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January 23, 2013

VIA E-FILE

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

**FURTHER PREHEARING MEMORANDUM OF PEOPLES NATURAL GAS
COMPANY LLC AND PEOPLES TWP LLC**

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is the original Further Prehearing Memorandum of Peoples Natural Gas Company LLC and Peoples TWP LLC 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

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Should you have any questions regarding this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR



By: David P. Zambito

Counsel for Counsel for *Peoples Natural Gas Company LLC* and *Peoples TWP LLC*

DPZ/kmg

Enclosures

cc: Certificate of Service

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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

**FURTHER PREHEARING MEMORANDUM OF
PEOPLES NATURAL GAS COMPANY LLC AND
PEOPLES TWP LLC**

In anticipation of the Further Prehearing Conference scheduled in the above-captioned consolidated proceedings to occur on January 24, 2012, Peoples Natural Gas Company LLC ("Peoples") and Peoples TWP LLC ("Peoples TWP") (collectively, the "Peoples Entities"), by and through their attorneys, Cozen O'Connor, hereby file this Further Prehearing Memorandum in response to procedural issues raised by the Honorable Administrative Law Judge Elizabeth H. Barnes ("Presiding Officer") in her Order, dated December 11, 2012, and state as follows:

I. SERVICE OF DOCUMENTS

1. Please list David P. Zambito on the service list on behalf of the Peoples Entities Mr.

Zambito's contact information is as follows:

David P. Zambito, Esquire (I.D. No. 80017)
Cozen O'Connor
305 North Front Street, Suite 400
Harrisburg, PA 17101-1236

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Telephone: 717-703-5892
Facsimile: 215-989-4216
E-mail: dzambito@cozen.com

The Peoples Entities agree to receive service of documents electronically in this proceeding. Further, to the extent that materials are available electronically, it is requested that copies also be served on William H. Roberts II, Senior Counsel -- Peoples Natural Gas Company LLC, at william.h.robertsII@peoples-gas.com and Jennifer L. Petrisek, Senior Counsel -- Peoples TWP LLC, at jennifer.petrisek@peoples-gas.com.

2. Mr. Zambito is authorized to accept service on behalf of the Peoples Entities in this proceeding. The Peoples Entities request that the Commission and all parties serve copies of all discovery requests and answers, correspondence, Commission orders, and any other documents issued in this proceeding on Mr. Zambito and, to the extent that such documents are served electronically, also on Mr. Roberts and Ms. Petrisek.

II. PEOPLES' MOTION TO HOLD PROCEEDING IN ABEYANCE

3. On January 23, 2013, Peoples filed a "Motion to Hold Proceeding in Abeyance Pending Commission Final Action in Proposed Acquisition of Equitable Natural Gas Company, LLC by Peoples Natural Gas Company LLC" ("Abeyance Motion"). The Peoples Entities submit that the Abeyance Motion should be granted at the Further Prehearing Conference to be held on January 24, 2013, following an opportunity for opponents to state their objections on the record. *See* 52 Pa. Code § 5.103(c)(regarding Presiding Officer's authority to fix period of time for responses to motions). A prompt decision by the Presiding Officer would eliminate the need to argue and decide other procedural issues at this time. The Peoples Entities discussion of procedural issues below is submitted for consideration by the Presiding Officer and the other

parties only in the event that the Presiding Officer declines to rule immediately on the Abeyance Motion.

III. ISSUES AND WITNESSES

4. The Peoples Entities have not yet identified their respective witnesses but reserve the right to call witnesses and present testimony on any issue that may arise during the course of this proceeding. Because the exact scope of issues to be examined in this proceeding is not yet known, the Peoples Entities believe that it would be prudent to refrain from limiting the number of witnesses at this time.

IV. DISCOVERY

5. The Peoples Entities propose that the parties adhere to the Commission's standard rules of discovery as contained in 52 Pa. Code § 5.321 *et seq.*, with one exception: Discovery requests served after noon on a Friday or the day before a state-recognized holiday shall be deemed served on the next following business day.

6. To date, the Peoples Entities have received formal discovery requests only from the Office of Small Business Advocate ("OSBA"). OSBA's discovery requests were served on January 18, 2013 and request, among other things, competitive pricing and discount information ("Customer-Specific Discount Information"). The Peoples Entities consider Customer-Specific Discount Information to be extremely sensitive and deserving of the highest degree of protection. The Peoples Entities intend to object by the January 28, 2013 deadline to portions of OSBA's discovery requests in the event that they cannot reach a resolution with OSBA and the other parties as to a Protective Order. In order to avoid this discovery dispute, the Peoples Entities

respectfully request either that (i) OSBA agree to an extension of the time period for objection to its discovery pending the Presiding Officer's ruling on the Abeyance Motion, or (ii) the Presiding Officer affirmatively stay discovery pending her ruling on the Abeyance Motion. This proceeding has no set timeline for conclusion and a stay of discovery pending resolution of the Abeyance Motion would not prejudice any party. To the extent that discovery proceeds, the Peoples Entities request that a Protective Order be promptly issued which is substantially similar to the Protective Order described in Paragraphs 7-9 below.

V. PROTECTIVE ORDER

7. As indicated above, the Peoples Entities believe that this proceeding warrants a unique Protective Order because of *Customer-Specific Discount Information*. This information could be used by natural gas distribution companies and customers to gain competitive advantages. There is also a legitimate concern that counsel and consultants could use the knowledge of Customer-Specific Discount Information, even if inadvertently, in other transactions, proceedings, or client-related business.

8. Attached hereto as **Appendix A** is a draft Protective Order prepared by the Peoples' Entities. The draft is based on a standard Protective Order often used in Commission proceedings. However, the highlighted portions represent new language regarding Customer-Specific Discount Information intended to address this unique investigation proceeding which involves numerous competitors and customers. In essence, the draft provides for disclosure of Customer-Specific Discount Information, with customer identities disguised, only to counsel for the Public Advocates. All other parties would receive Customer-Specific Discount Information only on an "aggregate" or "average" basis. Additionally, parties would have an obligation to use

commercially reasonable efforts to prevent their employees, former employees, counsel, expert witnesses, and consultants from disclosing Customer-Specific Discount Information.

9. The draft Protective Order is being presented in anticipation of the Further Prehearing Conference solely for discussion purposes between the parties and for general input from the Presiding Officer on what additional protections may be appropriate for Customer-Specific Discount Information. The Peoples Entities will attempt to reach a consensus with the other parties regarding an appropriate Protective Order and then file a Motion for Protective Order for consideration by the Presiding Officer.

VI. PROCEDURAL SCHEDULE

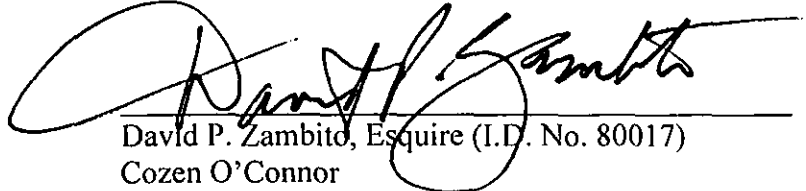
10. The Peoples Entities assert that it is premature to set a procedural schedule until the Presiding Officer rules on the Abeyance Motion. Nevertheless, they believe that a reasonable procedural schedule would provide for ample opportunity for discovery matters because of the likelihood of disputes involving Customer-Specific Discount Information. They also believe that, because of the broad scope of this proceeding and the broad range of potential issues that could be raised by a party in direct testimony, additional time should be afforded for rebuttal testimony. Finally, because the proceeding does not have a set deadline (such as a rate proceeding), all testimony (direct, rebuttal, surrebuttal, and rejoinder) should be in writing and pre-served. Written testimony will limit the amount of time needed for on-the-record hearings.

VII. SETTLEMENT DISCUSSIONS

11. The Peoples Entities are willing to engage in settlement discussions with the parties. Moreover, the Peoples Entities believe that it would be prudent for the parties to attempt to reach

stipulations regarding the exact scope of issues to be raised in direct testimony in order to bring additional structure to the proceeding.

Respectfully submitted,



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Counsel for *Peoples Natural Gas Company LLC*
and *Peoples TWP LLC*

Date: January 23, 2013

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APPENDIX A

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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

PROTECTIVE ORDER

IT IS ORDERED THAT:

1. This Protective Order is hereby granted with respect to all materials and information identified in Paragraph 2 of this Protective Order which are filed with the Commission, produced in discovery, or otherwise presented during this proceeding. The Commission's Bureau of Investigation & Enforcement ("I&E"), the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), Peoples Natural Gas Company LLC, Peoples TWP LLC, Equitable Gas Company, LLC, Columbia Gas of Pennsylvania, Inc., National Fuel Gas Corporation, PECO Energy Company, The Pennsylvania State University, the Industrial Energy Consumers of Pennsylvania, the Pennsylvania Independent Oil & Gas Association, Duquesne Light Company, and all other parties who may

subsequently appear in this proceeding are collectively referred to herein as “Parties” or individually as a “Party.” All persons now and hereafter granted access to the materials and information identified in Paragraph 2 of this Protective Order shall use and disclose such information only in accordance with this Order.

2. The materials subject to this Order are all correspondence, documents, data, information, studies, methodologies and other materials which a Party or an affiliate of a Party furnishes in this proceeding pursuant to Commission rules and regulations, discovery procedures, testimony or cross-examination, or provides as a courtesy to a Party to this proceeding, which are claimed to be of a proprietary or confidential nature and which are designated “PROPRIETARY INFORMATION” or “CONFIDENTIAL INFORMATION” (hereinafter collectively referred to as “Proprietary Information”).

In addition, a Party may designate extremely sensitive Proprietary Information as “HIGHLY CONFIDENTIAL” (hereinafter referred to as “Highly Confidential Information”) and thus secure the additional protections set forth in this Order pertaining to such material. Such Highly Confidential Information shall be only such Proprietary Information, if any, that constitutes or describes a Party’s or, in the event that the information involves a specific customer, such customer’s (i) customer names or customer prospect names, addresses, annual volumes of gas usage, or other customer-identifying information; (ii) non-public financial information¹ and marketing plans; (iii) competitive strategies or service alternatives; (iv) market share projections; (v) competitive pricing or discounting information; (vi) marketing materials that have not yet been used; (vii) settlement agreements; and, (viii) agreements that have been

¹ The term “non-public financial information” refers to income statements, balance sheets, tax returns, debt instruments, and similar financial documents describing the financial condition of a Party or a customer. The term does not include *inter alia* cost information related to the operation, maintenance, or improvement of a Party’s natural gas system.

designated by the signatory parties to the agreements as confidential. A Party may subsequently petition the Commission or the Administrative Law Judge to include additional types of items in the designation of Highly Confidential Information.

3. Proprietary Information and Highly Confidential Information shall be made available to the Commission and its Staff for use in this proceeding. For purposes of filing, to the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's report folders, such information shall be handled in accordance with routine Commission procedures inasmuch as the report folders are not subject to public disclosure. To the extent that Proprietary Information or Highly Confidential Information is placed in the Commission's testimony or document folders, such information shall be separately bound, conspicuously marked, and accompanied by a copy of this Order. Public inspection of Proprietary Information and Highly Confidential Information shall be permitted only in accordance with this Protective Order.

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

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

i. Such employee or expert(s) may not hold any of the following positions: (a) an officer, board member, stockholder, partner or owner of a competitor of the Producing Party, or (b) an employee of a competitor of the Producing Party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in

competition with those of the Producing Party; or (c) an officer, board member, stockholder, partner, owner of any affiliate of a competitor of the Producing Party. Notwithstanding the foregoing, any employee or expert shall not be disqualified on account of being a stockholder, partner, or owner unless his/her interest in the business constitutes a significant potential for violation of the limitations of permissible use of the Proprietary Information.

ii. If a Party's independent expert, another member of the independent expert's firm or the independent expert's firm generally, also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the Producing Party, said independent expert must: (1) advise the Producing Party of the competitor's or affiliate's name(s); (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a competitor or any affiliate of a competitor of the Producing Party; and (3) if segregation of such personnel is impractical, the independent expert shall give to the Producing Party written assurances that the lack of segregation will in no way jeopardize the interests of the Producing Party. The Producing Party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

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

b. Highly Confidential Information. Highly Confidential Information shall be produced for inspection by a Party's counsel of record only.² If the inspecting lawyer desires copies of such material, or desires to disclose its contents to persons other than counsel of record, she or he shall submit a written request to the Producing Party's counsel. If the requesting Party and Producing Party are unable to reach agreement with respect to such a request, either may submit the issue to the presiding Administrative Law Judge for resolution.

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

d. Notwithstanding anything to the contrary contained in this Protective Order, all competitive pricing or discounting information regarding a specific customer or a subgroup of customers (collectively, "Customer-Specific Discount Information") produced in this proceeding by a Party shall be treated as Highly Confidential Information and shall be produced for inspection by only I&E, OCA, and OSBA counsel. The Producing Party may disguise the identity of customers in produced Customer-Specific Discount Information by redacting names, addresses, and other customer-identifying information. No other Party, absent good cause shown to the presiding Administrative Law Judge upon the filing of a motion to

² Except as otherwise provided herein, Highly Confidential Information shall be produced to Counsel for OCA, I&E and OSBA. Counsel for OCA, I&E and OSBA may make such information available to their expert witnesses upon the expert witness's execution of the Affidavit attached to this Protective Order as **Appendix A**. The provisions of Paragraph 4(b) regarding access by non-counsel representatives shall be otherwise inapplicable to Counsel for OCA, I&E and OSBA and their expert witnesses.

compel, shall be entitled to inspection or receipt of Customer-Specific Discount Information. If Customer-Specific Discount Information is produced to a Party, that Party shall exercise a level of care to protect that information from unauthorized disclosure and use that is at least as high as the level of care exercised to protect Highly Confidential Information from unauthorized disclosure or misuse. Upon request, the Producing Party shall attempt to accommodate a request by another Party for competitive pricing or discounting information by compiling and producing such information on an "aggregate" or "average" basis without disclosing Customer-Specific Discount Information.

5. Prior to making Proprietary Information or Highly Confidential Information available to any person as provided in Paragraph 4 of this Protective Order, the Producing Party's counsel shall receive a written acknowledgment from that person in the form attached to this Order and designated as **Appendix A**.

6. A Producing Party shall designate data or documents as constituting or containing Proprietary Information or Highly Confidential Information by affixing an appropriate "confidential" or proprietary stamp or typewritten designation on such data or documents. Where only part of data compilations or multi-page documents constitutes or contains Proprietary or Highly Confidential Information, the Producing Party shall designate only the specific data or pages of documents which constitute or contain Proprietary Information or Highly Confidential Information. Where data or documents contain Highly Confidential Information that includes Customer-Specific Discount Information, the Producing Party shall additionally indicate that such data or documents include Customer-Specific Discount Information.

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

8. Parts of any record in this proceeding containing Proprietary Information or Highly Confidential Information, including but not limited to all exhibits, writings, testimony, cross examination, argument and responses to discovery, and including reference thereto as mentioned in ordering Paragraph 7 above, shall be sealed for all purposes, including administrative and judicial review, unless such Proprietary Information or Highly Confidential Information is released from the restrictions of this Order, either through the agreement of the Parties or pursuant to order of the Administrative Law Judge or the Commission. Unresolved challenges arising under Paragraph 9 shall be decided, on motion or petition, by the presiding officer or the Commission as provided by 52 Pa. Code § 5.423(a). All such challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, etc., to the extent that such guidance is available.

9. The Parties affected by the terms of this Order shall retain the right to question or challenge the confidential or proprietary nature of Proprietary Information or Highly Confidential Information; to question or challenge the admissibility of Proprietary Information or Highly Confidential Information; to refuse or object to the production of Proprietary Information or Highly Confidential Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; to seek an order permitting disclosure of Proprietary

Information or Highly Confidential Information beyond that allowed in this Order; and to seek additional measures of protection of Proprietary Information or Highly Confidential Information beyond those provided in this Order. If a challenge is made to the designation of a document or information as Proprietary or Highly Confidential, the Party claiming that the information is Proprietary or Highly Confidential retains the burden of demonstrating that the designation is necessary and appropriate.

10. Upon completion of this proceeding, including any administrative or judicial review, all copies of all documents and other materials, including notes, which contain any Proprietary Information or Highly Confidential Information shall be immediately returned upon request to the Party furnishing such Proprietary Information or Highly Confidential Information. In the alternative, Parties may provide an affidavit of counsel affirming that the materials containing or reflecting Proprietary Information or Highly Confidential Information have been destroyed.

11. A Party shall use commercially reasonable efforts, including restrictions in engagement letters and employment policies and the filing of appropriate legal actions, to prevent its employees, former employees, counsel, expert witnesses, and consultants who were involved in this proceeding from unlawfully disclosing or otherwise misusing, both during and after this proceeding, Proprietary Information or Highly Confidential Information furnished during the course of this proceeding.

Dated: _____

Elizabeth H. Barnes
Administrative Law Judge

APPENDIX A
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 : : Docket No. P-2011-2277868

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

TO WHOM IT MAY CONCERN:

The undersigned is the _____ of _____ (the retaining Party) and is not, or has no knowledge or basis for believing that he/she is: (1) an officer, board member, stockholder, partner or owner other than stock of any competitor of _____ (the "Producing Party"); (2) an employee of any competitor of the Producing Party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the Producing Party; or (3) an officer, board member, stockholder, partner, or owner other than stock of any affiliate of a competitor of the Producing Party.

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The undersigned has read and understands the Protective Order that deals with the treatment of Proprietary Information and Highly Confidential Information (including Customer-Specific Discount Information). The undersigned agrees to be bound by, and comply with, the terms and conditions of said Order. I acknowledge that a violation of this certificate constitutes a violation of an order of the Pennsylvania Public Utility Commission. I further acknowledge that execution of this certificate does not exempt me from any private cause of action for unauthorized disclosure or use of Proprietary Information or Highly Confidential Information (Customer-Specific Discount Information) to which I may otherwise be subject. In the case of an independent expert, the undersigned represents that he/she has complied with the provisions of paragraph 4 (a)(ii) of the Order prior to submitting this Affidavit.

SIGNATURE

PRINT NAME

ADDRESS

EMPLOYER

DATE

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CERTIFICATE OF SERVICE
Docket Nos. P-2011-2277868 and I-2012-2320323

I hereby certify that I have this day served a true copy of the foregoing Further Prehearing Memorandum 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
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Allison C. Kaster, Esquire
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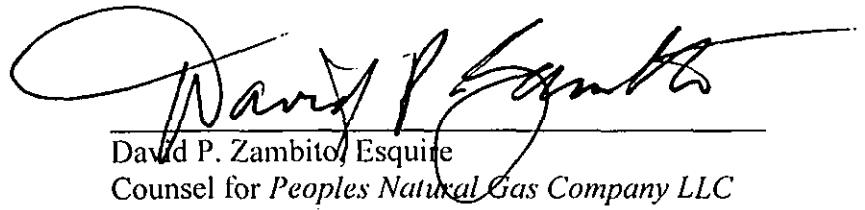
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David P. Zambito, Esquire
Counsel for *Peoples Natural Gas Company LLC*
and *Peoples TWP LLC*

Date: January 23, 2013

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