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December 14, 2012

Via Electronic 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. G-2012-2312597 and R-2012-2312577, et al.
Pa. P.U.C., et al. v. Equitable Gas Company, LLC

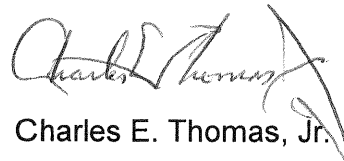
Dear Secretary Chiavetta:

We are counsel to Equitable Gas Company, LLC in connection with the above consolidated matters and are submitting via Electronic Filing the Joint Settlement Agreement of the Company, the Office of Consumer Advocate and the Office of Small Business Advocate. Copies of the Joint Settlement Agreement are being served upon the persons and in the manner set forth on the certificate of service attached to it. Should the Commission require any additional information regarding the Joint Settlement Agreement, please contact counsel for any of the settling parties.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By



Charles E. Thomas, Jr.

Encl.

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

121214 Chiavetta (JSA).wpd

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Mary D. Long, Presiding**

Pennsylvania Public Utility Commission	:	R-2012-2312577
	:	C-2012-2315323
v.	:	
	:	
Equitable Gas Company	:	
Application of Equitable Gas Company, LLC for Affiliated Interest Approval and Such Other Approvals, If Any, As May Be Necessary In Regard to the Acquisition of the Goodwin Gathering System from EQT Gathering, LLC and of the Tombaugh Gathering System from Equitrans, LP	:	G-2012-2312597

JOINT SETTLEMENT AGREEMENT

The Office of Consumer Advocate (“OCA”), the Office of Small Business Advocate (“OSBA”) and Equitable Gas Company, LLC (“Equitable” or “Company”), active parties to the above-captioned proceeding (hereinafter sometimes referred to collectively as “Settling Parties”), respectfully present this Joint Settlement Agreement for consideration and approval by Administrative Law Judge Mary D. Long, and, upon her recommendation, by the Public Utility Commission.

I. The Company

Equitable is a natural gas distribution company serving more than 260,000 residential, commercial and industrial customers in the City of Pittsburgh and adjacent territories in

Allegheny, Armstrong, Butler, Clarion, Fayette, Greene, Indiana, Jefferson, Washington and Westmoreland Counties in Southwestern Pennsylvania. In Greene and Washington Counties, the Company's customer base includes more than 1,600 customers served from the Goodwin Gathering System and the Tombaugh Gathering Systems (collectively, "Gathering Systems"). These Gathering Systems are owned by EQT Gathering, LLC ("EQT Gathering") and Equitrans, LP ("Equitrans"), respectively.

II. The Application Proceeding at G-2012-2312597

On June 29, 2012, Equitable filed an Application, at Docket No. G-2012-2312597, for approval of affiliated interest agreements and, such other approvals, as may be necessary, for it to acquire the Goodwin Gathering System from EQT Gathering and the Tombaugh Gathering System from Equitrans. The facilities to be transferred include approximately 379 miles of natural gas pipeline and appurtenant facilities and rights of way in Greene and Washington Counties.

Equitable averred that EQT Gathering and Equitrans are no longer interested in owning, operating or maintaining the Goodwin and Tombaugh Gathering Systems and have expressed an interest in abandoning these Gathering Systems. Rather than have EQT Gathering and Equitrans abandon these Gathering Systems or explore other options that, ultimately, could result in discontinuing or abandoning service to the more than 1,600 Equitable field line customers, Equitable, subject to Commission approval, agreed with EQT Gathering and Equitrans to acquire the systems by transfer.

Equitable, initially, proposed to acquire the Goodwin and Tombaugh Gathering System assets at net book value of \$1,014,680 and \$921,942, respectively. Equitable averred that its

customers would continue to receive gas service from the existing field lines in accordance with its Tariff Rule 9 – Service From Field Line.

Equitable claimed, moreover, that it would operate these Gathering Systems with the objective of increasing gathering system throughput from producers with facilities along the system routes. It was Equitable’s expectation that the acquisition, ultimately, would enhance access to additional sources of Pennsylvania produced gas for markets on and off the Goodwin and Tombaugh Gathering Systems.

Protests to the Application were filed by the OCA, the Pennsylvania Independent Oil & Gas Association (“PIOGA”) and the OSBA. The Bureau of Investigation and Enforcement (“I&E”) filed a Response in Opposition to the Application.

III. The Rate Proceeding at R-2012-2312577

Contemporaneously with the filing of the Application, Equitable also filed Supplement No. 86 to its Tariff Gas Pa PUC No. 22. Supplement No. 86, which was docketed to R-2012-2312577, proposed a new Rider E - Appalachian Production Enhancement Program Surcharge.

As proposed by Equitable, Rider E would allow for cost recovery of cost beneficial system projects. Equitable proposed that the initial Rider E surcharge be established for the recovery of the costs of a lost and unaccounted for gas reduction program on the Goodwin and Tombaugh Gathering Systems and the replacement of two compressor stations.

Equitable presented Supplement No. 86 and the Application as companion matters and stated that its willingness to acquire the two Gathering Systems was premised upon Commission approval of Supplement No. 86.

A Complaint challenging Supplement No. 86 was filed by the OCA at Docket No. C-2012-2315323. PIOGA also filed a petition to intervene in the rate proceeding.

**IV. The Consolidated Application and Rate Proceedings
at G-2012-2312597 and R-2012-2312577**

By Order entered August 30, 2012, at Dockets Nos. R-2012-2312577 and G-2012-2312597, the Commission suspended Supplement No. 86 and instituted an investigation into the Company's proposed rates, rules and regulations. The rate investigation and the Application proceeding were jointly assigned to the Office of Administrative Law Judge for the scheduling of hearings and issuance of a Recommended Decision.

Administrative Law Judge Mary D. Long was assigned to preside over the matters. By notice dated September 10, 2012, the Commission advised that an initial prehearing conference would be held on September 18, 2012. Judge Long issued a Prehearing Conference Order dated September 7, 2012.

An initial prehearing conference was held on September 18, 2012. A schedule for litigation of the proceeding was established providing for, *inter alia*, the submission of written testimony in advance of evidentiary hearings to be held on November 15 and 16, 2012. Judge Long issued a Prehearing Order dated September 24, 2012, memorializing the litigation schedule. The Prehearing Order also consolidated the complaint of the OCA at C-2012-2315323 and the Application for Affiliated Interest Approval at G-2012-2312597 with the rate investigation.

Equitable distributed written direct testimony of Thomas P. Wiggers and John M. Quinn and written rebuttal testimony of Mr. Wiggers, Mr. Quinn, Bruce Grabiec and Robert J. Cooper. OCA distributed the written direct and surrebuttal testimony of Thomas S. Catlin. OSBA distributed the written direct, rebuttal and surrebuttal testimony of Brian Kalcic. I&E distributed the written direct and rebuttal testimony of Ralph Graeser and Ethan H. Cline. PIOGA distributed the written direct, rebuttal and surrebuttal testimony of Louis D. D'Amico.

An evidentiary hearing was held on November 15, 2012, as scheduled. The Settling Parties statements of testimony and related exhibits were received into evidence. Equitable witnesses Wiggers, Quinn, Grabiec and Cooper were cross examined by I&E. The Settling Parties announced that they had achieved a resolution of issues and presented a Settlement Term Sheet. PIOGA was granted permission to withdraw from the proceeding.

V. The Proposed Settlement Stipulation

A. Overview

In accordance with the Commission's Rules of Practice, OCA, OSBA and Equitable engaged in extensive discussions and were able to resolve their issues. The terms and conditions set forth in the following section of this Joint Settlement Agreement present a comprehensive resolution of all issues raised by the OSBA and the OCA in this matter.

B. Settlement Terms and Conditions

1. Transfer of Goodwin/Tombaugh Gathering Systems to Equitable Gas Company

The Settling Parties agree that the Goodwin Gathering System and Tombaugh Gathering System will be transferred from EQT Gathering, LLC and Equitrans, LP, respectively, to Equitable. The Settling Parties agree that the dollar value paid by Equitable, if any, for the transfers will not be recoverable through future rates. The OCA and OSBA withdraw their opposition to the transfer.

2. Rider E

The Settling Parties agree that Equitable will withdraw its proposed Rider E and that Equitable may seek rate recovery of any reasonably-incurred capital expenditures and expenses associated with its investigation and rehabilitation of the Goodwin and Tombaugh Gathering Systems in future base rate or other Commission proceedings. With the exception of the prudently incurred capital expenditures and expenses incurred during the 12 month initial assessment period set forth in the "*Investigation and Reporting*" section below, the Settling Parties' agreement hereto is without prejudice to any position they may take in future proceedings in which Equitable seeks rate recovery of these capital expenditures and expenses.

3. Investigation and Reporting

The Settling Parties agree that Equitable will initiate an investigation to understand and address the Gathering Systems' Lost and Unaccounted-for-Gas and any potential safety concerns and initiate rehabilitation of the Goodwin and Tombaugh Gathering Systems consistent with the results of its investigation, if cost effective. The Settling Parties agree and understand that Equitable's investigation and Gathering Systems rehabilitation is a long term effort. Until such time as Equitable completes its initial assessments of the Goodwin and Tombaugh Gathering Systems, Equitable will report on a quarterly basis to the Settling Parties regarding its findings. Upon completion of those initial assessments, which the Settling Parties agree will take up to 12 months, Equitable will provide the Settling Parties with an initial assessment report, identifying the improvements found to be potentially necessary and an estimate of the capital expenditures and expenses that may be incurred over the next 3 years. The Settling Parties agree that Equitable will be able to recover capital expenditures and expenses (as a regulatory asset for deferred recovery) prudently incurred during this initial assessment, up to \$2 million, in a future base rate or other Commission proceedings.

4. Express Reservation

Upon receipt of the initial assessment report and revised cost estimates after the first 12 months, all Settling Parties expressly reserve their right to withdraw any further support for rehabilitation efforts and to avail themselves of all remedies under the Public Utility Code that may be necessary at such time.

5. Abandonment Reservation

Equitable reserves the right to abandon service to any or all of its customers served from the Goodwin and/or Tombaugh Gathering Systems. Equitable agrees to have discussions with the Settling Parties before proceeding with abandonment (absent emergency circumstances) of any customers, but such discussions shall in no way alter any of Equitable's rights or discretion to proceed with abandonment.

C. Evidentiary Basis

The Settling Parties believe that the evidence of record, as further supported by the attached Statements in Support,¹ fully supports the fairness and reasonableness of the proposed settlement and demonstrate that it is in the public interest. At the hearing held on November 15, 2012, the OCA, the OSBA and Equitable offered into the record their respective statements and

¹ The Statements in Support of Equitable, the OCA and the OSBA are attached as Attachments A, B, and C, respectively.

associated exhibits. With the approval of the presiding Administrative Law Judge, the statements of testimony and associated exhibits of the OCA and the OSBA were admitted into the record by stipulation without the necessity of calling their witnesses to the stand for the purpose of authenticating their respective statements and exhibits. Equitable’s witnesses were called to the stand to authenticate their testimony. Having achieved a comprehensive settlement, each of the Settling Parties waived cross examination of the other’s witnesses:

**Testimony and Exhibits of the Settling Parties Admitted
Into the Evidentiary Record**

<u>Party</u>	<u>Witness</u>	<u>Statements</u>	<u>Attachments/Exhibits Schedules</u>
Equitable			Equitable Exhibit I
Equitable			Equitable Exhibit II
Equitable	Thomas P. Wiggers	Equitable Sts. Nos. 1 and 1R	
Equitable	John M. Quinn	Equitable Sts. No. 2 and 2R	Equitable St. No. 2R, Attachment JMQ-1
Equitable	Bruce Grabiec	Equitable St. No. 3R	Equitable St. No. 3R, Attachment BG-1
Equitable	Robert J. Cooper	Equitable St. No. 4R	
OCA	Thomas S. Catlin	OCA Sts. Nos. 1 and 1S	
OSBA	Brian Kalcic	OSBA Sts. Nos. 1 (including referenced interrogatory responses), 2 and 3	

D. Settlement Perspective

The Settling Parties agree that the resolution of the issues herein proposed is in the public interest and consistent with the requirements of the Public Utility Code. In a fair and reasonable manner, the Joint Settlement Agreement preserves natural gas service to more than 1600 Equitable customers, while Equitable is provided the necessary time to complete an evaluation of

the Gathering Systems and further assesses the need for future capital improvements and expenses. The Joint Settlement Agreement makes no change to any existing rate. With the exception of the cost of the evaluation (which the Settling Parties agree will be capped at \$2 million and recoverable in a future proceeding provided that the cost is “prudently incurred”), the Settling Parties have appropriately agreed to table rate and financial issues while Equitable performs the necessary evaluation and provides the relevant information discovered during that process.

The Settling Parties, therefore, request that the Commission promptly approve this Joint Settlement Agreement. As previously footnoted, Statements in Support of this Joint Settlement Agreement on behalf of Equitable, the OCA and the OSBA are attached hereto as Attachments A, B and C, respectively. Except where expressly noted to the contrary, this Joint Settlement Agreement is being presented only in the context of the instant proceedings in an effort to resolve outstanding issues in a manner which is fair and reasonable and in the public interest.

This Joint Settlement Agreement reflects compromises on all sides and is presented without prejudice to any position any of the Settling Parties may have advanced or may advance in the future, and without prejudice to the positions, if any, initially advanced by the Settling Parties on the merits of the issues. Those positions are preserved should the Commission modify or reject this settlement in whole or in part. In such event, each of the Settling Parties retains the right to litigate its respective issues (including the right to request a further hearing and to cross examine witnesses) and to withdraw from the settlement, or a portion of the settlement, within 5 days of actual notice or receipt of a Commission order modifying or rejecting the settlement in whole or in part. Regardless of whether this Joint Settlement Agreement is approved or not, no


adverse inference shall be drawn, nor shall prejudice result, to any party hereto in this or any future proceeding as a consequence of this Joint Settlement Agreement.

WHEREFORE, Equitable Gas Company, LLC, the Office of Consumer Advocate and the Office of Small Business Advocate respectfully request that Administrative Law Judge Mary D. Long and the Pennsylvania Public Utility Commission approve the settlement proposed in this Joint Settlement Agreement.

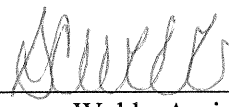
Respectfully submitted,

OFFICE OF CONSUMER ADVOCATE

**OFFICE OF SMALL BUSINESS
ADVOCATE**

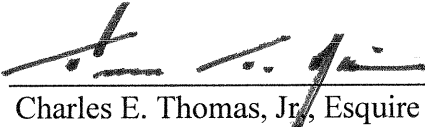
By: 

Darryl Lawrence
Assistant Consumer Advocate

By: 

Sharon Webb, Assistant Small
Business Advocate

EQUITABLE GAS COMPANY, LLC

By: 

Charles E. Thomas, Jr., Esquire
Thomas T. Niesen, Esquire
David W. Gray, Esquire

DATE: December 14, 2012

Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Administrative Law Judge
Mary D. Long, Presiding

Pennsylvania Public Utility Commission : R-2012-2312577
: C-2012-2315323
v. :
: Equitable Gas Company :
Application of Equitable Gas Company, : G-2012-2312597
LLC for Affiliated Interest Approval and :
Such Other Approvals, If Any, As May :
Be Necessary In Regard to the Acquisition :
of the Goodwin Gathering System from :
EQT Gathering, LLC and of the Tombaugh :
Gathering System from Equitrans, LP :

STATEMENT OF EQUITABLE GAS COMPANY, LLC IN
SUPPORT OF JOINT SETTLEMENT AGREEMENT

AND NOW, comes Equitable Gas Company, LLC (“Equitable” or “Company”), by its attorneys, and submits the following Statement in support of the Joint Settlement Agreement presented in the above captioned consolidated proceeding (“Joint Settlement Agreement”).

I. Background

This consolidated proceeding concerns Equitable’s Application at Docket No. G-2012-2312597 for approval of affiliated interest agreements whereby it would acquire the Goodwin Gathering System and the Tombaugh Gathering System (collectively, “Gathering Systems”) from its affiliates, EQT Gathering, LLC (“EQT Gathering”) and Equitrans, LP (“Equitrans”), respectively. The facilities to be transferred include approximately 379 miles of low pressure lines located in largely rural areas that gather and transport natural gas from traditional, non-

Marcellus Shale wells owned by third parties in Greene and Washington Counties. Equitable provides retail natural gas service to more than 1,600 of its end use customers (hereinafter “the 1,600 plus customers”) who are connected to these Gathering Systems.

This consolidated proceeding also concerns Equitable’s Supplement No. 86 to its Tariff Gas Pa PUC No. 22 at Docket No. R-2012-2312577. Supplement No. 86 proposed a new Rider E - Appalachian Production Enhancement Program Surcharge, in conjunction with the Application. Equitable has, however, withdrawn Rider E under the terms of the Joint Settlement Agreement, pending approval of those terms by the Public Utility Commission (“Commission”).

II. The Joint Settlement Agreement Is In The Public Interest And Consistent With The Requirements Of The Public Utility Code

Overview

Section 2102(a) of the Public Utility Code, 66 Pa. C.S. § 2102(a), provides that no contract or arrangement for the purchase, sale or exchange of any property between a public utility and any affiliated interest shall be valid or effective unless and until such contract has received the written approval of the Commission. Section 2102(b) of the Public Utility Code, 66 Pa. C.S. § 2102(b), provides that the Commission shall approve such contracts only if it shall clearly appear and be established upon investigation that the contract in question is reasonable and consistent with the public interest.

Consistent with the Section 2102(b) statutory standard, it is the policy of the Commission to encourage parties in contested proceedings to enter into settlements.¹ A settlement mitigates the time and expense of litigating the matter to its ultimate conclusion. This directly benefits all parties concerned. Where the active parties in a proceeding have reached a settlement, the

¹ 52 Pa. Code § 5.231(a).

principal issue for Commission consideration is whether the agreement reached is in the public interest.²

The Joint Settlement Agreement submitted by Equitable, the OCA and the OSBA (collectively, the “Settling Parties”) presents a complete resolution of these proceedings for Commission consideration. The Settling Parties agree that the transfer should go forward. Significantly, in respect to the public interest, the Settling Parties propose, without any change to current rates, to maintain the *status quo* of continued natural gas service to the 1,600 plus customers while Equitable first conducts a 12-month assessment of the two Gathering Systems.

Moreover, Equitable will, among other things, leak survey the entire 379 miles of lines and perform any necessary repairs. It is worth noting that the leak classification and repairs to be performed by Equitable will be held to the same standard as if these lines were actually subject to federal pipeline safety standards.

In the absence of the transfer, service to the 1,600 plus customers is jeopardized as neither EQT Gathering nor Equitrans intends to continue operating the Gathering Systems. The Joint Settlement Agreement reflects the conclusion of the Settling Parties that every reasonable effort should be made to avoid the discontinuance of natural gas service to the 1,600 plus customers. Based on its experience with the Crooked Creek Gathering System and its current knowledge of these Gathering Systems, Equitable believes that it will be able to continue the provision of safe and reliable service to most, if not all, of the 1,600 plus customers.

Statutory and case law does not define the “public interest” either in the context of affiliated interest review under Section 2102(b) or in the context of Commission review of a proposed settlement agreement. Instead, the “public interest” is determined on a case-by-case

² *Pa. P.U.C. v. CS Water and Sewer Associates*, 74 Pa. P.U.C. 767, 771 (1991); *see also* 52 Pa. Code § 5.232(d).

basis from the facts of record. In its *Final Rulemaking for the Revision of Chapters 1, 3 and 5 of Title 52 of the Pa. Code Pertaining to Practice and Procedure Before the Commission*, Docket No. L-00020156 (Order entered January 4, 2006), the Commission explained as follows in regard to settlement agreements:

The presiding officer's obligation to determine whether a settlement is in the public interest is a necessary corollary to the Commission's fundamental statutory obligations under the Public Utility Code, particularly sections 501, 1301 and 1501. 66 Pa. C.S. §§ 501, 1301 and 1501. ***In evaluating any matter, the Commission is obligated to balance the interests of consumers in adequate, safe and reliable service at just and reasonable rates with the interests of utilities in a fair return on facilities devoted to public service. The particular balance struck, however, will always be dictated by the specific facts, circumstances, policy, and applicable law.*** To provide guidance in this area, the Commission has issued a proposed policy statement that sets forth the factors it will consider in evaluating the merits of a settlement involving violations of the Public Utility Code and Commission regulations. As such, crafting a finite definition for public interest in these regulations is not necessary. (emphasis added)

Based on the foregoing factual discussion and the additional factual discussion below, it is clear that the public interest will be furthered by allowing the acquisitions to go forward subject to the settlement terms proposed by the Company, OCA and OSBA. The Goodwin and Tombaugh Gathering Systems are presently being used to safely transport natural gas and provide end user service to the 1,600 plus customers.³ Without any impact on current rates, Equitable will acquire the Gathering Systems and continue service to the 1,600 plus customers while it investigates and remediates the Gathering Systems. The alternative, which jeopardizes service to the 1,600 plus customers, is unreasonable and inconsistent with the public interest.

Settlement Terms

The settlement terms were admitted into the record as Equitable Exhibit II. They address ratemaking and financial considerations and provide for a 12-month investigation of unaccounted-for-gas (“UFG”) and potential safety concerns. They acknowledge the right of all

³ Equitable St. No. 4R at 7.

Settling Parties to withdraw from any further system rehabilitation effort after review of Equitable's 12-month assessment report and Equitable's right to seek abandonment of service to the customers served off the Gathering Systems. Reproduced from the Joint Settlement Agreement, the settlement terms are as follows:

- **Transfer of Goodwin/Tombaugh Gathering Systems to Equitable Gas Company**

The Settling Parties agree that the Goodwin Gathering System and Tombaugh Gathering System will be transferred from EQT Gathering, LLC and Equitrans, LP, respectively, to Equitable. The Settling Parties agree that the dollar value paid by Equitable, if any, for the transfers will not be recoverable through future rates. The OCA and OSBA withdraw their opposition to the transfer.

- **Rider E**

The Settling Parties agree that Equitable will withdraw its proposed Rider E and that Equitable may seek rate recovery of any reasonably-incurred capital expenditures and expenses associated with its investigation and rehabilitation of the Goodwin and Tombaugh Gathering Systems in future base rate or other Commission proceedings. With the exception of the prudently incurred capital expenditures and expenses incurred during the 12 month initial assessment period set forth in the "*Investigation and Reporting*" section below, the Settling Parties' agreement hereto is without prejudice to any position they may take in future proceedings in which Equitable seeks rate recovery of these capital expenditures and expenses.

- **Investigation and Reporting**

The Settling Parties agree that Equitable will initiate an investigation to understand and address the Gathering Systems' Lost and Unaccounted-for-Gas and any potential safety concerns and initiate rehabilitation of the Goodwin and Tombaugh Gathering Systems consistent with the results of its investigation, if cost effective. The Settling Parties agree and understand that Equitable's investigation and Gathering Systems rehabilitation is a long term effort. Until such time as Equitable completes its initial assessments of the Goodwin and Tombaugh Gathering Systems, Equitable will report on a quarterly basis to the Settling Parties regarding its findings. Upon completion of those initial assessments, which the Settling Parties agree will take up to 12 months, Equitable will provide the Settling Parties with an initial assessment report, identifying the improvements found to be potentially necessary and an estimate of the capital expenditures and expenses that may be incurred over the next 3 years. The Settling Parties agree that Equitable will be able to recover capital expenditures and expenses (as a regulatory asset for deferred recovery) prudently incurred

during this initial assessment, up to \$2 million, in a future base rate or other Commission proceedings.

- **Express Reservation**

Upon receipt of the initial assessment report and revised cost estimates after the first 12 months, all Settling Parties expressly reserve their right to withdraw any further support for rehabilitation efforts and to avail themselves of all remedies under the Public Utility Code that may be necessary at such time.

- **Abandonment Reservation**

Equitable reserves the right to abandon service to any or all of its customers served from the Goodwin and/or Tombaugh Gathering Systems. Equitable agrees to have discussions with the Settling Parties before proceeding with abandonment (absent emergency circumstances) of any customers, but such discussions shall in no way alter any of Equitable's rights or discretion to proceed with abandonment.

The foregoing settlement terms are self-explanatory. They are, however, summarized and further addressed in the following subsections.

Ratemaking and Financial Considerations

With the exception of the cost of the initial assessment project (which is capped at \$2 million and, otherwise, must be "prudently incurred" under the settlement terms), the Joint Settlement Agreement provides no assurance for Equitable of rate recovery of any expense or investment related to the Gathering Systems. Ratemaking claims and Commission decisions concerning them remain for consideration in future proceedings, without prejudice to any position any of the Settling Parties may take in those proceedings. This is consistent with traditional ratemaking principles.

Equitable, moreover, has agreed in settlement that any dollar value it might pay to its affiliates to accomplish the transfers will not be recoverable in future rates. It has also agreed in settlement to withdraw proposed Rider E. These points were advocated by the OCA and OSBA through their respective witnesses and, initially, opposed by Equitable. Equitable, however, accepted them in settlement of these proceedings. Consistent with traditional ratemaking

principles, Equitable will seek rate recovery of capital expenditures and expenses related to the Gathering Systems in future base rate or other Commission proceedings.

The willingness of the OCA and the OSBA to agree that Equitable will be able to recover the costs of the initial assessment project through rates in a future proceeding is reflective of their considered conclusion, and Equitable's conclusion, as well, that the public interest warrants, at a minimum, an initial 12-month investigation of the Gathering Systems in order to make an informed decision regarding their future, including the need for any significant capital improvements. There is, however, no recovery of any project cost in this proceeding and the assurance of recovery of the cost of the initial assessment in a future proceeding is expressly limited to "prudently incurred" costs, which are, otherwise, capped at \$2 million. Thus, the Joint Settlement Agreement has built in financial protections for customers on and off the Gathering Systems and provides the types of protections afforded under traditional ratemaking and regulatory principles. In essence, the Settlement puts ratepayers in the same position as if Equitable had always owned and operated the Gathering Systems.

In sum, the Joint Settlement Agreement substantially modifies the ratemaking and financial considerations that were part of Equitable's original proposal. In settlement, the Company has agreed to withdraw its proposed Rider E and has further agreed that any acquisition price it might pay for the Gathering Systems will not be recoverable through future rates. The Joint Settlement Agreement, consequently, will not impact current rates in any way and the transfer of the Gathering Systems pursuant to the settlement terms will be seamless to existing customers. The financial and ratemaking settlement terms are largely reflective of the testimony of the OCA and the OSBA, traditional ratemaking principles and consistent with the public interest. They are, in fact, balanced wholly in favor of consumers. They, consequently,

should be viewed as reasonable and consistent with the public interest. Equitable accepts them in settlement of these proceedings.

Unaccounted-For-Gas And Potential Safety Considerations

The Settling Parties have addressed UFG and potential safety concerns as part of the Joint Settlement Agreement and have agreed that Equitable should undertake a 12-month investigation of UFG (which will include leak surveying and any necessary leak repair), including potential safety concerns, initiate rehabilitation consistent with the results of the investigation and report its findings to the Settling Parties. Equitable is experienced in assessing and rehabilitating gathering systems. It will employ the same multi-step, iterative process to the Goodwin and Tombaugh Gathering Systems as it applied to the Crooked Creek Gathering System.

Equitable witness Grabiec testified at length about the Company's efforts to investigate and rehabilitate the Crooked Creek Gathering System in Armstrong and Indiana Counties. This large gathering system, which is similar to the Goodwin and Tombaugh Gathering Systems, dates from the beginning of the 20th Century, includes approximately 814 miles of gathering pipeline and is used, in part, by Equitable to serve approximately 3,500 retail end use customers. Equitable's investigative and rehabilitation efforts for the Crooked Creek Gathering System provide a model for what can be done for the Goodwin and Tombaugh Gathering Systems.⁴

In or about 2008, the Crooked Creek Gathering System was exhibiting UFG in excess of 30%. Equitable implemented the following multi-stepped process to review and understand the reported level of UFG and, ultimately, rehabilitate the system:

- i. Location of gathering system pipeline was confirmed;
- ii. Pipeline rights of way were mowed;
- iii. The entire approximately 814 mile Crooked Creek Gathering System was

⁴ Equitable St. No. 3R at 3.

physically walked and leak surveyed;

- iv. The system was separated into manageable segments with meters placed to enable identification of UFG by pipe segment;
- v. Chronically deficient pipeline segments identified as a result of the foregoing were evaluated for their overall value to the System and either renewed (remediated or replaced) or abandoned; and
- vi. Remaining pipeline segments throughout the approximately 814 mile gathering system were evaluated and continue to be evaluated for renewal (remediation or replacement) or abandonment.⁵

Although pipeline confirmation, mowing, walking/leak surveying and pipeline segmentation for the 814 mile system took approximately three years, improvement in Crooked Creek UFG was more immediate. It was obvious after completing the initial mowing and leak surveying that certain pipeline segments were chronically deficient and should be either immediately replaced or immediately abandoned depending on the value of the segments to the overall gathering system. By addressing these chronically deficient segments first, Equitable was able to reduce the calculated UFG, reasonably quickly, from in excess of 30% to the low to mid 20%. UFG is presently 7.5% as Equitable has continued its iterative analysis of that system.⁶ Significantly, Equitable has not had to abandon any service to any Crooked Creek area customers as part of its rehabilitative effort.⁷

Equitable intends to employ the same multi-step, iterative process to the Goodwin and Tombaugh Gathering Systems, including mowing, physically walking and, significantly, leak surveying the entirety of the two Gathering Systems and addressing pipeline leaks, as follows:

- i. Location of gathering system pipeline will be confirmed;

⁵ Equitable St. No. 3R at 3-4.

⁶ Equitable St. No. 3R at 4-5. Since 2008, Equitable has renewed close to 45 miles of gathering pipe in the Crooked Creek Gathering System at a total cost of \$8,391,960, or approximately \$191,766 per mile. It has also abandoned close to 25 miles of gathering pipe.

⁷ Equitable St. No. 3R at 5-6.

- ii. Pipeline rights of way will be mowed;
- iii. The entire 379 miles of the two Gathering Systems will be physically walked and leak surveyed;
- iv. The Gathering Systems will be separated into manageable segments with meters placed to enable identification of UFG by pipe segment;
- v. Chronically deficient pipeline segments identified as a result of the foregoing will be evaluated for their overall value to the Gathering Systems and either renewed (remediated or replaced) or abandoned; and
- vi. Remaining pipeline segments throughout the 379 miles of the two Gathering Systems will be evaluated for renewal (remediation or replacement) or abandonment.⁸

Equitable estimates that the entire multi-step analysis will take between three and four years, with line mowing, line walking and leak surveying completed in Year 1 after Equitable's acquisition of the Gathering Systems. With 379 miles of pipe, the mowing, line walking, leak surveying and leak repair of the Gathering Systems will be a significant Year 1 undertaking. There will be segmentation during Year 1, although the entire segmentation of both Gathering Systems will require more time through Years 2 through 4. As with the Crooked Creek project, however, Equitable anticipates initial improvement in UFG levels to be more immediate as a result of initial segmentation and metering efforts, and the identification and evaluation of chronically deficient pipe for either immediate replacement or immediate abandonment.⁹

There are many contributing factors to UFG and there is no evidence that UFG, even at its current level, is the result of unsafe pipeline leaks. Equitable witness Cooper testified that EQT Gathering and Equitrans have adequately maintained these Gathering Systems, including maintaining a proper leak identification and repair program, consistent with their rural location

⁸ Equitable St. No. 3R at 6 and 10-11.

⁹ Equitable St. No. 3R at 7.

and low pressure operating characteristics and that safety concerns are unfounded.¹⁰ Although federal pipeline safety regulations do not generally apply to these Gathering Systems, EQT Gathering and Equitrans utilize those regulations as a proxy for managing the pipeline facilities.¹¹ Equitable, moreover, has conducted initial due diligence, including a review of the leak history and current leak balance, and does not view the reported UFG levels as safety concerns that would prevent it from safely operating the Gathering Systems.

Equitable's expectation is that it will be able to reduce the UFG on the Gathering Systems considerably and also operate the Gathering Systems safely. Based on the information available to the Company and its experience with the Crooked Creek Gathering System, Equitable is not anticipating the replacement of all, or even a large part, of the 379 miles of gathering pipe in order to operate a safe system. As with the Crooked Creek Gathering System, the Company will make safety and economic decisions on whether it renews (remediates or replaces) or abandons pipeline segments as it moves forward with the segmentation process.¹²

If the Gathering Systems were leaking gas at the reported UFG levels, Equitable, Equitrans or EQT Gathering would be receiving far more reports of natural gas odor than are occurring. Although Equitable is not the owner of the Gathering Systems, natural gas odor would typically be reported to it as the local distribution company serving the area. However, calls reporting gas odors are relatively infrequent. Finally, if the cause of the reported UFG were leaking gas, the number of leaks would be much higher than those which are known to exist.¹³

¹⁰ Equitable St. No. 4R at 2-6.

¹¹ Equitable St. No. 4R at 4.

¹² Equitable St. No. 3R at 7-8.

¹³ Equitable St. No. 3R at 9-10. Equitable was made aware of the historic leak balances on both Systems as part of its due diligence investigation. The leak balances as of March 2012 of 80 and 49 for the Goodwin and Tombaugh Systems, respectively, were not alarming. Equitable St. No. 3R at 10.

In sum, Equitable, the OCA and the OSBA believe it is reasonable and in the public interest for Equitable to move forward and acquire the Gathering Systems. The acquisitions are necessary if all, or a significant number, of the 1,600 plus customers are to continue to receive natural gas service. The Settling Parties are not, in any way, compromising safety. Instead, they are proposing, without any change to current rates, to maintain the *status quo* of continued natural gas service to the 1,600 plus customers while Equitable conducts a 12-month assessment of the Gathering Systems. Equitable has an excellent record of compliance with pipeline safety laws and regulations and overall safe operations. Equitable intends to continue its excellent operational record, including compliance with any applicable pipeline safety laws and regulations regarding the Gathering Systems.¹⁴

Reservations

The Joint Settlement Agreement expressly reserves the right of the Settling Parties to withdraw any further support for rehabilitation efforts and to avail themselves of all remedies under the Public Utility Code. It also reserves to Equitable the right to abandon service to the customers served off the Gathering Systems. These reservations protect the interests of the Settling Parties and the public (including those customers not on these Gathering Systems) going forward and are reasonably and appropriately part of a settled resolution of these proceedings.

The Interest of Customers Other Than The 1,600 Plus Customers

At the conclusion of the evidentiary hearing on November 15, 2012, Judge Long directed the Settling Parties to address the public interest of the acquisition on ratepayers other than the 1,600 plus customers.¹⁵ As addressed above, the Joint Settlement Agreement will not impact the

¹⁴ Equitable St. No. 3R at 11.

¹⁵ N.T. 149-150.

current rates of any Equitable customer in any way and the transfer of the Gathering Systems pursuant to the settlement terms will be seamless to existing customers.

Equitable, moreover, must wait for a future base rate or other Commission proceeding to seek recovery of any investment it might make to rehabilitate the Gathering Systems. With the exception of the prudently incurred expenditures related to the 12-month initial investigation, the Joint Settlement Agreement, also, is without prejudice to any position any Settling Party might make in a future proceeding in which Equitable seeks rate recovery.

The Joint Settlement Agreement further protects the interests of the public, including the customers other than the 1,600 plus on the Gathering Systems, through the “Express Reservation” term whereby the OCA, OSBA and Equitable may withdraw their further support for rehabilitation after review of the initial assessment report and revised cost estimates. Thus, for example, if Equitable’s initial assessment were to conclude that the entirety of the Gathering Systems must be replaced at a cost of many millions of dollars, each of the Settling Parties would have the opportunity to withdraw support for rehabilitation that they view as overly costly and take whatever additional steps they deem appropriate.

If the results of the initial assessment are consistent with Equitable’s experience with the Crooked Creek Gathering System as Equitable believes that they will be, investment dollars will likely be part of Equitable’s rehabilitation effort. As an initial step, Equitable will only make such investment decisions in a manner that is prudent, balancing, among other things, the number of customers impacted and the size of the investments required. That decision process is undertaken for all such investments by Equitable, with an express recognition that a lesser standard puts at jeopardy the ability to recover those investments in future proceedings.

Assuming that Equitable has prudently invested in those rehabilitation efforts for these Gathering Systems, the socialization of rehabilitation costs over a utility’s entire customer base is

an important part of utility ratemaking. Through rates, for example, the 1,600 plus customers have contributed to the costs of system maintenance of facilities used to serve other Equitable customers. When rates are changed to reflect rehabilitation costs of the Goodwin and Tombaugh Gathering Systems, other customers, as well as the 1,600 plus customers, will appropriately pay the socialized costs of rehabilitating these Gathering Systems. The potential socialization of these rehabilitation costs is no different than the socialization of the costs of rehabilitating any of the many small water or wastewater systems acquired by larger water or wastewater systems with Commission approval.¹⁶ Indeed, the Commission's Policy Statements regarding the acquisition of smaller viable and nonviable water and wastewater systems encourage such acquisitions through the use of various regulatory incentives, including the allowance of acquisition adjustments to rate base and the deferred recovery of acquisition improvement costs.¹⁷ Again, however, as set forth above, the Joint Settlement Agreement reserves the rights of each Settling Party in the event of rehabilitation efforts that might be viewed as overly costly.


¹⁶ See, e.g., Joint Application of Aqua Pennsylvania, Inc. and Total Environmental Solutions, Inc., Docket No. A-2011-2276845 (Order entered February 17, 2012); Joint Application of Little Washington Wastewater Company d/b/a Suburban Wastewater Company and Total Environmental Solutions, Inc., Docket No. A-2011-2276856 (Order entered February 17, 2012); Joint Application of Pennsylvania-American Water Company and Nittany Water Company, Docket Nos. A-2009-2120357 and A-2009-2120358 (Final Order entered September 22, 2009).

¹⁷ 52 Pa. Code §§ 69.711 (Small Nonviable Water and Wastewater Systems – Statement of Policy), and 69.721 (Acquisitions of Viable Water and Wastewater System – Statement of Policy). *Cf.* 66 Pa. C.S. §§ 1311(c) (allowing a water and wastewater utility to allocate a portion of the wastewater revenue requirement to the combined water and wastewater customer base if in the public interest).

WHEREFORE Equitable Gas Company, LLC requests that Administrative Law Judge Mary D. Long recommend approval of and upon her recommendation that the Pennsylvania Public Utility Commission approve the Joint Settlement Agreement.

Respectfully submitted,

EQUITABLE GAS COMPANY, LLC

By 

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Date: December 14, 2012

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Application of Equitable Gas Company, LLC :
for Approval of an Affiliated Interest : Docket Nos. R-2012-2312577
Agreement to Acquire the Goodwin and : G-2012-2312597
Tombaugh Gathering Facilities :
:

STATEMENT OF THE OFFICE OF
CONSUMER ADVOCATE IN SUPPORT
OF THE JOINT SETTLEMENT AGREEMENT

The Office of Consumer Advocate (OCA), one of the signatory parties to the Joint Settlement Agreement (Settlement) respectfully requests that the terms and conditions of the Settlement be approved by the Administrative Law Judge and the Pennsylvania Public Utility Commission (Commission). This request is based upon the OCA's conclusion that the proposed Settlement is in the public interest and is in the interest of the customers of Equitable Gas Company (Equitable or Company).

I. INTRODUCTION

On June 29, 2012, Equitable filed an Application requesting the Public Utility Commission (Commission) to approve an Affiliated Interest Agreement in order for Equitable to acquire the Goodwin and Tombaugh gathering facilities (Gathering Systems or Assets). Equitable Gathering, LLC (Equitable Gathering), currently owns the Goodwin system. Equitrans, L.P. (Equitrans) currently owns the Tombaugh system. Equitable currently provides

retail natural gas service to 1602 customers that are interconnected to the gathering systems owned by Equitable Gathering and Equitrans (collectively, Affiliates). The Gathering Systems are located in Greene and Washington Counties. The Company and its Affiliates have agreed to the transfer by sale of the Gathering Systems for the net book value of: \$1,036,455 for the Goodwin system, and \$921,942 for the Tombaugh system. In its Application, Equitable provides that it is seeking all necessary authorizations from the Commission in order to allow the Company to acquire these Assets.

Also on June 29, 2012, Equitable filed Tariff Supplement No. 86. The purpose of Equitable's tariff filing is to create a Rider E in conjunction with its Application to acquire the Gathering Systems. Equitable states that Rider E is being proposed in order to create a mechanism for recovery of system upgrade and repair costs to the Gathering Systems.

The OCA retained Mr. Thomas S. Catlin of Exeter Associates, Inc., in order to assist the OCA in its investigation and analysis of this matter. After several rounds of formal and informal discovery, and after an in-depth review of the Company's filing, Mr. Catlin provided his Direct Testimony, which set forth the OCA's position as to this matter. Mr. Catlin testified that the acquisition of the Gathering Systems presented concerns as to the acquisition costs of the Assets, and also as to the level of expense that may be required in order to affect repair and rehabilitation efforts as discovery had revealed that the Gathering Systems currently exhibit high levels of lost and unaccounted for gas (LUGF).

Equitable's proposed cost recovery mechanism for these expenses, Rider E, was also a concern. Mr. Catlin testified that Rider E appeared inconsistent with the Public Utility Code as to the recovery of capital costs incurred for repair and rehabilitation efforts to the Gathering Systems. Rider E as proposed also included cost recovery for expenses incurred

anywhere on Equitable's system that would enhance the supply of local, Appalachian gas, and not just cost recovery for Gathering System expenses. In addition, the high levels of LUFG could negatively impact ratepayers if Equitable became the owner of these Assets as actual LUFG is generally charged, at least in part, to ratepayers in the annual 1307(f) proceedings.

In the main, the OCA was concerned that Equitable was seeking to acquire assets that may prove to be in need of extensive repairs and had proposed a cost recovery mechanism that could impose substantial cost burdens on all of Equitable's ratepayers. The OCA was also concerned, however, that the 1602 customers being served off of the Gathering Systems could face potential disruptions or even a loss of natural gas service if Equitable was not able to acquire these Assets. In the rebuttal phase of the proceeding, the Company addressed some of the OCA's chief concerns.

Equitable agreed to withdraw its request for cost recovery as to the purchase price of the Assets. Equitable also proposed several revisions to Rider E, in that Rider E would only include cost recovery for expenses incurred that were directly related to the Gathering Systems, and also proposed a cap on Rider E costs that could be recovered on a per/Mcf basis. The OCA recognized that these concessions, although a substantial move in the right direction, still did not address the total costs that could be incurred for repair and rehabilitation efforts on the Gathering Systems. As such, Equitable's ratepayers could be exposed to cost recovery through the Rider E mechanism that contained no provisions for cost control and contained no provision for an assessment and review of the reasonableness of continued expenditures as to the Gathering Systems. Mr. Catlin responded to these concessions and other matters in his Surrebuttal Testimony.

Based on the testimony of the other parties, including the Company, the Commission's Bureau of Investigation and Enforcement (I&E) and the Office of Small Business Advocate (OSBA), Mr. Catlin summarized the OCA's position, as follows:

I would like to note that in addition to not allowing recovery of acquisition costs, I have also proposed other modifications and limitations on the costs for which Equitable can seek recovery and on how those costs can be recovered. The focus of my testimony has been to address the ratemaking treatment of the costs that will result from the acquisition of the Goodwin and Tombaugh Systems if the acquisition goes forward. I did not attempt to demonstrate that the acquisition is cost effective or in the public interest. That is Equitable's obligation in this proceeding. I also recognize that Equitable will need to address the safety issues raised by the Bureau of Investigation and Enforcement (I&E). However, the OCA and I remain concerned about the ramifications to the 1,602 customers served off the Goodwin and Tombaugh Gathering Systems if they are abandoned or if the safety issues are not resolved.

OCA St. 1-S at 4. As Mr. Catlin testified, the OCA continued to address the costs of the acquisition, the costs of necessary Gathering System repairs and rehabilitation, the ratemaking treatment of such costs, and also the 1602 customers currently being served by Equitable on these Gathering Systems.

The OCA and the other parties engaged in settlement talks throughout this proceeding. Subsequent to the surrebuttal phase, the OSBA, OCA and the Company reached an accord. The Settlement Agreement, as discussed below, represents a fair and reasonable resolution of the issues raised by the OCA in this matter. The OCA understands, however, that the concerns raised by I&E in this proceeding remain to be resolved through the litigation process.

In the following sections, the OCA will provide a history of the proceeding and a description and review of the Settlement Agreement. The OCA submits that the Settlement

Agreement provides a reasonable resolution of the issues raised by the OCA in this matter, is consistent with the public interest and should be adopted if this transaction is approved.

II. HISTORY OF THE PROCEEDING

On June 29, 2012, Equitable filed for authorization to acquire the Gathering Systems and for authorization to implement its proposed Rider E recovery mechanism. On July 19, 2012, I&E served its Response in Opposition to Equitable's filings. On July 23, 2012, the OCA served its Protest, Formal Complaint, and Public Statements as to Equitable's filings. On August 16, 2012, the Pennsylvania Independent Oil and Gas Association (PIOGA) served its Petition to Intervene and Protest. On August 30, 2012, the Commission entered an Order suspending the filings until February 28, 2013 for investigation of the justness and reasonableness of Equitable's proposed tariff changes and its proposed affiliated interest agreement. On September 6, 2012, the OSBA served its Protest and Public Statement. On September 7, 2012, ALJ Long issued a Prehearing Order, in which a Prehearing Conference was established for September 18, 2012.

ALJ Long presided over the Prehearing Conference on September 18, 2012. At that time the parties agreed to a procedural schedule. Certain modifications to the Commission's rules of discovery were also adopted. PIOGA's Petition to Intervene was granted. In addition, the OCA's Complaint at Docket No. C-2012-2315323 and the Application of Equitable for Affiliated Interest Approval at Docket No. G-2012-2312597 were consolidated with Equitable's Tariff Filing at Docket No. R-2012-2312577.

In its preliminary investigation and analysis of this matter, the OCA identified five broad categories of issues raised by the proposed transaction:

- (1) whether this transfer of assets from the Affiliates to Equitable is in the public interest and in the best interest of Equitable's customers;

(2) whether the agreed to sale at book value is appropriate and reasonable for the assets in question;

(3) whether there are alternative arrangements as to the disposition of these assets that may provide a greater benefit to Equitable's customers than what is currently being proposed;

(4) whether this transfer, if approved, would comport with Equitable's least-cost procurement obligations and other relevant provisions of the Public Utility Code; and

(5) whether the proposed Rider E is appropriate as a cost-recovery mechanism and whether the rates resulting from such Rider, if authorized, would be just and reasonable.

Application of Equitable, Dock. Nos. R-2012-2312577, G-2012-2312597, OCA Prehearing Memorandum at 3 (submitted Sept. 17, 2012).

The OCA propounded five sets of formal discovery to the Company, as part of its investigation of this matter. After the receipt and review of the first several sets of the OCA's discovery, and in accord with the procedural schedule, the OCA submitted the written Direct Testimony of Thomas S. Catlin on October 19, 2012 as OCA Statement No. 1. Based on the initial discovery and analysis, Mr. Catlin testified in relevant part that: (1) Equitable should not be authorized to recover the purchase price of the assets from ratepayers; and (2) Rider E should not be implemented as proposed. OCA St. 1 at 3-4.

As to the proposed acquisition costs, Mr. Catlin explained that Equitable estimated it may have to spend up to \$12 million during its first three years of ownership in order to address the current levels of lost and unaccounted for gas (LUFG) that are being reported on the Gathering Systems. OCA witness Catlin further testified that the Affiliate owners of the Gathering Systems had not sought other bids for the assets, and that in any event the Assets were not likely marketable to any other entity besides Equitable. OCA St. 1 at 5-6.

Mr. Catlin also addressed the Rider E cost recovery in his testimony. As set out above, Mr. Catlin opposed Rider E as being inconsistent with the Public Utility Code and also identified numerous problems with the structure of Rider E. As Mr. Catlin testified, the Company proposed to recover any capital costs incurred for the Gathering Systems by treating such capital costs similar to contributions in aid of construction (CIAC) as opposed to treating these costs as assets that are recorded to plant in service, depreciated over their useful life and eligible to earn a return. Equitable's proposal would have ratepayers funding capital projects in full, in the year such costs were incurred, which would be injurious to ratepayers as additional tax burdens would result in significant cost increases over and above the actual level of expense. OCA St. 1 at 7-10. Mr. Catlin further explained that Rider E, as proposed by the Company, would not only recover capital costs associated with the Gathering Systems, but also could be used to:

recover the costs of projects anywhere on its system that increase or maintain the continued availability of Pennsylvania produced Appalachian gas to Equitable's customers. That is, Equitable's proposed Rider E has the two-fold purpose of enabling the Company to recover costs of improvements on the Tombaugh and Goodwin Systems and allowing the Company to recover costs of improvements that are totally unrelated to the acquisition of those two gathering systems.

OCA St. 1 at 10. Accordingly, the OCA found that the Company had not shown that acquisition of the Assets based on Equitable's proposal to pay net book value for the Assets and based on Equitable's proposed Rider E recovery mechanism was in the public interest or in the best interest of Equitable's ratepayers.

Following the filing of the OCA's Direct Testimony, the OCA and the Company engaged in extensive informal discovery and settlement discussions as to the issues raised by the OCA. Settlement discussions also took place with OSBA, I&E and PIOGA, although no

resolution of all issues could be accomplished prior to the date for the filing of rebuttal testimony. On November 2, 2012, Equitable submitted rebuttal testimony.

In its Rebuttal testimony, the Company directly responded to OCA witness Catlin's Direct Testimony as to the proposed acquisition costs and as to Rider E. In its Rebuttal, the Company agreed that any costs paid to acquire the Gathering Systems would not be recoverable through rates. The Company also proposed several revisions to its Rider E, such as limiting the scope of projects that the Company could seek Rider E cost recovery for, recognizing the income tax savings in calculating Rider E and agreeing to cap the Rider E rate at \$0.06 per Mcf. See OCA St. 1-S at 1-2. Consistent with its Rebuttal testimony, the Company was now in agreement with OCA's position that any amounts paid to acquire the Gathering Systems should not be collected from ratepayers. As to Rider E, the Company proposed various revisions to its cost recovery mechanism. The OCA, however, while acknowledging Equitable's attempts to move in the right direction on cost recovery, still opposed Rider E on the grounds that such a recovery mechanism is not permitted under the Public Utility Code. Settlement talks continued among the parties, but a complete resolution was not reached prior to the time for surrebuttal.

On November 8, 2012, the OCA submitted the Surrebuttal Testimony of Mr. Catlin as OCA Statement No. 1-S. As to the Rider E issue, Mr. Catlin testified in relevant part:

It continues to be the OCA's position that Equitable's proposed Rider E surcharge is impermissible under Pennsylvania law. (Counsel advises me that this issue will be addressed in brief.) Therefore, like the costs of other gathering system improvements, Equitable should seek recovery of any costs associated with improvements to the Goodwin and Tombaugh Gathering Systems in base rates if it is permitted to acquire the systems.

OCA St. 1-S at 2. Consistent with Mr. Catlin's Surrebuttal Testimony, the OCA maintained its position that capital cost recovery for gathering system improvements is an item that the Company should seek within base rates, and not a rider as Equitable had proposed in this matter. In addition, Mr. Catlin's Surrebuttal Testimony also responded to Rebuttal Testimony submitted by OSBA witness Brian Kalcic.

Mr. Kalcic testified that even if the amounts paid for the Gathering Systems were not recovered in rates, as advocated by OCA, the OCA had not shown that either the acquisition was cost effective or in the public interest. See OCA St. 1-S at 3-4. In response to the OSBA's Rebuttal Testimony, Mr. Catlin testified that the OCA's focus in this matter has been the ratemaking treatment of costs associated with the acquisition, if allowed to go forward, and that the OCA had not sought to demonstrate either the cost effectiveness or public interest benefits of the acquisition, as those attributes of the acquisition are Equitable's burden to carry. OCA St. 1-S at 4. As Mr. Catlin testified, the OCA's investigation and analysis of this matter focused on the treatment of any costs arising from the proposed acquisition of the Gathering Systems. The OCA reiterated its concern, however, about the possibility of 1602 customers losing their natural gas service, potentially on short notice and in cold weather.¹ Settlement talks continued after the surrebuttal testimony was served.

On November 9, 2012, the OCA, Equitable and the OSBA (Settling Parties) reached a settlement agreement (Settlement), which is set forth in its entirety in the attached Joint

¹ Equitable witness John Quinn testified in Rebuttal that under the Company's current tariff, the 1602 customers currently being served via the Gathering Systems could be disconnected from the system on as little as 10-days notice in the event that Equitable was not authorized to acquire the assets. Equitable St. 2R at 6.

Settlement Agreement. Issues raised by I&E were set for hearing. On November 15, 2012, evidentiary hearings were held in Harrisburg.²

As a result of the Settlement, the Testimony of OCA witness Catlin, consisting of OCA Statement No. 1 and OCA Statement No. 1-S was admitted into the record by stipulation with the agreement of all parties. In accord with the procedural schedule, Main Briefs and Statements in Support were due on November 29, 2012. Subsequent to the hearings, and in accord with discussions between ALJ Long and the Parties, Equitable voluntarily extended the suspension date for its tariff filing to April 4, 2013. In a subsequent Prehearing Order, ALJ Long provided that the November 29 date would be moved to December 14.

Consistent with the instructions provided at the hearing, the OCA submits this Statement in Support of the Joint Settlement Agreement. Section III below discusses the specific terms of the Settlement and how those terms directly address the issues raised by the OCA in this matter. As specifically requested by ALJ Long, Section III discusses how the acquisition of the Gathering Systems meets the public interest standard as to all of Equitable's customers, beyond the 1602 customers currently being serviced by the Gathering Systems.

III. TERMS AND CONDITIONS OF THE JOINT SETTLEMENT AGREEMENT

At the conclusion of the evidentiary hearings, ALJ Long advised the parties that:

In your statements in support and/or briefs, whichever you are filing, I am very interested in what the public interest of this acquisition is for the ratepayers other than the 1,600 who need to continue gas service.

I'm very concerned at this point that we're going to acquire an expensive project, potentially expensive project, and I am not clear how that's going to pan out for the other ratepayers. So I'd like to have a thorough analysis of that.

² At the evidentiary hearings PIOGA made an oral motion to withdraw from this matter, which was granted by ALJ Long.

Tr. at 149-150. Consistent with ALJ Long's specific instruction, the following represents the terms of the Settlement that directly address the OCA's outstanding concerns in this case and represent a resolution of those issues that addressed the potential expense of this project and the public interest standard.

1. The Purchase Price of the Gathering Systems. (Settlement ¶ 1)

Equitable proposed to purchase the Gathering Systems from its Affiliates for the combined net book value of the Assets, approximately \$2 million. See OCA St. 1 at 5. As OCA witness Catlin testified, the OCA was opposed to the Company paying its Affiliates for these Assets, or in the alternative, recovering any of the purchase price from ratepayers if it did consummate the transaction as proposed. OCA St. 1 at 5. Mr. Catlin explained in his Direct Testimony that the Gathering Systems were in need of a certain level of repair and rehabilitation, according to Equitable, and as such the Assets were likely of little, if any value, to any entity except for Equitable. OCA St. 1 at 4-6.

The Settling Parties agreed to resolve this issue as follows:

- Transfer of Goodwin/Tombaugh Gathering Systems to Equitable Gas Company

The Parties agree that the Goodwin Gathering System and Tombaugh Gathering System (Systems) will be transferred from EQT Gathering, LLC and Equitrans, LP, respectively, to EGC. The Parties agree that the dollar value paid, if any, for the transfers will not be recoverable through future rates. Parties initially opposing the transfer of the Systems agree to withdraw their opposition to the transfer.

Settlement ¶ 1.

This clause of the Settlement resolves the OCA's concerns over the purchase price of the Gathering Systems, in that ratepayers will not be asked to fund any part of the purchase price. The agreement not to seek recovery of the purchase price is a benefit for all of

Equitable's customers. The OCA submits that this resolution of the purchase price of the Assets is reasonable and in the public interest, as Equitable's shareholders and not its ratepayers will shoulder whatever level of expense is required to purchase the Assets.

2. An Initial Assessment of System Condition. (Settlement ¶¶ 3, 4)

The OCA's testimony in this matter focused on the potential cost consequences and ratemaking treatment of this transaction. One of these costs, the initial Equitable estimate of \$12 million for repair and rehabilitation efforts to the Gathering Systems over the next several years, was of concern. OCA St. 1 at 5-6. This initial estimate was tied to the investigation, analysis and necessary repairs to address the high levels of LUGF identified on the Gathering Systems. The OCA was concerned that these costs were not fully developed at this time, and could substantially exceed the initial estimate of \$12 million provided by the Company. Related to this cost consideration, was the treatment of the 1602 customers that Equitable serves off of these Gathering Systems. The OCA was concerned with not only the potential costs to repair these facilities, but also the potential cost consequences to these customers and the system if these customers were abandoned.³

In the rebuttal phase of this proceeding, Equitable submitted the testimony of Mr. Grabiec. Equitable St. 3R. Mr. Grabiec is the Director of Field Operations, responsible for all of Equitable's distribution system operations including matters of pipeline safety. Equitable St. 3R at 1. Mr. Grabiec testified, in relevant part, that Equitable had previously engaged in a substantial repair and rehabilitation of the Crooked Creek Gathering System. That system contained approximately 814 miles of gathering facilities. The Crooked Creek system also

³ As Equitable witness Quinn testified, the Company may be forced to abandon these customers if it was unable to acquire the Gathering Systems. Equitable St. 2R at 6. As I&E witness Cline testified, the costs to convert these 1602 customers to propane would be anywhere from \$5,000 to \$7,000 per customer, or a total expenditure of anywhere from approximately \$8 million to \$11 million. I&E St. 2 at 10-11; I&E Exhibit 2, Schedule 3.

exhibited high levels of LUFG prior to Equitable's ownership. Mr. Grabiec testified that Equitable was able to affect repairs and rehabilitation efforts to that system to significantly reduce the LUFG levels, over a period of several years, at a total cost of approximately \$8.3 million. Equitable St. 3R at 2-6.

Mr. Grabiec testified that the age and infrastructure of the Crooked Creek System compares favorably to the Gathering Systems at issue here. Mr. Grabiec further testified that Equitable would use the same investigation, analysis and repair procedures initiated at Crooked Creek to address the similar issues on the Gathering Systems here. Equitable St. 3R at 6-8. As previously discussed, the OCA had concerns with the initial \$12 million estimate that Equitable had provided for the first several years of costs incurred to address the Gathering System repairs. Mr. Grabiec's testimony as to the Crooked Creek System, and the \$8.3 million spent there for the rehabilitation of 814 miles of gathering system provided some evidence that Equitable's initial \$12 million repair estimate for the 380 miles of Gathering Systems here may be in the proper range, however some uncertainty as to the costs remain.

Based on the evidence of record, the Settling Parties crafted an agreement to directly address this concern, as follows:

- Investigation and Reporting

The Parties agree that EGC will initiate an investigation to understand and address the Systems' LUFG and any potential safety concerns and initiate the Systems rehabilitation consistent with the results of its investigation, if cost effective. The Parties agree and understand that EGC's investigation and Systems rehabilitation is a long term effort. Until such time as Equitable completes its initial assessments of the Systems, Equitable will report on a quarterly basis to the Parties regarding its findings. Upon completion of those initial assessments, which the Parties agree will take up to 12 months, Equitable will provide the Parties with an initial assessment report, identifying the improvements found to be potentially necessary and an estimate of the capital expenditures and expenses that may be incurred over the next 3 years. The Parties agree that Equitable

will be able to recover capital expenditures and expenses (as a regulatory asset for deferred recovery) prudently incurred during this initial assessment, up to \$2 million, in future base rate or other PUC proceedings.

Settlement ¶ 3.

As provided, once Equitable acquires the assets it will commence an accelerated investigation of the condition of the system, identify safety concerns, identify major contributors to the LUFG levels, identify projected repair costs and ultimately provide an initial assessment report for review. During this 12-month initial assessment period, Equitable will be able to effect necessary, prudent rehabilitation and repairs to the Gathering Systems with agreed-to cost recovery of up to \$2 million. Based on Equitable's filings and responses to discovery, the Settling Parties agreed that an initial investment of \$2 million was a reasonable resource commitment. During this initial assessment process, the Company will provide quarterly updates on its progress.

The OCA submits that the evidence of record in this proceeding has not been able to confirm the level of repairs that may be needed in order for Equitable to provide continued service on these Gathering Systems. The testimony leads to the conclusion that a "boots on the ground" approach is necessary to evaluate the assets. The Settlement protects ratepayers from an open-ended commitment to the repair and rehabilitation of the Gathering Systems, as the Settling Parties have agreed to a \$2 million cap on recovery of such initial costs.

The Settlement would create an opportunity to investigate the LUFG situation and provide a factual basis for further decisions as to the operation of the Gathering Systems. The Investigation and Reporting clause provides the vehicle to do that, with well-defined time and resource constraints. As the following attendant clause provides:

- Express Reservation

Upon receipt of the initial assessment report and revised cost estimates after the first 12 months, all Parties expressly reserve their right to withdraw any further support for rehabilitation efforts and to avail themselves of all remedies under the Public Utility Code that may be necessary at such time.

Settlement ¶ 4.

As this clause provides, the OCA retains the full and complete ability to advocate for whatever course of action may be in the best interest of Equitable's ratepayers after a thorough review of the initial assessment of the Gathering Systems. A thorough, accelerated investigation and assessment of the infrastructure, currently supplying natural gas service to 1602 customers, is a necessary and reasonable process in order to reach an appropriate decision as to the operation of these Assets and to protect ratepayers from unlimited cost exposure. This portion of the Settlement provides a method for such an evaluation. Accordingly, the OCA submits that a thorough investigation of the Gathering Systems is in the public interest and in the best interest of Equitable's customers.

3. The Disposition of Rider E. (Settlement ¶ 2)

Equitable proposed Rider E as a cost recovery mechanism for any improvements to the Gathering Systems, as explained by OCA witness Catlin:

Equitable has conditioned its acquisition of the Goodwin and Tombaugh Gathering Systems on approval of a new Rider E—Appalachian Production Enhancement Program surcharge that would allow the Company to recover the costs of cost beneficial system projects from all distribution customers. Under its Rider E proposal, the Company would be permitted to recover all costs in the year in which they were incurred, including capital costs.

OCA St. 1 at 7. The OCA objected to Rider E on a number of grounds, including the OCA's position that cost recovery of capital improvements to gathering systems through a rider as proposed by Equitable was not supported by the Public Utility Code, Rider E would recover not

only Gathering System improvements but also recover the costs of projects anywhere on its system that would increase or maintain the continued availability of Pennsylvania produced Appalachian gas to Equitable's customers, and the fact that Equitable's proposed recovery mechanism would add substantial additional expense for ratepayers due to the tax treatment of such expenditures. OCA St. 1 at 7-12.

As discussed above, Equitable proposed revisions to Rider E in the Rebuttal phase of this proceeding that would have addressed some of the OCA's concerns. The core dispute over Rider E, however, is that such a cost recovery mechanism finds no support in the Public Utility Code. The Settling Parties agreed to resolve their differences over Rider E as follows:

- Rider E

The Parties agree that Equitable will withdraw its proposed Rider E. EGC may seek rate recovery of any reasonably-incurred capital expenditures and expenses associated with EGC's investigation and rehabilitation of the Systems in future base rate or other PUC proceedings. With the exception of the prudently incurred capital expenditures and expenses incurred during the 12 month initial assessment period set forth in the "Investigation and Reporting" section below, the Parties' agreement hereto is without prejudice to any position they may take in future proceedings in which EGC seeks rate recovery.

Settlement ¶ 2.

As this clause provides, Equitable agreed to withdraw Rider E in its entirety. As a result of this agreement, Equitable will seek recovery of any expenditures associated with the repair and rehabilitation of the Gathering Systems in a future PUC proceeding. The Settling Parties also retain their right to challenge any attempted cost recovery in a future PUC proceeding.

For the reasons discussed here and throughout Mr. Catlin's Testimonies, the withdrawal of Rider E is a substantial benefit of the Settlement. Alleviating the need to fully

litigate this issue serves to promote the conservation of scarce resources. The withdrawal of Rider E also places the risk of cost recovery for system improvements and repairs on the Company in any future PUC proceeding, except for the initial assessment costs – capped at \$2 million, and brings the issue of cost recovery within the realm of normal base rate review processes, including prudence and reasonableness. As proposed, all of Equitable’s distribution customers were subject to Rider E. Accordingly, the OCA submits that the resolution as to Rider E in this part of the Settlement is reasonable and in the public interest.

4. Reporting and Consultation. (Settlement ¶ 5)

The OCA has always been concerned as to the possible loss of utility service for any utility customers. Paramount in that concern, however, is the potential loss of central heating in cold weather. The OCA understands and appreciates the fact that, sometimes, natural gas customers may need to be abandoned due to infrastructure and other issues that present no other viable alternative. With that thought in mind, the Settling Parties agreed to the following:

- Abandonment Reservation

EGC reserves the right to abandon service to its customers served off the Goodwin/Tombaugh Gathering Systems. EGC agrees to have discussions with the Parties hereto before proceeding with abandonment (absent emergency circumstances) of any customers, but such discussions shall in no way alter any of EGC’s rights or discretion to proceed with abandonment.

Settlement ¶ 5.

This Settlement clause would affirmatively provide notice to the OCA of any possible abandonment. The ability of the OCA to get involved in these issues on the ground floor may be helpful in finding a reasonable outcome for all parties involved. Accordingly, the OCA submits that the reporting and consultation feature is an important component of this Settlement and is in the public interest.

5. Conclusion.

The Settlement Agreement represents compromise on all sides and is not completely indicative of the positions that the OCA may have taken had these issues been fully litigated. That said, however, the agreements reached herein all represent reasonable resolutions of the issues raised by the OCA in this proceeding. Further, as evidenced by the Settlement, the agreements reached herein represent a level of cooperation and alternative paths forward on these issues that were not possible through the litigation process. Accordingly, the OCA submits that the Settlement Agreement reached here is in the public interest and should be approved.

IV. CONCLUSION

For the foregoing reasons, the Office of Consumer Advocate submits that the terms and conditions of the Settlement are in the public interest and therefore, should be approved.

Respectfully Submitted,



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Dated: December 14, 2012

163375

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Equitable Gas Company LLC	:	
for Affiliated Interest Approval and Such	:	
Other Approvals, If Any, As May Be Necessary	:	Docket Nos. R-2012-2312577
In Regard to the Acquisition of the Goodwin	:	G-2012-2312597
Gathering System from EQT Gathering, LLC	:	
And of the Tombaugh Gathering System from	:	
Equitrans, LP	:	

STATEMENT OF SMALL BUSINESS ADVOCATE
IN SUPPORT OF SETTLEMENT

I. Introduction

The Office of Small Business Advocate (“OSBA”) is an agency of the Commonwealth of Pennsylvania authorized by the Small Business Advocate Act (Act 181 of 1988, 73 P.S. §§ 399.41 – 399.50) to represent the interests of small business consumers as a party in proceedings before the Pennsylvania Public Utility Commission (“Commission”).

The OSBA filed a Notice of Intervention and Protest (“Protest”) with respect to the above-captioned application (“Application”) that Equitable Gas Company LLC (“Equitable” or “Company”) filed with the Pennsylvania Public Utility Commission (“Commission”) on June 29, 2012, seeking various Commission approvals to allow Equitable to acquire the Goodwin and Tombaugh gathering systems from EQT Gathering, LLC and Equitrans, L.P., respectively.¹ Equitable’s willingness to acquire the subject gathering systems was contingent on the Commission’s approval of Supplement No. 86 to Equitable’s Tariff Gas – PA P.U.C. No. 22

¹ Application at 2.

which was submitted along with the Application. Supplement No. 86 would have established a rider for the recovery of costs related to the Goodwin and Tombaugh gathering systems.²

II. Summary of the OSBA's Principal Concerns

On September 6, 2012, the OSBA filed its Protest in this proceeding. The OSBA also filed the Direct, Rebuttal, and Surrebuttal Testimony of its witness Brian Kalcic. In its Protest and testimony the OSBA recommended that the Commission deny the Company's request to acquire the Goodwin and Tombaugh Gathering Systems ("G&T"). The OSBA also recommended that the Commission deny the Company's proposal to implement Rider E. The OSBA identified several significant questions which needed to be answered prior to Commission action on the Application including the following:

- a. What is the economic value of the assets to be transferred to Equitable?
- b. What are the potential gas cost savings?
- c. Would the proposed sale of the assets increase, decrease, or have no effect on the purchased gas cost ("PGC") rates charged to Equitable's retail customers?
- d. What, if any, impact would the proposed sale of the assets have on the costs imposed on Equitable's retail customers related to lost-and-unaccounted-for-gas ("LUFG")?

III. Settlement

In this proceeding, Equitable proposed to acquire ownership of approximately 379 miles of pipeline and related assets which comprised the G&T Gathering Systems from its affiliates, Equitrans Gathering, LLC and Equitrans, LP, for a net book value of \$1.9 million. Additionally, the Company proposed that Rider E would be used to recover the costs associated with projects that "provide, or continue to provide customer savings through increased reliance on

² Application at 4.

Pennsylvania produced Appalachian production.”³ The salient features of the proposed transaction, as modified by the Settlement, are:

- a. The assets will be transferred from Equitrans Gathering, LLC and Equitrans, LP to Equitable.⁴
- b. The value of the transfer, or cost paid by Equitable to its affiliates, will not be recoverable through future rates or otherwise recovered from Equitable’s ratepayers.
- c. Rider E is withdrawn.

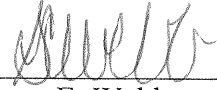
As a result of the above, ratepayers will not be responsible for any acquisition costs or any costs otherwise recoverable in Rider E. At the same time, the Settlement preserves natural gas service to approximately 1,600 customers, while providing twelve months time for Equitable to complete a comprehensive evaluation of the G&T systems to determine whether or not continued operation of those systems is warranted.

³ Equitable Statement No. 2 at 5.

⁴ Joint Petition, Section V, B1, at 5.

WHEREFORE, the OSBA respectfully requests that the Administrative Law Judge and the Commission approve the Settlement in its entirety.

Respectfully submitted,



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For:

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Dated: December 14, 2012

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Administrative Law Judge
Mary D. Long, Presiding**

Pennsylvania Public Utility Commission	:	R-2012-2312577
	:	C-2012-2315323
v.	:	
	:	
Equitable Gas Company	:	
Application of Equitable Gas Company, LLC for Affiliated Interest Approval and Such Other Approvals, If Any, As May Be Necessary In Regard to the Acquisition of the Goodwin Gathering System from EQT Gathering, LLC and of the Tombaugh Gathering System from Equitrans, LP	:	G-2012-2312597

CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of December 2012 served a true and correct copy of the foregoing Joint Settlement Agreement, upon the persons and in the manner set forth below:

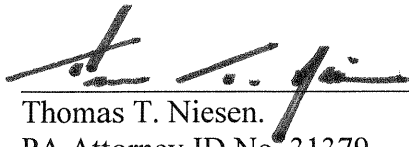
EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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