



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

May 8, 2013

Secretary Rosemary Chiavetta
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

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 in Equitable Gas Company, LLC to PNG Companies LLC, (2) to Merge Equitable Gas Company, LLC with the 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

Dear Secretary Chiavetta:

Enclosed please find an original copy of the Bureau of Investigation and Enforcement's (I&E) **Prehearing Conference Memorandum** in the above-captioned proceeding.

Copies are being served on all active parties of record. If you have any questions, please contact me at (717) 783-7998.

Sincerely,

Allison C. Kaster
Prosecutor
Bureau of Investigation and Enforcement
PA Attorney I.D. #93176

ACK/CBW/sea
Enclosure

cc: Hon. Mark A. Hoyer
Parties of Record

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SECRETARY'S BUREAU

**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 in Equitable :
Gas Company, LLC to PNG Companies :
LLC, (2) to Merge Equitable Gas Company, :
LLC with the 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 No. A-2013-2353647
A-2013-2353649
A-2013-2353651

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SECRETARY'S BUREAU

**BUREAU OF INVESTIGATION AND ENFORCEMENT
PREHEARING MEMORANDUM**

TO THE HONORABLE MARK A. HOYER:

I. INTRODUCTION

Pursuant to the Prehearing Conference Order dated April 24, 2013, the Bureau of Investigation and Enforcement (“I&E”) of the Pennsylvania Public Utility Commission (“Commission”) respectfully submits the following Prehearing Memorandum in the above-captioned proceeding.

The I&E Prosecutors assigned to this proceeding are Allison Kaster and Carrie Wright.

Contact information is as follows:

By mail: Allison Kaster
Carrie Wright
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

By e-mail: akaster@state.pa.us
carwright@state.pa.us

By telephone: (717) 783-7998
(717) 783-6156

By fax: (717) 772-2677

II. BACKGROUND

On March 19, 2013, Peoples Natural Gas Company (“Peoples”), Equitable Gas Company (“Equitable”), and Peoples TWP, LLC (“Peoples TWP”) (collectively the “Joint Applicants”) filed an Application seeking Commission approval of: (1) the transfer of 100% of the issued and outstanding limited liability company membership interest in equitable, an indirect subsidiary of EQT Corporation to PNG Companies, LLC, an indirect subsidiary of SteelRiver Infrastructure Fund North America LP (“SRIFNA”); (2) the merger of Equitable with Peoples and the operation of Equitable as an operating division of PNG; (3) the transfer of certain storage and transmission assets of Peoples to EQT; (4) the transfer of certain assets and/or the exchange of certain services between EQT and Equitable; (5) certain PNG ownership changes associated with the transaction; (6) certain associated gas capacity, storage, interconnects, leases, and supply service agreements among Peoples, Peoples TWP, Equitable, and/or EQT; and (7) certain changes in Peoples’ tariff necessary to carry out the proposed transactions. The Joint Applicants

also seek any other approvals or certificates appropriate, necessary, or customary under the Public Utility Code to carry out these contemplated transactions.

On April 8, 2013, I&E filed its Notice of Appearance. On April 13, 2013, the Office of Small Business Advocate (“OCA”) filed its Notice of Appearance, and on April 15, 2013 the Office of Consumer Advocate filed a Protest. In addition, numerous other parties have filed Protests or Petitions to Intervene in this matter.

On April 24, 2013, a Prehearing Conference Order was issued in this proceeding. A Prehearing Conference is scheduled for Thursday, May 9, 2013, at 10:00 a.m. with Administrative Law Judge Mark Hoyer presiding. In accordance with ALJ Hoyer’s Prehearing Conference Order, I&E now submits this prehearing memo.

III. ISSUES

The following list represents a preliminary determination of potential issues in this proceeding. The list is complete as can be made at this time; however, I&E reserves the right to address other issues as it deems appropriate:

1. Ratepayer Benefits
2. Quality of Service
3. Ring-Fencing Mechanisms
4. Effect on Competitive Markets
5. Gas Safety

IV. WITNESSES

It is currently expected that I&E will call the following expert witnesses:

Debra Backer, Fixed Utility Financial Analyst

Ethan Cline, Fixed Utility Valuation Engineer

Susan Daub, Fixed Utility Financial Analyst

Ralph Graeser, Gas Safety Supervisor

The I&E witnesses can be reached at the contact information provided above. Because the witness list is provided without the benefit of complete discovery or analysis of the positions of other parties to this proceeding, I&E reserves the right to call additional witnesses or withdraw the witnesses listed above.

V. SCHEDULE

I&E supports the procedural schedule presented in the Office of Consumer Advocate's Prehearing Memorandum and maintains that this procedural schedule is warranted due to the fact that the Application and Direct Testimony do not contain any information regarding the condition of the Goodwin Gathering System and the Tombaugh Gathering System (collectively "Gathering Systems").

On June 29, 2012, Equitable filed an application to acquire the Gathering Systems, docketed at R-2012-2312577. I&E opposed the transfer of the Gathering Systems to Equitable due to the excessively high levels of lost and unaccounted for gas (LUF_G), which presented a safety concern and would be very costly to replace. The Tombaugh system had a LUF_G rate of 46% in 2009 and the Goodwin system had a rate of 70%, both of which rose to 53% and 78% respectively in 2011.¹ On February 8, 2013, ALJ Mary Long issued a Recommended Decision finding that the proposed acquisition was not in the public interest due to the high LUF_G levels and the potential expense to replace the pipelines in order to control the LUF_G. Accordingly, ALJ Long recommended that Equitable's application to acquire the Gathering Systems be denied.

¹ R.D. at 7.

On February 19, 2013, Equitable filed a Petition to Withdraw its application without prejudice and requested that the acquisition of the Gathering Systems be considered in the instant Peoples/Equitable Acquisition proceeding.² Equitable stated that granting its request to withdraw the application and address issues surrounding the Gathering Systems in the Peoples/Equitable Acquisition would allow it to “further develop and introduce additional information into the record concerning the overall condition of the Gathering Systems, with a focus on further addressing the concerns raised regarding the reported LUFG levels.”³ The desire to provide additional information in the Peoples/Equitable Acquisition was repeatedly expressed in Equitable’s Petition, and Equitable indicated that such information would be readily available in this proceeding:

In the coming months and in connection with the transfer of these Systems as part of the Peoples acquisition of Equitable, Equitable and EQT Midstream, moreover, will undertake additional and expedited efforts to better understand and address the reported LUFG, **which information will be readily available to present in connection with the filing of the Peoples/Equitable Acquisition Application** and related investigation.⁴

Moreover, paragraph 26 of Equitable’s Petition states:

If the Commission deems withdrawal of the Application to be inappropriate, Equitable proposes, as an alternative, that the Commission stay and defer these proceedings until the matter may be considered in conjunction with the Peoples/Equitable Acquisition Application proceeding when it is filed in the next several weeks. **At that time**, the additional information that has been developed since the hearing will continue to be developed **can be offered into the record when these proceedings are restarted** as part of the Peoples/Equitable Acquisition Application proceeding.⁵

² A copy of Equitable’s Petition for Leave to Withdraw Application and Tariff Supplement, Without Prejudice, or, in the Alternative, Motion to Stay and Defer Proceedings for Consideration With the Peoples/Equitable Acquisition Proceeding, and Request for Expedited Consideration (“Petition”) is attached as Appendix A.

³ Petition, p. 7.

⁴ Petition, p. 8 (Emphasis added).

⁵ Petition, p. 12 (Emphasis added).

According to Equitable, “[t]he paramount objective...is the creation of the opportunity to supplement the record with new and additional evidence to further enable the Commission to allow the transfer of the Gathering Systems to go forward...”⁶ Equitable attained its desired objective because the Commission granted its request to withdraw the Application and vacated ALJ Long’s Recommended Decision by Order entered April 4, 2013.

Despite Equitable’s repeated representations that it would introduce additional information and further address the LUFG concerns in the Peoples/Equitable Acquisition proceeding, Equitable failed to include any information regarding the condition of the Gathering Systems in the Joint Application or in Direct Testimony served on April 17, 2013. Equitable’s failure to provide this information impacts the procedural schedule because I&E has not had an opportunity to review or conduct discovery of Equitable’s new and additional evidence. Commission regulations prohibit a party from introducing evidence in the rebuttal phase that should have been included in the party’s case-in-chief and, to date, Equitable’s case-in-chief does not contain any evidence with respect to the condition of the Gathering Systems.⁷

Therefore, the procedural schedule must require Equitable to serve Direct Testimony and allow enough time for I&E to conduct discovery of that evidence and prepare testimony. I&E believes that the procedural schedule presented in the Office of Consumer Advocate’s Prehearing Memorandum provides sufficient time for discovery and testimony preparation, but requests that the OCA schedule be modified to require Equitable’s Direct Testimony and supporting exhibits concerning the condition of the Gathering Systems be served by May 23, 2013. Equitable stated that supplementing the record about the condition of the Gathering Systems in the Equitable/Peoples Acquisition is its “paramount objective” and I&E’s proposed modification

⁶ Petition, p. 9.

⁷ 52 Pa. Code § 5.243(e).

allows it to fulfill that objective.⁸ Accordingly, with the modification that Equitable submit Direct Testimony regarding the Gathering Systems on May 23, 2013, I&E supports the procedural schedule presented by OCA.

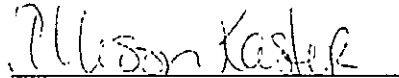
VI. SERVICE

I&E requests that electronic transmittal of materials satisfy the service requirement. It is understood that electronic service will be followed by hard copy delivery via first-class mail.

VII. SETTLEMENT

I&E is willing to make a good faith effort to successfully resolve this matter through settlement.

Respectfully submitted,


Allison Kaster
Prosecutor
PA Attorney I.D. #93176

Pennsylvania Public Utility Commission
Office of Trial Staff
Post Office Box 3265
Harrisburg, Pennsylvania 17105-3265

Dated: May 8, 2013

⁸ Petition, p. 9.

APPENDIX A

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MAY - 8 2013

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



THOMAS, LONG,
NIESEN & KENNARD

Attorneys and Counsellors at Law

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February 19, 2013

Via Electronic Filing

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

In re: Docket Nos. R-2012-2312577 and G-2012-2312597 and C-2012-2315323
Pennsylvania Public Utility Commission, et al. v. Equitable Gas Company, LLC

Dear Secretary Chiavetta:

We are counsel to Equitable Gas Company, LLC in the above consolidated matters and are submitting, via Electronic Filing, the Company's Petition for Leave to Withdraw Application and Tariff Supplement, Without Prejudice, or, in the Alternative, Motion to Stay and Defer Proceedings for Consideration With the Peoples/Equitable Acquisition Proceeding, and Request for Expedited Consideration. Copies of the Company's Petition/Motion are being served upon the persons and in the manner set forth on the certificate of service attached to it.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Thomas T. Niesen

cc: Certificate of Service (w/encl.)
Jonathan P. Nase, Esq.
Office of Special Assistants (w/encl.)
David W. Gray, Esq. (w/encl.)


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Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility	:	R-2012-2312577
Commission, <i>et al.</i>	:	G-2012-2312597
	:	C-2012-2315323
	:	
v.	:	
	:	
Equitable Gas Company, LLC	:	

NOTICE TO PLEAD

Notice is hereby given that a responsive pleading to the following Petition of Equitable Gas Company, LLC for Leave to Withdraw Application and Tariff Supplement, Without Prejudice, or, in the Alternative, Motion to Stay and Defer Proceedings for Consideration With the Peoples/Equitable Acquisition Proceeding, and Request for Expedited Consideration shall be filed with the Pennsylvania Public Utility Commission within 20 days of service or by March 11, 2013.

By 

Charles E. Thomas, Jr., Esquire
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Attorneys for Equitable Gas Company, LLC

**Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility	:	R-2012-2312577
Commission, <i>et al.</i>	:	G-2012-2312597
	:	C-2012-2315323
v.	:	
	:	
Equitable Gas Company, LLC	:	

**PETITION OF EQUITABLE GAS COMPANY, LLC FOR LEAVE TO WITHDRAW
APPLICATION AND TARIFF SUPPLEMENT, WITHOUT PREJUDICE, OR,
IN THE ALTERNATIVE, MOTION TO STAY AND DEFER PROCEEDINGS
FOR CONSIDERATION WITH THE PEOPLES/EQUITABLE
ACQUISITION PROCEEDING, AND
REQUEST FOR EXPEDITED CONSIDERATION**

AND NOW, comes Equitable Gas Company, LLC ("Equitable" or "Company"), by its attorneys, and, pursuant to 52 Pa. Code § 5.94, petitions the Pennsylvania Public Utility Commission ("Commission") for leave to withdraw, without prejudice, the above-captioned Application at G-2012-2312597 and its Supplement No. 86 to Tariff Gas – Pa. P.U.C. No. 22 at R-2012-2312577 or, in the alternative, pursuant to 52 Pa. Code § 5.103, moves to stay and defer these proceedings for consideration with the Joint Application of The Peoples Natural Gas Company, LLC, Peoples TWP, LLC (collectively, "Peoples") and Equitable ("Peoples/Equitable Acquisition Application"), which Peoples and Equitable intend to file in March, 2013.¹ The acquisition of Equitable by Peoples was announced on December 20, 2012, long after the initiation

¹ Equitable's request for alternative relief includes the option to reopen these proceedings, if the Commission were to conclude that a reopening were the appropriate procedural avenue to allow Equitable to further develop and introduce additional information concerning the Goodwin Gathering System and the Tombaugh Gathering System as discussed *infra*. Section 5.571 of the Commission's Rules and Regulations, 52 Pa. Code § 5.571, provides for the reopening of a proceeding prior to final decision to consider material changes of fact or of law alleged to have occurred since the conclusion of hearing. *Application of Trans-Allegheny Interstate Line Company*, Docket Nos. A-2010-2187540 and A-2010-2187542 (Order entered July 5, 2011); *Application of James and Dina Lilly, t/a JDK Services*, Docket No. A-00122875 (Order entered May 15, 2007).

of these proceedings.² In support of withdrawal or stay/deferral/reopening of the record, Equitable submits as follows:

I. BACKGROUND

1. These proceedings concern Equitable's Application for those approvals, as may be necessary, for it to acquire the Goodwin Gathering System and the Tombaugh Gathering System (the "Gathering Systems" or "Systems") from Equitable affiliates, EQT Gathering, LLC ("EQT Gathering") and Equitrans, LP ("Equitrans", and collectively with EQT Gathering, "EQT Midstream"), respectively.

2. These proceedings also concern Supplement No. 86 to the Company's Tariff Gas – Pa. P.U.C. No. 22. Supplement No. 86, which was docketed to R-2012-2312577, proposed a new Rider E - Appalachian Production Enhancement Program Surcharge, which would have allowed for cost recovery of cost beneficial system projects. Equitable agreed to withdraw Supplement No. 86 as part of a Joint Settlement Agreement with the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA") discussed *infra*.³

3. The Gathering Systems include approximately 379 miles of natural gas pipeline in Greene and Washington Counties, the original and primary function of which is to aggregate and transport natural gas to other markets. They operate at low pressures (less than 12 psig and significantly below the pressures that they were designed to handle) and are primarily located in rural areas. The gas wells that are served by these Systems are older, Non-Marcellus shallow

² See "SteelRiver Reaches Agreement to Acquire Equitable Gas Company through its Controlled Natural Gas Distribution Utility," Press Release (dated December 20, 2012), available at http://steelriverpartners.com/docs/SteelRiver_media_release_12202012_-_AS_PUBLISHED.pdf.

³ Supplement No. 86 was proposed to become effective on August 28, 2012, voluntarily postponed by Equitable until August 31, 2012 and suspended by Commission Order entered August 30, 2012 until February 28, 2013. Equitable, subsequently, voluntarily extended the suspension of Supplement No. 86 to March 14, 2013. To accommodate the extended Exception and Reply Exception periods discussed *infra*, Equitable is further voluntarily extending the suspension of Supplement No. 86 to May 10, 2013.

wells yielding relatively low volumes of gas that are on the decline. As a result, they have become non-core assets of EQT Gathering and Equitrans, both of which are more focused on gathering and transporting the gas produced from higher yielding and developing shale plays in Pennsylvania, including Marcellus Shale gas.

4. EQT Gathering and Equitrans are no longer interested in owning and operating these Gathering Systems and have expressed an interest in abandoning the Systems. Since Equitable provides retail natural gas service to more than 1,600 end use customers connected to the Gathering Systems, these Systems have significantly more value to Equitable and its customers than they presently do to EQT Gathering and Equitrans. Accordingly, Equitable agreed to acquire these Systems in order to keep its customers in gas service and assure that these Systems are available to help provide gas service to others in these primarily rural areas.

5. By Recommended Decision dated January 28, 2013 and issued February 8, 2013, presiding Administrative Law Judge Mary Long recommended that the Commission deny the Application and reject the non-unanimous Joint Settlement Agreement supported by Equitable, the OCA and the OSBA. In summary, Judge Long reasoned that there was insufficient information in the record regarding the current condition of the Gathering Systems and the potential impact on ratepayers from these acquisitions in order to conclude that the transfers were in the public interest.

6. Equitable respectfully disagrees with Judge Long and further notes that, if her Recommended Decision were to be accepted by the Commission, gas service to over 1600 customers is placed in immediate jeopardy, with no meaningful opportunity to gather and present the additional information that Judge Long appears to be requesting and is further referenced in this Petition. Although Equitable strongly believes that the transfers of these Systems are in the public interest under the current record, it also recognizes that, based on the Recommended

Decision, additional information has been and can continue to be developed and presented as referenced herein which may be material to the Commission.

7. Regarding the current record, the Joint Settlement Agreement between Equitable, OCA and OSBA, which was opposed by the Bureau of Investigation and Enforcement (“I&E”), would have allowed Equitable to acquire the Gathering Systems under certain identified and limiting terms and conditions that not only protected ratepayers from imprudent expenditures, but also addressed the safety related issues raised by I&E.

8. The Joint Settlement Agreement maintained the *status quo* of continued natural gas service to the more than 1,600 customers of Equitable, while Equitable conducted a 12-month assessment of both Systems. Equitable agreed to provide OCA and OSBA with quarterly reports of its findings, with a final report due at the end of the assessment, identifying the potential improvements and associated projected capital expenditures and expenses for the next three years. Regarding potential rate impacts, Equitable first agreed to withdraw its proposed Rider E. The settling parties then agreed to table any issues related to potential significant investments in the Gathering Systems and the recovery of the same, pending the information gathered and provided during the assessment period. The settling parties further agreed that any dollar value paid by Equitable for the Systems would not be recoverable in future rates. The only potential rate impact of the Joint Settlement Agreement was one provision that provided that Equitable could recover as a regulatory asset those capital expenditures and expenses that are otherwise prudently incurred during the initial twelve month assessment period – which amount was capped at \$2 million. Thus, the Joint Settlement Agreement negotiated at length between Equitable, OCA and OSBA was protective of not only those customers connected to the Gathering Systems, but also the remaining customers of Equitable.

9. In addition to the terms of the Joint Settlement Agreement, Equitable further addressed the concerns of I&E at the time of the hearing. I&E primarily contested the proposed transfers due to the reported levels of lost and unaccounted for gas (“LUFG”) on both Systems and what I&E argued were safety concerns in light of the lack of sufficient information explaining the reported LUFG. I&E readily acknowledged that it has never inspected these Systems, but opines that the LUFG numbers are indicative of unsafe leaks on the Systems.⁴

10. At the hearing, Equitable presented significant evidence that a number of factors can contribute to reported LUFG, including inaccurate metering, theft of service and leaks. Since potential leaks on the Systems and overall safety were the focus of I&E, the Vice President for EQT Midstream, whose responsibilities include pipeline safety for these Systems, addressed these areas. He testified that the lines are designed to handle significantly higher pressures than their current level of operations and also covered the manner in which EQT Gathering and Equitrans have identified, classified and repaired leaks on the Systems, as well as patrolled and surveyed the pipelines and replaced chronic sections of pipe. In conclusion, he testified that the Systems have been operated safely and can continue to be operated safely without the need to replace large sections of pipeline.⁵

11. Equitable supplemented the above testimony with Equitable’s Director of Field Operations, who testified that, based on Equitable’s due diligence and the information otherwise available, including the leak balance information reported for the Systems and the lack of calls reporting leaks, it likewise does not view the reported LUFG as a safety concern and believes that leaks are not a significant contributor to the reported LUFG.⁶

⁴ N.T. 140-141.

⁵ Equitable St. No. 4R at 7.

⁶ Equitable St. No. 3R at 9-10.

12. Equitable also provided testimony explaining the further details surrounding its commitment to fully assess the Systems after their transfer and during the twelve month assessment period discussed in the Joint Settlement Agreement. Equitable explained that, during those twelve months, it would, among other things, mow all of the right of ways, physically walk and leak survey the entire 379 miles of lines, perform any necessary leak repairs, identify and address any deficient segments of pipeline, engage in other efforts to reduce the reported LUFG and otherwise address any identified safety concerns. Equitable successfully applied this same process to a significantly larger gathering system (814 miles of pipelines) that it currently owns that previously had higher reported LUFG, which resulted in a substantial reduction in reported LUFG (reported at 7.5% at the time of the hearing), with relatively little capital investment and without abandoning service to any customers.

13. Despite the terms of the Joint Settlement Agreement and the significant evidence submitted by Equitable, the Recommended Decision concludes in pertinent part and pertinent to this Petition that Equitable did not have sufficient information about the Gathering Systems and especially the breakdown of the causes of reported levels of LUFG to allow Equitable to acquire the Systems under a public interest standard.⁷ Exceptions to the Recommended Decision must be filed with the Commission on or before March 20, 2013.⁸

14. In light of the factual underpinnings of the Recommended Decision and the anticipated transfer of these Systems to Peoples in connection with its acquisition of Equitable, Equitable respectfully submits that it is a better use of Commission resources to grant the relief

⁷ Recommended Decision at 25-27 and Conclusions of Law Nos. 4, 5 and 6.

⁸ The due date for the filing of Exceptions was initially February 28, 2013, in accordance with the letter of the Secretary dated February 8, 2013 transmitting the Recommended Decision to the Parties. The due date was extended to March 20, 2013, by agreement of the Parties and the approval of the Office of Special Assistants. If this Petition and the relief requested herein were granted, the filing of Exceptions would not be necessary. Nothing herein, however, shall be construed as a waiver of Equitable's right to file Exceptions should this Petition be denied.

requested herein than to require the filing of Exceptions to the Recommended Decision. As previously noted, the filing of Exceptions would not be necessary, if the Commission were to grant the Petition. The Commission could also consider staying the filing of Exceptions, to the extent deemed necessary, while it considers this Petition.⁹

II. SUMMARY OF PETITION

15. By this Petition, Equitable seeks the ability to further develop and introduce additional information into the record concerning the overall condition of the Gathering Systems, with a focus on further addressing the concerns raised regarding the reported LUGF levels. Some of that information already has been developed through additional investigation conducted since the hearing in this matter. For instance, following the conclusion of the evidentiary hearing in November 2012, EQT Midstream completed aerial leak patrols for the entirety of the pipelines of both Systems. EQT Midstream further ground validated the findings of those patrols to identify, classify and repair, if necessary, any leaks. Not a single Class 1 leak was discovered that would require immediate repair. The results of that process, therefore, further confirmed the overall safety of the Systems, as well as the likelihood that the reported LUGF are most likely a function of accounting and measurement issues.

16. Similarly, Equitable has continued to perform “Sniff Tests” since the hearing on a monthly basis at designated locations, which is a process used to sample gas flowing to Equitable customers from these Systems to assure proper “odorization” of the gas. Those tests have confirmed that the gas is properly odorized, and, thus, at a minimum, the testimony regarding the lack of leak calls for these Systems is compelling proof of their safety.

⁹ See *Re West Penn Power Company d/b/a Allegheny Power*, Docket No. M-2009-2123951 (Order entered July 15, 2010) (granting a 90-day stay of the exception period so that parties could consider the impact of a proposed merger and acquisition); cf. *Application of Trans-Allegheny Interstate Line Company*, *supra*.

17. In addition to the above, Equitable, EQT Gathering and Equitrans continue to further develop information relating to the accurate number of customers that are using gas from these Systems in an effort to better understand some of the metering and accounting issues – a LUFG related issue that, again, is not safety related. Testimony was provided at the hearing that EQT Midstream discovered during these proceedings that various Equitable customers had not been appropriately taken into account on a segment of the Systems, which, once accounted for, had a significant impact of reducing the reported LUFG for that segment – further evidencing that leaks are not a significant contributor to the reported LUFG.¹⁰ Based on additional investigation, that issue may be more prevalent than originally expected and EQT Midstream and Equitable need time to further develop that information and present it to the Commission.

18. In the coming months and in connection with the transfer of these Systems as part of the Peoples acquisition of Equitable, Equitable and EQT Midstream, moreover, will undertake additional and expedited efforts to better understand and address the reported LUFG, which information will be readily available to present in connection with the filing of the Peoples/Equitable Acquisition Application and related investigation. In particular, Equitable and EQT Midstream will coordinate to more fully understand the leak balances in order to further address the issues raised by I&E as well as address the concerns of Judge Long. Those efforts include many of the activities originally contemplated in the twelve month assessment period under the Joint Settlement Agreement (now on a more expedited schedule), and Equitable is willing to work with the Commission's Gas Safety Division and the other statutory advocates to have transparency and participation in that process.

¹⁰ N.T. 85-87.

19. While Equitable disagrees with the Recommended Decision, it understands the concerns expressed by Judge Long regarding a lack of information about the Gathering Systems and an evaluation of the LUGF causes. Although Equitable believes that the record adequately addresses those concerns and that the transfers are in the public interest, it also believes that allowing it the opportunity to further develop and present the additional information summarized above will better enable the Commission to conclude that the transfer of the Gathering Systems (and continued service to more than 1,600 customers) should move forward consistent with the public interest.

20. Equitable submits that, given present circumstances, the appropriate vehicle for creating the opportunity to submit additional evidence into the record is to allow it to withdraw its Application without prejudice, as opposed to filing exceptions at this time and further litigating on what Judge Long viewed as an incomplete record.¹¹ In particular, these Gathering Systems are facilities that would be acquired by Peoples as part of that company's recently announced acquisition of Equitable. Following the withdrawal of the Application here, the transfer of the Gathering Systems from EQT Gathering and Equitrans to Equitable and, ultimately, to Peoples will be considered as part of the larger application proceeding for Commission approval of the Peoples/Equitable Acquisition Application, which is expected to be filed by the end of March 2013. The additional information obtained by Equitable about the Gathering Systems since the conclusion of the evidentiary hearing and that it is continuing to acquire will be available for the record in that proceeding.

21. The paramount objective, nevertheless, is the creation of the opportunity to supplement the record with new and additional evidence to further enable the Commission to

¹¹ Equitable would also withdraw its Supplement No. 86. The withdrawal of the Supplement No. 86 would be without reservation.

allow the transfer of the Gathering Systems to go forward, without potentially wasting additional resources at this time on filing exceptions and further pursuing the transfers of these Systems on the existing record and outside of the context of the Peoples acquisition of Equitable. If the Commission feels that the withdrawal of the Application would be inappropriate, Equitable proposes, as an alternative, that the Commission stay and defer these proceedings for consideration with the Peoples/Equitable Acquisition Application proceeding when it is filed in the next several weeks, at which time the additional information could be introduced and duly considered by the Commission. Equitable also would not oppose any other reasonable procedural alternative that accomplishes the objective of allowing Equitable to supplement the record with additional evidence in support of the transfer of the Gathering Systems and that the Commission would deem appropriate, including the reopening of these proceedings.¹²

III. WITHDRAWAL OF APPLICATION WITHOUT PREJUDICE

22. Section 5.94(a) of the Commission's Rules and Regulations, 52 Pa. Code § 5.94(a), allows a party to withdraw a pleading in a contested proceeding and provides as follows:

Except as provided in subsection (b), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 20 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

¹² Section 5.571 of the Commission's Rules and Regulations, 52 Pa. Code § 5.571, provides for the reopening of a proceeding under circumstances presented here, including reopening the record after the presiding officer has issued a decision for purposes of introducing additional evidence of material changes of fact that have occurred since the conclusion of evidentiary hearing in November 2012. See footnote 1, *supra*.

23. The Commission¹³ has recently approved the withdrawal of applications filed after the issuance of a Recommended Decision and prior to the issuance of a final Commission order. In *Application of Laser Northeast Gathering Company, LLC*, Docket No. A-2010-2153371 (Order entered December 5, 2011), the applicant, following entry of a Commission order, sought to withdraw its application due to a change in its business model that eliminated the need to obtain the applied for certificate. Similarly, in *Application of Peregrine Keystone Gas Pipeline, LLC*, Docket No. A-2011-2200201 (Order entered September 13, 2012), the applicant sought to withdraw its application after issuance of a Recommended Decision, based on changes in the natural gas industry which forced the applicant to revise its schedule and scope of planned facilities in the proposed service area. The Commission, in both cases, concluded that it was in the public interest to grant the requests to withdraw the applications.

24. Consistent with the rationale for withdrawal in *Laser* and *Peregrine*, the business circumstances of Equitable and the Gathering Systems are changing. As explained above, the Gathering Systems are facilities that would be acquired by Peoples as part of that company's acquisition of Equitable, a fact which was not known until well after the close of the evidentiary record. The disposition of the Gathering Systems should be considered by the Commission within the context of the entirety of the Peoples/Equitable transaction on a more fully developed record. The application for Commission approval of the Peoples/Equitable transaction is expected to be filed in March 2013.

25. Changing circumstances are a recognized basis for allowing a party to withdraw a pleading in a contested proceeding, and Equitable submits that the pending change in ownership of

¹³ Petitions filed after the issuance of a Recommend Decision are typically ruled upon by the Commission and not the presiding administrative law judge. See *Application of Peregrine Keystone Gas Pipeline, LLC*, Docket No. A-2010-2200201 (Order entered September 13, 2012); *Lee v. Pennsylvania-American Water Company*, Docket No. C-2008-2064234 (Order entered January 14, 2011).

Equitable (including the Gathering Systems) and the anticipated upcoming Peoples/Equitable Acquisition Application proceeding justify allowing Equitable to withdraw its Application, without prejudice. Allowing Equitable to withdraw its Application here and creating an opportunity to permit Equitable to develop and provide additional information, while also allowing the transfer of the Gathering Systems to be considered as part of the Peoples/Equitable Acquisition Application proceeding is consistent with the public interest.

IV. ALTERNATIVE RELIEF OF STAY AND DEFERRAL

26. If the Commission deems withdrawal of the Application to be inappropriate, Equitable proposes, as an alternative, that the Commission stay and defer these proceedings until the matter may be considered in conjunction with the Peoples/Equitable Acquisition Application proceeding when it is filed in the next several weeks. At that time, the additional information that has been developed since the hearing and will continue to be developed can be offered into the record when these proceedings are restarted as part of the Peoples/Equitable Acquisition Application proceeding. Creating an opportunity to allow Equitable to add to the record in this alternative way is consistent with the public interest concerning the ultimate disposition of these Gathering Systems, which deliver gas to more than 1,600 Equitable customers.

27. Equitable also would not oppose any other reasonable procedural alternative that accomplishes the objective of allowing Equitable to supplement the record in support of the transfer of the Gathering Systems and that the Commission would deem appropriate, including reopening of the record in these proceedings pursuant to Section 5.571 of the Commission's Rules and Regulations, 52 Pa. Code § 5.571. Equitable submits that the facts set forth herein constitute sufficient grounds to meet the requirements of Section 5.571 and warrant reopening of these proceedings.

V. REQUEST FOR EXPEDITED CONSIDERATION


28. Equitable, as previously stated, respectfully submits that it is a better use of Commission resources to grant the relief requested herein than to require the filing of Exceptions to the Recommended Decision. As previously noted, the filing of Exceptions would not be necessary, if the Commission were to grant the Petition. With the March 20 due date for the filing of Exceptions quickly approaching, Equitable respectfully requests that the Commission address this Petition as expeditiously as possible so that the time required to prepare Exceptions and the need for the Commission to consider them might be avoided. The Commission, as aforesaid, could also consider staying the filing of Exceptions, to the extent deemed necessary, while it considers this Petition.

VI. NON-OPPOSITION OF OCA

29. The OCA has reviewed this Petition and has advised that it has no opposition to the relief requested herein.

WHEREFORE, for all of the reasons set forth above, Equitable Gas Company, LLC requests that the Pennsylvania Public Utility Commission consider this Petition/Motion on an expedited basis and, upon such consideration, allow it to withdraw, without prejudice, its Application at G-2012-2312597 and its Supplement No. 86 to Tariff Gas – Pa. P.U.C. No. 22 at R-2012-2312577 or, in the alternative, stay and defer these proceedings for consideration with the Peoples/Equitable Acquisition Application expected to be filed in March 2013 and grant such other relief as may be just and reasonable under the circumstances.

Respectfully submitted,

By 

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Attorneys for Equitable Gas Company, LLC

DATED: February 19, 2012

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VERIFICATION

I, BRUCE GRABIEC, Director of Field Operations, of Equitable Gas Company, LLC, hereby state that the facts set forth in the foregoing document are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. §4904 (relating to unsworn falsification to authorities).


BRUCE GRABIEC

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Before The
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Pennsylvania Public Utility : R-2012-2312577
Commission, *et al.* : G-2012-2312597
 : C-2012-2315323
v. :
 :
Equitable Gas Company, LLC :

CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of February 2013 served a true and correct copy of the Petition of Equitable Gas Company, LLC for Leave to Withdraw Application and Tariff Supplement, Without Prejudice, Or, In the Alternative, to Stay and Defer Proceedings for Consideration with the Peoples/Equitable Acquisition Proceeding, and Request for Expedited Consideration, upon the persons and in the manner set forth below:

EMAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

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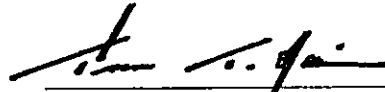
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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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 in Equitable Gas Company, LLC :
to PNG Companies LLC, (2) to Merge :
Equitable Gas Company, LLC with the : Docket Nos. A- 2013-2353647
Peoples Natural Gas Company, LLC. (3) : A-2013-2353649
to Transfer Certain Storage and : A-2013-2353651
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. :

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CERTIFICATE OF SERVICE

I hereby certify that I am serving the foregoing **Prehearing Conference Memorandum** dated May 8, 2013, in the manner and upon the persons listed below, in accordance with the requirements of § 1.54 (relating to service by a party):

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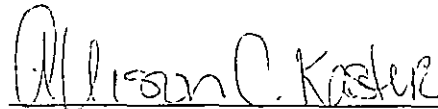
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