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January 23, 2013

David P. Zambito
Counsel for
Direct Phone 717-703-5892
Direct Fax 215-989-4216
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VIA HAND DELIVERY

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

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Re: Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas"
Competition Between Jurisdictional Natural Gas Distribution Companies;
Docket No. P-2011-2277868

Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional
Natural Gas Distribution Companies; Docket No. I-2012-2320323

**MOTION TO HOLD PROCEEDING IN ABEYANCE PENDING COMMISSION
FINAL ACTION IN PROPOSED ACQUISITION OF EQUITABLE GAS
COMPANY, LLC BY PEOPLES NATURAL GAS COMPANY LLC**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the original Motion to Hold Proceeding in Abeyance of Peoples Natural Gas Company LLC in the above-referenced proceeding. A copy of this document has been served in accordance with the attached Certificate of Service.

Rosemary Chiavetta
January 23, 2013
Page 2

If you have any questions regarding this filing, please direct them to me. Please date-stamp the extra copy and return it with our courier. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR



By: David P. Zambito
Counsel for *Peoples Natural Gas Company LLC*

DPZ/kmg
Enclosures
cc: Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge
Elizabeth H. Barnes

Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies :
Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies :

Docket No. P-2011-227786

Docket No. I-2012-2320323

SECRETARY'S BUREAU

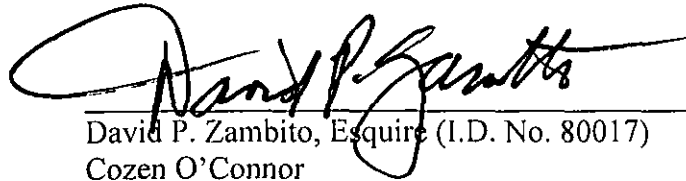
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NOTICE TO PLEAD

TO: Parties at Docket Nos. P-2011-2277868 & I-2012-2320323

Pursuant to 52 Pa. Code §§ 5.61 and 5.103, you are hereby notified that Peoples Natural Gas Company LLC has filed a Motion to Hold Proceeding in Abeyance at the above-referenced dockets to which you may file an answer within twenty (20) days unless otherwise provided in Chapter 5 of Title 52 of the Pennsylvania Code or by the Presiding Officer. Your failure to answer will allow the Presiding Officer to rule on the Motion without a response from you, thereby requiring no other proof. All pleadings such as a reply to this document must be filed with the Secretary of the Pennsylvania Public Utility Commission at P.O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the undersigned counsel for Peoples Natural Gas Company LLC.



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Cozen O'Connor
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Date: January 23, 2013

Counsel for *Peoples Natural Gas Company LLC*

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing Motion to Hold Proceeding in Abeyance Pending Commission Final Action in Proposed Acquisition of Equitable Gas Company, LLC by Peoples Natural Gas Company LLC upon the participants, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

VIA FIRST CLASS MAIL AND ELECTRONIC MAIL:

Honorable Elizabeth H. Barnes
Office of Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2 West
P.O. Box 3265
Harrisburg, PA 17105-3265

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Pennsylvania Public Utility Commission
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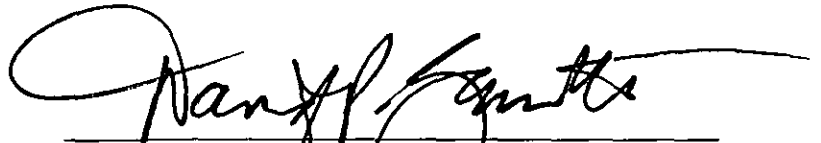
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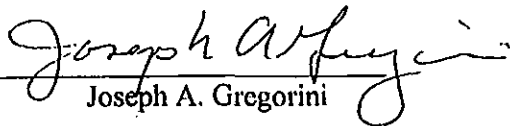
David P. Zambito, Esquire
Counsel for *Peoples Natural Gas Company LLC*

Date: January 23, 2013

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VERIFICATION

Joseph A. Gregorini, Vice President of Peoples Natural Gas Company LLC, states that the facts set forth in the foregoing are true and correct to the best of his knowledge, information and belief. This statement is made subject to the penalties of 18 Pa. C.S. §4904 relating to unsworn falsification to authorities.


Joseph A. Gregorini

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge
Elizabeth H. Barnes

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Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies : : Docket No. P-2011-2277868

Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies : : Docket No. I-2012-2320323

**MOTION TO HOLD PROCEEDING IN ABEYANCE
PENDING COMMISSION FINAL ACTION IN
PROPOSED ACQUISITION OF EQUITABLE GAS COMPANY, LLC
BY PEOPLES NATURAL GAS COMPANY LLC**

TO THE HONORABLE ELIZABETH H. BARNES:

NOW COMES Peoples Natural Gas Company LLC ("Peoples"), by and through its counsel, Cozen O'Connor, and hereby requests that the above-captioned consolidated proceeding involving the Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies at Docket No. P-2011-2277868 and the Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies at Docket No. I-2012-2320323 (collectively hereinafter, "Investigation") be held in abeyance pending a final action by the Pennsylvania Public Utility Commission ("Commission") on the application for approval of the announced

acquisition of Equitable Gas Company, LLC (“Equitable”) by Peoples Natural Gas Company LLC (“Peoples”). It is further requested by this Motion that the Investigation be automatically restarted via the scheduling of a further Prehearing Conference to be held within 45 days of Commission final action in the Acquisition.¹ In support of this Motion, Peoples respectfully states, avers, and argues as follows:

I. PROCEDURAL HISTORY

1. The procedural history of the Investigation as set forth on pages 1-2 of the Order of Administrative Law Judge Elizabeth H. Barnes (“ALJ Barnes” or “Presiding Officer”), dated December 11, 2012, (“December 11th Order”) is incorporated herein by reference. In addition, Duquesne Light Company filed a Petition to Intervene on January 3, 2013.

2. In the December 11th Order, ALJ Barnes stated regarding the scope of the proceeding:

Upon review of the parties’ comments, I agree with BI&E, OCA and OSBA that the intention of the Secretarial Letter was to initiate a fully litigated proceeding, specifically to determine the full impact of flexing distribution rates, to address if this competition should be allowed to continue, and if so, how that should be fairly applied as outlined in the Joint Petition for Settlement, page 4. The merits of gas-on-gas competition shall be a part of the scope of this proceeding. The Secretarial Letter states, “It is problematic to resolve the issues related to gas-on-gas competition in the NGDC’s individual base rate case.” Thus, I believe from this statement, that the Commission intended for the investigation to be broad rather than narrow in scope. *A more in-depth procedure than just a comment period will be required and discovery will be allowed such that the parties will have time to evaluate the scope of the issues so that potential remedies can be*

¹ The following parties have indicated to Peoples’ counsel that they do not oppose holding the Investigation in abeyance pending final action in the Acquisition proceeding: Office of Consumer Advocate (“OCA”); the Commission’s Bureau of Investigation & Enforcement (“I&E”); Columbia Gas of Pennsylvania, Inc.; UGI Utilities, Inc., UGI Central Penn Gas, Inc. and UGI Penn Natural Gas, Inc. (collectively “UGI Distribution Companies”); Natural Fuel Gas Distribution Corporation; The Pennsylvania State University; PECO Energy Company; Equitable; Peoples TWP LLC; and, the Pennsylvania Independent Oil & Gas Association. The following parties have indicated opposition: Office of Small Business Advocate (“OSBA”) and Industrial Energy Consumers of Pennsylvania. Duquesne Light Company takes no position with respect to holding the proceeding abeyance.

evaluated. Thus, I infer from the Secretarial Letter dated July 25, 2012, that the Commission intended for the generic investigation to address the entire set of issues raised by the Joint Petitioners in their Joint Petition.

December 11th Order, at p. 4 (emphasis added).

3. In accordance with the December 11th Order, the Commission issued a Notice on December 12, 2012 setting a Further Prehearing Conference for January 24, 2013.

4. On December 20, 2012, Peoples announced an agreement to acquire Equitable for \$720 million and other consideration. A copy of Peoples' News Release regarding the Acquisition is attached hereto as **Appendix A**. Peoples anticipates that an application for a certificate of public convenience evidencing approval of the Acquisition under Sections 1102 and 1103 of the Pennsylvania Public Utility Code ("Code"), 66 Pa. C.S. §§ 1102, 1103, will be filed with the Commission prior to the end of the first quarter of 2013.

5. In addition to Commission approval, the Acquisition will require the review of the Federal Trade Commission ("FTC") pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. § 18a (§ 7A of the Clayton Act).

6. For customers of Peoples and Equitable who have negotiated rates with Peoples or Equitable for delivery services, Peoples has already committed in conjunction with the Acquisition announcement to extend through at least 2018 any benefit that such customers have negotiated.

II. ACQUISITION IS HIGHLY RELEVANT TO INVESTIGATION

7. Peoples, founded in 1885, is a "public utility" and a "natural gas distribution company" as those terms are defined in Sections 102 and 2202 of the Code, 66 Pa. C.S. §§ 102, 2202. Peoples provides natural gas service to approximately 360,000 customers throughout its

certificated service territory which includes all or a portion of the following Pennsylvania counties: Allegheny; Armstrong; Beaver; Butler; Cambria; Clarion; Fayette; Greene; Indiana; Lawrence; Mercer; Somerset; Venango; Washington; and, Westmoreland.

8. Equitable, founded in 1878, is a “public utility” and a “natural gas distribution company” as those terms are defined in Sections 102 and 2202 of the Code, 66 Pa. C.S. §§ 102, 2202. Equitable provides natural gas service to approximately 260,000 customers throughout its certificated service territory which includes all or a portion of the following Pennsylvania counties: Allegheny; Armstrong; Butler; Clarion; Fayette; Greene; Indiana; Jefferson; Washington; and, Westmoreland.

9. Due to historical circumstances, Peoples and Equitable have overlapping service territories in certain areas of western Pennsylvania. Customers located in these overlapping services territories, depending on the specific location of service facilities, may be able to choose between Peoples and Equitable for distribution service. Because of this choice, both Peoples and Equitable have offered discounted rates to such customers.

10. As explained above, the Acquisition, following Commission and FTC approval, would change the face of gas-on-gas competition in western Pennsylvania. If this Investigation proceeding is to determine how gas-on-gas competition is to be addressed in the future, then it would be reasonable to take evidence based on the future structure of the market and its competitors rather than on the past structure -- for which there is a current proposal to change. Such future structure will not be certain until the Acquisition has been reviewed and ruled upon by both the Commission and the FTC.

III. STANDARDS FOR HOLDING PROCEEDING IN ABEYANCE

11. “The presiding officer will have the authority specified in this act, subject to this title. This authority includes, but is not limited to, the power to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses, to schedule and impose reasonable limitations on discovery and to otherwise regulate the course of the proceeding.” 52 Pa. Code § 5.483(a) (regarding “Authority of presiding officer”).

12. “This subpart [Rules of Administrative Practice and Procedure] shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable.” 52 Pa. Code § 1.2 (regarding “Liberal construction”).

IV. HOLDING INVESTIGATION IN ABEYANCE IS PRUDENT

13. The FTC investigation of the Acquisition will yield very significant and highly relevant information that will inevitably affect the scope and content of the Investigation. If the Investigation were to proceed without regard to the outcome of the Acquisition, the parties to the Investigation would be required, in the context of a fully litigated proceeding, to engage in extensive discovery, present expert witnesses, and potentially argue appropriate remedies for gas-on-gas competition based on facts that are likely to change as a result of the Acquisition. Moving forward with the Investigation at this time would be contrary to the stated intent of the Commission in its Rules of Practice and Procedure to secure a “just, speedy and inexpensive determination” of the proceeding. *See* 52 Pa. Code § 1.2.

14. Basic notions of procedural due process dictate that the Investigation should not move forward because parties would be forced to litigate an investigation (the outcome of which would

impact substantive property rights) without a meaningful opportunity to be heard with regard to evolving and changing facts.² In order to ensure a just proceeding, the Commission would have to provide parties with an opportunity to conduct discovery regarding, and respond to, the outcome of the Acquisition insofar as it provides critical information regarding gas-on-gas competition. The additional due process, which could include petitions to reopen the record and petitions for reconsideration, would add significantly to the expense of the Investigation for the parties and unnecessarily waste Commission resources.³ The parties will have already litigated, and the Commission will have already adjudicated, the Investigation on a different set of facts. Moreover, the required additional process could delay the final resolution of the Investigation by creating confusion and requiring additional responsive pleadings. Accordingly, the Investigation should, as a matter of prudence, be held in abeyance pending the outcome of the Acquisition.

15. As a practical matter, the Commission should recognize that the employees of both Peoples and Equitable will have dramatically increased responsibilities over the coming months as a result of the Acquisition (as will representatives of all parties who intervene and participate in Acquisition-related proceedings). The employees continue to have the responsibility of providing safe, adequate, reliable, and reasonable service to the public. A delay in the start of the Investigation would provide the employees with additional time to focus on the Acquisition as well as their other responsibilities. It would prevent duplicative discovery that will likely

² Administrative agencies, such as the Commission, are required to provide due process to the parties appearing before them. *Schneider v. Pa. Pub. Util. Comm'n*, 479 A.2d 10 (Pa. Cmwlth. 1984). The fundamental requisites of due process are adequate notice and opportunity to be heard. *Lawson v. Pa. Dep't of Pub. Welfare*, 744 A.2d 804 (Pa. Cmwlth. 2000).

³ See 52 Pa. Code §§ 5.571 (regarding reopening of record prior to a final decision due to material changes of fact), 5.572 (regarding petitions for relief following a final decision). A petition for reconsideration may properly raise any matter designed to convince the Commission that it should exercise its discretion to amend or rescind a prior order, in whole or in part. Such petitions are likely to succeed only when they raise new and novel arguments not previously heard or considerations that appear to have been overlooked or not addressed by the Commission. *Duick v. Pa. Gas and Water Co.*, 56 Pa. P.U.C. 553 (1982).

occur if the Investigation is not held in abeyance. The issue of gas-on-gas competition has existed for decades and the FTC investigation of the Acquisition will yield substantial additional insight into the issue. The employees, as well as other parties to the Acquisition, should be permitted to devote attention to it.

V. **AUTOMATIC RESTART OF INVESTIGATION**

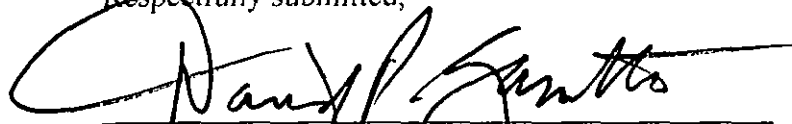
16. *In response to input from several parties who have opted not to oppose this Motion, Peoples respectfully requests that, if this Motion is granted, the Investigation be automatically restarted by holding a Further Prehearing Conference within 45 days following Commission final action on the Acquisition application.*

VI. REQUEST FOR RELIEF

WHEREFORE, Peoples Natural Gas Company LLC respectfully requests that the Honorable Administrative Law Judge Elizabeth H. Barnes grant this Motion by executing the proposed order attached hereto as **Appendix B**, which would:

- A. Grant this Motion in its entirety;
- B. Hold the Investigation in abeyance, without change to the Commission's current treatment of gas-on-gas competition between natural gas distribution companies, pending Commission final action on the Acquisition application;
- C. Stay any discovery in the Investigation; and,
- D. Require a further Prehearing Conference within 45 days of Commission final action on the Acquisition application.

Respectfully submitted,



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Counsel for *Peoples Natural Gas Company LLC*

Date: January 23, 2013

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APPENDIX A

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PEOPLES™

A STEELRIVER COMPANY

News Release

FOR IMMEDIATE RELEASE

Media Contact:

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Peoples Natural Gas Announces Agreement to Buy Equitable Gas Company

Western Pennsylvania energy companies focus their strengths in response to changes in the natural gas industry

[December 20, 2012 – PITTSBURGH, PA] Peoples Natural Gas today announced an agreement with EQT Corporation that will enhance each company's core business and build the best future for the Pittsburgh-based companies' customers. Under the agreement, Peoples Natural Gas will expand its core business of local gas distribution by acquiring Equitable Gas Company, EQT's distribution business in Pennsylvania, West Virginia and Kentucky. As part of the transaction, EQT will receive cash proceeds of \$720 million and select midstream assets and commercial arrangements that will strengthen EQT's mid-stream operations.

"This agreement involves two longstanding Western Pennsylvania energy companies working together to embrace our strengths and build the best future we can for our customers, our region and our nation," said Morgan O'Brien, President and CEO of Peoples Natural Gas. "At Peoples, our focus is on being the best local distribution utility company, meeting the energy needs of our customers and supporting the communities we serve."

The addition of Equitable Gas Company to the Peoples Natural Gas local distribution system will greatly benefit the Western Pennsylvania community, and beyond, by creating significant operational efficiencies and by enhancing the safety and reliability of the system. Peoples Natural Gas is committed to increased capital spending on the pipeline systems – as already demonstrated at Peoples Natural Gas and its sister company, Peoples TWP in Butler, Pennsylvania.

Combining Equitable and Peoples will result in a more streamlined and efficient operating system for customers, allowing the companies to avoid a substantial amount of upcoming replacement costs where the systems overlap. The expected savings of combining the two systems and their operations will be passed on to all customers as those efficiencies are realized.

The new combined company will be committed to all customers of both utilities in keeping Peoples Natural Gas one of the lowest utility bills in Pennsylvania. And for those limited customers who

[SAFETY|CUSTOMER COMMITMENT|TRUST| COMMUNITY

APPENDIX A

today can choose between the two separate systems for delivery service, they will be protected with guaranteed extended rate protections.

Peoples expects the transaction to promote greater competition in gas supply, since the combined systems are expected to attract more marketers and permit them to operate more efficiently. In addition, Peoples will continue its support of local gas producers.

"The natural gas industry is quickly evolving into the cleanest and most economical solution for meeting this country's future energy needs," O'Brien said, "and Western Pennsylvania is at the heart of this economic boom."

Chris Kinney, CEO of SteelRiver Infrastructure Fund North America, said, "In 2010, SteelRiver acquired Peoples, returned its headquarters to Pittsburgh, and increased capital investments in the region. In the past two years, Peoples has created more than 300 new jobs in Western Pennsylvania by shifting work that had been previously performed elsewhere. We expanded our commitment to Western Pennsylvania with the acquisition of Peoples TWP in 2011, with the goal, of once again, strengthening the company through investments and improved customer service. The acquisition of Equitable attests to our desire for continued investment and long-term presence in the region, and allows Peoples to pursue its objectives of growing and supporting the local economy."

EQT also has operations in Kentucky and West Virginia and, in purchasing Equitable Gas Company, Peoples will expand its operations into those states. The deal is subject to approval by various regulatory bodies, including the Pennsylvania Public Utility Commission, West Virginia Public Service Commission and Kentucky Public Service Commission, as well as the Federal Energy Regulatory Commission and federal antitrust authorities. The transaction is expected to close in the second half of 2013.

Peoples Natural Gas and its sister company, Peoples TWP, currently provide safe and reliable service to approximately 420,000 homes and businesses in 18 western Pennsylvania counties.

SteelRiver Infrastructure Partners is an independent investment management firm that invests in core infrastructure in North America for the long term, seeking out assets and businesses that provide essential services with stable cash flows and often regulated characteristics.

###

APPENDIX B

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Administrative Law Judge
Elizabeth H. Barnes

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Joint Petition for Generic Investigation or Rulemaking Regarding "Gas-On-Gas" Competition Between Jurisdictional Natural Gas Distribution Companies : Docket No. P-2011-2277868

Generic Investigation Regarding Gas-On-Gas Competition Between Jurisdictional Natural Gas Distribution Companies : Docket No. I-2012-2320323

**ORDER GRANTING MOTION TO HOLD
PROCEEDING IN ABEYANCE**

AND NOW, in consideration of the "Motion to Hold Proceeding in Abeyance Pending Commission Final Action in Proposed Acquisition of Equitable Gas Company, LLC by Peoples Natural Gas Company LLC," filed by Peoples Natural Gas Company on January 23, 2013 ("Motion"), and the responses thereto,

IT IS HEREBY ORDERED THAT:

1. The Motion is granted in its entirety;
2. The above-captioned consolidated proceeding is held in abeyance, without change to the Commission's current treatment of gas-on-gas competition between natural gas distribution companies, pending Commission final action on the application for a certificate of public convenience evidencing approval of the acquisition of Equitable Gas Company, LLC by

Peoples Natural Gas Company LLC to be filed by the end of the first quarter of 2013 (“Acquisition Application”);

3. Discovery is stayed in the above-captioned consolidated proceeding; and,

4. A further Prehearing Conference in the above-captioned consolidated proceeding shall be scheduled to be held within 45 days of Commission final action on the Acquisition Application.

Date: _____

Elizabeth H. Barnes
Administrative Law Judge

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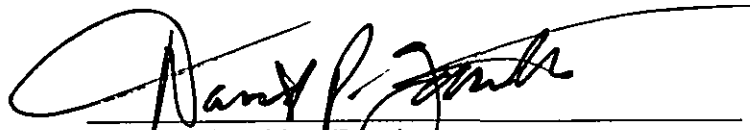
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