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April 15, 2013

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor  
Harrisburg, PA 17120

**VIA HAND DELIVERY**

**RE: Joint Application of Peoples Natural Gas Company LLC, Peoples TWP LLC, and Equitable Gas Company, LLC for All of the Authority and the Necessary Certificates of Public Convenience (1) To Transfer All of the Issued and Outstanding Limited Liability Company Membership Interest of Equitable Gas Company, LLC and PNG Companies LLC, (2) To Merge Equitable Gas Company, LLC with Peoples Natural Gas Company LLC, (3) To Transfer Certain Storage and Transmission Assets of Peoples Natural Gas Company LLC to Affiliates of EQT Corporation, (4) To Transfer Certain Assets Between Equitable Gas Company, LLC and Affiliates of EQT Corporation, (5) for Approval of Certain Ownership Changes Associated with the Transaction, (6) for Approval of Certain Associated Gas Capacity and Supply Agreements, and (7) for Approval of Certain Changes in the Tariff of Peoples Natural Gas Company LLC; Docket Nos. A-2013-2353647, A-2013-2353649, and A-2013-2353651**

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission ("PUC" or "Commission") is the Protest of the Peoples-Equitable Merger Intervenors ("PEMI") regarding the above-referenced proceeding.

As evidenced by the attached Certificate of Service, all parties to the proceeding are being served with a copy of this document. Please date stamp the extra copy of this transmittal letter and Protest, and kindly return them to our messenger for our filing purposes. Thank you.

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Rosemary Chiavetta, Secretary  
April 15, 2013  
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Sincerely,

McNEES WALLACE & NURICK LLC

By *Vasiliki Karandrikas*  
Vasiliki Karandrikas

Counsel to the Peoples-Equitable Merger Intervenors

VK/sds

Enclosures

c: Chief Administrative Law Judge, Charles E. Rainey, Jr. (via Hand Delivery)  
Certificate of Service

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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Joint Application of Peoples Natural Gas :  
 Company LLC, Peoples TWP LLC, and :  
 Equitable Gas Company, LLC for All of the :  
 Authority and the Necessary Certificates of :  
 Public Convenience (1) To Transfer All of the :  
 Issued and Outstanding Limited Liability :  
 Company Membership Interest of Equitable :  
 Gas Company, LLC and PNG Companies :  
 LLC, (2) To Merge Equitable Gas Company, :  
 LLC with Peoples Natural Gas Company :  
 LLC, (3) To Transfer Certain Storage and :  
 Transmission Assets of Peoples Natural Gas :  
 Company LLC to Affiliates of EQT :  
 Corporation, (4) To Transfer Certain Assets :  
 Between Equitable Gas Company, LLC and :  
 Affiliates of EQT Corporation, (5) for :  
 Approval of Certain Ownership Changes :  
 Associated with the Transaction, (6) for :  
 Approval of Certain Associated Gas Capacity :  
 and Supply Agreements, and (7) for Approval :  
 of Certain Changes in the Tariff of Peoples :  
 Natural Gas Company LLC :

Docket Nos. A-2013-2353647  
 A-2013-2353649  
 A-2013-2353651

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**PROTEST**

TO THE HONORABLE, THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Pursuant to the provisions of Sections 5.51 through 5.53 of the Pennsylvania Public Utility Commission's ("Commission") Regulations, 52 Pa. Code §§ 5.51 – 5.53, Peoples-Equitable Merger Intervenors ("PEMI") hereby files this Protest in the above-captioned proceeding. In support thereof, PEMI states as follows:

1. Petitioner is Peoples-Equitable Merger Intervenors. The current composition of PEMI is set forth in Appendix "A". PEMI anticipates that additional members will authorize participation in this matter and will update Appendix "A", as necessary, to reflect the composition of PEMI.

2. The names and address of PEMI's attorneys are:

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Vasiliki Karandrikas (I.D. No. 89711)  
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3. On March 21, 2013, Peoples Natural Gas Company LLC ("Peoples"), Peoples TWP LLC ("Peoples TWP"), and Equitable Gas Company, LLC ("Equitable") (together, "Applicants") filed with the Commission a Joint Application seeking: (1) to transfer all of the issued and outstanding limited liability membership interest of Equitable to PNG Companies LLC, the parent company of Peoples; (2) to merge Equitable with Peoples; (3) to transfer certain storage and transmission assets of Peoples to affiliates of EQT Corporation ("EQT"), the ultimate parent company of Equitable; (4) to transfer certain assets between Equitable and affiliates of EQT; (5) for approval of certain ownership changes associated with the proposed transaction; (6) for approval of certain associated gas capacity and supply agreements; and (7) for approval of certain changes in the Peoples tariff ("Proposed Transaction"). The consideration for the Proposed Transaction is a cash payment of approximately \$720 million, plus the transfer of approximately \$93 million in transmission pipeline and storage assets of Peoples to EQT as well as the cost of rate base improvements for the transferred assets prior to the closing. Initially, Equitable will be operated as a new, separate operating division of Peoples for accounting

purposes. Upon closing of the Proposed Transaction, it is anticipated that Equitable will be merged into Peoples, with Peoples as the surviving entity.

4. Notice of the Joint Application was published in the *Pennsylvania Bulletin* on March 30, 2013. Interested parties were instructed to file formal protests and petitions to intervene on or before April 15, 2013. See 43 Pa.B. 1814.

5. PEMI is an ad hoc group of large commercial and industrial customers receiving service, or capable of receiving service, from Peoples and/or Equitable. PEMI members use substantial volumes of natural gas in their manufacturing and operational processes. The Commission's resolution of this Joint Application may impact the rates that PEMI members pay for natural gas service or the terms and conditions under which they receive natural gas service. Consummation of the Proposed Transaction will also impact the competitive natural gas alternatives available to PEMI members. Therefore, PEMI has a significant interest in this proceeding that is not otherwise represented by any other party of record.

6. PEMI opposes the proposed acquisition of Equitable by Peoples. PEMI submits this Protest to protect the interests of its members, who are some of the largest customers on the Peoples and Equitable systems. In particular, PEMI seeks to evaluate whether the Proposed Transaction satisfies the City of York standard.<sup>1</sup>

7. Peoples and Equitable currently compete with each other in certain overlapping territories to provide service to customers. Upon consummation of the Proposed Transaction, Equitable will be merged into Peoples, with Peoples as the surviving entity. As a result, the merger of Peoples and Equitable will effectively eliminate the current "gas-on-gas" competition

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<sup>1</sup> The City of York standard requires "those seeking approval of a utility merger" to "demonstrate more than the mere absence of any adverse effect on the public" by showing that "the merger will affirmatively promote the 'service, accommodation, convenience or safety of the public' in some substantial way." City of York v. Pa. P.U.C., 449 Pa. P.U.C. (1972) (hereinafter, City of York).

in the overlapping portions of the Equitable and Peoples service territories.<sup>2</sup> The existence of natural gas distribution companies that offer competitive proposals benefits large commercial and industrial customers through lower rates and, thus, promotes economic development and manufacturing in Southwestern Pennsylvania. Eliminating a competitive option is contrary to economic development and the public interest.

8. In addition, the Joint Application details Peoples' and Equitable's intentions to *cease investment in maintaining and/or replacing aging pipelines in the overlapping portions of the companies' service territories.* See Joint Application, at 37. Based on the information presented in the Joint Application, it is not clear how this proposal will impact customer service, nor how the costs for new service connections that would likely be necessitated by the proposal to discontinue infrastructure investment in the overlapping areas would be allocated among customers. The Joint Application not only provides little information regarding these aspects of the Proposed Transaction, it also is silent on whether impacted customers' preferences will be determinative of (or even taken into consideration with respect to) which pipeline facilities are duplicative and no longer worthy of further investment. Thus, the costs, terms, and/or conditions of service for large commercial and industrial customers could change dramatically as a result of the Proposed Transaction.

9. Moreover, the Joint Application raises concerns that approval of the proposed merger could allow Peoples and Equitable to modify existing contractual obligations by imposing an "AVC capacity charge" on transportation customers with a negotiated delivery rate.

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<sup>2</sup> Peoples and Equitable claim that they will maintain all existing negotiated distribution rate contracts for a minimum period of five years from the closing of the Proposed Transaction. See Joint Application, at 40. In addition, Peoples and Equitable will maintain their current tariff provisions that allow flexing of distribution rates under "appropriate circumstances." Id. The Joint Application, however, does not explain how such proposals could be implemented given the seemingly contradictory proposal to merge Peoples and Equitable, with Peoples as the sole surviving entity, upon closing. See id. at 10.

In Peoples' proposed tariff, Rider B states, "Upon Commission approval and implementation of the AVC capacity charge, all ratepayers receiving a negotiated discount delivery rate charge under Rate GS-T, shall...be assessed an initial AVC capacity charge equal to the AVC capacity charges set forth immediately below" and "To the extent permitted under the customer's discounted rate contract, the Company may recover ongoing increases to the initial AVC charge from such customers." See Appendix K, at Rider B, Original Page Nos. 63A-63B. Thus, the proposed changes to the Peoples tariff potentially threaten the sanctity of long-term contracts in effect, and appear to contradict the Companies' statements that existing negotiated transportation rates will be maintained for at least five years. Furthermore, the Joint Application proposes capacity charges and allocation factors, as set forth in Rate B, but does not demonstrate whether such charges are just, reasonable, and unduly preferential, nor whether they are consistent with cost causation principles.

10. Finally, Section 2210(a)(1) requires the Commission to consider in its review of merger or acquisition applications such as this "[w]hether the proposed merger, consolidation, acquisition or disposition is likely to result in anticompetitive or discriminatory conduct, including the unlawful exercise of market power, which will prevent retail gas customers from obtaining the benefits of a properly functioning and effectively competitive retail natural gas market." 66 Pa. C.S. § 2210(a)(1). The Commission has the power to reject any transaction that is likely to result in anticompetitive or discriminatory conduct or to approve the transaction only "upon such terms and conditions as it finds necessary to preserve the benefits of a properly functioning and effectively competitive retail natural gas market." Id. § 2210(b). The Proposed Transaction will disrupt the current functioning and effectively competitive retail natural gas

market in the area by removing competitive options currently available to customers on both systems. As a result, the merger violates Section 2210(a)(1) and must be rejected.

11. Based on the information provided in the Joint Application, the Applicants have not met their burden to prove that the Proposed Transaction meets the applicable standards for approval, including the City of York standard. Therefore, in accordance with Section 5.51 of the Commission's Regulations, 52 Pa. Code § 5.51, and for the reasons stated above, PEMI members protest the approval of the Joint Application. PEMI reserves the right to raise additional issues regarding the Proposed Transaction during the course of the proceeding.

**WHEREFORE**, Peoples-Equitable Merger Intervenors respectfully requests that the Commission set the Joint Application for full evidentiary hearing to determine whether the Proposed Transaction satisfies all applicable legal standards.

Respectfully submitted,

McNEES WALLACE & NURICK LLC

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Dated: April 15, 2013





**APPENDIX A**

**PEOPLES-EQUITABLE MERGER INTERVENORS**

Allegheny Technologies Incorporated and Allegheny Ludlum, LLC

Horsehead Corporation

The Techs, A Division of Steel Dynamics, Inc.

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## CERTIFICATE OF SERVICE

I hereby certify that I am this day serving a true copy of the foregoing document upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (relating to service by a participant).

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Counsel to Peoples-Equitable Merger Intervenors

Dated this 15<sup>th</sup> day of April, 2013, at Harrisburg, Pennsylvania.

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