

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, PA 17120

Equitable Gas Company
(NGS Supplier)

Public Meeting – March 1, 2012
1505395-OSA
Docket No. M-2009-1505395

DISSENTING STATEMENT OF
COMMISSIONER PAMELA A. WITMER

Before the Pennsylvania Public Utility Commission (“PUC” or “Commission”) today is an Order rejecting the Renegotiated Settlement Agreement (“RSA”) between the Commission’s Law Bureau Prosecutory Staff and Bureau of Transportation and Safety’s Gas Safety Division (collectively “Prosecutory Staff”)¹ and Equitable Gas Company, LLC (“Equitable”). On May 11, 2009, Prosecutory Staff and Equitable submitted an Initial Settlement Agreement in an attempt to resolve Equitable’s alleged violations of the Code of Federal Regulations and the rules and regulations of the Commission relative to natural gas pipeline safety that occurred in 2007 and 2008. Under the terms of the Initial Settlement Agreement, the parties agreed that Equitable would pay \$65,000 into its Hardship Repair Fund. By way of a Tentative Order issued in November 2009, which was affirmed by a Final Order entered on May 10, 2010, the Commission modified the Initial Settlement Agreement by requiring Equitable to pay a \$65,000 civil penalty in addition to the \$65,000 that the parties agreed would be paid into the Hardship Fund. Upon review of the Commission’s May 10, 2010, Final Order, Equitable exercised its option to withdraw from the Initial Settlement Agreement in June 2010.

In October 2011, the parties filed the RSA. The principal difference between the Initial Settlement Agreement and the RSA before us today is the agreement by Equitable to pay a civil penalty of \$5,000 in addition to the \$65,000 payment to its Hardship Repair Fund.

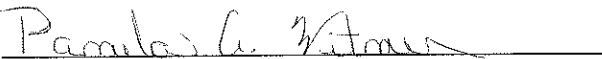
Penalties are an important and appropriate tool to impress upon utilities the importance of following Commission rules and regulations; however, they must be developed in a thoughtful and thorough manner and applied consistently. As a general rule, I am of the opinion that the PUC’s time, effort and resources, as well as those of our regulated entities, are better spent by taking corrective measures to ensure that errors are not repeated. The case before us is an example.

¹ By Order entered August 11, 2011, at Docket No. M-2008-2071852, the Commission transferred the legal prosecutory staff of the Law Bureau and the technical staff of the former Bureau of Transportation and Safety’s Gas Division to the Bureau of Investigation and Enforcement (“BI&E”). For purposes of this proceeding, the term “Prosecutory Staff” refers to the legal and technical staff who were previously assigned to the Law Bureau and the former Bureau of Transportation and Safety, respectively, and who are currently assigned to BI&E.

Notably, in addition to noting that approval of the RSA would eliminate costly and time consuming litigation that may have uncertain results, the parties specifically note that Equitable has undertaken and completed to the satisfaction of the Commission's Gas Safety Division all of the procedural and training requirements that were agreed to in the Initial Settlement Agreement and affirmed by the Commission in both its 2009 and 2010 Orders. Some of these changes included: developing new written procedures on a variety of safety matters; retraining all employees and contractors consistent with these new procedures; updating its distribution system maps; and ensuring that all applicable safety standards are met. Additionally, these steps were taken while cooperating with the PUC's investigation of this matter.

It is this type of cooperation and action by Equitable that I believe will lead to greater safety and reliability of service rather than the imposition of fines. Had there not been aggressive steps undertaken by Equitable toward corrective action, I would have completely supported levying appropriate civil penalties as I would in future cases. For these reasons, I support the RSA without modification; consequently, I respectfully dissent.

DATE: March 1, 2012


PAMELA A. WITMER
COMMISSIONER