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October 11, 2012

Via E-Filing

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. R-2012-2312577
Pennsylvania Public Utility Commission v. Equitable Gas Company, LLC
[Supplement No. 86 to Tariff Gas - Pa. P.U.C. No. 22]

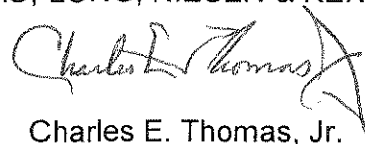
Dear Secretary Chiavetta:

Enclosed for filing in the above matter is Equitable Gas Company's Petition for Protective Order. Copies of the Company's Petition are being served on Administrative Law Judge Long and parties of record in accordance with the Certificate of Service attached to the Petition.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By


Charles E. Thomas, Jr.

cc: Certificate of Service
David W. Gray, Esq.

121011 - Chiavetta (Petition for Protective Order).wpd

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	R-2012-2312577, et al.
	:	
v.	:	
	:	
Equitable Gas Company, LLC	:	

PETITION FOR PROTECTIVE ORDER

AND NOW, comes Equitable Gas Company, LLC (“Equitable” or “Company”), by its attorneys, and, pursuant to 52 Pa. Code § 5.423, petitions for the issuance of a Protective Order, in the form attached as Attachment A, to limit the disclosure of proprietary and confidential information in the above captioned proceeding. In support thereof, Equitable respectfully represents as follows:

1. On June 29, 2012, Equitable filed with the Public Utility Commission (“Commission”) an Application for approval of affiliated interest agreements and, such other approvals, if any, as may be necessary for it to acquire the Goodwin Gathering System from its affiliate, EQT Gathering, LLC, and the Tombaugh Gathering System from its affiliate, Equitrans, LP. Contemporaneously therewith, Equitable filed Supplement No. 86 to its Tariff Gas Pa PUC No. 22. Supplement No. 86 proposes a new Rider E - Appalachian Production Enhancement Program Surcharge, which provides a method of cost recovery for qualifying projects that will provide long-term customer benefits in the form of net gas cost savings to Equitable customers, enhanced and expanded gathering system service for Pennsylvania producers, and increased Pennsylvania produced Appalachian gas available for customers and NGSs to purchase for delivery on the Equitable distribution system.

2. The matter was assigned to Administrative Law Judge Mary D. Long. A Prehearing Conference was held on September 18, 2012, where a litigation schedule was established. On September 24, 2012, Judge Long issued a Prehearing Order memorializing the matters decided and agreed upon by the parties attending the conference, granting the intervention of the Pennsylvania Independent Oil and Gas Association (“PIOGA”), and consolidating the proceedings for purposes of litigation.

3. Discovery is proceeding and several interrogatories propounded by the Office of Consumer Advocate (“OCA”) and PIOGA seek information and documents that Equitable considers proprietary and confidential, including requests for disclosure of negotiated revenue and volumes, identity of producers and producer interconnections and detailed gathering system maps. PIOGA discovery acknowledges that some of the information it seeks may be proprietary or confidential.

4. There is also the possibility that the materials which Equitable and other parties will be furnishing in this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or as a courtesy to others, will contain proprietary and confidential information.

5. The disclosure of proprietary and confidential information, without restriction, would expose the Company and/or its customers to potential harm, including economic and competitive damage. Accordingly, the issuance of a protective order adequate to safeguard all parties and establish procedures in accordance with 52 Pa. Code § 5.423 for the provision and treatment of proprietary and confidential information is appropriate and would facilitate the orderly and efficient processing of this proceeding.

6. To avoid controversy, Equitable proposes to use the form of Protective Order

adopted in recent Company proceedings before the Commission, including recent prior Section 1307(f) proceedings and the Company's 2008 Base Rate Proceeding at Docket No. R-2008-2029325. A proposed Protective Order, which is substantively identical to the Protective Order issued by Administrative Law Judge Dunderdale in the Company's most recent 1307(f) proceeding at Docket No. R-2012-2287044, is attached as Attachment A hereto. The only modifications to the recent 1307(f) Protective Order are minor additions proposed by the OCA to Paragraph 17, which insert in several spots the phrase "upon request."

7. PIOGA has proposed modifications to the Protective Order, which depart from the usual language and which the Company views as unacceptable. In particular, PIOGA desires to be treated in the same manner as the statutory advocates with respect to access to highly confidential information. Under the usual Protective Order language, all counsel for the statutory advocates are provided with copies of highly confidential information. Counsel for private litigants, however, are provided with the opportunity to inspect highly confidential information in the office of producer's counsel. Counsel can submit a written request for copies after review. This established process limits the number of copies of highly confidential information that are placed in circulation, while not denying any party review of highly confidential information. The established process is reasonable and should be followed here.

8. Other PIOGA proposed modifications to the Protective Order, which likewise depart from the usual language and which the Company views as unacceptable, would allow PIOGA to disclose protected information to its witnesses. These witnesses, which are unidentified, might include PIOGA officers or members. These witnesses could have competitive or other interests adverse to Equitable in matters other than these proceedings which would warrant non-disclosure to them under even the protection of a Protective Order. They also


might have interests adverse to other PIOGA members. All of the foregoing provides further support for the use of the standard Protective Order language here, as it has been used in other prior Equitable proceedings.

9. The issuance of a Protective Order in this proceeding that is substantively similar to the one issued by Judge Dunderdale a few months ago in the Company's 1307(f) proceeding is in the public interest and will expedite the provision of information, prevent competitive and economic harm, avoid controversy, and serve administrative economy and efficiency. It is also consistent in terms of scope and breadth with the protective orders issued in previous Equitable cases. Given the proximity of PIOGA counsel's office to those of Equitable's counsel (two floors on the elevator), PIOGA would not be greatly inconvenienced in its initial review of the subject information. Matters regarding further review of the information could be addressed as they arise.

WHEREFORE, for the reasons set forth above, Equitable Gas Company, LLC respectfully requests that the Administrative Law Judge Mary D. Long grant this Petition and enter the Protective Order attached hereto as Attachment A.

Respectfully submitted,

EQUITABLE GAS COMPANY, LLC

By 

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Attorneys for Equitable Gas Company, LLC

Dated: October 11, 2012

ATTACHMENT A

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Mary D. Long, Presiding

Pennsylvania Public Utility	:	R-2012-2312577
Commission, <i>et al.</i>	:	G-2012-2312597
	:	C-2012-2315323
v.	:	
	:	
Equitable Gas Company, LLC	:	

PROTECTIVE ORDER

Equitable Gas Company, LLC (Equitable) has filed a petition for the issuance of a protective order in this consolidated proceeding pursuant to 52 Pa. Code § 5.423. The petition should be granted and a protective order.

THEREFORE,

IT IS HEREBY ORDERED:

1. That the petition for a protective order filed by Equitable is granted with respect to all materials and information identified in Paragraph 2 below, which are filed with the Commission, produced in discovery, or otherwise presented during these proceedings. All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. That the materials subject to this Protective Order are all correspondence, documents, data, information, excerpts, summaries, studies, methodologies and other materials (including materials derived therefrom) which a party or an affiliate of a party furnishes in this proceeding pursuant to Commission rules and regulations, formal and informal discovery procedures, testimony or oral examination, or provided as a courtesy to a party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated by the producing party as "PROPRIETARY INFORMATION" or

“CONFIDENTIAL AND PROPRIETARY” (hereinafter collectively referred to as “Proprietary Information”).

In addition, the parties may designate extremely sensitive Proprietary Information as “HIGHLY CONFIDENTIAL INFORMATION” or “HIGHLY CONFIDENTIAL MATTER” (hereinafter referred to as “Highly Confidential Information”) and thus secure the additional protections set forth in this Order pertaining to such material. Such Highly Confidential Information shall be only such Proprietary Information that: (1) is subject to Confidentiality Agreements and/or Protective Orders from other proceedings; (2) in the case of Equitable, disclosure would jeopardize the Company’s competitive ability to secure least cost gas supplies and lower costs for the provision of service; or (3) constitutes or describes the producing party’s (i) marketing plans, (ii) competitive strategies or service alternatives of the producing party or its customers, (iii) market share projections, (iv) competitive pricing, negotiated pricing or discounting information, and (v) marketing materials that have not yet been used. In addition, in the event that the information involves a specific customer of Equitable, the specific customer’s name or its prospects’ names, its/their addresses, annual volumes of gas usage, or other customer-identifying information, service characteristics and service alternatives shall be considered Highly Confidential.

3. That for purposes of this proceeding, to the extent that Proprietary Information and Highly Confidential 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 document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information and Highly Confidential Information shall be permitted only in accordance with this Protective Order.

4. That Proprietary Information and Highly Confidential Information shall be made available to counsel of record in this proceeding on a limited basis in accordance with 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 ("the producing party") to the party's consultant(s)/expert(s), subject to the following restrictions:

i. Such consultant(s)/expert(s) may not hold any of the following positions with any competitor of the producing party (including in the case of Equitable, other local distribution companies with which it shares overlapping service territories): (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 consultant/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 consultant/expert, another member of the independent consultant's/expert's firm or the independent consultant's/expert's firm generally also serves or has in the past served as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the producing party (including in the case of Equitable, other local distribution companies), said independent consultant/expert must: (1) advise the producing party of the competitor's or affiliate's name(s); (2) make reasonable attempts to segregate those personnel assisting in the consultant's/expert's participation in this proceeding from those personnel working or who have worked on behalf of a competitor or any affiliate of a competitor of the producing party; and (3) if segregation of such personnel is impractical, the independent consultant/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 disclosed 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 made available to counsel for the Bureau of Investigation and Enforcement (I&E), Office of Consumer Advocate (OCA) and Office of Small Business Advocate (OSBA). Counsel for I&E, OCA and OSBA may make such information available to their witnesses upon the witness' execution of an Affidavit in the form attached to this Protective Order as Appendix A. Highly Confidential Information shall be produced for inspection only by counsel for other parties of record. 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 the 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. In the meantime, the information shall be provided only to counsel for I&E, OCA and OSBA and their witnesses upon the witness' execution of the Affidavit attached to this Protective Order.

c. No other persons may have access to the Proprietary Information 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.

5. That prior to making Proprietary Information or Highly Confidential Information available to any person as provided in paragraph 4 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 Order and designated as Appendix B. Counsel shall promptly deliver to the producing party a copy of the executed acknowledgment form.

6. That a producing party shall designate data or documents as constituting or containing Proprietary Information or Highly Confidential Information by affixing an appropriate proprietary stamp or typewritten designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary Information or Highly Confidential Information, the producing party shall designate only the specific data or pages of documents, which constitute or contain Proprietary Information or Highly Confidential Information.

7. That to the extent that the party receiving Proprietary Information or Highly Confidential Information is subject to the Pennsylvania Right-To-Know Act, that party shall consider and treat the Proprietary Information and Highly Confidential Information as within the exemptions from disclosure provided in the Pennsylvania Right-To-Know Act as set forth in 65 P.S. Section 67.305(a), until such documents and information are found to be non-confidential or non-proprietary.

8. That every person to whom disclosure is made of any Proprietary Information or Highly Confidential Information subject to this Protective Order shall be informed of the terms of this Protective Order, and shall agree to be bound by it, and his or her name shall be designated in writing to the producing party within five days of the date on which the first disclosure is made. Every such person shall also sign a Protective Order Acknowledgment in the form attached hereto, copies of which, after execution, must be supplied to the producing party. Copies of the executed forms shall be forwarded to counsel for the

producing party. The Parties expressly agree that all such persons to whom Proprietary Information or Highly Confidential Information is disclosed may use such Proprietary Information or Highly Confidential Information solely for preparing or presenting evidence, cross-examination, argument or briefing in the proceeding and for no other purpose.

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

10. That the part of any record of this proceeding containing Proprietary Information or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross-examination, argument and responses to discovery, and including reference thereto as mentioned in Ordering Paragraph 9 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information or Highly Confidential Information is released from the restrictions of this Protective Order, either through the agreement of the parties or pursuant to 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.

11. That the parties affected by the terms of this Protective Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information or Highly Confidential Information; to question or challenge the admissibility of Proprietary Information or Highly Confidential Information; to refuse or object to the production of Proprietary Information 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 Information or Highly Confidential Information beyond that allowed in this Protective Order; and to seek additional measures of protection of Proprietary Information or Highly Confidential Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary Information or Highly Confidential, the party claiming that the information is Proprietary Information or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

12. That a party may move the Commission for an Order that allows it to disclose particular Proprietary Information or Highly Confidential Information to persons not permitted access to such Proprietary Information or Highly Confidential Information pursuant to the terms of this Protective Order. Before moving the Commission for such an Order, however, a party, through his, her or its counsel, shall make a request in writing to the attorneys for the producing party, and thereafter, the attorneys of record shall meet or confer by telephone to attempt to resolve the request. Any resolution shall be set forth in writing and signed by the moving and producing parties' attorneys. Any Motion filed pursuant to this paragraph shall be accompanied by a certification by the attorney for the moving party that the moving party has complied with the provisions of this paragraph. While any Motion filed pursuant to this paragraph is pending, the moving party shall not disclose the Proprietary Information or Highly Confidential Information in question to any persons not permitted access to such Proprietary Information or Highly Confidential Information pursuant to the terms of this Protective Order.

13. That the parties agree to investigate reasonable alternatives before proposing to place into the public record any deposition, brief, memorandum, written discovery material, or other writing that: (1) refers to, discusses, or directly relates to, Proprietary Information or Highly Confidential Information, or (2) has any such Proprietary Information or Highly Confidential Information affixed thereto as an exhibit or otherwise. If a party determines that it cannot agree to any reasonable alternative to public disclosure of any such writing, the party shall file any such writing under seal. Counsels' copies of all such writings shall be subject to the provisions of this Protective Order concerning disclosure and use.

14. That if a producing party includes material it has designated as “PROPRIETARY” or “HIGHLY CONFIDENTIAL,” or references thereto that disclose the matter designated as “PROPRIETARY” or “HIGHLY CONFIDENTIAL,” in any unsealed filing of its own to the Commission, that producing party waives the protection provided by this Protective Order with respect to such Proprietary Information or Highly Confidential Information, with the exception that, for testimony and exhibits designated as “PROPRIETARY” or “HIGHLY CONFIDENTIAL,” the producing party does not waive any protections provided by this Protective Order by including the Proprietary Information or Highly Confidential Information in its application, testimony, or exhibits, as filed with the Commission.

15. That any party, who believes that another party has violated or intends to disclose or use any Proprietary Information or Highly Confidential Information in a manner prohibited by this Protective Order, may move the Commission for an Order imposing appropriate sanctions on the party allegedly in violation of this Protective Order, and/or directing the adverse party to refrain from such disclosure or use when appropriate. The parties agree that the Commission shall have the authority to adjudicate such a dispute and agree to be bound by whatever determination the Commission makes.

16. That this Protective Order shall continue to be binding throughout and after the conclusion of proceedings in the above-captioned matter.

17. That within 30 days after a Commission decision is entered in the proceeding, or in the event of appeals, within thirty days after appeals are finally decided: (1) any party receiving Highly Confidential Information, upon request, must return that information, as well as any notes, whether written or oral, which contain any Highly Confidential Information to the producing party or, in the alternative, if the producing party agrees, destroy all copies of documents and other materials containing Highly Confidential Information, as well as any notes, whether written or oral, which contain any Highly Confidential Information, and, upon request, certify to the producing party that the Highly Confidential Information has been destroyed; and

(2) any party receiving Proprietary Information, upon request, shall either destroy or return to the producing party all copies of all documents and other materials not entered into the record, including notes, whether written or oral, which contain any Proprietary Information. In the event that a party elects to destroy all copies of documents and other materials containing Proprietary Information instead of returning them to the producing party, such party shall, upon request, certify in writing to the producing party that the Proprietary Information has been destroyed.

Date: _____

Mary D. Long,
Administrative Law Judge

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, *et al.* : R-2012-2312577
: G-2012-2312597
v. : C-2012-2315323
:
Equitable Gas Company, LLC :

AFFIDAVIT

I _____ (Affiant), being duly sworn (affirmed) according to law, depose and say that I am _____ and am participating in the proceedings on behalf of _____ and that I am not, nor do I have any basis for believing that I am: (1) an officer, board member, stockholder, partner or owner of any competitor of _____ (the "Producing Party") or, in the event that the information involves a specific customer of Equitable Gas Company, that I am an officer, board member, stockholder, partner or owner of any competitor of 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.

I have read and understand that the Protective Order deals with the treatment of Proprietary Information and Highly Confidential Information. I agree to be bound by, and comply with, the terms and conditions of said Order. To the extent that I am participating on behalf of a party in the proceeding as an independent consultant/expert, I hereby represent that I have complied with the provisions of paragraph 4(a)(ii) of the Protective Order prior to submitting this Affidavit.

DATE: _____

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

Sworn to and subscribed before me this _____ day of _____, 2012.

(Signature of official administering oath)

APPENDIX A

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission, <i>et al.</i>	:	R-2012-2312577
	:	G-2012-2312597
v.	:	C-2012-2315323
	:	
Equitable Gas Company, LLC	:	

PROTECTIVE ORDER ACKNOWLEDGMENT

I hereby acknowledge that I have read the attached Protective Order, which governs the disclosure and use of certain documents and other information produced in the above-captioned proceeding. I hereby further acknowledge that I understand and agree to abide by the terms of the Protective Order.

DATE: _____

NAME: _____

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility Commission, *et al.* : R-2012-2312577, et al.
: :
: :
v. : :
: :
Equitable Gas Company, LLC :

CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of October 2012 served a true and correct copy of the foregoing Petition for Protective Order, in the above proceedings, upon the persons via electronic and first class mail, as follows:

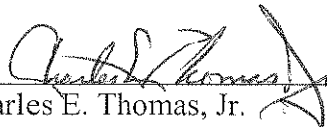
The Honorable Mary D. Long
Administrative Law Judge
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