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November 26, 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

Re: Dockets Nos. R-2012-2304727, R-2012-2304731 and R-2012-2304735
Equitable Gas Company, LLC Request for Approval of Tariff Supplement

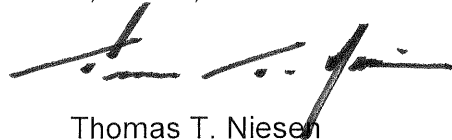
Dear Secretary Chiavetta:

We are counsel to Equitable Gas Company, LLC in the above matter and, in accordance with your letter of November 2, 2012, are submitting the Company's Replies to the Exceptions of the Retail Energy Supply Association via E-Filing. Copies of Equitable's Replies to Exceptions are being served upon the persons and in the manner set forth on the certificate of service attached to them.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By



Thomas T. Niesen

Encl.

cc: Certificate of Service (w/encl.)
John M. Quinn (w/encl.)
David W. Gray, Esq. (w/encl.)

121126 - Chiavetta (Reply Exceptions).wpd

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Equitable Gas Company, LLC Request for Approval of Supplement No. 79 to Tariff Gas Pa. P.U.C. No. 22	:	R-2012-2304727
	:	
Equitable Gas Company, LLC Request for Approval of Supplement No. 80 to Tariff Gas Pa. P.U.C. No. 22	:	R-2012-2304731
	:	
Equitable Gas Company, LLC Request for Approval of Supplement No. 81 to Tariff Gas Pa. P.U.C. No. 22	:	R-2012-2304735
	:	
Office of Consumer Advocate	:	C-2012-2309502
	:	C-2012-2309538
v.	:	C-2012-2309549
	:	
Equitable Gas Company	:	

**REPLIES OF
EQUITABLE GAS COMPANY, LLC TO THE
EXCEPTIONS OF THE RETAIL ENERGY SUPPLY ASSOCIATION**

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Date: November 26, 2012

TABLE OF CONTENTS

I. INTRODUCTION 1

II. EXCEPTIONS 2

Reply to RESA Exception No. 1 - The Commission should review and approve Equitable’s proposed POR Program 2

Reply to RESA Exception No. 2 - Equitable’s proposed POR Program is consistent with the established POR program design elements. The Commission should refuse to expand the participation cap to small commercial and small industrial customers with usage of 5,000 Mcf per year or less..... 2

Reply to RESA Exception No. 3 - Equitable’s proposed POR Program is consistent with the established POR program design elements. The Commission should approve the Company’s proposed eligibility requirement and preclude the “cherry picking” ability proposed by RESA. 4

III. CONCLUSION 6

I. INTRODUCTION

This proceeding concerns Supplements Nos. 79, 80 and 81 (collectively, the “Supplements”) filed by Equitable Gas Company, LLC (“Equitable” or “Company”) to its Tariff Gas-Pa. P.U.C. No. 22. The Supplements propose options for adjusting customer billing as a result of changes in the heating value of natural gas. The Supplements also propose a Purchase of Receivables (“POR”) Program.

By Recommended Decision dated October 26, 2012, Administrative Law Judge Johnson denied the Company’s proposals to implement a Btu adjustment mechanism and its proposed POR Program. On November 16, 2012, Equitable filed Exceptions to the Recommended Decision in support of its Btu adjustment mechanism proposal and its proposed POR Program.¹

Exceptions to the Recommended Decision were also filed by the Retail Energy Supply Association (“RESA”). The RESA Exceptions address only the proposed POR Program and ask that the Public Utility Commission (“Commission”) adopt the Program with two modifications: raising the participation cap to 5,000 Mcf/year and removing the Company’s proposed POR eligibility requirement.

Equitable submits the following Replies in opposition to the RESA Exceptions and in support of its proposed POR Program.²

¹ The Office of Consumer Advocate and the Bureau of Investigation and Enforcement submitted letters advising that they would not be filing Exceptions to the Recommended Decision. The Office of Small Business Advocate and Dominion Retail, Inc., likewise, did not file Exceptions.

² Consistent with Section 5.535 of the Commission’s Rules of Practice and Procedure, 52 Pa. Code § 5.535, Equitable, as appropriate, refers to and incorporates by reference relevant passages from its Main and Reply Briefs. Equitable has previously addressed the two recommendations of RESA in its Main Brief, Section V.B.3, pages 46 and 47, in its Reply Brief, Section II.B.3, pages 21 through 23 and in its Exception No. 8, pages 35 through 38, which it incorporates herein by reference. The Company’s Btu adjustment mechanism proposal, which is discussed in the Company’s Exceptions and not raised in the RESA Exceptions, is not addressed further therein.

II. EXCEPTIONS

Reply to RESA Exception No. 1 – The Commission should review and approve Equitable’s proposed POR Program.

In its Exception No. 1, RESA claims that the Recommended Decision should have addressed the merits of Equitable’s proposed POR Program instead of setting it aside because of a lack of perceived interest by any existing CHOICE pool administrator. Equitable agrees with RESA that the Commission should move forward and, in its final Opinion and Order, address the Company’s proposed POR Program. However, rather than approving the Program with RESA’s modifications, the Commission should approve the POR Program as modified by the Company in response to the testimony of the Office of Consumer Advocate.³

Reply to RESA Exception No. 2 – Equitable’s proposed POR Program is consistent with the established POR program design elements. The Commission should refuse to expand the participation cap to small commercial and small industrial customers with usage of 5,000 Mcf per year or less.

In its Exception No. 2, RESA proposes increasing the POR Program annual usage cap from 300 Mcf to 5,000 Mcf. Although frustrated that the usage cap proposed by the Company is the minimum, RESA acknowledges that the cap is consistent with the POR program design element at 52 Pa. Code § 62.224(a)(7).⁴ There is no dispute that the Company’s cap of 300 Mcf complies with the Revised Final Rulemaking Order and that Equitable has complied with the applicable regulatory elements in designing its *voluntary* POR program. Equitable’s opposition to raising the usage cap and expanding the application of the POR Program as proposed by RESA is presented at length in the Company’s Exception No. 8, Section 3, pages 35 and 36, Main Brief, Section V.B.3 and Reply Brief, Section II.B.3, pages 21 through 23.

³ See Equitable’s Main Brief, Section V.B., Reply Brief, Section II.B. and Equitable’s Exception No. 8.

⁴ RESA Exceptions at 9.

The Commission explains in its Final Revised Rulemaking Order that the POR submissions of NGDCs are *voluntary*, not mandatory.⁵ Equitable's *voluntary* POR submission is limited to residential customers and small commercial and small industrial customers with annual usage of 300 Mcf or less. The POR design element at 52 Pa. Code § 62.224(a)(7) specifically provides that POR Programs must, at a minimum, include receivables "on ... *small business customer accounts*." The definitional regulation at section 62.222 refers to section 62.72 for the definition of "*small business customer*." Section 62.72 defines a *small business customer* as one with annual consumption less than 300 Mcfs, or equivalent.

The extension of the POR Program to include higher usage, non-CHOICE customers as proposed by RESA is not consistent with or required by the Revised Final Rulemaking Order.⁶ A market place already exists for Equitable's Rate GDS and other higher usage, non-CHOICE shopping customers and, consequently, their participation in a POR Program is not necessary to develop such a market nor was their participation in a POR Program contemplated in the SEARCH proceedings.⁷ The participation of non-CHOICE customers in a POR Program is not supported by either the design regulation at 52 Pa. Code § 62.224 or the Commission's intent and objective when encouraging the creation of POR Programs. Equitable opposes the effort of RESA to have Equitable acquire receivables of higher usage customers who already have easy access to the natural gas supply market.

RESA's Exception No. 2 should be denied. Equitable has responded to the Final Revised Rulemaking Order and submitted, on a *voluntary* basis, a POR Program that caps participation at

⁵ *Natural Gas Distribution Companies and Promotion of Competitive Retail Markets*, Docket No. L-2008-2069114, Final Revised Rulemaking Order entered June 23, 2011, slip op. at 40-41.

⁶ Equitable St. No. 1R at 14.

⁷ Equitable St. No. 1R at 14-15.

annual usage of 300 Mcf. The Commission should accept Equitable's proposal without modification inasmuch as the proposed usage cap is consistent with both the language and intent of the Commission's POR design elements at 52 Pa. Code § 62.224.

Reply to RESA Exception No. 3 – Equitable's proposed POR Program is consistent with the established POR program design elements. The Commission should approve the Company's proposed eligibility requirement and preclude the "cherry picking" ability proposed by RESA.

In its Exception No. 3, RESA proposes to remove the eligibility limitation which provides that all eligible customers served by the Pool Administrator (and its affiliate) *must* participate in the POR program. The Company's eligibility limitation is entirely consistent with 52 Pa. Code § 62.224 which provides in subpart (a)(2) that "[a]n NGS electing to sell its receivables to an NGDC shall include its accounts receivables related to choice residential and small business basic services in the POR Program." The reason for the eligibility limitation was debated in the SEARCH proceeding. At page 42 of the Revised Final Rulemaking Order, the Commission explained the concern with "cherry picking" that the design element addresses:

Furthermore, we acknowledge the NGDCs' concerns regarding the omission about allowing the NGSs to "cherry pick" customers, based on credit risk, to benefit the NGS at the expense of the NGDC and its customers. Thus, *in our final-form regulations at 62.224(a)(2), we will direct that an NGS must include all of its accounts receivable related to commodity sales in the POR Program, to deter any "cherry-picking" of best accounts for itself and worst accounts to the POR Program.*⁸

The elimination of the eligibility limitation as proposed by RESA would allow RESA members to accomplish the impermissible "cherry picking" either directly or through a combination with an affiliate. The opportunity for such maneuvering is eliminated with the Company's proposed eligibility limitation. The modification of the POR Program proposed by

⁸ Revised Final Rulemaking Order, slip op. at 42 (Emphasis added).

RESA is, in actuality, an attempt to re-litigate a matter addressed, at length, and concluded in the Revised Final Rulemaking Order. This proceeding is not an opportunity for RESA to reopen the SEARCH proceeding or challenge the conclusions reached there.⁹

Equitable wants to be clear, in regard to the modification proposed by RESA as it has emphasized in both its Reply Brief and its Exception No. 8, that the Company's eligibility limitation would, in fact, allow a Pool Administrator to have both a Rate FPS pool and a Rate GPS pool. The Rate GPS pool participants would not qualify for the POR Program under any circumstance but all of the accounts receivable from that same Pool Administrator's Rate FPS pool could participate in the Program.

RESA's Exception No. 3 should be denied. Equitable has responded to the Final Revised Rulemaking Order and submitted, on a *voluntary* basis, a POR Program that requires *all* eligible customers served by the Pool Administrator (and its affiliate) to participate in the POR program. The Commission should accept Equitable's proposal without modification inasmuch as the proposed limitation would preclude impermissible "cherry picking" and is consistent with both the language and intent of the Commission's POR design elements at 52 Pa. Code § 62.224.

⁹ Equitable's opposition to the elimination of the eligibility requirement as proposed by RESA is further addressed at length in the Company's Exception No. 8, Section 3, pages 36 through 38, Main Brief, Section V.B.3 and Reply Brief, Section II.B.3, pages 21 through 23.

III. CONCLUSION

Equitable has agreed to modify its voluntary POR Program to reflect certain changes recommended by OCA witness Alexander. The POR Program as modified is consistent with the Revised Final Rulemaking Order and the POR program design elements found in 52 Pa. Code § 62.224. The modifications to the Program proposed by RESA in its Exceptions are inconsistent with the Revised Final Rulemaking Order and the POR Program design elements and should be rejected as set forth above. The Commission should allow Equitable's proposed POR Program, with the modifications accepted by Equitable, to take effect.

Respectfully submitted,

EQUITABLE GAS COMPANY, LLC

By 

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Office of Consumer Advocate	:	C-2012-2309502
	:	C-2012-2309538
v.	:	C-2012-2309549
	:	
Equitable Gas Company	:	

CERTIFICATE OF SERVICE

I hereby certify that I am this 26th day of November, 2012, serving a true and correct copy of the Replies of Equitable Gas Company, LLC to the Exceptions of the Retail Energy Supply Association, upon the persons below via electronic and first class mail, as follows:

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