

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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February 1, 2013

Rosemary Chiavetta, Secretary
PA Public Utility Commission
Commonwealth Keystone Bldg.
400 North Street
Harrisburg, PA 17120

RE: 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

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Answer in Support of the Motion to Hold Proceeding in Abeyance in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Darryl A. Lawrence".

Darryl A. Lawrence
Assistant Consumer Advocate
PA Attorney I.D. # 93682

Enclosures

cc: Hon. Elizabeth H. Barnes, ALJ
Certificate of Service

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BEFORE THE PENNSYLVANIA
PUBLIC UTILITY COMMISSION

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

ANSWER OF THE OFFICE OF CONSUMER
ADVOCATE IN SUPPORT OF THE MOTION
TO HOLD PROCEEDING IN ABEYANCE

Pursuant to 52 Pa. Code Section 5.103(c), the Office of Consumer Advocate (OCA) submits this Answer in support of the Motion To Hold Proceedings In Abeyance Pending Final Action In Proposed Acquisition of Equitable Gas Company, LLC by Peoples Natural Gas Company, LLC (Motion) filed by Peoples Natural Gas Company, LLC (Peoples or Company) on January 23, 2013. In support of the Motion, the OCA provides the following:

I. INTRODUCTION

On December 8, 2011, the Bureau of Investigation and Enforcement (BI&E), the OCA, the Office of Small Business Advocate (OSBA), Peoples TWP LLC (TWP) and Peoples (collectively, Joint Petitioners) filed a Petition (Joint Petition) with the Pennsylvania Public Utility Commission (Commission) in consideration of certain agreements reached in the

settlement of Peoples' base rate case at Docket No. R-2010-2201702. In relevant part, the Joint Petition provided:

In accordance with the Settlement of Peoples' base rate case, the Joint Petitioners request that the Commission initiate a generic investigation or rulemaking with regard to competition among NGDCs, flexing of distribution rates to meet such competition, and treatment of flexed revenues for ratemaking purposes in future ratemaking proceedings. All interested parties should be permitted to participate.

Joint Petition at 8.

On July 25, 2012, the Commission issued a Secretarial Letter with respect to the Joint Petition. The Secretarial Letter granted the relief sought in the Joint Petition, ordered a generic investigation and assigned the matter to the Office of Administrative Law Judge. Generic Investigation on Gas-on-Gas Competition Issues, Docket No. P-2011-2277868 (Secretarial Letter issued July 25, 2012). This matter was assigned to Administrative Law Judge Elizabeth H. Barnes (ALJ Barnes). Subsequent to the Secretarial Letter being issued, numerous parties intervened in this matter. On August 23, 2012, ALJ Barnes issued a Prehearing Conference Order to notify interested parties that a Prehearing Conference was scheduled for August 31, 2012.

On August 31, 2012, ALJ Barnes convened a Prehearing Conference. At that time, petitions to intervene, the composition of the service list, e-mail distribution list and the matter of protective orders were discussed and resolved. One area of contention arose, however, as to the scope of the generic investigation as the parties expressed differing views as to the interpretation of the Secretarial Letter. The OCA and OSBA stated that the scope of this generic investigation encompasses the entire set of issues addressed in the Joint Petition, specifically: (1) competition among NGDCs; (2) flexing of distribution rates to meet such competition; and, (3)

treatment of flexed revenues for ratemaking purposes. See Joint Petition at 8; see e.g. Tr. at 9-10. Conversely, several of the natural gas distribution companies (NGDCs), specifically Peoples, Equitable, Columbia and UGI generally argued that the Secretarial Letter reduced the scope of this generic investigation to deal with only the ratemaking implications of gas-on-gas competition, and not whether the practice itself should be allowed to continue. See e.g., Tr. at 8-9, 11-12, 14-15.

In light of these contrasting viewpoints, ALJ Barnes directed the parties to file written Comments as to their respective positions on the scope of the generic investigation. Tr. at 19. In a Prehearing Order issued that same day, August 31, 2012, ALJ Barnes specifically directed the parties to:

file formal comments regarding what the scope of the generic investigation should be and to specify the exact issues to be involved in a generic investigation in the case within thirty (30) days from the entry date of this order.

Prehearing Order of August 31, 2012 at 4 (Prehearing Order). In accord with the Prehearing Order, the OCA filed Comments on October 1, 2012, in support of its position that this generic investigation should address all issues raised by the Joint Petitioners and that the Secretarial Letter did not, in any way, limit the scope of the instant proceeding.

On December 11, 2012, ALJ Barnes issued an Order (December 11 Order), which determined the proper scope of the Investigation and provided in relevant part:

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 ... 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 evaluated.

December 11 Order at 4. The December 11 Order also provided for a second prehearing conference to be held on January 24, 2013.

On December 20, 2012, Peoples issued a press release announcing its agreement to acquire Equitable (Acquisition). On January 23, 2013, Peoples filed its Motion requesting that this proceeding be held in abeyance pending final Commission action with respect to the Acquisition. According to the Motion, Peoples anticipates filing an application for a certificate of public convenience with the Commission by the end of the first quarter of 2013.

ALJ Barnes presided over the second prehearing conference on January 24, 2013. One of the main issues discussed at the Prehearing Conference was the potential effect of the Acquisition proceeding on the instant Investigation, and the Motion filed by Peoples seeking to hold the Investigation in abeyance. ALJ Barnes did not rule on the Motion at that time, but instead allowed the parties the opportunity to provide an Answer to the Motion on or before February 1, 2013. The OCA submits this Answer in support of the Motion.

II. ANSWER

The OCA submits that holding this Investigation in abeyance until a final determination is made as to the Acquisition is a reasonable and prudent course of action. Granting the Motion will preserve scarce resources, promote administrative efficiency and will not prejudice the rights of the parties to engage in a thorough and probing investigation of the issues relative to gas-on-gas competition as the Motion includes an automatic restart date. As such, the OCA supports the Motion.

The OCA looks forward to the opportunity to actively participate in the gas-on-gas Investigation, but, as a practical matter, proceeding simultaneously with a review of the

proposed Acquisition and this Investigation could create unnecessary conflicts and inefficient and ineffective use of resources. This is particularly the case if the Acquisition impacts issues regarding the overlapping service territories where such activity takes place.

Further, the discovery and investigative phase of the Acquisition will provide significant information as to the operating practices of these two utilities. Some of this same information will need to be developed during the gas-on-gas Investigation. To proceed with the Investigation now will very likely lead to duplicative and redundant discovery to Equitable and Peoples. Not only will this situation create immediate waste for all parties involved, but could also entail significant amounts of wasted time and resources depending upon the final determination as to the Acquisition.

Moreover, this Investigation does not need to proceed right now. The OCA appreciates the fact that this Investigation is finally poised to move forward; however, the proposed Acquisition has the potential to alter the facts. As such, the OCA supports holding this proceeding in abeyance – but not indefinitely. The Motion provides an automatic restart of the Investigation within 45 days of a final Commission decision on the Acquisition. Motion at pg. 7. Considering the efficiencies to be gained from having a clear knowledge of the players and a clear focus as to the facts after the Acquisition proceeding, the OCA is willing to wait for such an Investigation to restart.

III. CONCLUSION

The Office of Consumer Advocate submits that substantial time and resources could be preserved by holding this proceeding in abeyance until a final determination is reached in the proposed Acquisition. Accordingly, the OCA supports granting the Motion.

Respectfully Submitted,



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Dated: February 1, 2013

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CERTIFICATE OF SERVICE

Re: 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

I hereby certify that I have this day served a true copy of the foregoing document,
the Office of Consumer Advocate's Answer in Support of the Motion to Hold Proceeding in
Abeyance, upon parties of record in this proceeding in accordance with the requirements of 52
Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed
below:

Dated this 1st day of February 2013.

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