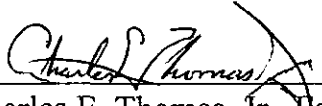
<sup>7</sup> Settlement Agreement, Paragraph 16.b.

<sup>8</sup> The settling parties in the rate case, including the Commission's Office of Trial Staff (now the Bureau of Investigation and Enforcement), expressly recognized in Settlement Term A.1 of the Joint Petition for Settlement of Rate Investigation that the settlement was "black box" in nature. As a "black box" settlement, the parties resolved any and all issues relating to any revenue or line items in a lump sum fashion.

6. In short, the Settlement Agreement presented by Equitable and Prosecutory Staff is consistent with established settlement criteria and the public interest.

**WHEREFORE** Equitable Gas Company, LLC requests that the Public Utility Commission accept the foregoing Comments and approve the Settlement Agreement at M-2011-2185982 in its entirety and without modification.

Respectfully submitted,  
EQUITABLE GAS COMPANY, LLC

By:   
Charles E. Thomas, Jr., Esquire  
Thomas T. Niesen, Esquire  
Thomas, Long, Niesen & Kennard  
212 Locust Street, Suite 500  
Post Office Box 9500  
Harrisburg, PA 17108-9500  
(717) 255-7600

David W. Gray  
General Counsel  
Equitable Gas Company, LLC  
225 North Shore Drive  
Pittsburgh, PA 15212  
(412) 395-3634

DATED: February 16, 2012

RECEIVED  
2012 FEB 16 PM 4:01  
P.A. PUC  
SECRETARY'S BUREAU

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Law Bureau Prosecutory Staff of the  
Pennsylvania Public Utility Commission,**

**Complainant**

**v.**

**Equitable Gas Company, LLC,**

**Respondent**

:  
:  
:  
:  
:  
:  
:  
:  
:  
:  
:

**Docket No. M-2011-2185982**

**CERTIFICATE OF SERVICE**

I hereby certify that I have this 16<sup>th</sup> day of February 2012, served a true and correct copy of the Comments of Equitable Gas Company, LLC regarding the Opinion and Order of the Public Utility Commission entered January 27, 2012, upon the persons and in the manner set forth below:

**BY FIRST CLASS MAIL, POSTAGE PREPAID**

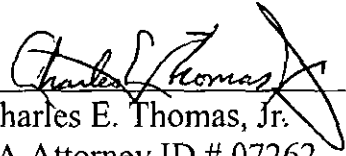
Bureau of Investigation and Enforcement  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17120

Office of Small Business Advocate  
Commerce Building, Suite 1102  
300 North Second Street  
Harrisburg, PA 17101

Carl S. Hisiro  
Heidi L. Wushinske  
Law Bureau Prosecutory Staff  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Darryl A. Lawrence  
Assistant Consumer Advocate  
Office of Consumer Advocate  
555 Walnut Street  
5<sup>th</sup> Floor, Forum Place  
Harrisburg, PA 17101-1923

RECEIVED  
2012 FEB 16 PM 4:01  
PA PUBLIC  
UTILITY  
COMMISSION  
SECRETARY'S BUREAU

  
Charles E. Thomas, Jr.  
PA Attorney ID # 07262