



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

February 13, 2012

Rosemary Chiavetta, Secretary
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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

Dear Secretary Chiavetta:

Attached please find the Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff's Response Comments to be filed in the above-captioned proceeding.

Copies have been served on the parties of record per the attached Certificate of
Service.

Sincerely,

A handwritten signature in cursive script, reading "Carl S. Hisiro".

Carl S. Hisiro
Law Bureau Prosecutory Staff

Enclosures

cc: Commissioner Robert F. Powelson, Chairman
Commissioner John F. Coleman, Jr., Vice Chairman
Commissioner Wayne E. Gardner
Commissioner James H. Cawley
Commissioner Pamela A. Witmer
Jan Freeman, Executive Director
Karen O. Moury, Director of Regulatory Operations
As per certificate of service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**RESPONSE COMMENTS OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION
LAW BUREAU PROSECUTORY STAFF
TO THE TENTATIVE ORDER ENTERED JANUARY 30, 2012**

This matter concerns an informal investigation of Equitable Gas Company (Equitable) regarding the transfer of intellectual property to EQT IP Ventures, LLC (EQT IP Ventures) in 2001 and subsequent affiliated interest transactions by Equitable with EQT IP Ventures. On December 2, 2011, Prosecutory Staff and Equitable filed a Settlement Agreement to resolve the matters relating to the informal investigation. The Settlement, among other things, provides for a civil penalty of \$40,000 to be paid by Equitable pursuant to 66 Pa. C.S. § 3301 and a contribution of \$85,000 to Equitable's Hardship Repair Fund to help low-income Equitable customers pay for home heating repair costs.

By Tentative Order entered January 27, 2012, the Commission requested comments from interested parties to the proposed Settlement within twenty days, or by

February 16, 2012. The January 27, 2012 Order was served on the Office of Consumer Advocate and the Office of Small Business Advocate.

In a separate Joint Statement of Commissioners Wayne E. Gardner and James H. Cawley attached to the January 27th Order, the Commissioners “request that Equitable, Prosecutory Staff and any other interested parties comment on any effect the transfer to EQT IP [Ventures] might have had on rates related to revenue requirements asserted by Equitable in its 2008 base rate case” at Docket No. R-2008-2029325. Joint Statement of Commissioners Gardner and Cawley at 2.

Prosecutory Staff is filing these comments to address solely the issue raised in the Joint Statement. Prosecutory Staff did examine closely the issue of whether the transfer of certain intangible/intellectual property to EQT IP Ventures and the subsequent royalty payments by Equitable to EQT IP Ventures had any effect on rates in Equitable’s 2008 base rate case. This examination included reviewing the entire base rate case docket filings and meeting on several occasions with staff from the former Office of Trial Staff that handled the rate case before the Commission.

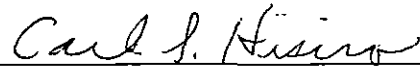
The results of this investigation into the 2008 base rate case led Prosecutory Staff to conclude that the transactions in question did not have any measurable impact on Equitable’s future rates. As Prosecutory Staff learned, because the licensing fee/royalty payments made by Equitable to EQT IP Ventures were “below the line,” the payments came from shareholder funds, not ratepayer funds. The licensing fee/royalty payments, therefore, did not have a direct impact on rates. Other findings also supported this conclusion: (1) there were no federal income tax implications in the 2008 base rate case

because Equitable files a Consolidated Tax Return with its parent and affiliates; (2) any impact would have shown in the state corporate taxes but in the 2008 base rate case, Equitable reported a state income tax liability at present rates of negative \$3,000,000; (3) the 2008 base rate case also included a net operating loss carry forward for state tax purposes; and (4) the negative tax liability and net operating loss carry forward would support no Pennsylvania tax liability in the 2008 proceeding, which, in turn, resulted in no impact on rates.

For the reasons set forth above, Prosecutory Staff urges this Commission to approve the Settlement submitted by the parties in this matter without any changes.

Dated: February 13, 2012

Respectfully submitted,



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

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CERTIFICATE OF SERVICE

I hereby certify that I am this day serving the foregoing Response Comments of the Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff in accordance with the requirements of 52 Pa. Code § 1.54 *et seq.* (relating to service by a participant).

Notification by hand delivery as follows:

Bureau of Investigation and Enforcement
PA Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Notification by first class mail addressed as follows:

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

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
Thomas, Long, Niesen & Kennard
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Date: February 13, 2012