



17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
717-731-1970 Main
717-731-1985 Main Fax
www.postschell.com

Michael W. Gang

mgang@postschell.com
717-612-6026 Direct
717-731-1985 Direct Fax
File #: 148677

July 25, 2012

Rosemary Chiavetta
Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

RE: Pennsylvania Public Utility Commission v. Peoples Natural Gas Company LLC
Docket No. R-2012-2285985 et al.

Dear Secretary Chiavetta:

Enclosed for filing is the Motion of Peoples Natural Gas Company LLC for a Protective Order in the above-referenced proceeding. Copies have been provided to the persons in the manner indicated on the Certificate of Service.

Respectfully Submitted,

Michael W. Gang

MWG/jl

Enclosures

cc: Certificate of Service
Honorable Mary D. Long

CERTIFICATE OF SERVICE
Docket No. R-2012-2285985 et al.

I hereby certify that a true and correct copy of the foregoing **Motion of Peoples Natural Gas Company LLC for a Protective Order** has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA E-MAIL & FIRST CLASS MAIL

James A. Mullins, Esquire
Christy M. Appleby, Esquire
Tanya J. McCloskey, Esquire
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Allison C. Kaster, Esquire
Pennsylvania Public Utility Commission
Bureau of Investigation & Enforcement
Commonwealth Keystone Building
400 North Street – 2 West
P.O. Box 3265
Harrisburg, PA 17105-3265

Elizabeth Rose Triscari, Esquire
Office of Small Business Advocate
Commerce Building, Suite 1102
300 N. Second Street
Harrisburg, PA 17101

Daniel P. Delaney, Esquire
K&L Gates LLP
17 North Second Street, 18th Floor
Harrisburg, PA 17101-1507
Counsel for *EQT Energy LLC*,
d/b/a Equitable Energy

Todd S. Stewart, Esquire
Hawke McKeon & Sniscak LLP
100 N. 10th Street
P. O. Box 1778
Harrisburg, PA 17105-1778
Counsel for *Dominion Retail, Inc./Interstate Gas Supply, Inc.*

Thomas J. Sniscak, Esquire
William E. Lehman, Esquire
Hawke McKeon & Sniscak LLP
100 N. 10th Street
P. O. Box 1778
Harrisburg, PA 17105-1778
Counsel for *The Pennsylvania State University*

Kevin J. Moody, Esquire
Vice President and General Counsel
Pennsylvania Independent Oil & Gas
Association
212 Locust Street, Suite 300
Harrisburg PA 17101
Counsel for *Pennsylvania Independent Oil & Gas Association*

Craig R. Burgraff, Esquire
Hawke McKeon & Sniscak LLP
100 N. 10th Street
P. O. Box 1778
Harrisburg, PA 17105-1778
Counsel for *Retail Energy Supply Association*

Vasiliki Karandrikas, Esquire
McNees Wallace & Nurick LLC
100 Pine Street
PO Box 1166
Harrisburg, PA 17108-1166
Counsel for *Snyder Brothers, Inc., et al.*

Joseph L. Vullo, Esquire
Burke Vullo Reilly Roberts
1460 Wyoming Avenue
Forty Fort, PA 18704
Counsel for *Community Action Association
of Pennsylvania ("CAAP")*

Harry S. Geller, Esquire
Patrick M. Cicero, Esquire
Pennsylvania Utility Law Project
118 Locust Street
Harrisburg, PA 17101
Counsel for *Coalition for Affordable Utility
Services and Energy Efficiency ("CAUSE-
PA")*

VIA E-MAIL ONLY

Jerome D. Mierzwa, Consultant
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Office of Consumer Advocate Consultant

Thomas Catlin, Consultant
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Office of Consumer Advocate Consultant

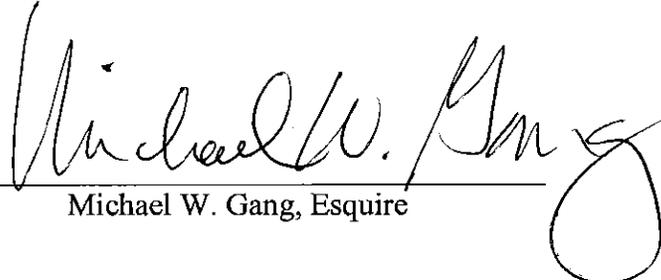
Matthew Kahal Consultant
Exeter Associates Inc.
10480 Little Patuxent Parkway
Suite 300
Columbia, MD 21044
Office of Consumer Advocate Consultant

Roger D. Colton
Fisher, Sheehan & Colton
34 Warwick Road
Belmont, MA 02478
Office of Consumer Advocate Consultant

Brian Kalcic, Consultant
Excel Consulting
225 S. Meramec Avenue
Suite 720-T
St. Louis, MO 63105
***Office of Small Business Advocate
Consultant***

James L. Crist, Consultant
Lumen Group, Inc
4226 Yarmouth Drive, Suite 101
Allison Park, PA 15101
Pennsylvania State University Consultant

DATED: July 25, 2012


Michael W. Gang, Esquire

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	Docket Nos. R-2012-2285985
Office of Small Business Advocate,	:	C-2012-2295218
Office of Consumer Advocate,	:	C-2012-2292047
Pennsylvania State University,	:	C-2012-2298317
Snyder Brothers, Inc. <i>et al.</i> ,	:	C-2012-2302859
D. Killmeyer,	:	C-2012-2295700
Raymond Anderson,	:	C-2012-2298575
Steven J. Swencki,	:	C-2012-2299156
James Weber, and	:	C-2012-2300419
Severo Miglioretti,	:	C-2012-2302827
	:	
Complainants	:	
	:	
v.	:	
	:	
Peoples Natural Gas Company LLC,	:	
	:	
Respondent	:	

**MOTION OF PEOPLES NATURAL GAS
COMPANY LLC FOR A PROTECTIVE ORDER**

TO ADMINISTRATIVE LAW JUDGE MARY D. LONG:

Peoples Natural Gas Company LLC (“Peoples”) hereby requests that the attached Protective Order be entered in the above-captioned proceeding pursuant to the provisions of 52 Pa. Code § 5.423(a). In support thereof, Peoples represents as follows:

1. On February 28, 2012, Peoples filed Retail Tariff Gas – PA PUC No. 45 and Supplement No. 6 to Supplier Tariff Gas – PA PUC No. S-2 (collectively “Tariffs”) with the Commission. Peoples proposed changes in rates and rules to become effective on April 28, 2012, based upon the pro forma future test year ending October 31, 2012. The filing was made in compliance with the Commission’s regulations and contains all supporting data and testimony required to be submitted in conjunction with a tariff change seeking a general rate increase.

2. Proprietary Information within the definition of 52 Pa. Code § 5.423 is contained in the filing, and additional Proprietary Information was requested and presented during the course of this proceeding pursuant to certain protective agreements that Peoples entered into with various parties.¹ The presence of Proprietary Information justifies the issuance of a Protective Order because unrestricted disclosure of such information would not be in the public interest.

3. In order to protect the public interest, Proprietary Information in this proceeding should be afforded the restrictions and protections specified in 52 Pa. Code § 5.423 through the issuance by the presiding Administrative Law Judge of Orders granting, pursuant to the said regulation, the relief requested herein.

4. Under 52 Pa. Code §§ 5.362(a)(7) and 5.423, the presiding Administrative Law Judge may issue a Protective Order to limit or prohibit disclosure of confidential commercial information where the potential harm to a participant would be substantial and outweighs the public's interest in having access to the confidential information. In applying this standard, relevant factors to be considered include: the extent to which disclosure would cause unfair economic or competitive damage; the extent to which the information may already be known by others; and the potential value of such information to the participant and the participant's competitors and trade partners. 52 Pa. Code §§ 5.423(a)(1) – (3).

5. The attached proposed Protective Order defines two categories of protected information.

a. The first is “Confidential” information, which is defined in Paragraph 3 of the attached proposed Protective Order as “all correspondence, documents, data, information, studies, methodologies and other materials, furnished in this proceeding pursuant to Commission rules and regulations, discovery procedures, testimony or oral

¹ Pursuant to these agreements, prior to receiving Proprietary Information, representatives for each party executed a written acknowledgement in the form attached as Appendix A to the Protective Order.

examination, or provided as a courtesy to a party to this proceeding, which are believed by the disclosing Party to be of a proprietary or confidential nature and which are so designated by being stamped 'Proprietary Information' or 'Confidential.'"

b. The second is "Highly Confidential" information, which is defined in Paragraph 3 of the attached proposed Protective Order as "materials that are commercially sensitive or of a private, personal nature. Such Highly Confidential Information shall be only such Proprietary Information that constitutes or describes the producing party's or, in the event that the information involves a specific customer of Peoples, such customer's (i) names or customers' prospects' names, addresses, annual volumes of gas usage, or other customer-identifying information, (ii) marketing plans, (iii) competitive strategies or service alternatives, (iv) market share projections, (v) competitive pricing or discounting information; and (vi) marketing materials that have not yet been used.

Clearly, protecting this type of information from disclosure is appropriate under 52 Pa. Code § 5.423.

6. Paragraph 12 of the attached proposed Protective Order protects against overly broad designations of protected information by giving all parties "the right to question or challenge the confidential or proprietary nature of the Proprietary or Highly Confidential Information."

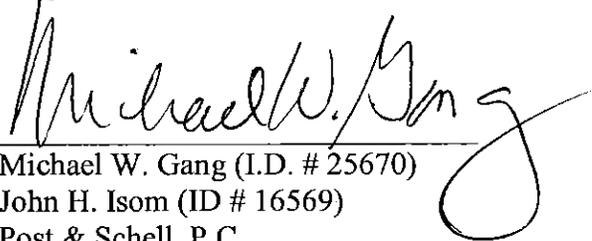
7. Limitation on the disclosure of proprietary information will not prejudice the rights of the participants, nor will such limitation frustrate the prompt and fair resolution of this proceeding. The proposed Protective Order balances the interests of the parties, the public, and the Commission.

8. The attached proposed Protective Order will protect the confidential information while allowing the parties to use such information for purposes of the instant litigation.

9. Copies of this Motion and the attached form of Protective Order have been provided to counsel of record for all parties represented by counsel on July 23, 2012. No party has objected to this Motion or the form of protective order attached hereto.

WHEREFORE, for all the foregoing reasons, Peoples Natural Gas Company LLC requests that Office of Administrative Law Judge or the Commission grant this Motion and issue the attached Protective Order.

Respectfully submitted,



Michael W. Gang (I.D. # 25670)
John H. Isom (ID # 16569)
Post & Schell, P.C.
17 North Second Street
12th Floor
Harrisburg, PA 17101-1601
Phone: 717-731-1970
Fax: 717-731-1985
E-mail: mgang@postschell.com
E-mail: jisom@postschell.com

William H. Roberts, Esquire (ID # 54724)
Senior Counsel
Peoples Natural Gas Company LLC
375 North Shore Drive
Pittsburgh, PA 15221
Phone: 412-208-6527
Fax: 412-208-6575
Email: william.h.roberts@peoples-gas.com

Of Counsel:

Post & Schell, P.C.

Date: July 25, 2012

Attorneys for Peoples Natural Gas Company LLC

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

PENNSYLVANIA PUBLIC UTILITY	:	
COMMISSION	:	
	:	
v.	:	Docket No. R-2010-2201702
	:	
PEOPLES NATURAL GAS COMPANY	:	
LLC	:	

PROTECTIVE ORDER

Upon consideration of the Motion for a Protective Order that was filed by Peoples Natural Gas Company LLC (“Peoples”) on July 25, 2012;

IT IS ORDERED THAT:

1. The Motion is hereby granted with respect to all materials and information identified in Paragraphs 2 and 3 below, which have been or will be filed with the Commission, produced in discovery, or otherwise presented during the above-captioned proceeding and all consolidated proceedings. All persons previously or hereafter granted access to the materials and information identified in Ordering Paragraphs 2 and 3 of this Protective Order shall use and disclose such information only in accordance with this Protective Order.

2. The materials or information subject to this Protective Order is all correspondence, documents, data, information, studies, methodologies and other materials, furnished in this proceeding pursuant to Commission rules and regulations, discovery procedures, testimony or oral examination, or provided as a courtesy to a party to this proceeding, which are believed by the disclosing Party to be of a proprietary or confidential nature and which are so designated by being stamped “Proprietary Information” or “Confidential.” Such materials will be referred to below as “Proprietary Information.”

3. That the Parties may designate as “Confidential” those materials which customarily are treated by that Party as sensitive or proprietary, which are not available to the public or which, if disclosed freely, would subject that Party or others to risk of competitive disadvantage or other business injury.

4. That the Parties may designate as “Highly Confidential” those materials that are commercially sensitive or of a private, personal nature. Such Highly Confidential Information shall be only such Proprietary Information that constitutes or describes the producing party’s or, in the event that the information involves a specific customer of Peoples, such customer’s (i) names or customers’ prospects’ names, addresses, annual volumes of gas usage, or other customer-identifying information, (ii) marketing plans, (iii) competitive strategies or service alternatives, (iv) market share projections, (v) competitive pricing or discounting information; and (vi) marketing materials that have not yet been used.

5. That Proprietary Information shall be made available to counsel for the Party, subject to the terms of this Protective Order. Such counsel shall use or disclose the Proprietary Information only for purposes of preparing or presenting evidence, cross examination or argument in this proceeding. To the extent required for participation in this proceeding, counsel for a Party may afford access to Proprietary Information subject to the conditions set forth herein.

6. For purposes of filing, to the extent that Proprietary Information is placed in the Commission’s report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission’s testimony or documents folders, such information shall be separately bound, and

conspicuously marked. Public inspection of Proprietary Information and Highly Confidential Information shall be permitted only in accord with this Protective Order.

7. Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding pursuant to the following procedures:

(a) Proprietary Information. To the extent required for participation in this proceeding, a party's counsel may afford access to Proprietary Information made available by another party to the party's expert(s), subject to the following restrictions.

(i) Such experts may not hold any of the following positions with any competitor of the producing party: (a) an officer, board member, stockholder, partner, owner, or an employee, who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (b) an officer, board member, stockholder, partner, owner of any affiliate of a competitor of the producing party; provided, however, that any expert shall not be disqualified on account of being a stockholder, partner, or owner unless his/her interest in the business constitutes a significant potential for violation of the limitations of permissible use of the Proprietary Information.

(ii) If a party's independent expert, another member of the independent expert's firm or the independent expert's firm generally also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the producing party, said independent expert must: (a) advise the producing party of the competitor's or affiliate's names(s), (b) make reasonable attempts to

segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a competitor or any affiliate of a competitor of the producing party; and (c) if segregation of such personnel is impractical, the independent expert shall give to the producing party written assurances that the lack of segregation will in no way jeopardize the interests of the producing party. The producing party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

(iii) Any information provided under this provision may be used only for and to the extent that it is necessary for participation in this proceeding; any person obtaining information through this provision may not use that information to gain any commercial advantage and any person obtaining information may not forward it to any person to gain commercial advantage.

(b) Highly Confidential Information. Highly Confidential Information shall be produced for inspection by party's counsel of record only.² If the inspecting lawyer desires copies of such material, or desires to disclose its contents to persons other than counsel of record, she or he shall submit a written request to the producing party's counsel. If requesting and producing parties are unable to reach agreement with respect to such a request, they may submit the issue to the presiding Administrative Law Judge; provided, however, that, in the event that the information involves a specific customer of Peoples, then such customer's information shall be provided only to Counsel and their expert witnesses upon the execution by the expert witness of the Affidavit attached to this Protective Order.

² Highly Confidential Information shall be produced to the Counsel of record for the Bureau of Investigation and Enforcement, Office of Small Business Advocate and the Office of Consumer Advocate. Counsel for these parties may make such information available to paralegals, or other associated employees and to their expert witnesses or an employee of an expert witness upon execution of the Affidavit attached to this Protective Order. The provisions of Paragraph 7(b) shall be otherwise inapplicable to Counsel for these parties and their expert witnesses.

(c) No other persons may have access to the Proprietary or Highly Confidential Information except as authorized by order of the Commission or of the presiding Administrative Law Judge. No person who may be entitled to receive, or who is afforded access to any Proprietary or Highly Confidential Information shall use or disclose such information for the purposes of business or competition, or any purpose other than the preparation for and conduct of this proceeding or any administrative or judicial review thereof.

8. Prior to making Proprietary or Highly Confidential Information available to any person as provided in paragraph 6 of this Protective Order, counsel shall deliver a copy of this Protective Order to such person and shall receive a written acknowledgment from that person in the form attached to this Protective Order and designated as Appendix A. Counsel shall promptly deliver to the producing party a copy of the executed acknowledgment form.

9. That the Parties shall designate data or documents as constituting or containing Proprietary Information by stamping the documents "Confidential" or "Highly Confidential." Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information, the Parties, insofar as reasonably practicable within discovery and other time constraints imposed in this proceeding, shall designate only the specific data or pages of documents which constitute or contain Proprietary Information. The Proprietary Information shall be served in an envelope separate from the nonproprietary materials, and the envelope shall be conspicuously marked "Confidential" or "Highly Confidential."

10. That the Parties will consider and treat the Proprietary Information as within the definition of "confidential information" in Section 102 of the Pennsylvania Right-to-Know Law of 2008, 65 P.S. § 67.102 and subject to exemptions from disclosure as provided for in Section

708 of the Pennsylvania Right-to-Know Law of 2008, 65 P.S. § 67.708, until the information is found by a tribunal with jurisdiction to be not confidential or subject to one or more exemptions.

11. That any public reference to Proprietary Information by a Party shall be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information to understand fully the reference and not more. The Proprietary Information shall remain a part of the record, to the extent admitted, for all purposes of administrative or judicial review.

12. That any part of the record of this proceeding containing Proprietary Information, including but not limited to all exhibits, writings, testimony, cross examination and argument, and including reference thereto as mentioned in paragraph 6 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the Parties to this Protective Order or pursuant to an order of the Administrative Law Judge, the Commission or appellate court. Unresolved challenges arising under paragraph 11 shall be decided on motion or petition by the presiding officer or the Commission as provided by 52 Pa. Code § 5.423(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

13. That the Parties shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information; to question or challenge the admissibility of Proprietary Information; to refuse or object to the production of Proprietary or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary or Highly Confidential Information beyond that allowed in this Protective Order; and to seek additional

measures of protection of Proprietary or Highly Confidential Information beyond those provided in this Order. If a Party challenges the designation of a document or information as proprietary, the Party providing the information retains the burden of demonstrating that the designation is necessary and appropriate.

14. That within 30 days after a Commission final order is entered in the above-captioned proceeding, or in the event of appeals, within thirty days after appeals are finally decided, the Party, upon request, shall either destroy or return to the Parties all copies of all documents and other materials not entered into the record, including notes, which contain any Proprietary Information; provided however that the Party shall not be required to destroy or alter back-up or archive tapes from its computer system that may have been generated during the time that the Party possessed the Proprietary Information but the Party shall take reasonable steps to ensure that unauthorized persons (other than information technology personnel or consultants) do not have access to such back-up or archive tapes until such time that the Proprietary Information is removed from the back-up or archive tapes. In the event that the Party elects to destroy all copies of documents and other materials containing Proprietary Information, as limited above, instead of returning the copies of documents and other materials containing Proprietary Information to the Parties, the Party shall certify in writing to the other Party that the Proprietary Information has been destroyed.

Dated: _____

Administrative Law Judge

**APPENDIX A
BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	Docket Nos. R-2012-2285985
Complainants	:	
	:	
v.	:	
	:	
Peoples Natural Gas Company LLC,	:	
	:	
Respondent	:	

TO WHOM IT MAY CONCERN:

The undersigned is the Reviewing Representative of _____ (the retaining party), a party to this proceeding, and is not, or has no knowledge or basis for believing that he or she is a he/she is: (1) an officer, board member, stockholder, partner or owner of any competitor of Peoples Natural Gas Company (the "Producing Party") or, in the event that the information involves a specific customer of Peoples Natural Gas Company LLC, such customer; or an employee of any competitor of the Producing Party or such customer who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the Producing Party or such customer; or (2) an officer, board member, stockholder, partner, or owner of any affiliate of a Competitor of the Producing Party or such customer.

The undersigned agrees that any Confidential or Highly Confidential Information shall be used or disclosed only for purposes of preparation for, and conduct of the above captioned proceedings, and any administrative or judicial review thereof, and shall not be disclosed or used for any other purposes whatsoever. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 5 of the Order prior to submitting this Affidavit.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE: _____